

**MINUTES<sup>1</sup>**  
**SECOND REGULAR QUARTERLY MEETING OF THE**  
**BOARD OF DIRECTORS OF THE**  
**COLORADO RIVER WATER CONSERVATION DISTRICT**

**April 16-17, 2013**

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Pursuant to notice duly and properly given, the Second Regular Quarterly Meeting of the Board of Directors of the Colorado River Water Conservation District (CRWCD) was held on Tuesday and Wednesday, April 16-17, 2013 at the Hotel Denver, 402 7<sup>th</sup> Street, Glenwood Springs, Colorado.

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**Directors participating during all or part of the meeting:**

James Newberry, President	Tom Alvey
David H. Merritt	Stan Whinnery
Andrew A. Mueller	Thomas R. Sharp
John Ely	Kai Turner
Gary Martinez	Steve Aquafresca

**Directors not participating:**

Jon Stavney	Stephen M. Mathis
William S. Trampe	Rebie Hazard
Tom Gray	

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

Eric Kuhn, General Manager, CRWCD  
Peter Fleming, General Counsel, CRWCD  
Dan Birch, Deputy General Manager, CRWCD  
John Currier, Chief Engineer, CRWCD  
Mary Kalmes, Chief Accountant, CRWCD  
Chris Treese, Manager, External Affairs, CRWCD  
Jason Turner, Associate Counsel, CRWCD  
Audrey Turner, Administrative Chief, CRWCD  
Laurie DePaolo, Executive Assistant, CRWCD  
Jim Pokrandt, Communication & Education Specialist, CRWCD  
Ray Tenney, Deputy Chief Engineer, CRWCD  
Dave Kanzer, Sr. Water Resources Engineer, CRWCD  
Don Meyer, Sr. Water Resources Engineer, CRWCD  
Ian Philips, Accountant, CRWCD  
Dave Smith, Engineering Technician, CRWCD  
Denise Hussain, Records Specialist, CRWCD  
Lorra Nichols, Paralegal, CRWCD  
Martha Moore, Public Affairs Specialist, CRWCD  
Alesha Frederick, Business Support Specialist, CRWCD  
Phillip Ceriani, Overland Ditch & Reservoir Co.  
Steve Jouflas  
Caroline Bradford  
Joe Meade, Robinson Ditch Company  
Sharon Clark, Roaring Fork Conservancy  
Larry Sweeney, Colorado Association of Conservation Districts

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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.

**Quorum.**

President Newberry found a quorum and called the meeting to order at 11:02 a.m.

**Review and Approve Meeting Agenda and Objectives.**

Eric Kuhn directed the Board's attention to a revised agenda removing agenda items 5., 6., and 7., to be addressed at a future meeting. Mr. Kuhn also reported the addition of Approval of Contract with Public Opinion Strategies as agenda item 12 b. with State Affairs and Federal Affairs being subsequently re-lettered as 12.c. and d.

**Consent Agenda.**

Director Merritt moved, seconded by Director Turner, to approve the following consent agenda as presented. Motion carried unanimously.

Approval of Minutes and Actions Taken:

- a. Minutes of First Regular Quarterly Meeting, January 15-16, 2013.
- b. Minutes of Information and Outreach Committee Meeting, January 16, 2013.
- c. Minutes of Special Joint Meeting, Telephone Conference, January 24, 2013.
- d. Minutes of Special Joint Meeting, Telephone Conference, February 6, 2013.
- e. Minutes of Special Joint Meeting, Telephone Conference, February 21, 2013.
- f. Minutes of Executive Committee Meeting, March 8, 2013.
- g. Minutes of Special Joint Meeting, Telephone Conference, March 8, 2013.
- h. Minutes of Special Joint Meeting, Telephone Conference, March 21, 2013.

