MINUTES
FIRST REGULAR QUARTERLY MEETING OF THE BOARD OF DIRECTORS
OF THE COLORADO RIVER WATER CONSERVATION DISTRICT

January 17-18, 2012

Pursuant to notice duly and properly given, the First Regular Quarterly Meeting of the Board of Directors of the Colorado River Water Conservation District (CRWCD) was held on Tuesday and Wednesday, January 17-18, 2012 at the Hotel Denver, 402 7th 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 William S. Trampe
Steve Acquafresca Andrew A. Mueller
John Ely Rebie Hazard
Gary Martinez Stephen M. Mathis
Kai Turner Tom Gray

Directors not present:
Warner Dewey

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
John Currier, Chief Engineer, CRWCD
Jason Turner, Associate Counsel, CRWCD
Mary Kalmes, Chief Accountant, CRWCD
Audrey Turner, Administrative Chief, CRWCD
Laurie DePaolo, Executive Assistant, CRWCD
Ray Tenney, Sr. Water Resources Engineer, CRWCD
Don Meyer, Sr. Water Resources Engineer, CRWCD
Mike Eytel, Water Resources Specialist, CRWCD
Dave Kanzer, Sr. Water Resources Engineer, CRWCD
Dave Smith, Engineering Technician, CRWCD
Lorra Nichols, Paralegal, CRWCD
Ian Philips, Accountant, CRWCD
Jim Pokrandt, Communication and Education Specialist, CRWCD
Martha Moore, Public Affairs Specialist, CRWCD
David Brown, USGS
Jean Townsend, Coley/Forrest
Shanna Koenig, NWCCOG Q/Q
Dorothea Farris, Crystal Valley Environmental Protection Association

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.
Dave Sturges, Glenwood Springs City Councilman

**Quorum.**
President Sharp found a quorum and called the meeting to order at 9:06 a.m.

**Review and Approve Agenda and Meeting Objectives.**
President Sharp proposed the addition of the following items to the agenda: Update on National Ski Area Association vs. the United States Forest Service as agenda item 7.b. vi.; and Discussion of Other Items in General Counsel’s Report as agenda item 7.b. vii. Director Merritt moved, seconded by Director Ely to approve the agenda as amended. Motion carried unanimously.

**Report and Presentation of Directors’ Credentials for Garfield, Gunnison, Montrose, Ouray and Rio Blanco Counties.**
Executed credentials were presented for directors representing Garfield (Merritt), Gunnison (Trampe), Montrose (Mathis), Ouray (Mueller) and Rio Blanco (Turner) Counties. The credentials are attached as Appendices A-E.

**Election of Board Officers for 2012.**
Director Mueller moved, seconded by Director Merritt, to reelect by acclamation, Director Sharp as President and Director Newberry as Vice President for 2012. Motion carried unanimously.

**Resolution for Outgoing Director.**
Director Martinez moved, seconded by Director Merritt, to adopt a resolution expressing the board’s appreciation to Forrest F. Nelson for his service as a River District director. Motion carried unanimously.

**Appointment of Committees for 2012.**
President Sharp and Eric Kuhn provided background information regarding appointments to the Executive Committee which, historically, has rotated among counties within basin and sub-basin groups of counties and includes the President as chairman. The 2012 Executive Committee is comprised of directors from Delta, Mesa, Saguache, Eagle and Rio Blanco Counties as well as the Board President. Other committee assignments are made by the President and Vice President. Pursuant to the Joint Management Agreement with the Bluestone Water Conservancy District, Mesa County and Garfield County directors were appointed to the Bluestone Management Committee.

**Consent Agenda:**
Peter Fleming requested the removal of agenda item 6.d.iii., Approval of Minutes and Actions Taken, Special Joint Meeting Telephone Conference, December 8, 2011, for separate action.

