

MINUTES¹
FIRST REGULAR QUARTERLY MEETING OF THE
BOARD OF DIRECTORS OF THE
COLORADO RIVER WATER CONSERVATION DISTRICT

January 21-22, 2014

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 21-22, 2014 at the Hotel Denver, 402 7th Street, Glenwood Springs, Colorado.

Directors participating during all or part of the meeting:

James Newberry, President	Jon Stavney, Vice President
Tom Alvey	David H. Merritt
William S. Trampe	John Justman
Stephen M. Mathis	John Ely
Doug Monger	Rebie Hazard
Gary Martinez	Tom Gray
Kai Turner	Andrew A. Mueller
Stan Whinnery	

Directors not participating:

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, Senior Counsel, 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
Mike Eytel, Water Resources Specialist, CRWCD
Dave Smith, Engineering Technician, CRWCD
Denise Hussain, Records Specialist, CRWCD
Lorra Nichols, Paralegal, CRWCD
Martha Moore, Public Affairs Specialist, CRWCD
Alesha Fredrick, Business Support Specialist, CRWCD
John McClow, Colorado Water Conservation Board
James Eklund, Colorado Water Conservation Board
Ted Kowalski, Colorado Water Conservation Board
Brent Garner-Smith, Aspen Journalism
Art Burrows, Ajax Design
Ed Warner, U.S. Bureau of Reclamation

¹An 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.

Dan Crabtree, U.S. Bureau of Reclamation
Ted Dunn, U.S. Bureau of Reclamation
Erin Gleason, Colorado Division of Water Resources
Bill McCormick, Colorado Division of Water Resources
Diane Johnson, Eagle River Water & Sanitation District
David Hallford, Balcomb & Green, P.C.
Ken Ransford, Ken Ransford, P.C.
Tom Kay, No Chico Brush

Quorum.

President Newberry found a quorum and called the meeting to order at 9:36 a.m.

Review Meeting Agenda and Objectives.

No changes were recommended for the agenda.

Report and Presentation of Directors' Credentials for Mesa, Moffat, Pitkin, Routt and Saguache Counties.

Eric Kuhn reported that executed credentials for directors from Mesa (Justman), Moffat (Gray), Pitkin (Ely), Routt (Monger) and Saguache (Hazard) Counties have been received by the River District. (The credentials are attached as Appendices A.-E.)

Election of Board Officers for 2014.

Election of President:

Director Mueller moved, seconded by Director Mathis, to elect Director Newberry as president for 2014. Motion carried unanimously.

Election of Vice President:

Director Mueller moved, seconded by Director Martinez, to elect Director Stavney as vice president for 2014. Motion carried unanimously.

Resolutions for Outgoing Directors.

Director Trampe moved, seconded by Director Mueller, to adopt resolutions expressing the Board's appreciation to Steve Acquafresca and Thomas R. "Tom" Sharp for their service as River District directors. Motion carried unanimously. (The resolutions are attached as Appendices F. and G.)

Appointment of Committees for 2014.

President Newberry 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 Executive Committee, consistent with rotation among counties, for 2014 is comprised of directors from Eagle, Garfield, Gunnison, Moffat and Ouray 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.

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

Approval of Minutes and Actions Taken:

- a. Minutes of Fourth Regular Quarterly Meeting, October 15-16, 2013.
- b. Acceptance of Treasurer's Reports and Check Registers for September, October and

November 2013.

Resolution for Dan Crabtree.

Director Stavney moved, seconded by Director Alvey, to adopt a resolution expressing the River District's appreciation to Dan Crabtree for his public service to the West Slope during his 23-year career at the Bureau of Reclamation. Motion carried unanimously. (The resolution is attached as Appendix H.)

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. Colorado River Cooperative Agreement – Implementation Issues.
- ii. C-BT Project Operations, Windy Gap Firing Project, and Upper Colorado Stream Flow Management.
- iii. Adjudication of the Green Mountain Reservoir Administrative Protocol.
- iv. Application of Busk-Ivanhoe, Inc., Case Nos. 09CW142, 09CW186, and 09CW272, Consolidated, Water Division 2.
- v. Colorado River Compact and Interstate Issues.
- vi. Colorado State Water Plan and Colorado Compact Water Bank Study.
- vii. Application of Pitkin County for RICD, Case No 10CW305, Water Division 5.

