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

October 16-17, 2012

Pursuant to notice duly and properly given, the Fourth Regular Quarterly Meeting of the Board of Directors of the Colorado River Water Conservation District (CRWCD) was held on Tuesday and Wednesday, October 16-17, 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
Warner Dewey                          Steve Acquafresca
Tom Gray                              Stephen M. Mathis
Andrew A. Mueller                     John Ely
Kai Turner                            Gary Martinez

Directors not present:
Rebie Hazard

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
Laurie DePaolo, Executive Assistant, CRWCD
Ray Tenney, Deputy Chief Engineer, CRWCD
Audrey Turner, Administrative Chief, CRWCD
Don Meyer, Sr. Water Resources Engineer, CRWCD
Mike Eytel, Water Resources Specialist, CRWCD
Jim Pokrandt, Communication and Education Specialist, CRWCD
Martha Moore, Public Affairs Specialist, CRWCD
Denise Hussain, Records Specialist, CRWCD
Alesha Frederick, Business Support Specialist, CRWCD
Susan Owens, The Owens Group
Larry Sweeney, Colorado Conservation Board

Quorum.
President Sharp found a quorum and called the meeting to order at 9:07 a.m.

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.
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Review and Approve Agenda and Meeting Objectives.
Director Merritt moved, seconded by Director Dewey, to approve the agenda as presented. Motion carried unanimously.

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

Approval of Minutes and Actions Taken:
c. Minutes of Special Meeting in Conjunction with Southwestern Water Conservation District, September 12, 2012.

Personnel Review Matters.
Peter Fleming recommended that the following matters qualify for discussion in Executive Session pursuant to C.R.S. §§ 24-6-402(4)(f)(personnel): Personnel Review Matters with General Manager.

Director Alvey moved, seconded by Director Mueller, to move into Executive Session pursuant to C.R.S. §§ 24-6-402(4)(f)(personnel). Motion carried unanimously.

Mr. Fleming stated that discussions on personnel matters would be recorded and retained for 90 days.

President Sharp reconvened the meeting into Public Session at 11:28 a.m.

Personnel Review Matters - Public Session.
Peter Fleming reported that during Executive Session the Board discussed the following:

General Manager’s Report:
HB-1177 Roundtables/IBCC Update:
Eric Kuhn reported the IBCC is currently engaged in scenario planning to develop four or five plausible future scenarios, construct water strategies for each scenario, then look for commonalities among all of the strategies. The common elements may contribute to developing successful water strategies to meet future demands. Mr. Kuhn also reported that consensus is building at the IBCC that Colorado’s agricultural economy will be very healthy in the future because of worldwide demand.

Colorado River Interstate Issues:
Mr. Kuhn noted that inflow into Lake Powell for August and September was the lowest on record. It was also reported that the Republic of Mexico has resumed discussions with the United States on shortage sharing and other Colorado River issues.

Flaming Gorge Task Force Update:
Dan Birch reported that the task force group discussion has shifted from focusing on a specific project to a
broader discussion of what attributes any large new project should have.

Northern Integrated Supply Project (NISP):
Eric Kuhn reviewed NISP, which is a project being proposed by the Northern Colorado Water Conservancy District. The project would store water from the Cache La Poudre River in Glade Reservoir and Galeton Reservoir north of Fort Collins. Construction costs are estimated to be $500 million.

Redlands Power Interference Discussion:
Eric Kuhn reported that discussions have been initiated with the Redlands Water and Power Company (Redlands) and interested parties to explore the possibility of “shared shortage” agreements similar to those entered into in 2002-2004, removing the Redlands winter power call on the Gunnison River in order to maximize winter reservoir storage to help recover from 2012 low flow conditions.

Service Anniversary Recognition:
Audrey Turner expressed the River District’s appreciation to Denise Hussain for her 5 years of service at the River District.

Compensation Survey Presentation by Susan Owens of the Owens Group.
Susan Owens presented the River District salary survey which is conducted triennially pursuant to the Board’s policy. The purpose of the survey is to determine if salary ranges remain competitive and consistent with the District’s compensation goals.

