

## 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

January 24, 2013

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Pursuant to notice duly and properly given, a special joint meeting telephone conference 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 Thursday, January 24, 2013, 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:**

James Newberry, President	Jon Stavney, Vice-President
Thomas R. Sharp	Tom Gray
William S. Trampe	Gary Martinez
Stephen M. Mathis	Rebie Hazard
Kai Turner	Tom Alvey
David H. Merritt	Andrew A. Mueller

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

Steven Acquafresca	Stan Whinnery
John Ely	

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

Eric Kuhn, General Manager, CRWCD  
Chris Treese, Manager, External Affairs, CRWCD  
Peter Fleming, General Counsel, CRWCD  
John Currier, Chief Engineer, CRWCD  
Audrey Turner, Administrative Chief, CRWCD  
Dan Birch, Deputy General Manager, CRWCD  
Laurie DePaolo, Executive Assistant, CRWCD  
Martha Moore, Public Affairs Specialist, CRWCD  
Danny Williams, Corporate Advocates  
Bob Simpson, Corporate Advocates  
Laura Locke, Corporate Advocates

#### **Quorum.**

President Newberry found a quorum and called the meeting to order at 12:05 p.m.

#### **External Affairs.**

##### **State Issues:**

**SB 13-023 CONCERNING AN INCREASE IN THE LIMITATION ON THE AMOUNT OF DAMAGES THAT MAY BE RECOVERED BY AN INJURED PARTY UNDER THE "COLORADO GOVERNMENTAL IMMUNITY ACT."**

This bill significantly increases the maximum financial award allowable under the Colorado Governmental Immunity Act. The bill is sponsored by the Senate President and is at least in part in response to the limited

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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.

awards allowable for last summer's fires. Mr. Treese reported that an increase in limits under the Act will increase our insurance premiums and may threaten our insurability.

**Recommended position: Oppose/Amend**

Director Stavney moved, seconded by Director Gray to **monitor SB 13-023 and direct staff to negotiate down the proposed limits, though up from current limits.** Those voting in favor of the motion: Newberry, Stavney, Sharp, Gray, Trampe, Martinez, Mathis, Hazard, Turner, Alvey and Merritt. Those abstaining: Mueller. Motion carried.

**SB 13-072 CONCERNING THE DELETION OF THE REQUIREMENT FOR A FINAL PERMIT FOR ALL WELLS WITHDRAWING DESIGNATED GROUND WATER FROM THE DENVER BASIN AQUIFERS.**

This Interim Water Committee bill addresses the permitting of wells exclusively producing Denver Basin groundwater.

**Recommended position: No position**

Director Trampe moved, seconded by Director Hazard to **not take a position on SB 13-072.** Motion carried unanimously.

**SB 13-073 CONCERNING A REQUIREMENT THAT THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOLLOW RULE-MAKING PROCEDURES WHEN PROPOSING CHANGES TO GENERAL PERMITS RELATED TO WATER QUALITY CONTROL.**

This Interim Water Committee bill requires the Water Quality Control Division (WQCD) to follow the Administrative Procedures Act when promulgating "general permits." Mr. Treese noted that this bill was prompted by the sand and gravel community's recent experience with the Colorado Department of Public Health and its WQCD.

**Recommended position: Support**

Director Merritt moved, seconded by Director Martinez to **support SB13-073.** Motion carried unanimously.

**SB 13-074 CONCERNING THE RESOLUTION OF AMBIGUITIES IN OLD WATER RIGHT DECREES REGARDING THE PLACE OF USE OF IRRIGATION WATER.**

This Interim Water Committee bill limits the evidence that a water judge can consider when addressing older water decrees that do not specify a maximum acreage to be irrigated. Mr. Treese noted that although the proponents have been working with opponents and are willing to accept limited amendments, there remains much concern around this bill. Director Sharp stated that he finds line 15 too vague. Peter Fleming noted that if the bill passes, it arguably makes agricultural transfers to municipal uses easier.

**Recommended position: Oppose**

Director Gray moved, seconded by Director Trampe to **oppose SB13-074.** Those voting in favor of the motion: Newberry, Stavney, Gray, Trampe, Martinez, Mathis, Hazard, Turner, Alvey, Merritt and Mueller. Those voting against the motion: Sharp. Motion carried.

**SB 13-075 CONCERNING SAFEGUARDS TO PREVENT THE MODIFICATION OF A FINAL DESIGNATED GROUND WATER PERMIT BASED ON REDUCTIONS IN THE USE OF DESIGNATED GROUND WATER.**

Mr. Treese noted that this Interim Water Committee bill pertains only to designated basins and therefore not directly a west slope or River District concern.