Director Stavney moved, seconded by Director Mathis, to proceed into Executive Session pursuant to C.R.S. §§ 24-6-402(4)(b)(legal advice) and (e)(negotiations) and to invite John McClow, James, Eklund and Ted Kowalski to participate in a portion of Executive Session pursuant to an existing confidentiality agreement with the State of Colorado on Colorado Interstate matters and pursuant to the role of Eric Kuhn and Peter Fleming as advisors to the State on the Upper Colorado River Commission. 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 11:25 a.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 with the exception of agenda item 8.a. iv.; Application of Busk-Ivanhoe, Inc., Case Nos. 09CW142, 09CW186, and 09CW272, Consolidated, Water Division 2.

- i. Colorado River Cooperative Agreement – Implementation Issues.
- ii. C-BT Project Operations, Windy Gap Firing Project, and Upper Colorado Stream Flow Management.
- iii. Adjudication of the Green Mountain Reservoir Administrative Protocol.
- iv. Application of Busk-Ivanhoe, Inc., Case Nos. 09CW142, 09CW186, and 09CW272, Consolidated, Water Division 2.
- v. Colorado River Compact and Interstate Issues.
- vi. Colorado State Water Plan and Colorado Compact Water Bank Study.
- vii. Application of Pitkin County for RICD, Case No. 10CW305, Water Division 5.

Mr. Fleming also reported that Director Ely was not present during the discussion of agenda item 8.a.vii.; Application of Pitkin County for RICD, Case No. 10CW305, Water Division 5.

Director Alvey moved, seconded by Director Mathis, to authorize General Counsel to approve a stipulation with Pitkin County in the Application of Pitkin County for RICD, Case No. 10CW305, Water Division 5,

pursuant to the terms outlined by General Counsel in Executive Session, and to direct Counsel to remain active in the case to ensure that the decree contains appropriate terms and conditions and to protect the West Slope's interests and Pitkin County's ability to exercise its water right. Motion carried unanimously with Director Ely abstaining from the vote.

Director Merritt moved, seconded Director Stavney, to approve the proposed revisions to Article III.C of the Financial Governance Policy and the proposed revisions to the River District's standard form contracts to expressly allow for signature by counterpart and electronic signatures. Motion carried unanimously. Director Mueller moved, seconded by Director Ely, to approve the 2014 Special Counsel rate increases as presented. Motion carried unanimously.

Director Mueller moved, seconded by Director Trampe, to authorize staff and Counsel to file a Statement of Opposition in the Application of the City of Glenwood Springs for a Recreational In-Channel Diversion, Case No. 13CW3109, Water Division 5. Motion carried unanimously.

General Manager's Report.

Proposed Contract Approvals:

Director Merritt moved, seconded by Director Whinnery, to approve the following contracts as presented. Motion carried unanimously.

- i. Ratification of Contract Extension and Approval of Additional Contract with BW Consulting. (In an amount not to exceed \$40,000).
- ii. Approval of Contract with SC Environmental. (In an amount not to exceed \$40,000).
- iii. Approval of Contract with Wilson Water Group. (In an amount not to exceed \$25,000).
- iv. Approval of Joint Funding Agreement with USGS.
- v. Approval of Contract Amendment with Hydros Consulting. (In an amount not to exceed \$50,000).

Approval of Proposed Changes to Employee Policy Manual:

Director Stavney moved, seconded by Directors Merritt and Mueller, to approve the proposed changes to the District's Employment Policies and Procedural Guidelines regarding the Drug Free Workplace and Substance Abuse Prohibition section. Motion carried unanimously.

Ratification of RHS Amendment:

Director Merritt moved, seconded by Director Stavney, to ratify an amendment to the Retirement Health Saving Plan in order to comply with provisions of the Affordable Health Care Act. Motion carried unanimously.

Presentation by Ed Warner of USBR.