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):

iv. River District Conditional Water Rights for the Fraser Valley Project (Ranch Creek Reservoir).
v. Colorado River Compact and Interstate Matters.
vi. Pitkin County RICD Application, Case No. 10CW305, Water Division 5.
vii. Joint Diligence Application of River District and West Divide Water Conservancy District, Case No. 11CW93, Water Division 5.
viii. Application of Busk-Ivanhoe, Inc., Case Nos. 09CW142, 09CW186, and 09CW272, Consolidated, Water Division 2.

Director Trampe moved, seconded by Director Merritt, 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 4:26 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:

4. River District Conditional Water Rights for the Fraser Valley Project (Ranch Creek Reservoir).
5. Colorado River Compact and Interstate Matters.
6. Pitkin County RICD Application, Case No. 10CW305, Water Division 5.
7. Joint Diligence Application of River District and West Divide Water Conservancy District, Case No. 11CW93, Water Division 5.
8. Application of Busk-Ivanhoe, Inc., Case Nos. 09CW142, 09CW186, and 09CW272, Consolidated, Water Division 2.

Mr. Fleming also reported that Director Ely was not present during the discussion of agenda items 7.a. vi., Pitkin County RICD Application, Case No. 10CW305, Water Division 5 and 7.a.vii., Joint Diligence Application of River District and West Divide Water Conservancy District, Case No. 11CW93, Water Division 5. Mr. Fleming went on to state that he was not present during the discussion of agenda item 7.a. viii., Application of Busk-Ivanhoe, Inc., Case Nos. 09CW142, 09CW186, and 09CW272, Consolidated, Water Division 2.

Pursuant to the River District’s Water Rights Litigation Policy, Director Mueller moved, seconded by Director Trampe, to authorize counsel and staff to exceed 100 hours of staff time as necessary, on litigation matters related to the Application for Water Rights of the Board of County Commissioners County of Pitkin, Case No. 10CW305, Water Division 5. Motion carried unanimously. Director Ely abstained from the vote.

Director Trampe moved, seconded by Director Mathis, to authorize approval of the Colorado River Cooperative Agreement (CRCA) contingent upon: a) prior execution the Green Mountain Reservoir Administrative Protocol Agreement by all of the parties hereto; b) the absence of any significant setbacks in finalization of the Shoshone Outage Protocol Agreement; c) approval of the CRCA by the remaining West Slope parties; and d) the concurrence by the River District’s General Counsel and General Manager. Motion carried unanimously.

Director Acquafresca moved, seconded by Director Stavney, to authorize approval of the Shoshone Outage Protocol Agreement. Motion carried unanimously.

Director Mueller moved, seconded by Director Trampe, to adopt the proposed changes to the Colorado River District’s Colorado River Water Projects Enterprise Resolution to incorporate the completion of the Elkhead Reservoir enlargement and potential future similar actions of the Enterprise. Motion carried unanimously. (The resolution is attached as Appendix A.)

Peter Fleming reported on the ruling in a lawsuit filed by the Chatfield Community Association against the
Douglas County Board of County Commissioners challenging a permitting decision made by the County approving the proposed Sterling Ranch development. The court ruled in favor of the Association, finding that the County had abused its discretion by approving Sterling Ranch’s development plan without a sufficient demonstration that the development had an adequate water supply as required by HB08-1141.

Also reported was a recent Colorado Court of Appeals ruling regarding the Open Meetings Law. The court held that a gathering of Public Utilities Commission (“PUC”) directors to take a position on potential legislation was not subject to the Open Meetings Law because the PUC’s formation of an opinion and position on the pending legislation was “incidental to” but not part of the PUC’s policy-making function.

A presentation was given by John Currier regarding the proposed Green Mountain Reservoir Administrative Protocol including a summary of the issues related to administration, a comparison of the current state interim administration policy with the proposed protocol administration, and an outline of the major provisions of the proposed protocol.

Director Mueller moved, seconded by Director Martinez, to authorize approval of the Green Mountain Reservoir Administrative Protocol and the Green Mountain Reservoir Administrative Protocol Agreement contingent upon 1) resolution of final drafting of the documents, and 2) approval of both documents by the Grand Valley parties to the Blue River Decree, the Ute Water Conservancy District, and the Middle Park Water Conservancy District. Motion carried unanimously.

Vice President Newberry recessed the meeting at 5:36 p.m.

