

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

**April 15, 2014**

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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 April 15, 2014 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	Jon Stavney, Vice President
Tom Alvey	David H. Merritt
William S. Trampe	John Justman
Stephen M. Mathis	John Ely
Doug Monger	Gary Martinez
Andrew A. Mueller	Tom Gray
Stan Whinnery	

**Directors not participating:**

Rebie Hazard	Kai Turner
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**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  
Chris Treese, Manager, External Affairs, CRWCD  
Jason Turner, Senior 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  
Dave Smith, Engineering Technician, CRWCD  
Ian Philips, Accountant, CRWCD  
Denise Hussain, Records Specialist, CRWCD  
Lorra Nichols, Paralegal, CRWCD  
Martha Moore, Public Affairs Specialist, CRWCD  
Alesha Fredrick, Business Support Specialist, CRWCD  
Larry Sweeney, Colorado Soil Conservation Board  
Jesse Kruthaupt, Trout Unlimited  
Dixie Luke, Fire Mountain Canal & Reservoir Company  
Rusty Lloyd, Tamarisk Coalition  
Jim Hancock, Town of Gypsum  
Torie Jarvis, Northwest Colorado Council of Governments

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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 9:00 a.m.

**Review Meeting Agenda and Objectives.**

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

**Consent Agenda.**

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

Approval of Minutes and Actions Taken:

- a.
  - i. Minutes of First Regular Quarterly Meeting, January 21-22, 2014.
  - ii. Minutes of Information and Outreach Committee Meeting, January 22, 2014.
  - iii. Minutes of Special Joint Meeting, Telephone Conference, March 7, 2014.
  - iv. Minutes of Executive Committee Meeting, March 20, 2014.
  - v. Minutes of Special Joint Meeting, Telephone Conference, March 20, 2014.
- b. Acceptance of Treasurer's Reports and Check Registers for December 2013, January and February 2014.

**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. C-BT Project Operations, Windy Gap Firing Project and Upper Colorado Stream Flow Management.
- ii. Kobe Project Development.
- iii. Colorado River Compact and Interstate Matters.
- iv. Colorado State Water Plan and Colorado Compact Water Bank Study.
- v. Indemnification Requests in River District Contracts.

Director Mathis moved, seconded by Director Stavney, 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 9:55 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:

- i. C-BT Project Operations, Windy Gap Firing Project and Upper Colorado Stream Flow Management.
- ii. Kobe Project Development.
- iii. Colorado River Compact and Interstate Matters.
- iv. Colorado State Water Plan and Colorado Compact Water Bank Study.
- v. Indemnification Requests in River District Contracts.

Director Stavney moved, seconded by Director Whinnery, to provide authority to the General Manager and General Counsel to enter into appropriate confidentiality agreements with Colorado's Upper Colorado River Commission's commissioner and/or the State of Colorado and to provide authority to the General Manager

and General Counsel to enter into a work product agreement to protect the use of work product the River District is currently doing with the State of Colorado regarding the Upper Basin Contingency Planning process provided that the agreement does not unreasonably interfere with the River District's policy objectives. Motion carried unanimously.

Mr. Fleming reported that the Upper Colorado River Wild and Scenic River Alternative Management Plan developed by the Wild and Scenic Stakeholders Group has been adopted by the Bureau of Land Management and the U.S. Forest Service.

It was reported that the EPA has released a proposed draft rule to clarify the scope of the Clean Water Act's definition of "waters of the United States." Concerns were expressed regarding the potential impact to agricultural operations. Staff was directed to submit comments on the draft rule with a focus on agricultural impacts.

Mr. Fleming relayed that Denver Water and the City of Englewood are approaching a settlement on several issues that, if unresolved, could have impeded the implementation process of the Colorado River Cooperative Agreement.

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

##### **IBCC/Roundtable Update:**

Eric Kuhn reported that at a recent IBCC meeting, eight points were identified for future discussions. They included three points regarding a new transmountain diversion with the concept that it would not be a firm annual yield project utilizing West Slope sources, but would be firmed by East Slope agriculture and groundwater; would not increase the risk to existing users; and would be managed by triggers such as Lake Powell levels. Other points deal with statewide conservation and recreational and environmental needs.