Ed Warner presented an overview of the responsibilities of the Grand Junction Area Office of the Bureau of Reclamation (USBR). The office covers all CRSP reservoirs and participating projects on the West Slope. A primary focus for the office is maintaining and improving the office's projects' aging infrastructure, and to that end, is participating in the creation of a program to assist water users with project rehabilitation.

General Manager's Report (cont'd.).

Colorado River Interstate Issues:

Eric Kuhn relayed that in response to decreasing reservoir levels at Lake Powell and Lake Mead, the Upper Division states are exploring options that include reducing water use, system efficiency improvements, and modified operation of the Upper Basin CRSP reservoirs to assist in alleviating the situation. The Lower Division states are also engaged in examining conservation and water use reduction.

President Newberry recessed the meeting at 2:03 p.m.

President Newberry found a quorum and reconvened the meeting at 3:31 p.m.

General Manager's Report (cont'd.).

Roundtable/IBCC Update:

Mr. Kuhn reviewed the statement of principle on risk management from the West Slope Roundtable Caucus, that a statewide water plan neither promote nor preclude a new transmountain diversion and should include a process to determine how and when to reengage in discussion on the topic.

SWSI 2010 Reality Check and Basin Implementation Plans:

Eric Kuhn referred the Board to an analysis done by John Currier on the Statewide Water Supply Initiative 2010 (SWSI) report. The analysis concluded that future municipal and industrial water gaps on the East Slope projected by SWSI 2010 may be overstated, thereby removing or reducing the need for a new transmountain diversion.

Goals and Objectives for 2014:

Eric Kuhn and Peter Fleming provided an overview of 2014 goals for the General Manager and General Counsel as well as the River District as a whole. These goals include: continued implementation of the Colorado River Cooperative Agreement (CRCA) and the Windy Gap Firming Project Agreement; exploring potential joint use projects pursuant to the CRCA with Denver Water; continued monitoring of the Ritschard Dam embankment movement and investigating all reasonable operation and rehabilitation options; development of a strategic water rights development plan; and, ensuring the long term financial viability of the River District's Enterprise.

Policies.

Eric Kuhn reminded the Board of the policy review process. In 2004, the Board chose to formalize the development and review processes of River District policies. Approximately one-third of the policies are reviewed by the Board annually.

Colorado River Compact:

No substantive changes were recommended.

Colorado's Remaining Allocation of Colorado River Basin Water:

No substantive changes were recommended.

Interstate Water Marketing:

No substantive changes were recommended.

Colorado River Storage Project Act:

No substantive changes were recommended.

By consensus, staff was directed to draft a policy supporting funding for rehabilitation of aging and inefficient water projects infrastructure to be presented at the April 2014 quarterly meeting.

Transmountain Diversions:

By consensus, staff was directed to include language listing cooperative projects in the background section. Staff was also directed to include language in the policy section indicating that transmountain diversions must be used to benefit both the West and East Slopes and requiring mitigation be provided for socio-economic, environmental and recreational interests.

Water Quality:

No substantive changes were recommended.

External Affairs.

Federal Affairs:

Chris Treese outlined the River District's federal priorities for 2014 including: supporting an appropriation to fund pilot projects to increase Colorado River water through conservation efforts in the Upper and Lower Basins including equitable allocation of the funds between the Upper and Lower Basins; pursuing funding for the NRCS Manual Snow Courses, which is a critical planning component in water management, while exploring options for alternative funding options of the program; and, legislation to remove the lower Colorado River past the confluence with the Gunnison River from future Wild & Scenic evaluations.

President Newberry recessed the meeting at 4:37 p.m.

Wednesday, January 22, 2014

President Newberry found a quorum and reconvened the meeting at 8:17 a.m.

State Affairs:

By consensus, staff was directed to initiate bi-weekly special joint meeting conference call during legislative session beginning on February 6, 2014.

Consent Agenda:

Director Whinnery moved, seconded by Director Trampe, to accept the following five legislative consent agenda recommendations as presented. Motion carried unanimously.

SB14-025: CONCERNING GRANTS FOR DOMESTIC WASTEWATER TREATMENT WORKS FOR SMALL COMMUNITIES.