**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):

- i. Proposed Colorado River Cooperative Agreement- Implementation Issues and Execution, and Application in Case No. 11CW152, Water Division 5.
- ii. Green Mountain Reservoir Administrative Fill and Climax C.A. 1710 Priority Issues and Finalization of Proposed Green Mountain Reservoir Administrative Protocol.
- iii. C-BT Project Operations, Windy Gap Firing Project and Upper Colorado Stream Flow Management.
- iv. River District Conditional Water Rights for the Fraser River/Ranch Creek Reservoir Project.
- v. Joint Diligence Application of River District and West Divide Water Conservancy District, Case No. 11CW93, Water Division 5.
- vi. Application of Busk-Ivanhoe, Inc., Case Nos. 09CW142, 09CW186, and 09CW272, Consolidated, Water Division 2.

Director Ely moved, seconded by Director Acquafresca, 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 Newberry reconvened into Public Session at 1:33 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:

- i. Proposed Colorado River Cooperative Agreement- Implementation Issues and Execution, and Application in Case No. 11CW152, Water Division 5.

- ii. Green Mountain Reservoir Administrative Fill and Climax C.A. 1710 Priority Issues and Finalization of Proposed Green Mountain Reservoir Administrative Protocol.
- iii. C-BT Project Operations, Windy Gap Firing Project and Upper Colorado Stream Flow Management.
- iv. River District Conditional Water Rights for the Fraser River/Ranch Creek Reservoir Project.
- v. Joint Diligence Application of River District and West Divide Water Conservancy District, Case No. 11CW93, Water Division 5.
- vi. 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 item 3.a.v., 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 3.a.vi., Application of Busk-Ivanhoe, Inc., Case Nos. 09CW142, 09CW186, and 09CW272, Consolidated, Water Division 2.

Director Acquafresca moved, seconded by Director Martinez, to direct staff and Counsel to secure the River District's execution of the Green Mountain Reservoir Protocol Agreement unless the United States identifies any new substantive concerns with the agreement on or before April 26, 2013. Motion carried unanimously.

Director Mueller moved, seconded by Director Martinez, to reconsider pre-conditions established in October 2012 for execution of the Colorado River Cooperative Agreement and to authorize staff and Counsel to secure the River District's execution of the Colorado River Cooperative Agreement unless the United States identifies any new substantive concerns with the Green Mountain Reservoir Protocol Agreement on or before April 26, 2013. Motion carried unanimously.

Mr. Fleming stated that while the directors that put forth the motion and second for approval of the Colorado River Cooperative Agreement in October 2012 were not present at the April 2013 meeting, Directors Mueller and Martinez were present at both meetings, voted in favor of the October motion, and as such this was an appropriate action under The Modern Rules of Order.

Director Mueller moved, seconded by Director Alvey, to authorize staff and Counsel to enter into a MOU with the Grand County Board of County Commissioners and the Middle Park Water Conservancy District to serve as joint applicants in a diligence application for the Fraser Valley Project water rights with the MOU providing that the River District controls the litigation reserving the right to withdraw from the application at its discretion and contingent upon the execution of the MOU, to confirm the Board's intent to develop the Fraser Valley Project water rights and to direct staff and Counsel to file a diligence application jointly with Grand County and the Middle Park Water Conservancy District. Motion carried unanimously.

Director Merritt moved, seconded by Director Acquafresca, to ratify a Statement of Opposition in the Application of Exxon-Mobil Corp. in Case No. 12CW177, Water Division 5 and to adopt a motion in the exercise of the River District's discretionary authority pursuant to the Operating Principles for the Fryingpan-Arkansas Project to approve the use of the Ruedi Reservoir water currently under contract to Exxon-Mobil Corp for purposes that benefit the end-use of water outside the mainstem of the Colorado River, provided such uses are limited to the Piceance Creek and Yellow Creek Basins in Water Division 6, and are directly related to and necessary for Exxon's energy development activity in the Piceance and Yellow Creek Basins and otherwise consistent with Exxon's Ruedi Reservoir contract.

