

**Southwestern Water Conservation District
Board of Directors Regular Meeting
SWCD Office, 841 E 2nd Avenue
Durango, Colorado
June 8, 2022**

Present: JR Ford David Guilliams Kenny Heldman
Rusty Hinger Jenny Russell Don Schwindt
Charlie Smith

Absent: Amy Huff Dagan Chadd

Staff: Laura Spann, Programs Coordinator
Steve Wolff, General Manager

Consultants: Taylor Adams, Hydros Consulting
Peter Butler, Independent Consultant
John Carron, Hydros Consulting
Hayes Lenhart, Wright Water Engineers
Carrie Padgett, Harris Water Engineering
Beth Van Vurst, Van Vurst Law, General Counsel

Guests: Orla Bannan, Western Resource Advocates
Gene Bradley, Animas La Plata Water Conservancy District
Elaine Chick, Water Information Program
Amber Clark, Dolores River Boating Advocates
Floyd Cook, Dolores County Commissioner
Ken Curtis, Dolores Water Conservancy District
Jeff Derry, Center for Snow & Avalanche Studies
Anthony Edwards, San Juan County
Steve Garchar, Dolores County Commissioner
Marcel Gatzambide, San Juan Citizens Alliance
Rob Genualdi, Colorado Division of Water Resources, Division 7 Engineer
Al Heaton, Rancher
Bob Hurford, Colorado Division of Water Resources, Division 4 Engineer
Helen Katich, U.S. Senator Hickenlooper's Office
Julie Kibel, Dolores County Commissioner
Ian MacLaren, Montezuma County
John Norton, Retired Appraiser
Mike Preston, Ute Mountain Ute Tribe
Adam Reeves, Maynes, Bradford, Shipp and Sheftel
Gigi Richard, Four Corners Water Center at Fort Lewis College
John Whitney, U.S. Senator Bennet's Office
Jeff Widen, The Wilderness Society

The board and staff met at the SWCD office, 841 E 2nd Avenue, Durango, Colorado, and the public participated via Zoom.

Wednesday, June 8, 2022

1.0 Call to Order – Roll Call and Verification of Quorum

President Jenny Russell called the meeting to order at 8:33 a.m. Roll was taken and a quorum established.

2.0 Review and Approve Agenda

(time: 00:00:40)

There was unanimous consent to approve the agenda as noticed.

3.0 Executive Session

(time: 00:00:45)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda item 3.1, Colorado River Compact, interstate and intrastate negotiation matters, including re-negotiation of the interim guidelines, and agenda item 3.2, SWCD Programs Coordinator job duties. The statutes covering the discussion of item 3.1 in executive session are § 24-6-402(4)(b), C.R.S., “conferences with an attorney for the district for the purpose of receiving legal advice on specific legal questions,” and § 24-6-402(4)(e), C.R.S., “determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.” The statute covering the discussion of agenda item 3.2 in executive session is § 24-6-402(4)(f)(1), C.R.S., “personnel matters.” Rusty Hinger moved that the board go into executive session. David Guilliams seconded. The motion passed.

Beth Van Vurst stated that no further record of the executive session discussion of agenda item 3.1 need be kept based on her opinion that the discussion will constitute privileged, attorney-client communications.

4.0 Summary and Action Items from Executive Session

(time: 00:02:30)

Beth Van Vurst announced that the board was out of executive session at 9:06 a.m. During the executive session, the board discussed agenda item agenda item 3.1, Colorado River Compact, interstate and intrastate negotiation matters, including re-negotiation of the interim guidelines, and agenda item 3.2, SWCD Programs Coordinator job duties. No action was taken during executive session.

5.0 General Counsel Legal Report

5.1 April Water Court Resume Review (Divisions 3, 4, 7)

(time: 00:03:10)

Beth Van Vurst reported that there were no applications in the April water court resumes for Divisions 3, 4 and 7 that warranted further discussion or action by SWCD.

