

MINUTES¹
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

February 16, 2017

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, February 16, 2017, at the offices of the Colorado River District, 201 Centennial Street, Glenwood Springs, Colorado.

Directors participating during all or part of the meeting:

Tom Alvey, President	David H. Merritt, Vice President
Marc Catlin	Karn Stiegelmeier
Tom Gray	William S. Trampe
Rebie Hazard	Stan Whinnery
Doug Monger	Martha Whitmore
Mike Ritschard	

Directors not participating:

Steve Acquafresca	John Ely
Kathy Chandler-Henry	Alden Vanden Brink

Other participating during all or part of the meeting:

Dan Birch, Deputy General Manager, CRWCD
John Currier, Chief Engineer, CRWCD
Laurie DePaolo, Executive Assistant, CRWCD
Peter Fleming, General Counsel, CRWCD
Eric Kuhn, General Manager, CRWCD
Dave Kanzer, Deputy Chief Engineer, CRWCD
Martha Moore, Public Affairs Specialist, CRWCD
Ian Philips, Senior Accountant, CRWCD
Jim Pokrandt, Director, Community Affairs, CRWCD
Chris Treese, Manager, External Affairs, CRWCD
Audrey Turner, Administrative Chief, CRWCD
Jason Turner, Senior Counsel, CRWCD
Torie Jarvis, Northwest Colorado Council of Governments, Q/Q Committee
Robert Simpson, Williams + Simpson
Danny Williams, Williams + Simpson

Quorum.

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

Review Meeting Agenda and Objectives.

Peter Fleming requested the order of agenda items be changed by moving the Executive Session portion as the last agenda item and the addition of a discussion and potential approval of a Common Interest Agreement regarding Orchard Mesa Irrigation District, Grand Valley Water Users Authority and Colorado Water Trust concerning potential engineering and legal work regarding rehabilitation and use of the Grand Valley Project.

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.

Director Merritt moved, seconded by Director Trampe to approve amended agenda. Motion carried unanimously.

Approval of Contract Amendment with ITRC (Cal Poly), re: North Fork RCPP Planning.

Dave Kanzer reminded the Board that this contract amendment concerns money from the Regional Conservation Partnership Program (RCPP). Mr. Kanzer requested the Enterprise Board authorize the General Manager to modify an existing contractual agreement with Cal-Poly ITRC to complete Phase 1a of the planning, optimization and design review studies for the Fire Mountain Canal in the North Fork Water Conservancy District. This contract amendment authorization request is for an additional amount not to exceed \$35,000 bringing the maximum contract total to \$269,100. The entire amount is to be fully funded using pass through monies from the NRCS (RCPP Alternative Funding Arrangement). Mr. Kanzer noted that the contracting documents are subject to review and approval by the General Manager and General Counsel and that due to the nature of funding, this agreements is not subject to the River District management fee.

Director Merritt moved, seconded by Director Trampe, to amend the existing agreement with Cal-Poly ITRC to complete Phase 1a of the planning, optimization and design review studies for the Fire Mountain Canal in the North Fork Water Conservancy District, not to exceed an additional \$35,000. Motion carried unanimously with Director Alvey abstaining.

Approval of Common Interest Agreement, regarding Gunnison Basin Conserved Consumptive Use Pilot Project.

Peter Fleming reported that this proposed agreement is between the Colorado River District, John McClow, The Nature Conservancy and Western Resource Advocates to work on studies regarding potential demand management or the conserved consumptive use concept and how conserved water might be used in the Gunnison River Basin and shepherded to achieve “contingency planning” objectives. Mr. Fleming noted that this agreement does not include a cost share provision, preserves confidentially and is consistent with the CORA.

Dave Kanzer noted that part of this study includes potential legal, financial and engineering implications associated with transferring conserved consumptive use credits around the basin into reservoir facilities.

Subsequent discussion included the Board’s expressed desire that staff participate in this project to help guide the study and stay informed of the issues.

Director Whitmore moved, seconded by Director Hazard, to enter into the Common Interest Agreement regarding Gunnison Basin Conserved Consumptive Use Pilot Project. Motion carried unanimously.

Approval of Common Interest Agreement, regarding Orchard Mesa Irrigation District, Grand Valley Water Users Association and the Colorado Water Trust

Peter Fleming reported that this proposed agreement is between the Colorado River District, The Nature Conservancy and Grand Valley Water Users Association for the study of delivery of non-Federal-project water in the Grand Valley through the Grand Valley Power plant. Orchard Mesa, Colorado Water Trust and the Grand Valley Water Users Association are all also involved. Mr. Fleming noted that this agreement does not include any cost sharing at this time, preserves confidentially and is consistent with the CORA.

Mr. Fleming also noted that the Colorado River District was not the initial proponent of the Orchard Mesa or Gunnison basin studies. The efforts were already underway, and we asked to be included.

Director Trampe moved, seconded by Director Catlin, to enter to the Common Interest Agreement regarding Orchard Mesa Irrigation. Motion carried unanimously.

General Counsel Report:

Public Session:

Update on Montrose Urban Renewal Authority.