After discussion, Director Alvey moved seconded by Director Martinez, to amend the pending motion by limiting the motion exclusively to Case No. 12CW177, Water Division 5. Motion carried 5:4. Directors

voting for the motion: Mueller, Alvey, Martinez, Sharp and Ely. Directors voting against the motion: Acquafresca, Whinnery, Merritt and Turner.

The amended motion carried unanimously.

Director Mueller moved, seconded by Director Ely, to ratify a Statement of Opposition in the Application of Climax Molybdenum Mine Co., Case No. 12CW176, Water Division 5. Motion carried unanimously.

Director Whinnery moved, seconded by Director Alvey, to authorize counsel to execute a stipulation resolving the River District's opposition in the Application of Soldier Canyon LLC, Case No. 07CW328, Water Division 1, provided that all outstanding issues with the proposed decree can be resolved to General Counsel's satisfaction. Motion carried unanimously.

### **General Manager's Report.**

#### **Colorado River Interstate Issues:**

##### **Basin Study:**

Eric Kuhn reported that staff has made several presentations to River District constituents on the results of the Colorado River Basin Study with more presentations being scheduled.

##### **2014 AOP:**

It was reported that preparation of the 2014 Annual Operating Plan (AOP) is underway by the Bureau of Reclamation. The AOP covers the operation of the major federal reservoirs on the Colorado River including Lake Powell and Lake Mead.

##### **Ruedi Reservoir Update:**

Dan Birch reported that the Bureau of Reclamation expects to have the NEPA process and contracts completed by October 1 for the remaining 19,585 AF pool of Ruedi Reservoir contract water.

##### **Northern Integrated Supply Project:**

Director Merritt moved to draft a letter of support for the Northern Colorado Water Conservancy District's Northern Integrated Supply Project. The motion died for lack of a second.

### **Executive Committee Report.**

Dave Kanzer outlined the current grant application review process undertaken by a staff committee and the Executive Committee. Dave Kanzer reported that for 2013, a total of 33 applications were received with 13 grants being recommended by staff for funding (4 large grants, 9 small grants). Mr. Kanzer noted that the majority of applications included pre-1922 water rights. A complete list of applications is attached as Appendix A.

Mr. Kanzer reminded the Board of the grant funding criteria and guidelines used in the review process (e.g., total project cost and grant request size determine if it is a small or large grant). Ranking criteria used by staff to evaluate applications for funding was discussed and includes appropriateness of the project; project description; budget; funding; technical adequacy; project effectiveness; sponsor's capability; cost effectiveness; and applicant participation. Mr. Kanzer also noted that \$8,000 for the 2013 Grants Program was unallocated.

##### **Acceptance of Grant Recommendations:**

After an extensive discussion surrounding the merits of the recommended grant applications and a discussion with Sharon Clarke, representing the Roaring Fork Conservancy, whose application for assessment and development of restoration projects in the Coal Creek Basin was not recommended, Director Whinnery

moved, seconded by Director Ely, to approve the Executive Committee's recommendations and to award the remaining \$8,000 available in the 2013 Grant Program pool to the Roaring Fork Conservancy to further its development of restoration projects.

Director Merritt requested the motion be amended for approval of the recommended applications with a separate motion introduced for approval of the Roaring Fork Conservancy's application. The amendment was accepted by Directors Whinnery and Ely.

Director Whinnery moved, seconded by Director Ely, to approve the Executive Committee's recommendations as presented. Motion carried unanimously.

Director Whinnery moved, seconded by Director Ely, to approve awarding the remaining \$8,000 available in the 2013 Grant Program pool to the Roaring Fork Conservancy contingent upon a demonstration by the Roaring Fork Conservancy that the funds will be used for the application of biochar in the Coal Creek Basin. Motion failed 3:5. Directors voting for the motion: Whinnery, Ely and Martinez. Directors voting against the motion: Mueller, Acquafresca, Alvey, Merritt and Turner.

Staff was directed to compile a list of Grant Program policy issues for discussion at the July 2013 quarterly board meeting.