Wednesday, October 17, 2012

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

External Affairs:
Information and Outreach Update:
Jim Pokrandt reported that Water Wranglers, The 75 Year History of the Colorado River District by George Sibley is now available for purchase from the River District, Amazon.com as well as local commercial bookstores. Other recent outreach activities included the annual CRWCD seminar which had approximately 200 attendees and the bi-annual H2O Water Camp at the Keystone Science School with 16 high school students in attendance from both the West and East Slopes.

State Affairs:
Chris Treese presented proposed legislation that has been reviewed by the Water Resources Review Committee for potential introduction in the 2013 legislative session.

Bill 4: CONCERNING THE PROMOTION OF WATER CONSERVATION MEASURES.
This bill would provide incentives and protections for “conserved water.” Conserved water is defined as a savings of historical beneficial use but precludes savings from removal of phreatophytes. It allows for a change of use of the conserved water if certain requirements are met. Mr. Treese noted this bill was not approved by the interim committee, but Senator Schwartz has indicated her interest in pursuing this proposal.
Bill C: CONCERNING LIMITATIONS ON A LANDOWNER’S ABILITY TO IMPOSE CONDITIONS ON WATER RIGHT OWNER AS A CONDITION OF PERMISSION TO USE LAND. This bill is in response to the U.S. Forest Service’s directive conditioning ski areas’ special use permits with water rights assignment to the federal government as a condition to using forest lands for ski area recreation. Mr. Treese noted that Joint Resolution A also addresses this issue.

BILL D: CONCERNING POINTS OF DIVERSION THAT ARE NOT LOCATED AT THE PHYSICAL LOCATION SPECIFIED IN THE DECREES FOR DIVERTED WATER RIGHTS. This bill would establish a process and a rebuttable presumption of non-injury for technical corrections to points of diversions that are recorded in error in the water decrees.

BILL E: CONCERNING THE RESOLUTION OF AMBIGUITIES IN OLD WATER RIGHT DECREES REGARDING THE PLACE OF USE OF IRRIGATION WATER. This bill would create a mechanism to determine the amount of acreage allowable for irrigation decrees if the water right was decreed before 1937 and is silent on the intended irrigated acreage. The maximum allowable acreage would be the amount actually irrigated during the first 50 years of irrigation.

Upper Yampa Water Conservancy District Case: Consistent with the discussion the Board had with the Southwestern Water Conservation District, there is a proposal for legislation to address a couple aspects of the Supreme Court’s decision in the Upper Yampa Water Conservancy District cases, specifically the ability of appropriators to make stored water absolute.

Federal Affairs: Mr. Treese reported that the River District’s main remaining priority, with regards to federal affairs, in the 112th Congress is securing Congressional reauthorization of funding for the Endangered Fish Recovery Programs for the Upper Colorado and San Juan Rivers.

Financial Matters. Director Alvey moved, seconded by Director Stavney, to accept the treasurer’s reports and check registers for June, July and August 2012. Motion carried unanimously.

Director Mueller moved, seconded by Director Mathis, to increase the General Manager’s salary by 2.1% for 2013. Motion carried unanimously.

Director Mueller moved, seconded by Director Stavney, to not accept the salary range adjustment for General Counsel as recommended by the Owens Group and to increase the General Counsel’s salary by 2.1% for 2013, with an additional increase of 2.2% based on the current salary. Motion carried unanimously.

Director Mueller moved, seconded by Director Merritt, to direct the General Manager to seek additional data and clarification from the Owens Group regarding other recommended salary range adjustments and to delegate approval of any proposed salary range adjustments based on the 2012 Owens Group report to the Executive Committee. Motion carried unanimously.

Budget Hearings. President Sharp opened the 2013 budget hearings.
Eric Kuhn reported that the budget notice was published in local papers and that copies of the budget were sent to each county to be posted and were available to the public at the district office and on the district’s website. Comments were requested from the public on the River District website. No public comment was received.

Resolution for 2012 General Fund Budget Amendments:
Director Merritt seconded by Director Dewey, to adopt a resolution summarizing expenditures and revenues for the General Fund and adopting an amended budget for the Colorado River Water Conservation District, Colorado for the calendar year beginning on the first day of January 2012 and ending on the last day of December 2012. Motion carried unanimously.

Resolution to Adopt 2013 General Fund Budget:
Director Merritt moved, seconded by Director Dewey, to adopt a resolution summarizing expenditures and revenues for the General Fund and adopting a budget for the Colorado River Water Conservation District, Colorado, for the calendar year beginning on the first day of January 2013 and ending on the last day of December 2013. Motion carried unanimously.