Director Acquafresca moved, seconded by Director Trampe, to approve the following consent agenda as amended. Motion carried unanimously.

a. Designation for Posting Notices.
b. Reappointment of General Manager, General Counsel and Treasurer.
c. Confirmation of Assistant Secretary.
d. Approval of Minutes and Actions Taken:
i. Minutes of Fourth Regular Quarterly Meeting, October 18-19, 2011.
ii. Minutes of Information and Outreach Committee Meeting, October 19, 2011.
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Peter Fleming requested insertion of the following language to paragraph 3 on page 2 of the minutes of the Special Joint Meeting, Telephone Conference, December 8, 2011; “based on the River District’s common interests with Mr. Hermundstad's clients.” Director Mueller moved, seconded by Director Trampe to approve the minutes of the Special Joint Meeting, Telephone Conference, December 8, 2011 as amended. 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):


v. Bluestone (Kobe) Project Development.

vi. Colorado River District Project Development.

vii. Applications of Fremont Pass Ditch Co., Case Nos. 09CW187 and 09CW188, Water Division 5.

viii. Application of Town of Carbondale for Recreation In-Channel Diversion, Case No. 06CW77, Water Division 5.

ix. Application of Busk-Ivanhoe, Inc., Case No. 09CW142, Water Division 2.

Director Ely moved, seconded by Director Hazard, 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 12:31 p.m.*

*General Counsel's Report - Public Session.*
Jason Turner reported that during Executive Session, the Board provided guidance to staff and General Counsel on the following matters:


v. Bluestone (Kobe) Project Development.

vi. Colorado River District Project Development.

vii. Applications of Fremont Pass Ditch Co., Case Nos. 09CW187 and 09CW188, Water Division 5.

viii. Application of Town of Carbondale for Recreation In-Channel Diversion, Case No. 06CW77, Water Division 5.

ix. Application of Busk-Ivanhoe, Inc., Case No. 09CW142, Water Division 2.
Peter Fleming reported that he was not present during the discussion of agenda item 7.a.ix.

Director Stavney moved, seconded by Director Martinez, to direct staff and Counsel to participate in the anticipated substitute supply plan of the Homestake Project in order to protect the River District's interests consistent with board direction. Motion carried unanimously.

Director Acquafresca moved, seconded by Director Alvey, to direct staff and Counsel to effectuate a transfer of the River District's interest in the Kobe Project water rights from the River District to the River District Enterprise account. Motion carried unanimously.

Director Merritt moved, seconded by Director Hazard, to delegate to the Water Supply Projects Committee on an ad hoc basis further development of Kobe Project matters if such matters rise to the level of requiring board direction. Motion carried unanimously.

Director Stavney moved, seconded by Director Alvey, to delegate authority to staff and Counsel to negotiate a stipulation in the Applications of the Fremont Pass Ditch Co., Case Nos. 09CW187 and 09CW188, Water Division 5, consistent with board direction, including a volumetric limitation on the junior right claimed in 09CW188, Water Division 5 and limiting the place of use of the junior right, and that any consent decree not compromise the River District's position on changes of trans-mountain water rights. Motion carried unanimously.

Director Alvey moved, seconded by Director Acquafresca, to delegate authority to staff and Counsel to stipulate to the town's revised proposed decree in the Application of the Town of Carbondale for Recreational In-Channel Diversion, Case No. 06CW77, Water Division 5, subject to two qualifications: the revised proposed decree adequately address drafting issues raised by the Basalt Water Conservancy District; and the proposed decree not compromise the River District's interests in Compact compliance matters. Motion carried unanimously.

Director Mueller moved, seconded by Director Trampe, to direct staff to file a statement of opposition in the Application of Denver Water, Grand County and Colorado Water Conservation Board, Case No. 11CW152, Water Division 5 in order to protect the River District's interests and in support of the pending application to the extent that may be necessary to fully implement the proposed Colorado River Cooperative Agreement. Motion carried unanimously.

Director Trampe moved, seconded by Director Martinez, to file statements of opposition to the Applications of Colorado Water Conservation Board for Instream Flow Water Rights, Case Nos. 11CW159, 11CW160 and 11CW161, Water Division 5, in order to support the CWCB's applications and to ensure to the degree possible that any final decrees entered in the cases are consistent with the flow rates and terms and conditions recommended by the Wild and Scenic Stakeholders Group. Motion carried unanimously.