5.2 Development of Proposed Tax Increment Finance Agreement with North Main Gateway Urban Renewal Authority

(time: 00:03:35)

In October 2021, SWCD executed a tax increment finance (TIF) agreement with the Durango Urban Renewal Authority for the Midtown redevelopment area. Durango has reached out to SWCD regarding a second proposed TIF agreement, this time for their North Main Gateway Urban Renewal Plan, which the board will hear more about at the August SWCD board meeting after the parties have met.

5.3 Revised Water Rights Abandonment List for Water Divisions 4 & 7 (time: 00:04:30)

Beth Van Vurst reported that the revised water rights abandonment lists for Divisions 4 and 7 has been filed with the court. Any protests must be filed in water court by water rights holders by June 30th.

5.4 Status Update: Diligence Application for SWCD Water Rights, Case No. 22CW3005, Division 7 and Animas Service Area Water Right, Case No. 22CW3010, Division 7 (time: 00:05:40)

Beth Van Vurst reported that SWCD's diligence applications for the SWCD Water Rights, Case No. 22CW3005, and SWCD-La Plata County Animas Service Area Water Rights, Case No. 22CW3010 have been filed, noticed in the papers, and no statements of opposition were filed during the requisite time periods. Peggy and Beth will be drafting rulings for court consideration in their respective cases.

6.0 Approve and/or Remove Consent Agenda Item (time: 00:08:00)

There was unanimous consent to approve the consent agenda.

7.0 Consent Agenda (time: 00:08:25)

7.1 Approval of Minutes (March 31; April 28)

7.2 Acceptance of Treasurer's Report (April 2022)

David Guilliams moved to approve the consent agenda. Rusty Hinger seconded. The motion passed.

8.0 Questions & Comments from Public (time: 00:08:40)

There were no questions and comments.

11.0 Other Reports

11.1 Director Reports (time: 00:09:20)

Kenny Heldman (Montrose County) reported that Gurley Dam has been repaired and is no longer under storage restriction. The Gurley system was repaired in time to store runoff and has delivered about 5,000 acre-feet (af) so far. Supply is expected to be available through July 15th. The Colorado Cooperative Ditch is running at 100%.

Rusty Hinger (Mineral County) reported that the U.S. Forest Service is moving forward with construction of a fish barrier on Fall Creek to support the San Juan lineage of Colorado cutthroat trout. The transition from blowing snow to dry ground and blowing dust was only two weeks. Rusty expects not to have irrigation water after mid to late July in Fall Creek. He measured 11/100th of an inch of rain in May. Lots of trees were downed over the winter.

JR Ford (Archuleta County) reported that stream flows are already dropping like a rock, which is now the norm not the exception. The Plumtaw Fire burning northwest of Pagosa Springs is now contained. Some forest thinning that had previously been completed near Dutton Ditch helped slow the wildfire.

David Guilliams (Hinsdale County) reported that the Piedra basin is dry, hot, and the grass is not growing. It's taking four or five days to flood irrigate a parcel that would normally take a day to saturate.

Charlie Smith (San Juan County) reported that Silverton still has a bit of snow due to a bit more soil moisture than 2021. Sunnyside and the U.S. Environmental Protection Agency (EPA) have finalized a settlement regarding Bonita Peak Superfund. As a result, Sunnyside is looking to convey properties to San Juan County.

Don Schwindt (Montezuma County) reported that the Dolores Project has now allocated in the range of 25% supply to full-service users. At Dolores Water Conservancy District's (DWCD) April meeting, there was still a water supply range possible from 0-100%. This uncertainty begs a lot of planning, adaptation, and challenge for water managers and water users alike.

Jenny Russell (San Miguel County) reported that the San Miguel River is as low as she has ever seen it. Thanks to the Gurley ditch and the raw water system supported in part by an SWCD grant, the Town of Norwood has a stable water supply.

