

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 8-9, 2022

Pursuant to notice duly and properly given, a special joint meeting 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 Tuesday and Wednesday, February 8-9, 2022, via Zoom and in-person at Hotel Maverick, 840 Kennedy Ave., located in Grand Junction, CO 81501.

Directors participating during all or part of the meeting:

Martha Whitmore, President, Ouray County
Kathy-Chandler Henry, Vice President, Eagle County
Mark Roeber, Delta County
Kathleen Curry, Gunnison County
Stan Whinnery, Hinsdale County
Scott McInnis, Mesa County
Tom Gray, Moffat County
Alden Vanden Brink, Rio Blanco County
Doug Monger, Routt County
Taylor Hawes, Summit County
John Ely, Pitkin County

Directors not participating:

Marc Catlin, Montrose County
Steve Beckley, Garfield County
Mike Ritschard, Grand County
Rebie Hazard, Saguache County

Others participating during all or part of the meeting:

Andrew A. Mueller, General Manager, CRWCD
Peter C. Fleming, General Counsel, CRWCD
Audrey Turner, Chief of Operations, CRWCD
Jason V. Turner, Senior Counsel, CRWCD
Ian Philips, Chief Accountant, CRWCD
Hunter Causey, Director of Asset Management/Chief Engineer, CRWCD
Brendon Langenhuizen, Director of Technical Advocacy, CRWCD
Amy Moyer, Director of Strategic Partnerships, CRWCD
Marielle Cowdin, Director of Public Relations, CRWCD
Dave Kanzer, Director of Science and Interstate Matters, CRWCD
Zane Kessler, Director of Governmental Relations, CRWCD
Lorra Nichols, Paralegal, CRWCD
Stephanie Moore, Executive Assistant, CRWCD
Michael Eytel, Sr. Water Resources Specialist, CRWCD
Raquel Flinker, Sr. Water Resources Engineer/Project Manager, CRWCD

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.

Don Meyer, Sr. Water Resources Engineer, CRWCD
Lindsay DeFrates, PR and Media Specialist, CRWCD
Lyzzi Borkenhagen, Administrative Assistant, CRWCD
Alyson Gould, Colorado Water Trust
Amy Osdiek, Interstate & Federal Manager, CWCBC
Angie Fowler, SGM
April Long, WQCC Commissioner
Diamond Holloman, Ph.D. Candidate at UNC Chapel Hill
Dennis Webb, The Daily Sentinel
Emily Halvorsen, Colorado Assistant Attorney General
Heather Sackett, Aspen Journalism
Jennifer Wellman, The Nature Conservancy
Laura Belanger, Western Resource Advocates
Luke Gingerich, J-U-B Engineers
Maria Pastore, Colorado Springs Utilities
Michell Metter, Minturn Town Manager
Mike Camblin, Camblin Livestock
Nathan Moore, CDPHE
Nicole Rowan, CDPHE
Orla Bannan, Western Resources Advocates
Paula Stepp, Middle Colorado Watershed Council
Shana Harness, Crawford Clipper District
Sheela Stack, Nazarene Stack & Wombacher, LLC
Sonja Chavez, Upper Gunnison Water Conservancy District
Steven Wolff, Southwestern Water Conservation District
Waverly Klaw, Sonoran Institute

Quorum.

President Whitmore found a quorum and called the meeting to order at 9:04 a.m.

Review Meeting Agenda and Objectives.

Peter Fleming requested an addition to Executive Session as “Waters of the United States Rule Making” as agenda item 3.a.viii.

Director Vanden Brink moved, seconded by Director Monger, to approve the agenda as amended. Motion carried unanimously.

Appointment of Committees for 2022.

President Whitmore provided background information regarding appointments to the Executive Committee, which, historically, has rotated among counties within basin and sub-basin groups of counties to include the President as the chairman. The Executive Committee, consistent with this practice, for 2022, is composed of directors from Delta, Garfield, Hinsdale, Summit, and Moffat Counties as well as the board President. Other committee assignments were made by the President and Vice President, a complete list of which is attached hereto as Exhibit A.

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):

- a. Matters Proposed for Executive Session:
 - i. Wolford Mountain Reservoir and Ritschard Dam Operations (An Enterprise Matter).
 - ii. CRCA Update.

- iii. Application of Colorado River District, Ouray County, Ouray County Water Users Association, and Tri-County Water Conservancy District, Case No. 19CW3098, Water Division 4.
- iv. Application of Colorado Springs Utilities, Case No. 15CW3019, Water Division 5.
- v. Eagle Park Reservoir Company Update re: Case Nos. 18CW3140 & 19CW3145, Water Division 5.
- vi. Update on Homestake Reservoir Compact Release Pilot Project.
- vii. Compact/Interstate/Demand Management.
- viii. Waters of the United States.

Director Hawes moved, seconded by Director Chandler-Henry, 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 Whitmore reconvened into public session at 11:38 a.m.

General Counsel's Report – Public Session.