#### **Compact Water Bank Update.**

Dan Birch reported that the Compact Water Bank workgroup has applied for an agricultural transfer grant from the CWCB for Phase IIB of the study. Phase IIB will focus on 3 to 4 irrigation systems and the practicality of deficit irrigation and fallowing. Effects of deficit irrigation will be tracked and a quantification of water savings will be attempted.

#### **OMID Project Update.**

It was reported that the Bureau of Reclamation is currently entering the design phase for efficiency improvements to the Orchard Mesa Irrigation Project. Project completion is expected to be in 2016.

#### **Directors' Concerns.**

Appreciation was expressed for staff's efforts to create an electronic board meeting packet and suggestions were offered for modifications of future packets.

#### **Future Meetings.**

- a. Strategic Plan Workshop, **mid-June, 2013?**
- b. Third Regular Quarterly Meetings, **July 16-17, 2013, Glenwood Springs, CO.**
- c. CRWCD 2014 Budget Workshop, **September 12, 2013, Grand Junction, CO.**
- d. CRWCD Water Seminar, **September 13, 2013, Grand Junction, CO.**
- e. Fourth Regular Quarterly Meetings, **October 15-16, 2013, Glenwood Springs, CO.**
- f. Other Meetings:
  - i. Western State Water Workshop, **July 18-20, 2013, Gunnison,**
  - ii. CWC Summer Convention, **August 21-23, 2013, Steamboat Springs, CO.**
  - iii. CRWUA Convention, **December 11-13, 2013, Las Vegas, NV.**

*President Newberry recessed the meeting at 4:49 p.m.*

*Wednesday April 17, 2013*

*President Newberry found a quorum and reconvened the meeting at 8:14 a.m.*

### **Financial Matters.**

#### **Presentation of 2012 CRWCD Audit by Kevin Smith of McGladrey & Pullen, LLP:**

Kevin Smith of McGladrey & Pullen, LLP, reported that in their opinion, the financial statements present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund and aggregate remaining fund information of the Colorado River Water Conservation District as of December 31, 2012. He also stated that the respective changes in financial position and cash flows were acceptable for the year and conforms to generally accepted accounting principles.

#### **Acceptance of 2012 CRWCD Audit:**

Director Martinez moved, seconded by Director Whinnery, to accept the 2012 CRWCD audit as presented. Motion carried unanimously.

#### **Renewal of Contract with McGladrey & Pullen, LLC:**

Director Merritt moved, seconded by Director Acquafresca, to approve a contract with McGladrey & Pullen LLC for a term of one year and in an amount not to exceed \$23,700 for performance of the 2103 CRWCD audit. Motion carried unanimously.

#### **Acceptance of Treasurer's Reports and Check Registers for December 2012 and January 2013:**

Director Alvey moved, seconded by Director Ely, to accept the treasurer's reports and check registers for December 2012 and January 2013. Motion carried unanimously.

### **Annual Policy Discussion.**

#### **Endangered Species Act:**

Director Acquafresca moved, seconded by Director Mueller, to adopt the River District's Endangered Species Act Policy as presented. Motion carried unanimously.

#### **Upper Colorado River Recovery Program:**

Director Acquafresca moved, seconded by Director Mueller, to adopt the River District's Upper Colorado River Recovery Program Policy as presented. Motion carried unanimously.

#### **Recreational Water Use:**

Director Acquafresca moved, seconded by Director Mueller, to adopt the River District's Recreational Water Uses Policy as presented. Motion carried unanimously. (The policies are attached as Appendices B.-D.).

### **External Affairs.**

#### **Information and Outreach Update:**

Jim Pokrandt directed the Board's attention to the 2012 CRWCD Annual Report which will be mailed to approximately 600 interested parties and distributed throughout the year at various events. Mr. Pokrandt also noted that six State of the River meetings will be held throughout the District beginning on May 7 with emphasis being placed on current drought conditions, water camps at the Keystone Science School will take place in April and October, and the annual CRWCD seminar will be September 13 in Grand Junction.