Recommendation: Support.

This bill clarifies that severance tax dollars credited to the small communities water and wastewater grant fund may be used for domestic wastewater infrastructure.

SB14-077: CONCERNING THE RETENTION BY THE STATE OF COLORADO OF CONCURRENT JURISDICTION OVER CERTAIN FEDERAL LANDS.

Recommendation: Monitor.

This bill reserves Colorado's right to share, with the United States, all the current federal authorities regarding management and administration of all U.S. Forest Service and Bureau of Land Management lands.

HB14-1002: CONCERNING THE ESTABLISHMENT OF A GRANT PROGRAM UNDER THE "COLORADO WATER QUALITY CONTROL ACT" TO REPAIR WATER INFRASTRUCTURE IMPACTED BY A NATURAL DISASTER.

Recommendation: Support.

This bill establishes a new \$12 million grant program within the Colorado Department of Public Health and Environment for disaster assistance.

HB14-1008: CONCERNING THE AUTHORIZATION OF THE COLORADO WATER RESOURCES AND POWER AUTHORITY TO MAKE LOANS TO PRIVATE ENTITIES FOR PURPOSES OF FOREST HEALTH PROJECTS.

Recommendation: Support.

This bill allows the Water & Power Authority to make loans to privately sponsored healthy forest/healthy watershed projects.

HB14-1030: CONCERNING THE ESTABLISHMENT OF INCENTIVES FOR THE DEVELOPMENT OF HYDROELECTRIC ENERGY SYSTEMS.

Recommendation: Support in concept.

This bill provides hydropower incentives and assistance in the permitting process.

SB14-017: CONCERNING A LIMITATION ON THE APPROVAL OF REAL ESTATE DEVELOPMENTS THAT USE WATER RIGHTS DECREED FOR AGRICULTURAL PURPOSES TO IRRIGATE LAWN GRASS.

Recommendation: Support in concept.

Chris Treese reported that **SB14-017** imposes a limitation on lawn areas in new developments if the new development relies in any part on permanent dry-up of irrigated agriculture for its water supply.

Support for the concept was expressed, however concerns included: (1) while one of the bill's goals is to prevent dry-up of agricultural land, it might inadvertently encourage a new transmountain diversion; (2) what governmental body would be responsible for enforcement; and (3) county and municipal land-use authority being usurped by the state.

Director Whinnery moved, seconded by Director Trampe, to **amend SB14-017**. Motion carried 12:1 with Director Merritt voting against the motion.

SB14-023: CONCERNING AN AUTHORIZATION OF THE VOLUNTARY TRANSFER OF WATER EFFICIENCY SAVINGS TO THE COLORADO WATER CONSERVATION BOARD FOR INSTREAM USE PURPOSES THAT INCLUDE LANDS WEST OF THE CONTINENTAL DIVIDE.

Recommendation: Amend.

This bill would allow an irrigator to loan or permanently transfer non-consumptive water savings due to efficiency improvements to an instream flow.

Concerns were expressed about the lost potential for an upstream junior appropriator to divert water in the stream that is no longer needed by a downstream senior and the difficulty in calculating return flows.

Director Ely moved, seconded by Director Stavney, to **amend SB14-023**. Motion carried 9:4. Directors voting for the motion: Stavney, Mueller, Mathis, Ely, Merritt, Turner, Gray, Alvey and Monger. Directors voting against the motion: Trampe, Justman, Whinnery and Hazard.

SB14-089: CONCERNING A PROHIBITION FOR THE STATE TO ENTER INTO AN AGREEMENT FOR A PAYMENT IN LIEU OF TAXES.

Recommendation: Amend.

This bill would prohibit any public entity from making or committing to make Payment in Lieu of Tax payments in association with the acquisition of private property.

Director Stavney moved, seconded by Director Ely, to remove this bill from further discussion. Subsequent discussion resulted in Directors Stavney and Ely withdrawing the motion and second.

Director Merritt moved, seconded by Director Mueller, to **amend SB14-089** making it applicable only to the State of Colorado and exclude other governmental entities. Motion carried unanimously.