Mr. Kuhn also relayed that the Roundtables are progressing on their respective Basin Implementation Plans, and representatives of Xcel Energy will be meeting with the Colorado River Basin Roundtable for a discussion of West Slope concerns regarding future operations of the Shoshone Power Plant.

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

It was reported that the Upper and Lower Basin states are continuing development of drought contingency plans as a result of current and possible future, drought conditions. The Upper Basin is focusing on extended operation of upriver Colorado River Storage Project units to maintain Lake Powell levels, cloud seeding, and demand management. The Lower Basin is exploring demand reductions.

##### **Water Quality Update:**

Jason Turner reported that a Water Quality Control Commission Rulemaking Hearing has been scheduled for June 9, 2014 for Regulation #33 and Regulation #37 concerning adoption of Numeric Nutrient Criteria for the Upper Colorado River Basin and the North Platte River and the Lower Colorado River. Mr. Turner also relayed that the River District has submitted a proposal to downgrade Elkhead Reservoir from a Cold Lake classification to a Warm Lake classification in light of the change of Elkhead Creek's classification from cold to warm.

##### **Technical Staff Update Memo:**

Eric Kuhn referred the Board to a technical staff update memo reporting there is a 40% decrease in selenium in the Gunnison River as a result of the Selenium Management Program.

**Service Anniversaries Recognition:**

Eric Kuhn and Ray Tenney expressed the River District's appreciation to Don Meyer for 15 years of service. Mr. Kuhn then expressed the District's appreciation to Laurie DePaolo for her 15 years of service.

**Annual Policy Discussion.**

**Colorado River Compact:**

Director Trampe moved, seconded by Director Alvey, to adopt the River District's Colorado River Compact Policy as presented. Motion carried unanimously.

**Colorado's Entitlement to Colorado River Basin Water:**

Director Mueller moved, seconded by Director Trampe, to adopt the River District's Colorado's Entitlement to Colorado River Basin Water Policy as presented. Motion carried unanimously.

**Interstate Water Marketing:**

Director Stavney moved, seconded by Director Mathis, to adopt the River District's Interstate Water Marketing Policy as presented. Motion carried unanimously.

**Colorado River Storage Project Act:**

Director Martinez moved, seconded by Director Trampe, to adopt the River District's Colorado River Storage Project Act Policy as presented. Motion carried unanimously.

**Transmountain Diversions:**

After discussion of the proposed changes to the River District's Transmountain Diversions Policy, Director Mueller moved, seconded by Director Trampe to table further discussion of the policy until the July 2014 quarterly meeting. Motion carried unanimously.

Director Mueller moved, seconded by Director Trampe, to adopt the River District's Water Quality Policy as presented. Motion carried unanimously. (The policies are attached as Appendices C.-G.).

**Aging Infrastructure:**

By consensus, staff was directed to include language referring to the scope of the aging infrastructure problem.

**Directors' Concerns.**

No concerns were expressed.

**Future Meetings.**

- a. Picnic with Lower Basin and CWCB Tour Participants, **May 6, 2014, Glenwood Springs, CO.**
- b. Tour with Denver Water Board, **June 12, 2014, Summit County, CO.**
- c. Third Regular Quarterly Meetings, **July 15-16, 2014, Glenwood Springs, CO.**
- d. CRWCD 2014 Budget Workshop/Special Meeting with Southwestern Water Conservation District, **September 18, 2014, Montrose, CO.**
- e. CRWCD Water Seminar, **September 19, 2014, Grand Junction, CO.**
- f. Fourth Regular Quarterly Meetings, **October 21-22, 2014, Glenwood Springs, CO.**
- g. Other Meetings:
  - i. Western State Water Workshop, **June 18-20, 2014, Gunnison, CO.**
  - ii. CWC Summer Convention, **August 21-23, 2014, Snowmass Village, CO.**
  - iii. CRWUA Convention, **December 10-12, 2014, Las Vegas NV.**

**Executive Committee Report.**

Dave Kanzer reported that for 2014, a total of 35 applications were received with 7 grants being recommended by staff for funding (4 large grants, 3 small grants). A complete list of applications is attached as Appendix A.