11.4 Engineering Report

11.4.1 Upper Colorado & San Juan River Basin Recovery Implementation Programs

(time: 00:18:30)

Carrie Padgett reported that the Animas River stream management planning process will kick off at the end of June 30th. She relayed concerns that while Long Hollow Reservoir was drained, the screened outlet works was removed, allowing for the potential escape of illegally stocked non-native fish into the San Juan River Basin, specifically smallmouth bass. These nonnative fish are a major concern in the Upper Basin Recovery Program. Steve Wolff and Carrie are working with Tom Chart (Biology Committee representative) to support efforts by La Plata Water Conservancy District and Colorado Parks and Wildlife to develop future management activities to prevent additional non-native introduction into the San Juan River. Both Recovery Programs are working on post-2023 planning and addressing funding needs with diminishing hydropower revenues. Carrie directed the board to the 2021-22 Recovery Program Highlights booklet.

12.0 Staff Report

12.1 CWCB Instream Flow Program Recommendations

12.1.1 2022 – Spring Creek (San Miguel Basin, Montrose County)

(time: 00:20:30)

Steve Wolff reported that upon receiving last-minute written protests from landowners along the Spring Creek proposed instream flow (ISF) reach, the Colorado Water Conservation Board (CWCB) elected to delay any further action on the appropriation at their May board meeting. He directed the SWCD board to the CWCB staff memo, which includes the landowners' protest letter. The ISF appropriation that is being proposed on Spring Creek is to protect unique riparian vegetation by ensuring flows on the ephemeral stream for 1.1 cfs from March 15th-May 31st. Carrie Padgett, Rob Viehl (CWCB), Roy Smith (BLM), and Mark and Sandy Ragsdale (DWR), conducted a Spring Creek site visit in summer 2021 with several water users. At that time, Carrie worked with a water user to quantify certain pre-existing undecreed uses for ponds and stock water. Steve will follow up with CWCB regarding their next steps on the proposed Spring Creek ISF.

12.1.2 Proposed 2023 – Red Canyon, Big A, Kelly and Goat Creeks (San Miguel Basin)

(time: 00:25:15)

Steve Wolff reported on the 2023 ISF recommendations for stream segments located within the District's boundaries, all of which are in the San Miguel Basin. The recommended ISFs are on Red Canyon Creek (Montrose County), Big A Creek (Montrose County), and Kelly Creek (Montrose County) and intended to protect Colorado River cutthroat trout. The ISF being recommended on Goat Creek (San Miguel County) is in the Wrights Mesa area near existing water use. SWCD staff and counsel will continue to monitor these recommendations and provide additional information to the board as available.

12.2 Update: 2021 SWCD Audit Report Review and Acceptance

(time: 00:28:15)

Steve Wolff reported that, due to COVID impacts, Fredrick Zink and Associates was not able to present the final draft 2021 SWCD audit report at the June meeting. A special board meeting via Zoom will be scheduled in late June, as state law requires the governing body to be provided the audit by June 30th and then transmit the audit to the State of Colorado by July 31st.

The board recessed for a short break.

12.4 Proposed 2023 SWCD Grant Program Guidelines

(time: 00:30:40)

Laura Spann summarized the proposed changes to the SWCD grant program guidelines for 2023, specifically several adjustments to the funding allocation by category and a reduction of water project funding available per applicant, which were redesigned with the hopes of further leveraging federal funding from the Bipartisan Infrastructure Law (BIL) that constituents may pursue in the coming year. There was discussion regarding the need for emergencies to be true catastrophic, unforeseen events and not a crisis created by poor planning or maintenance. There was also discussion regarding the value of the grant program in leveraging BIL funding versus other tactics and strategies. Don Schwindt moved to adopt the 2023 SWCD grant program guidelines with a proposed revision to clarify that the category allocations will be adjusted proportionally with the total grant program allocation. Rusty Hinger seconded. The motion passed.

9.0 Proposed Federal Legislation Establishing Dolores River NCA

(time: 00:41:40)

Steve Wolff directed the board to print copies of the draft federal legislation to establish the Dolores River National Conservation Area (NCA), along with a factsheet, bill summary, and DWCD's letter regarding the legislation, which were received after the board packet deadline.