HB14-1005: CONCERNING CLARIFICATION OF THE REQUIREMENTS APPLICABLE TO A CHANGE OF POINT OF WATER DIVERSION.

Recommendation: Amend.

This bill would allow the relocation of a headgate if a change to the stream channel requires it without a water court proceeding. Concern was expressed that public notification of the proposed relocation should be included to allow input from other water right owners that may be impacted by the relocation.

Director Gray moved, seconded by Director Trampe, support **HB14-1005** if an amendment of public notification is included. Motion carried unanimously.

HB14-1026: CONCERNING THE AUTHORIZATION OF FLEXIBLE WATER MARKETS.

Recommendation: Amend.

This bill would create a new type of changed agricultural water right defined to allow for the non-identification of the final type or place of use while still requiring quantification and no injury to other water rights owners. Concerns were expressed that this subverts the anti-speculation doctrine and would create negative situations if applied throughout the state.

Director Monger moved, seconded by Director Gray, to **oppose HB14-1026** unless amended to limit the application of a flex water right to use within the basin-of-origin or to facilitate the actual use of water rights within the basin-of-origin. Motion carried unanimously.

HB14-1028: CONCERNING A LIMITATION ON THE RIGHTS OF THE UNITED STATES' ABILITY TO IMPOSE CONDITIONS ON A WATER RIGHT OWNER IN EXCHANGE FOR PERMISSION TO USE LAND.

Recommendation: Monitor.

Director Merritt moved, seconded by Director Stavney, to **monitor HB14-1028**. Motion carried unanimously.

Director Gray moved, seconded by Director Mathis to approve the renewal of a Continuing Services Agreement with Danny Williams and Laura Locke-Field for lobbying services with a rate increase in an amount not to exceed \$22,000 per year for three years. Motion carried unanimously.

Chris Treese reminded the Board that the Lower Colorado River Wild & Scenic stakeholders group made a recommendation to the Grand Junction office of the Bureau of Land Management to delay any decision on the mainstem of the Dolores River for Wild & Scenic suitability. They also recommended that the Colorado Water Conservation Board convene a broader stakeholder group within the full Dolores River basin focusing on Wild & Scenic determinations, and to delay appropriating an instream flow right in the Dolores River.

Director Merritt moved, seconded by Director Whinnery, to authorize staff to request that the Colorado Water Conservation Board delay any instream flow appropriation in the Dolores River until the broader stakeholder group has completed its activities. Motion carried unanimously.

Directors' Concerns.

Directors requested a conference call meeting approximately a week before the first regular quarterly meeting to review potential legislative bills beginning in 2015.

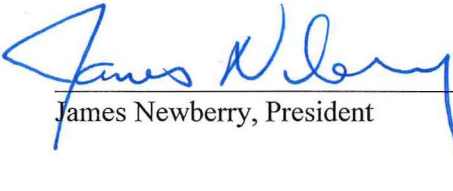
Future Meetings.

- a. Special Joint Meeting Conference Calls During Legislative Session, beginning **February 6, 2014 (every other Thursday)**.
- b. Executive Committee Meeting, **March 14, 2014, Glenwood Springs, CO.**
- c. Second Regular Quarterly Meetings, **April 15-16, 2014, Glenwood Springs, CO.**
- d. Third Regular Quarterly Meetings, **July 15-16, 2014, Glenwood Springs, CO.**
- e. CRWCD 2014 Budget Workshop, **September 11, 2014, Montrose, CO.**


- f. CRWCD Water Seminar, September 12, 2014, Grand Junction, CO.
- g. Fourth Regular Quarterly Meetings, October 21-22, 2014, Glenwood Springs, CO.
- h. Other Meetings:
 - i. CWC Annual Convention, January 29-31, 2014 Denver, CO.
 - ii. Western State Water Workshop, June 18-20, 2014, Gunnison, CO.
 - iii. CWC Summer Convention, August 21-23, 2014, Snowmass Village, CO.
 - iv. CRWUA Convention, December 10-12, 2014, Las Vegas NV.

Adjourn.

There being no other business before the Board, President Newberry adjourned the meeting at 10:15 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