**Recommended position: No position**

Director Stavney moved, seconded by Director Hazard to **take no position on SB13-075.** Motion carried unanimously.

**SB 13-078 CONCERNING POINTS OF DIVERSION THAT ARE NOT LOCATED AT THE PHYSICAL LOCATION SPECIFIED IN THE DECREES FOR DIVERTED WATER RIGHTS.**

**Correcting Erroneous Decree Provisions**

This Interim Water Committee bill provides a process for a holder of a decreed water right with an erroneously located point of diversion to apply for a correction in the point of diversion. Mr. Treese noted that as introduced the bill lacks protective limitations and that John Currier has been working with a Water Congress group to develop acceptable limitations.

**Recommended position: Amend/Support**

Director Mueller moved, seconded by Director Trampe to **amend SB13-078**. Motion carried unanimously.

**SJR 13-005 CONCERNING THE ADVERSE EFFECTS THAT THE DIVERSION OF REVENUES HAS HAD ON WATER INFRASTRUCTURE IN COLORADO.**

This Interim Water Committee joint resolution calls on the General Assembly to protect severance tax-derived funds (e.g., Colorado Water Conservation Board (CWCB) Water Projects Fund) from being transferred to aid in balancing the General Fund. Mr. Treese noted that this is very similar to a resolution the Board supported last year with just slightly softer language to secure JBC support.

**Recommended position: Support**

Director Merritt moved, seconded by Director Alvey to **support SJR 13-005**. Motion carried unanimously.

**HB 13-1090 CONCERNING PAYMENT OF AMOUNTS DUE UNDER A CONSTRUCTION AGREEMENT.**

Mr. Treese noted that this bill is a more aggressive version of a bill that we fought for a half dozen years with supposedly a final resolution two years ago. This bill is very strict and removes any leverage from construction project sponsors to ensure work is completed.

**Recommended position: Oppose**

Director Stavney moved, seconded by Director Merritt to **oppose HB 13-1090**. Motion carried unanimously.

**HB 13-1130 CONCERNING EXTENDED OPERATION OF INTERRUPTIBLE WATER SUPPLY AGREEMENTS (ISWAs).**

Mr. Treese reported that this bill is Aurora Water's "toned-down" bill that provides extensions to current limitations on Interruptible Water Supply Agreements. This bill allows for a total of two 10-year renewal periods irrespective of whether or not the agreement has been previously exercised. Peter Fleming requested clarification of the 10-year period (e.g., participants may not exercise an ISWA's in year 1, 2 and 3 and then ask for a renewed agreement and use it in years 4, 5 and 6).

**Recommended position: Support**

Director Stavney moved, seconded by Director Martinez to **support HB 13-1130**. Those directors voting in favor of the motion: Newberry, Stavney, Gray, Sharp, Martinez, Mathis, Hazard, Turner, Alvey, Merritt and Mueller. Those abstaining: Trampe. Motion carried.

**HJR 13-1007 CONCERNING APPROVAL OF WATER PROJECT REVOLVING FUND ELIGIBILITY LISTS ADMINISTERED BY THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY.**

This annual resolution is required to approve and make eligible local projects for Safe Drinking Water and Wastewater Revolving Loan funds.

**Recommended position: Support**

Director Trampe moved, seconded by Director Hazard to **support HJT 13-1007**. Motion carried unanimously.

**UPDATES:**

**HB 1013 CONCERNING LIMITATIONS ON A LANDOWNER'S ABILITY TO IMPOSE CONDITIONS ON A WATER RIGHT OWNER AS A CONDITION OF PERMISSION TO USE LAND.**

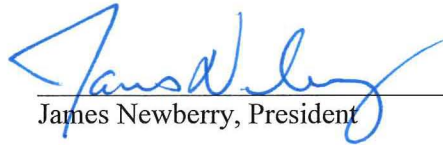
After hearing from the River District and others, Representative Sonnenberg has an amendment that states this bill only applies to Federal lands. The sponsor is also considering, at the River District's request, not limiting the bill to the Forest Service nor to ski area operations but also for other Federal activities such as grazing permits.

Director Merritt moved, seconded by Director Hazard to change the board's position from oppose to **monitor HB 13-1013**. Motion carried unanimously.

**Next Meeting:** Due to scheduling issues, the next Board Conference call is changed from Thur., Feb. 7<sup>th</sup> to Wed., Feb. 6<sup>th</sup> at noon.

**Adjourn.**

There being no other business before the Board, President Newberry adjourned the meeting at 12:38 p.m.

  
James Newberry, President

ATTEST:

  
R. Eric Kuhn, Secretary/General Manager