John Whitney, U.S. Senator Bennet's Office, summarized the public and stakeholder process which led to the draft federal legislation to establish the Dolores River NCA. John then reviewed in detail water-related revisions to the updated legislative language which were made in part to fulfill requests by DWCD and SWCD. Representatives from the Ute Mountain Ute Tribe, Montezuma County, Dolores County, San Miguel County, and conservation community expressed support for the proposed federal legislation to establish the Dolores River NCA. The stakeholders are awaiting comments from the State of Colorado. Representatives from DWCD explained the draft bill does not, in their view, provide any relief from the current restrictions of wild and scenic suitability determination. Although DWCD supports the important land use provisions of the draft bill, because the bill would not alter the substantive provisions of the Wild and Scenic Rivers Act and continues the application of Wild and Scenic Rivers Act Section 7 analysis above McPhee Dam upstream of the proposed conservation area, DWCD cannot fully endorse the draft legislation at this time.

There was board discussion. Charlie Smith moved that SWCD support the proposed federal legislation to establish the Dolores River NCA, subject to a favorable final review by Steve Wolff and Beth Van Vurst. Jenny Russell seconded. The motion failed 2-3. JR Ford and Kenny Heldman abstained.

The board recessed for a short break.

10.0 Hydrology Reports

10.1 Colorado River Basin Hydrologic Conditions

(time: 01:37:45)

Steve Wolff referred directors to local hydrologic conditions summarized in their packet. In response to prolonged drought, low runoff, and depleted storage at Lake Powell, the Department of Interior implemented two specific actions in May designed to keep Lake Powell elevations above the critical elevation of 3,525 feet. These were to reduce the Glen Canyon Dam annual releases from 7.48 to 7 million af in water year 2022 and release an additional 500,000 af from Flaming Gorge Reservoir from May 2022 through April 2023.

10.2 Southwest Colorado Modeling Results – Hydros Consulting

(time: 01:39:15)

Taylor Adams and John Carron, Hydros Consulting, presented on their methods and results in analyzing pre- and post-compact consumptive use in the sub-basins of the District for the period of 1988 - 2005, which builds upon Phase III of the West Slope Risk Study. There was board discussion regarding the value of having actual demands versus modeled demand based on possible irrigable acres.

10.3 Hydrologic Conditions, including updates from Division 4 and 7 Engineers

(time:

02:20:15)

Rob Genualdi, Division 7 Engineer, summarized snowpack, area reservoir levels, recent temperatures, and hydrologic conditions in southwest Colorado. Rivers across Division 7 peaked in mid-May, two and a half weeks early. Long Hollow Reservoir is expected to empty this year to meet La Plata River Compact obligations. Jim Dunlap, longtime board member for the San Juan Water Commission, passed away.

Bob Hurford, Division 4 Engineer, summarized snowpack, soil moisture conditions, anticipated streamflows in the San Miguel River basin. He also described the La Nina forecast for the summer and fall and regional drought conditions.

10.4 Dust-on-Snow Impacts – Jeff Derry, Center for Snow and Avalanche Studies

(time: 02:35:50)

Jeff Derry, Center for Snow and Avalanche Studies (Center), reported on the higher-than-average dust year that, along with high winds, accelerated runoff. The Center recorded several days of winds over 40 mph. A few board members suggested incorporating dust-on-snow causes and impacts into the Colorado River portion of the SWCD board workshop discussion in July.

The board recessed for lunch.

11.0 Other Reports (continued)

11.2 SWCD, Water Information Program (WIP) and Roundtable PEPO Liaison Report

(time: 02:53:30)

Elaine Chick reported that the SWCD Southwest Water Seminar videos and presentations are now available on SWCD's YouTube Channel.

Among the Water Information Program's recent activities, 60 people attended the virtual Water Law in a Nutshell course on April 22nd, 12 teachers are signed up for the Forests to Faucets Teacher Training Program is on June 8th-9th in the Dolores and McElmo basins, and 62 raft guides attended an event at Powerhouse Science Center to learn about river ecology, leave-no-trace ethics, historical power production in the Animas basin, and local watershed orientation. More than 5,000 copies of the Rising Rivers Stewards Activity Book have been printed with 1,000 already distributed across the two basins

featured. Finally, WIP is coordinating with Four Corners Water Center at Fort Lewis College to create a scholarship fund to support students pursuing water-related educational or professional opportunities.