Peter Fleming provided an update on Montrose Urban Renewal Authority's request that the River District, as a local taxing entity, consent to the inclusion of agricultural land in a proposed urban renewal authority and consent to the allocation of property tax-increment revenue collected within the renewal authority boundaries to pay off the debt of the authority. Mr. Fleming noted that the request contains two parts: 1) we consent to the inclusion of agriculture lands into the Authority; and, 2) we consent to giving our portion of the incremental tax to the Authority over a 25 year period. Mr. Fleming recommended that the River District agree to the inclusion of the agricultural lands within the authority with the provision that any future incremental tax revenue be retained by the River District.

Subsequent discussion included the strong message of not abandoning agriculture land, not giving up our tax base and avoiding any potential precedent regarding future tax increment financing requests.

Director Catlin moved, seconded by Director Whitmore, consent to the inclusion of agricultural lands with Montrose Urban Renewal Authority provided the Authority agree that the River District retains any future tax incremental tax revenues. Motion carried unanimously.

State Affairs:

SB17-152: CONCERNING THE IMPLEMENTATION OF VOTER-APPROVED CHANGES TO THE COLORADO CONSTITUTION THAT MAKE IT MORE DIFFICULT TO AMEND THE STATE CONSTITUTION, AND, IN CONNECTION THEREWITH, PROHIBITING A PETITION FOR AN INITIATED AMENDMENT TO THE STATE CONSTITUTION FROM BEING SUBMITTED TO VOTERS UNLESS THE PETITION IS SIGNED BY THE CONSTITUTIONALLY REQUIRED NUMBER OF REGISTERED ELECTORS WHO RESIDE IN EACH STATE SENATE DISTRICT AND TOTAL NUMBER OF REGISTERED ELECTORS, AND REQUIRING AT LEAST FIFTY-FIVE PERCENT OF THE VOTES CAST ON ANY AMENDMENT TO THE STATE CONSTITUTION TO ADOPT THE AMENDMENT UNLESS THE AMENDMENT ONLY REPEALS IN WHOLE OR IN PART A PROVISION OF THE STATE CONSTITUTION, IN WHICH CASE REQUIRING A MAJORITY OF THE VOTES CAST ON THE AMENDMENT TO ADOPT THE AMENDMENT.

This bill provides the statutory implementation of Amendment 71, approved by the voters in November. Amendment 71 changed the state constitution to require at least 2% of signatures on initiative petitions come from each of the 35 state Senate districts and increased to 55% the required votes for passage. An exception was included maintaining a 50% voter approval for initiatives changing constitutional provisions adopted by 50% approval.

Director Trampe moved, seconded by Director Catlin, to **support HB 17-152**. Motion carried unanimously.

CONCERNING THE LIMITED APPLICABILITY OF THE COLORADO SUPREME COURT'S DECISION IN ST. JUDE'S CO. V. ROARING FORK CLUB, LLC, 351 P.3d 442 (COLO. 2015).

Chris Treese discussed the St. Jude's Co. v. Roaring Fork Club decision and the need for corrective legislative language to address some of the concerns raised by the Supreme Court's decision.

Key provisions include: 1) confirmation that absolute and conditional water rights decreed prior to July 15, 2015 are not affected by the court's ruling; 2) recognition that the Supreme Court's ruling only applies to the factual circumstances presented in the St. Jude's case; and, 3) confirmation that the bill does not affect the existing statutory authority of Department of Natural Resources.

Director Whitmore moved, seconded by Director Ritschard, to continue our support of moving corrective legislation in the St. Jude's v. Roaring Fork Club Supreme Court Ruling. Motion carried unanimously.

General Manager Information Items.

Eric Kuhn reported agreement with the Colorado Water Conservation Board for proceeding with Phase II of the Joint West Slope Roundtables Colorado River Risk Study scope of work. Although the path forward does not answer many questions identified by members of the West Slope roundtables, the Phase II study should place the West Slope in a better position to address those questions in the future. Mr. Kuhn stressed the need for use of the Bureau of Reclamation's Colorado River Simulation System model, which looks at the big river, and use of the State's StateMod model which focuses on Colorado flows and operations.

General Counsel's Report:

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):

- a. Matters Proposed for Executive Session:
Update on Supreme Court Remand of Grand Valley Water Users Association v. Busk Ivanhoe Inc., Case No. 14SA303.

Director Whitmore moved, seconded by Director Trampe, 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 Alvey reconvened into Public Session at 12:57 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:

- a. Supreme Court Remand of Grand Valley Water Users Association v. Busk Ivanhoe Inc., Case No. 14SA303.

Adjourn.

There being no other business the Board, President Alvey adjourned the meeting at 1:06 p.m.



Tom Alvey, President

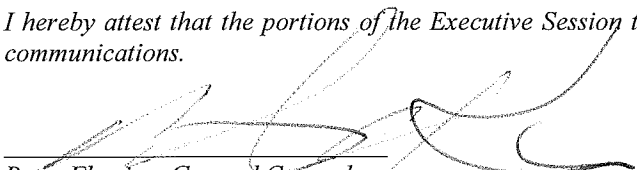
ATTEST:



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