Resolution to Appropriate Sums of Money:
Director Merritt moved, seconded by Director Dewey, to adopt a resolution appropriating sums of money to the various funds in the amounts and for the purposes set forth below, for the Colorado River Water Conservation District, Colorado, for the 2013 budget year: General Fund, $6,086,591, and Capital Projects Fund $4,765,261. Motion carried unanimously.

Resolution for 2012 Capital Projects Fund Budget Amendments:
Director Merritt moved, seconded by Director Dewey, to adopt a resolution summarizing expenditures and revenues for the Capital Projects Fund and adopting an amended budget for the Colorado River Water Conservation District, Colorado, for the calendar year beginning on the first day of January 2012 and ending on the last day of December 2012. Motion carried unanimously.

Resolution to Transfer Unspent 2012 Balances:
Director Merritt moved, seconded by Director Dewey, to adopt a resolution to authorize and direct the transfer of monies to the Capital Projects Fund from the General Fund in the amount of revenues less expenditures, and an amount sufficient to cover expenses prior to the receipt of tax revenues. This resolution further authorizes and directs that the funds be transferred effective December 31, 2012. Motion carried unanimously.

Resolution to Adopt 2013 Capital Projects Fund Budget:
Director Merritt moved, seconded by Director Dewey, to adopt a resolution summarizing expenditures and revenues for the Capital Projects Fund and adopting a budget for the Colorado River Water Conservation District, Colorado for the calendar year beginning on the first day of January 2012 and ending on the last day of December 2012. Motion carried unanimously. (The resolutions are attached as Appendices B-G.).

President Sharp closed the budget hearings.
Ruedi Reservoir Contracting Update.
Dan Birch summarized various agreements pertaining to Ruedi contracting and implementation of the 10,825 solution which will benefit endangered fishes and fulfill the Colorado River water users' obligation pursuant to the 15-Mile Reach Programmatic Biological Opinion. Those agreements include the Contributed Funds Act Agreement with the Bureau of Reclamation (Reclamation) to cover Reclamation's costs associated with the NEPA process and contracting expenses for the remaining Ruedi Round II contract water to be purchased by the West Slope as well as the related cost share agreement among the West Slope entities to reimburse the River District for their pro-rata share of the NEPA and contracting expenses.

In addition, Mr. Birch updated the Board on the 5,412.5 and 2,000 acre-foot insurance pool contract discussions and the IGA with Denver Water that will reimburse the River District for costs associated with the 2,000 acre-foot insurance pool contract.

Director Stavney moved, seconded by Director Trampe, to approve the Contributed Funds Act Agreement with the Bureau of Reclamation and to delegate authority to the General Manager to execute the agreement. Motion carried unanimously.

Approval of Out-of-Basin Use for Industrial Contractors:
Pursuant to the River District's authority granted by the Fryingpan-Arkansas Project Operating Principles, Director Mathis moved, seconded by Director Alvey, to approve use of Encana's proposed industrial contract for Ruedi Reservoir water outside of the Colorado River mainstem in the Piceance Basin. Motion carried unanimously.

Directors' Concerns.
Director Mueller requested future meeting materials be relayed electronically. Further discussion will be held at the January 2013 quarterly meeting.

Future Meetings.
   a. First Regular Quarterly Meetings, January 15-16, 2013, Glenwood Springs, CO.
   b. Executive Committee Meeting, Mid-March, 2013, Glenwood Springs, CO.
   c. Second Regular Quarterly Meetings, April 16-17, 2013, Glenwood Springs, CO.
   d. Third Regular Quarterly Meetings, July 16-17, 2013, Glenwood Springs, CO.
   e. 2014 CRWCD Budget Workshop, Mid-September 2013, Location TBD.
   f. CRWCD 2013 Water Seminar, Mid-September 2013, Location TBD.
   g. Fourth Regular Quarterly Meetings, October 15-16, 2013, Glenwood Springs, CO.
   h. Other Meetings:
      i. CRWUA Convention, December 12-14, 2012, Las Vegas, NV.
      ii. CWC Winter Convention, January 30-February 1, 2013, Denver, CO.

Adjourn.
There being no further business before the Board, President Sharp adjourned the meeting at 10:31 a.m.

James Newberry, President
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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