As Public Education Outreach and Participation (PEPO) liaison to the Southwest Basins Roundtable, Elaine is leading the development of a stand-alone Roundtable website and Roundtable logo. The web design has been approved and the next step is content development. Each Roundtable may apply for up to \$25,000 in PEPO funding by submitting a grant application outlining the scope of work, which Elaine is developing for the July 1st submission deadline

11.3 Water Quality Update

11.3.1 Southern Ute Indian Tribe's Water Quality Standards

(time: 03:00:00)

Peter Butler reported that the Southern Ute Indian Tribe's water quality standards have now been approved for implementation by the EPA.

11.3.2 Upcoming Regulation 34/35 Hearing, including Bonita Peak & Outstanding Waters

Proposals

(time: 03:01:30)

Peter Butler reported on proposals in the Colorado Water Quality Control Commission's Regulation 34 (San Juan and Dolores River basins) and 35 (Gunnison and Lower Dolores River basins) upcoming hearing on Monday, June 13th. The Bonita Peak Community Advisory Group's proposes to add aquatic life use classification and water quality standards to a reach of Mineral Creek near Red Mountain Pass where water quality has improved to support a trout population. A coalition of conservation groups is proposing several outstanding waters (OW) designations in southwest Colorado, most of which SWCD supports. SWCD has concerns that several of the OW designations intend to protect unique riparian communities or species, which would be a precedent-setting use of OW designation. SWCD is also concerned that the proponents have not provided enough scientific data to support the designation of 5 out of the 26 proposed OW segments. Colorado Parks and Wildlife is supporting all OW proposals except one.

11.3.3 San Juan Watershed Program Funding – Letter of Support

(time: 03:06:00)

Anthony Edwards provided background on the request for a letter of support from the SWCD board to encourage the Congressional delegation to advocate for funding for the San Juan Watershed Program in EPA's FY2023 budget, which was recently zeroed out for FY2022. The San Juan Watershed Program established coordinated, watershed-based efforts to assess, protect, and restore water quality conditions in the San Juan Basin. These efforts were advanced by past WIIN Act funding, which spurred collaboration among the EPA, four states, and three tribes to establish watershed-wide priorities, assess accomplishments, and maximize water quality improvements. Charlie Smith moved to direct staff to submit the draft letter of support for San Juan Watershed Program funding to U.S. Senator Hickenlooper with suggested revisions. JR Ford seconded. The motion passed.

12.0 Staff Report (continued)

12.3 Potential Change in Allocation of SWCD's Cash Assets, including SWCD's Certificate of Deposit Maturing July 16, 2022

(time: 03:14:10)

Steve Wolff summarized several options for adjusting the allocation of SWCD cash assets between checking accounts, certificates of deposit, and COLOTRUST to capitalize on increasing interest rates. After discussion among the board members, David Guilliams moved to delegate the decision of how to best allocate up to \$3.5 million dollars of SWCD's cash assets to the Board Finance Committee. Kenny Heldman seconded. The motion passed.

Charlie Smith moved that SWCD open a checking account at 1st Southwest Bank at a minimum balance of \$10,000 with designated signatories Charlie Smith, Amy Huff, and Steve Wolff to use in managing certificates of deposit held at the same institution. Kenny Heldman seconded. The motion passed.

12.5 Proposed SWCD Director Fee and Travel Reimbursement Policy *(time: 03:37:30)*

Steve Wolff summarized the proposed SWCD Director Fee and Travel Reimbursement Policy, which provides further detail regarding requirements for director fees and nontravel expenses, as well as director and staff travel expenses. By statute, SWCD directors are authorized to receive up to 100 dollars per day while engaged in district business. Don Schwindt moved to adopt the SWCD Director Fee and Travel Reimbursement Policy as proposed. David Guilliams seconded. There was discussion. The motion passed.

12.6 Proposed Roundtable Bylaws Revisions re. SWCD's Role in Selecting Recorder

(time: 03:47:20)

Laura Spann described recent consideration by the Southwest Basins Roundtable to revisit their bylaws, some provisions of which empower the SWCD board to appoint the Roundtable recorder. SWCD staff recommended that the SWCD board support revisions to these provisions to instead empower the Roundtable to appoint their own recorder, understanding that SWCD still wishes to assist the Roundtable as needed and may offer a recorder in the future. There was board consensus to support the Roundtable bylaws revisions as recommended by staff.