Peter Fleming reported that during Executive Session, the Board provided guidance to staff and General Counsel of the following matters:

- a. Matters Proposed for Executive Session:
 - i. Wolford Mountain Reservoir and Ritschard Dam Operations (An Enterprise Matter).
 - ii. CRCA Update.
 - iii. Application of Colorado River District, Ouray County, Ouray County Water Users Association, and Tri-County Water Conservancy District, Case No. 19CW3098, Water Division 4.
 - iv. Application of Colorado Springs Utilities, Case No. 15CW3019, Water Division 5.
 - v. Eagle Park Reservoir Company Update re: Case Nos. 18CW3140 & 19CW3145, Water Division 5.
 - vi. Update on Homestake Reservoir Compact Release Pilot Project.
 - vii. Compact/Interstate/Demand Management.

Director Vanden-Brink moved, seconded by Director Monger, to authorize staff and counsel to file a statement of opposition to the Colorado Water Conservation Board's application for instream flow water right on Cow Creek, Water Division 4 (Case No. 19CW3098). Motion carried unanimously.

Proposed Change to Colorado River District Bylaws.

Director Hawes moved, seconded by Director Roeber, to adopt amendments to the River District Bylaws (Article II, Section 4 - Compensation; Article III, Section 3 - Place of Meetings; Article III, Section 4 - Notice of Meetings; and Article XIII, Amendments). Motion carried unanimously.

Special Counsel Rates for 2022.

Director Chandler-Henry moved, seconded by Director Monger, to approve the special counsel rates for 2022. Motion carried unanimously.

General Counsel's 2022 Goals and Objectives.

Peter Fleming referred the Board to General Counsel's 2022 goals and objectives and invited Board comments.

President Whitmore recessed the meeting at 12:00 p.m.
President Whitmore reconvened the meeting at 1:02 p.m.

Public Comment.

No comments were received.

General Manager's Report.

Colorado River Hydrology Report – Update.

Dave Kanzer and Don Meyer reported on hydrologic conditions within the District and the Colorado River Basin. Of note, inflow to Lake Powell is forecasted to be well below average, Blue Mesa is not projected to fill, it is uncertain whether Wolford Mountain Reservoir will fill, Green Mountain Reservoir is not expected to obtain a physical fill, however, Elkhead Reservoir is expected to fill.

Contract Insurance Requirements.

Audrey Turner presented a modification to the standard insurance requirements for River District contractors to reduce the standard insurance requirements amounts from \$2 million to \$1 million.

Director Chandler-Henry moved, seconded by Director Gray, to modify the standard insurance requirements for River District contractors from \$2 million to \$1 million, unless staff determines a higher amount is warranted. Motion carried unanimously.

Yampa Pilot Project Overview/Elkhead Operations.

Staff sought direction from the Board on whether to explore applying for the Yampa River Fund Grant to pay for a 1,500 acre-foot contract to augment flows in the Yampa River. Director Monger and Director Gray provided feedback that supported the River District's application to the Yampa River Fund.

Colorado Water Trust Option Contract.

The Board directed staff to hold off on executing an agreement with the Colorado Water Trust for water releases from Elkhead Reservoir. President Whitmore directed staff to bring this item back at the next board meeting for further discussion and/or action.

Colorado River Roundtable Basin Implementation Plan Update.

Jason Turner presented an update on the Colorado Basin Roundtable's Basin Implementation Plan and an issue that arose describing impacts associated with future, but planned, trans-mountain diversions ("TMDs"). The four future TMD's were not modeled as part of the CWCB Technical Update so the extent of future impacts are unknown, however, the Roundtable thought it was important to recognize that future diversions will result in less flow into the Colorado River. After discussions with the Colorado Attorney General's Office, compromised language was reached. The Basin Implementation Plan identifies that: "All future diversions, absent augmentation, will cause additional depletions to the Colorado River system."

General Manager's 2022 Goals and Objectives.

Andy Mueller referred the Board to General Manager's 2022 goals and objectives and invited Board comments.

Service Anniversary Recognitions.

President Whitmore and Andy Mueller expressed the River District's appreciation to Peter Fleming for his 20 years of service to the District. Brenden Langenhuizen expressed the River District's appreciation to Mike Eytel for his 15 years of service to the District.

Regional Conservation Partnership Program (RCPP) Historical Review and Analysis.

Dave Kanzer reported that after almost five years of planning and implementation led by the River District, the first phase of the Lower Gunnison Project to improve irrigation efficiencies as part of the Natural Resources Conservation Service (NRCS) Regional Conservation Partnership Program (RCPP) is complete.

President Whitmore recessed the meeting at 3:17 p.m.

President Whitmore reconvened the meeting at 3:30 p.m.

Discussion Regarding Colorado River District's Role in Water Quality Matters.

Water Quality Update and Introduction.

Mike Eytel presented an overview of Colorado's water quality regulatory framework and the District's ongoing efforts to support its constituents concerning water quality issues.

Colorado Department of Public Health and Environment (CDPHE) Water Quality Presentation.

Nicole Rowan, P.E. (Division Director, Water Quality Control Division) and Nathan Moore (Clean Water compliance and Enforcement Section Manager), presented on the federal bipartisan infrastructure bill, Per and Polyfluoroalkyl Substances (PFAS), Lead and Copper Rule, Nutrients Management, Waters of the United States (WOTUS), and the Grand Valley TMDL.