#### **Approval of Contract with Public Opinion Strategies:**

Director Whinnery moved, seconded by Director Alvey, to approve a contract with Public Opinion Strategies to conduct the River District's triennial constituent poll in an amount not to exceed \$29,000. Motion carried unanimously.

**State Affairs:**

**SB13-258: CONCERNING A CLARIFICATION THAT EACH APPLICATION INCLUDED IN THE DEFINITION OF DEVELOPMENT PERMIT CONSTITUTES A STAGE IN THE DEVELOPMENT PERMIT APPROVAL PROCESS.**

**Recommendation: Support in Concept.**

This bill is in response to a 2012 court ruling that found the Douglas County Board of County Commissioners had abused its discretion by approving a development plan (Sterling Ranch) without a sufficient demonstration that the development had an adequate water supply as required by **HB08-1141**.

After extensive discussion, Director Acquafresca moved, seconded by Director Turner, to **oppose SB13-258**, but to support the proponents' goal of clarifying the ability to permit developments in phases which would reduce the possibility of developers "hoarding" water for possible future use.

Subsequent discussion of the motion and the bill resulted in Directors Acquafresca and Turner withdrawing the motion and the second.

Director Whinnery moved, seconded by Director Acquafresca, to **oppose SB13-258**, and express the Board's interest in exploring means to ensure an adequate water supply for developments without inadvertently encouraging piecemeal development. Motion carried unanimously.

Chris Treese reported that **HB13-1248 and HB13-1130** regarding augmentation water supplies have been amended to prohibit the legislation from facilitating transmountain diversions. He also reported that the CWCB construction fund bill was initially amended to strike Section 15 of the bill (as the Board directed) expanding the acquisition of water rights for instream flows; however, the removal was reversed and the bill is on the Governor's desk.

**Federal Affairs:**

Mr. Treese relayed that H.R. 678 streamlining the regulatory process and reducing administrative costs for small hydropower development at Bureau of Reclamation facilities passed the House and is now in the Senate.

**2013 Drought Planning.**

John Currier reported that snowpack levels north of I-70 had improved significantly due to recent storms. However, because snowpack in the Gunnison River Basin remains well below average and Green Mountain Reservoir may not achieve a paper fill in the Colorado River Basin, the River District is formulating drought mitigation plans for both basins. Those plans include the purchase of Blue Mesa Reservoir water to reduce shortages in the Upper Gunnison Basin and utilizing uncontracted River District water in Ruedi Reservoir for drought mitigation in the Colorado Basin if necessary.

**Adjourn.**

There being no other business before the Board, President Newberry adjourned the meeting at 10:24 a.m.

**Reconvene.**

President Newberry found a quorum and reconvened the meeting at 10:39 a.m. to address new business before the Board.

**SB13-269: CONCERNING THE CREATION OF A GRANT PROGRAM TO ASSIST WITH EFFORTS TO REDUCE THE RISK OF CATASTROPHIC WILDFIRES TO FORESTED LANDS IN COLORADO.**

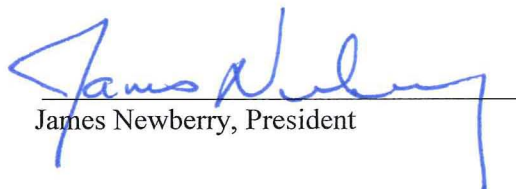
**Recommendation: Support**

This bill would create a wildfire reduction/mitigation grant program with an initial \$10.3M appropriation. Initial indications are the funds would come from the General Fund as a transfer to the Wildfire Mitigation Fund.


Director Alvey moved, seconded by Director Turner, to support **SB13-269** pending disclosure of the funding sources for the bill. Motion carried unanimously.

**Adjourn.**

There being no other business before the Board, President Newberry adjourned the meeting at 10:44 a.m.

  
James Newberry, 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