12.7 Logistics for SWCD Board Workshop July 12th-13th, including Discussion Topics

(time: 03:57:30)

Steve Wolff summarized proposed logistics and discussion topics for the SWCD board workshop on July 12th and 13th. The board provided comments and input on discussions topics and relevant materials.

12.8 Colorado State Internet Portal Authority for SWCD Digital Needs *(time: 04:12:40)*

Laura Spann described SWCD's growing digital needs, limited IT support available, and assistance provided to governments by the Colorado State Internet Portal Authority (SIPA). There was board consensus to authorize general counsel to review the Eligible Government Entity agreement, which SIPA requires to begin procuring quotes and services on SWCD's behalf and accept applications for micro-grants. Once that agreement is in place, SWCD can work with SIPA to prioritize digital needs and bring a plan to the board for how to address them.

12.9. General Manager Activities *(time: 04:19:00)*

Steve Wolff directed board members to the written report summarizing his activities and meetings since the last update, along with a letter of support SWCD provided for the Town of Pagosa Springs' Yamaguchi South Project. Nominations for the 2023 Colorado Water Congress Aspinall Award are due on August 31st.

13.0 Legislative Affairs

13.1 State Legislative Update

13.1.1 2022 State Legislative Summary *(time: 04:21:15)*

Steve Wolff directed the board to a final report on the 2022 session of the Colorado General Assembly from Garin Vorhmann, state lobbyist with Colorado Legislative Strategies.

13.1.2 Interim Water Resources and Agriculture Review Committee

Garin's report also outlined the reconfiguration of the Interim Water Resources and Agriculture Review Committee, with the departure of Senator Don Coram and addition of Senator Cleave Simpson. Their next meeting is August 4th. Committee discussion topics have not yet been identified.

13.2 Federal Affairs Update

13.2.1 Ongoing Federal Issues

(time: 04:23:35)

Steve Wolff directed the board to a list of proposed federal water-related legislation under consideration by the Senate Committee on Energy and Natural Resources, including reauthorization of the Upper Colorado and San Juan endangered species recovery programs. The Senate Committee on Agriculture, Nutrition & Forestry has begun discussing the 2023 farm bill. The State of Colorado and its agencies, SWCD, Rio Grande Water Conservation District, and the San Luis Valley Water Conservancy District submitted testimony to the U.S. Senate Committee on Energy and Natural Resources regarding Title II of the S. 4236 Water Data and Security Act of 2022. SWCD specifically highlighted concerns that Title II of the bill, entitled Rio Grande Water Security, may seek to affect federal authorizations and operations of transbasin diversions from the Upper San Juan to the Rio Grande basin including the San Juan-Chama Project.

The board recessed for a short break.

14.0 Partner Updates

14.1 Local Trends in Temperature, Precipitation and Runoff

(time: 04:35:45)

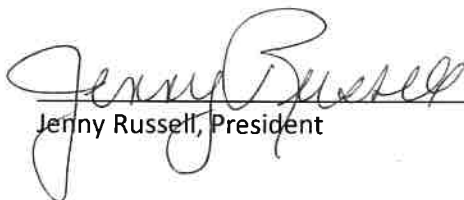
John Norton (retired land and water appraiser) and Mike Preston (former Dolores Water Conservancy District general manager) summarized the results presented in their white paper, "Trends in Temperature, Precipitation, and Stream Runoff in the San Juan Mountains: 2000-2021." John found that since the 1990s, average annual temperatures in the San Juan Mountains increased by 3.6 degrees, average annual precipitation decreased by 19%, and combined annual runoff decreased by 34.1% in the San Juan River basin and 29.2% in the Dolores. There was a suggestion to add a climate data page to the SWCD website which would include a link to this report.

15.0 Executive Session

There was not a need for afternoon executive session.

16.0 Adjournment

President Russell adjourned the meeting at 3:35 p.m.



Jenny Russell, President