

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

March 7, 2019

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, March 7, 2019 at the offices of the Colorado River District, 201 Centennial Street, Glenwood Springs, Colorado.

Directors participating during all or part of the meeting:

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| David H. Merritt, President, Garfield County | Martha Whitmore, Vice President, Ouray County |
| Steve Acquafresca, Mesa County | Doug Monger, Routt County |
| Kathy Chandler-Henry, Eagle County | Mike Ritschard, Grand County |
| Tom Gray, Moffat County | William S. Trampe, Gunnison County |
| Rebie Hazard, Saguache County | |

Directors not participating:

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|------------------------------|---------------------------------------|
| Tom Alvey, Delta County | Karn Stiegelmeier, Summit County |
| Marc Catlin, Montrose County | Alden Vanden Brink, Rio Blanco County |
| John Ely, Pitkin County | Stan Whinnery, Hinsdale County |

Others participating during all or part of the meeting:

Hunter Causey, Water Resources Engineer, CRWCD
John Currier, Chief Engineer, CRWCD
Laurie DePaolo, Executive Assistant, CRWCD
Mike Eytel, Senior Water Resources Specialist, CRWCD
Peter Fleming, General Counsel, CRWCD
Zane Kessler, Communications Director, CRWCD
Martha Moore, Public Affairs Specialist, CRWCD
Lorra Nichols, Paralegal, CRWCD
Audrey Turner, Administrative Chief, CRWCD
Luci Wilson, Accountant, CRWCD
Gayle Berry, Berry & Kirscht, LLC
Orla Bannon, Western Water Advocates
Kathleen Curry, Upper Gunnison River Water Conservancy District
Torie Jarvis, Northwest Colorado Council of Governments, Q/Q Committee
Chris Votoupal, Votoupal Governmental Affairs, LLC

Quorum.

President Merritt found a quorum and called the meeting to order at 12:07 p.m.

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)(a)(property acquisition), (b)(legal advice) and (e)(negotiations):

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.

Matters Proposed for Executive Session:

- a. Colorado River District Conditional Water Rights.

Director Trampe moved, seconded by Director Whitmore, to proceed into Executive Session pursuant to C.R.S. §§ 24-6-402(4)(a)(property acquisition), (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 Merritt reconvened into Public Session at 12:17 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: Colorado River District Conditional Water Rights.

Director Trampe moved, seconded by Director Whitmore, to direct staff and counsel to convey, subject to acceptance by the Conservancy District's, the remaining conditional portion of the Flattop Project water rights to the Rio Blanco Water Conservancy District without charge; to convey the remaining portion of the Savory/Pothook Project water rights to the Pothook Water Conservancy District without charge ; and to file a notice of intent to abandon any remaining conditional water rights of the Flattops Project, Savory/Pothook Project and the Great Northern Project (Rampart Reservoir, Rampart Reservoir Second Fill, and Hansen Canal) all prior to March 31, 2019. Motion carried unanimously.

Peter Fleming reported on a differing statutory interpretation between staff and the Attorney General's Office regarding the District's on-going discussions with the state regarding treatment of historic pre-existing uses and instream flows in Routt County. The Attorney General's Office has reversed its position on the negotiations relating to preexisting uses and is now saying preexisting uses will require water court adjudication.

Fiscal Agency for Wild & Scenic USGS Flushing Flow Study

Mike Eytel reported that the U.S. Geological Survey (USGS) has proposed to study the adequacy of flushing flows for recreational fishing in the Colorado River from below Gore Canyon to Dotsero, a segment that was identified by the Upper Colorado River Wild and Scenic Stakeholder Group (SG) as provisionally needing a flushing flow.

The SG has requested the River District be a fiscal agent for this study, receive a Purchase Order of \$99,976 from the CWCB, be responsible for contracting with the USGS through a Joint Funding Agreement, subject to a 2.67% administration fee to offset related staff costs.

Director Acquafresca moved, seconded by Director Chandler-Henry, to authorize the River District to act as the fiscal agent for the CWCB funding and to authorize the General Manager to execute the Joint Funding Agreement with the USGS for the Wild and Scenic Fishing Flow Study. Motion carried unanimously.

Proposed Approval of Continuing Service Agreement with Water Strategies, LLC.

Peter Fleming referred to the March 2, 2019 memo to the board from Chris Treese recommending the River District contract with Water Strategies, LLC to provide federal lobbying/representation assistance in Washington, DC and that the contract is subject to annual appropriation.

Director Hazard moved, seconded by Director Ritschard, to approve the execution of a Continuing Services Agreement with Water Strategies, LLC, for federal lobbying/representation assistance in Washington, D.C. not to exceed \$18,000 per year for a three-year contract. Motion carried unanimously.

State Affairs:

HB19-1200 CONCERNING THE POINT OF COMPLIANCE RELATED TO THE TREATMENT PROCESS INVOLVED IN TREATING RECLAIMED DOMESTIC WASTEWATER FOR INDOOR NONPOTABLE USES WITHIN A BUILDING WHERE THE GENERAL PUBLIC CAN ACCESS PLUMBING FIXTURES THAT ARE USED TO DELIVER THE RECLAIMED DOMESTIC WASTEWATER.

Short title: Reclaimed Domestic Wastewater Point of Compliance

Recommendation: Support

Director Acquafresca moved, seconded by Director Trampe, to **support HB19-1200**. Motion carried unanimously.

HB19-1218 CONCERNING THE COLORADO WATER CONSERVATION BOARD'S AUTHORITY TO USE WATER THAT A WATER RIGHT OWNER VOLUNTARILY LOANS TO THE BOARD FOR INSTREAM FLOW PURPOSES.

Short title: Instream Flow (ISF) Loan Program Expansion

Recommendation: Oppose unless amended

Zane Kessler described the notable provisions of HB19-1218 as these pillars:

- 1) Allows for up to 2 renewals of the current 10-year loan period - 3 loan periods total, including the original.
- 2) Changes the term of the loan from a maximum of 3-in-10 to 5-in-10 years.
- 3) Allows for the CWCB to consider loans that improve the natural environment on reaches with an existing decreed ISF right so long as CPW makes an appropriate ecological finding that is considered in the Board's decision-making process.
- 4) Importantly, as drafted, the bill allows the CWCB to consider loans that preserve or improve the environment where there is not an existing decreed ISF right if CPW makes a finding related to the natural environment and benefits provided by additional flows.

Director Acquafresca moved, seconded by Director Whitmore for staff to aggressively work to remove "prong four" of **HB19-1218**. Directors voting in favor of the motion: Acquafresca, Gray, Hazard, Merritt, Monger, Ritschard, Trampe and Whitmore. Director opposing the motion: Chandler-Henry. Motion carried.

Director Acquafresca moved, seconded by Director Chandler-Henry, to **not oppose HB19-1218** provided that "prong four" is removed. Directors voting in favor of the motion: Acquafresca, Chandler-Henry, Gray, Merritt, Monger and Ritschard. Directors opposing the motion: Hazard, Trampe and Whitmore. Motion carried.

Adjourn.

Director Hazard moved, seconded by Director Acquafresca, to adjourn the meeting. Motion carried unanimously. There being no other business before the Board, President Merritt adjourned the meeting at 1:03 p.m.



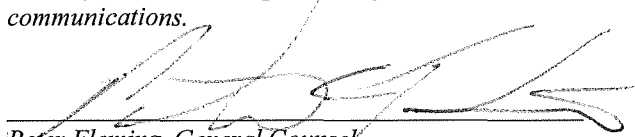
David H. Merritt, President

ATTEST:


Andrew A. Mueller, 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