Peter Fleming reported that the River District's administrative protest to the Bureau of Land Management's Little Snake Resource Plan regarding Wild & Scenic Suitability for portions of the Yampa River had been denied by the Bureau's Regional Director. Staff was directed to calendar applicable deadlines in order to preserve the District's ability to appeal to the Department of the Interior.
Mr. Fleming related that the National Ski Area Association recently filed a lawsuit against the U.S. Forest Service concerning a directive issued to impose certain requirements on water rights in federal land use permits for ski areas. The directive instructs that all new or modified permits include a clause that the ski area operator agree not to transfer the water rights off the national forest, effectively tying the water to the ski area in perpetuity. There is concern that this policy could “trickle down” to other water rights that originate on federal lands, such as municipal water supplies or agricultural uses.

**Presentation on Water Economics in the Headwaters by Jean Townsend of Coley/Forrest for NWCCOG Q/Q Committee.**

Jean Townsend presented a report compiled for the Q/Q Committee, to illustrate the link between water and the economies of the headwaters counties, the economic link to the Front Range economy, and the impact transmountain diversions have had on the economic health of the headwaters counties.

**Discussion of Nutrient Rulemaking.**

Mike Eytel reported that the Water Quality Control Commission has noticed the Rulemaking Hearing for adoption of nutrient criteria in Regulation #31 Basic Standards and Methodologies for Surface Water and a New Nutrient Management Control Regulation #85 for March 12, 2012. Mr. Eytel also noted that the River District has filed for Party Status and has participated in the Colorado Nutrient Coalition (CNC) which is comprised of 67 entities.

A recent study commissioned by the Colorado Water Development and Power Authority to examine statewide costs versus benefits associated with implementation of the proposed regulations has raised concerns that the costs far outweigh the benefits achieved for nearly all basins in the state.

After lengthy discussion, Director Merritt moved, seconded by Director Stavney, to direct staff to continue participating in the Colorado Nutrient Coalition. Motion carried unanimously.

On a related matter, Chris Treese reported the following bill has been introduced: **Senate Bill 12-017: CONCERNING THE ADOPTION OF WATER QUALITY CONTROL RULES REGARDING NUTRIENTS, AND, IN CONNECTION THEREWITH, PROHIBITING THE WATER QUALITY CONTROL COMMISSION FROM ADOPTING NUMERIC CRITERIA FOR A WATER CONTROL STANDARD OR CONTROL REGULATION REGARDING NITROGEN OR PHOSPHORUS.**

Recommendaion: Support in Concept (Intent).

Director Stavney moved, seconded by Director Mueller, to monitor SB 12-017. Motion carried 7:4. Directors voting for the motion: Mueller, Trampe, Alvey, Martinez, Stavney, Hazard and Newberry. Directors voting against the motion: Acquafrasca, Turner, Merritt and Gray.

**External Affairs.**

**75th Anniversary Report:**

Jim Pokrandt updated the Board on scheduled events at which the River District’s diamond anniversary will be celebrated including a joint celebration with the Colorado Water Conservation Board, six State of the River meetings, the District’s annual water seminar in Grand Junction, and presentations to the three Roundtables in the District. Mr. Pokrandt also reported that a book chronicling the River District’s history will be available in July.
Federal Affairs:
Chris Treese reported that the top priority for 2012 is Congressional reauthorization of funding for the Endangered Fish Recovery Programs for the Upper Colorado and San Juan Rivers.

Ruedi Reservoir Repayment Update:
Mr. Treese stated that negotiations among West and East Slope beneficiaries of the Fryingpan-Arkansas Project continue to develop a plan to reduce accumulating debt on Ruedi Reservoir and keep Ruedi water contracts affordable into the future. The stakeholders plan to present a proposal to the Bureau of Reclamation by July 2012.

Naming of Ruedi Reservoir Dam:
Mr. Treese directed the Board’s attention to a proposed resolution to name the dam at Ruedi Reservoir after Clifford H. Stone. Judge Stone was a state legislator from Gunnison County, first director of the Colorado Water Conservation Board, and was instrumental in the negotiations of the 1948 Upper Colorado River Basin Compact. Director Merritt moved, seconded by Director Trampe, to adopt the resolution as written and submit it to the Colorado Water Conservation Board for further exploration. Motion carried unanimously. The resolution is attached as Appendix F.

State Affairs:
House Bill 12-1032: CONCERNING CONTINUATION OF FORESTRY-RELATED PROGRAMS.
Recommended Position: Support.
Director Trampe moved, seconded by Director Stavney, to support HB 12-1032. Motion carried unanimously.