After discussion of the recommended applications, Director Stavney moved, seconded by Director Justman, to accept the Executive Committee's grant recommendations as presented. Motion carried unanimously.

Several grant recipients expressed their appreciation to the Board for the grant awards.

Staff was directed to schedule a discussion of the grants criteria and Grant Policy at a future meeting.

**External Affairs.**

Martha Moore reported that six State of the River meetings have been scheduled throughout the River District beginning on May 6.

Jim Pokrandt directed the Board's attention to the 2013 CRWCD Annual Report which will be mailed to approximately 400 interested parties and distributed throughout the year at various events.

**State Affairs:**

**Public Trust Initiative 103:**

Initiative 103 would amend the state constitution and essentially supplant Colorado's Prior Appropriation Doctrine. The Board expressed concerns with the loss of historical property rights, including the water rights the River District holds in trust for its constituents, the lack of clarity for compensation for property takings, and prolonged litigation if Initiative 103 passes.

Director Mueller moved, seconded by Director Whinnery, to adopt a resolution opposing Public Trust Initiative 103 subject to inclusion of the aforementioned Board concerns. Motion carried unanimously. (The resolution is attached as Appendix B.).

**HB14-1333: CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION BOARD PROJECTS.**

**Recommendation: Support.**

This bill funds water projects throughout the state.

Director Mueller moved, seconded by Director Trampe, to **support HB14-1333. Motion carried unanimously.**

**SB14-164: CONCERNING AERIAL FIREFIGHTING.**

**Recommendation: Support, without specific position on source of funding.**

This bill would empower the Colorado Firefighting Air Corps to purchase, lease or contract up to three firefighting helicopters and four large aircraft for the 2015 fire season. The funding would be supplied by the Hazardous Waste Fund and the state reserves.

Director Whinnery moved, seconded by Director Mathis, to **support SB14-164 without a specific position on the source of funding.** Motion carried unanimously.

**SB14-171: CONCERNING THE ABILITY OF THE COLORADO NEW ENERGY IMPROVEMENT DISTRICT TO ARRANGE FINANCING FOR WATER CONSERVATION FIXTURES.**

**Recommendation: Support.**

This bill adds water conservation fixtures projects as eligible for funding by energy improvements districts.

Director Whinnery moved, seconded by Director Monger, to **support SB14-171**. Motion carried unanimously.

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

After discussion of the proposed amendments to **SB14-023**, Director Mueller moved, seconded by Director Whinnery, to reaffirm the Board's **opposition to SB14-023**. Motion carried 9:4. Directors voting for the motion: Mueller, Trampe, Alvey, Justman, Monger, Mathis, Whinnery, Gray and Merritt. Directors voting against the motion: Newberry, Stavney, Martinez and Ely.

**SB14-188: CONCERNING MEASURES TO EFFECTUATE THE CONSERVATION OF NATIVE SPECIES IN COLORADO.**

**Recommendation: Support.**

This bill authorizes \$6.5 million for nine native species-related projects and includes a \$1,500,000 allocation for a federal Endangered Species Act litigation program.

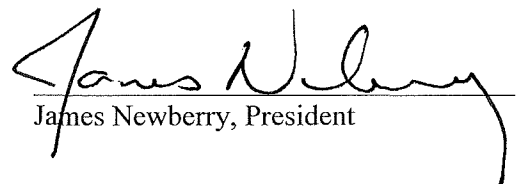
Director Stavney moved, seconded by Director Whinnery to **support SB14-188**. Motion carried unanimously.

**Federal Affairs:**


Chris Treese reported that the Farm Bill contains a funding provision, referred to as regional conservation partnership programs, to create and fund these programs.. There is an effort underway to create a partnership among the seven states of the Colorado River Basin for pursuing pilot projects focused on water conservation, efficiency improvements and water quality efforts. Staff was directed to further explore the potential costs and opportunities of the program and, if satisfied, to participate in the process.

**Adjourn.**

There being no other business before the Board, President Newberry adjourned the meeting at 3:10 p.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