Senate Joint Resolution 12-002: CONCERNING THE ADVERSE EFFECTS THAT THE DIVERSION OF REVENUES HAS HAD ON WATER INFRASTRUCTURE IN COLORADO.
Recommendation: Support.
Director Acquafresca moved, seconded by Director Trampe, to support SJR 12-002. Motion carried unanimously.

Senate Bill 12-063: CONCERNING THE ALLOCATION OF CERTAIN SEVERANCE TAX REVENUES TO INSTITUTIONS OF HIGHER EDUCATION LOCATED IN RURAL REGIONS IMPACTED BY THE DEVELOPMENT OF MINERALS SUBJECT TO TAXATION.
Recommendation: Oppose.
This bill caps revenue received from severance tax at $100 million to be shared equally by the Department of Local Affairs and the Department of Natural Resources with any excess allotted to assist communities impacted by mineral production and higher education in rural areas.

Director Turner moved, seconded by Director Stavney, to oppose SB 12-063. Motion carried with Director Gray voting against the motion.

Director Stavney moved, seconded by Director Hazard, to initiate bi-weekly special joint meeting telephone conference calls beginning February 2, 2012, with the caveat that Mr. Treese be prohibited from using the word “telephonic.” Motion carried unanimously.
President Sharp recessed the meeting at 5:10 p.m.

Wednesday, January 18, 2012

President Sharp found a quorum and reconvened the meeting at 8:16 a.m.

State Affairs: (Cont’d):
Director Merritt moved, seconded by Director Acquafresca, to reconsider the Board’s position on SB 12-063. Motion carried unanimously.

Director Merritt moved, seconded by Director Ely, to change the position from oppose to monitor SB 12-063, and to direct staff to provide more information on the bill at the February 2, 2012 special joint meeting for possible reconsideration. Motion carried unanimously.

Annual Policy Discussion.
Chris Treese provided an overview of the policy review process. In 2004, the Board chose to formalize the development and review processes of River District policies. Roughly one-third of the policies are now reviewed by the Board annually.

Federal Reserved Water Rights:
No substantive changes were recommended.

Colorado’s Prior Appropriation Doctrine:
No substantive changes were recommended.

No action was taken consistent with Board policy to calendar policy review or development for at least two quarterly meetings before taking action.

General Manager’s Report.
Colorado River Water Availability Study, Phase II - Risk Management Study:
Eric Kuhn reported that Phase II of the Colorado River Water Availability Study being conducted by the Colorado Water Conservation Board will be focused on risk management. One goal of the study is to prevent or minimize a future compact curtailment on the Colorado River. Mr. Kuhn noted that every river in Colorado under an interstate compact has dealt with curtailment with the exception of the Colorado River. The River District will also be conducting an analysis on certain aspects of risk management.

Flaming Gorge Pipeline Project Update:
Dan Birch reported that at a recent Flaming Gorge Project Exploration Committee meeting, one topic of discussion was compact and risk management issues as well as creating a list of initial issues and questions about a potential project. Project proponents have been invited to make presentations to the Committee at a future meeting and representatives from Wyoming have been invited to share their perspectives of a proposed Flaming Gorge pipeline. The River District is opposed to the project because of questions about administration issues and the potential for the project to trigger a compact curtailment.
Colorado River Basin Study:
Eric Kuhn relayed that the Bureau of Reclamation’s Colorado River Basin Study is moving toward the solutions and strategy phase. This will explore how to close an estimated 2.5 to 4.0 million acre foot gap projected by 2060 between demand for Colorado River water and available supply. River District staff is participating in the study.

Compact Water Bank Process:
Dan Birch presented preliminary results of Phase I of the Compact Water Bank Study. Results indicate that the initial concept of basing the water bank on fallowing row crops to provide water for banking, would only provide approximately 75,000 acre feet of consumptive use in contrast to over 800,000 acre feet of consumptive use that are in hay production. However, alfalfa fields and grass pastures, in most instances, cannot be fallowed and would have to be supported with deficit irrigation. The challenge then presented is how to quantify or estimate the amount of reduced consumptive use from deficit irrigation. The water bank work group will be meeting in February to determine if it will proceed with Phase II of the study.

Approval of Contract with SC Environmental:
Director Alvey moved, seconded by Director Mathis, to approve a contract with SC Environmental in an amount not to exceed $40,000 for 2012. Motion carried unanimously.

Resolutions for Mike Gillespie and Carol DeAngelis:
Director Merritt moved, seconded by Director Trampe, to adopt resolutions of appreciation to Mike Gillespie and Carol DeAngelis for their accomplishments at the National Resources Conservation Service and the Bureau of Reclamation, respectively. Motion carried unanimously. The resolutions are attached as Appendices G. and H.

Service Anniversaries Recognition:
John Currier expressed the River District’s appreciation to Mike Eytel for 5 years of service. Dan Birch relayed the District’s appreciation to Audrey Turner for 5 years of service, and President Sharp followed suit by expressing the District’s appreciation to Peter Fleming for 10 years of service.

10,825 Update.
Dan Birch reported that in response to concerns expressed to the Bureau of Reclamation’s Draft Environmental Assesment and Finding of No Significant Impact on the 10,825 a.f. permanent water supply, which is necessary to meet the Colorado River water users’ obligation pursuant to the 15-Mile Reach Biological Opinion (PBO), the Bureau was modifying the Preferred Alternative to include an additional 2,000 acre feet of Ruedi water that would be used to mitigate the impacts of the use of the Red Top Valley Ditch.

Discussion of Nutrient Rulemaking (Resumed).
Director Acquafrasca moved, seconded by Director Merritt to direct staff and Counsel to participate in the Water Quality Control commission Nutrient Rulemaking Hearing to the extent necessary to achieve the following goals:
a. To seek practical solutions to nutrient control where there is a scientifically demonstrable benefit to the ecological health of West Slope rivers, lakes and streams.
b. To support exemptions from proposed nutrient regulations, if such regulations would impose an
unreasonable financial burden on River District constituents without a scientifically demonstrable benefit to the ecological health of West Slope rivers, lakes and streams.
c. To ensure that any nonpoint source regulation remains voluntary.
d. To prevent threats from the federal government to the State of Colorado’s primacy in matters of water quality control.
e. To explore and support viable options for financial assistance for regulated entities.

Motion carried unanimously.

Financial Matters.
Acceptance of Treasurer’s Reports for September, October, and November, 2011.
Director Hazard moved, seconded by Director Stavney, to accept the treasurer’s reports for September, October, and November 2011. Motion carried unanimously.

Development of General Manager and General Counsel Appraisal Process.
The Board discussed a draft template, created by consultant Dr. Len Loudis, to assist the Board in setting goals for and evaluating the performance of the General Manager and General Counsel positions. Staff was directed to work with Dr. Loudis on further development of the appraisal process.

Directors’ Concerns.
No concerns were expressed.

Future Meetings.
  a. Special Meeting Conference Calls During Legislative Session, beginning February 2, 2012. (And every other Thursday until cancelled).
  b. Executive Committee Meeting, March 9, 2012, Glenwood Springs, CO.
  c. Second Regular Quarterly Meetings, April 17-18, 2012, Glenwood Springs, CO.
  d. 75th Anniversary Celebration with the Colorado Water Conservation Board, May 15, 2012, Glenwood Springs, CO.
  e. Colorado-Big Thompson Project Tour, June 7-8, 2012.
  f. Third Regular Quarterly Meetings, July 17-18, 2012, Glenwood Springs, CO.
  g. CRWCD 2011 Budget Workshop, September 12, 2012, Grand Junction, CO.
  h. CRWCD Water Seminar, September 13, 2012, Grand Junction, CO.
  i. Fourth Regular Quarterly Meetings, October 16-17, 2012, Glenwood Springs, CO.
  j. Other Meetings:
     i. CWC Annual Convention, January 26-27, 2012, Denver, CO.
     ii. Western State Water Workshop, July TBD, 2012, Gunnison, CO.
     iii. CWC Summer Convention, August 15-17, 2012, Steamboat Springs, CO.
     iv. CRWUA Convention, December 12-14, 2012, Las Vegas, NV.

Adjourn.
There being no further business before the Board, President Sharp adjourned the meeting at 10:50 a.m.
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