Directors' Concerns.

Directors reported concerns regarding the ongoing drought, wildfire issues/mitigation, impacts of recreation and tourism, TMDLs, and compact compliance.

President Whitmore recessed the meeting at 5:04 p.m.

Wednesday, February 9, 2022

President Whitmore found a quorum and reconvened the meeting at 8:30 a.m.

Grand Valley TMDL Discussion.

Mike Eytel and Raquel Flinker presented on the Grand Valley Watershed Stakeholder Group. The Group was formed to support long term water quality monitoring and data collection, establish a mechanism to track and communicate with CDPHE on permits, policies and regulations, develop a funding plan to support water quality efforts, and implement projects.

Director Monger moved, seconded by Director McInnis, to authorize staff to participate in the Grand Valley Watershed Stakeholder Group for three years (or less) if requested by the Stakeholder Group, and contribute an estimated effort of \$60,000 in staff resources. Motion carried unanimously.

USGS Joint Funding Agreement (JFA) Approval.

Director Hawes moved, seconded by Director Chandler-Henry, to authorize the General Manager to enter into a Joint Funding Agreement ("JFA") with USGS, subject to review and approval by legal counsel, not to exceed \$620,000 to engage in cooperative streamflow gauging and water quality sampling activities in 2022. Additionally, the General Manager was authorized to enter into agreements, subject to review and approval by legal counsel, with cooperating partners, to offset some of the 'customer costs' of the JFA.

External Affairs.

Information and Outreach Committee Report.

The External Affairs team reviewed the 2022 work plan with the Committee including the Annual Water Seminar, Water with Your Lunch, Know Your Snow, and State of the River. In addition, the External Affairs team is developing a new strategic communication plan to better relay the work of the District to its constituents and throughout the State.

State Affairs.

HB22-1151: Concerning Turf Replacement Program.

Recommended Position: Support.

Director Monger moved, seconded by Director Chandler-Henry, to support HB22-1151. Motion carried unanimously.

SB22-126: Concerning Prioritizing Water Storage Projects, South Platte Basin.

Recommendation Position: Oppose.

Director Curry moved, seconded by Director McInnis, to oppose SB22-126. Motion carried unanimously.

SB22-114: Concerning Fire Suppression Ponds Water Rights.

Recommendation Position: Monitor.

Director Monger moved, seconded by Director Roeber, to monitor SB22-114. Motion carried unanimously.

SB22-029: Concerning Water Speculation in the State.

At a previous meeting the Board directed staff to amend this bill but did request that it be brought back to the Board for further consideration. After discussion, President Whitmore directed staff to bring this item back during the next legislative call. No motions were made.

Federal Affairs.

Zane Kessler provided updates on federal infrastructure funding, Reclamation's Aging Infrastructure Account, USDA Watershed Funding, Clean Water Act/Waters of the United States (WOTUS), some recent presidential appointments, the federal Budget Reconciliation Bill, and Appropriations Updates.

President Whitmore recessed the meeting at 10:25 a.m.

President Whitmore found a quorum and reconvened the meeting at 10:44 a.m.

Community Funding Partnership (CFP) Applications.

Community Funding Partnership 2021 Review.

Amy Moyer reported that in 2021, CFP awarded nearly \$3 million dollars in funding to 23 projects. The awards ranged in size from \$4,588 to \$1 million, with a median award amount of \$50,000. Geographically, funding was distributed across 10 counties in each river basin, and the CFP Program is on-track to meet its 5-year running average for categorical equity targets.

Projects for Approval pursuant to the River District's Community Funding Partnership.

- a) Orchard City Irrigation District (OCID) in the amount of \$225,000 and that the awarded funds be attributed to productive Agriculture (30%), Infrastructure (50%), and Conservation and Efficiency (20%).

Director Roeber moved, seconded by Director Monger, to approve the Orchard City Irrigation District project in the amount of \$225,000, as recommended by staff. Motion carried unanimously.

- b) Town of Minturn Water Storage Tank Project in the amount of \$250,000 and that the awarded funds be attributed to (70%) and Conservation and Efficiency (30%).

Director Chandler-Henry moved, seconded by Director Hawes, to approve the Town of Minturn Water Storage Tank Project in the amount of \$250,000, as recommended by staff. Motion carried unanimously.

- c) Maybell Diversion and Headgate Modernization Project in the amount of \$500,000 and that the awarded funds be attributed to Productive Agriculture (30%), Infrastructure (40%), Healthy Rivers (15%), and Conservation and Efficiency (15%).

Director Vanden Brink moved, seconded by Director Monger, to approve the Maybell Diversion and Headgate Modernization Project in the amount of \$500,000, as recommended by staff. Motion carried unanimously. (Director Hawes abstained from the vote).

- d) West Slope Growing Water Smart Project in the amount of \$102,000 and that the award be attributed to (100%) conservation.

Director Monger moved, seconded by Director Chandler-Henry, to approve the West Slope Growing Water Smart Project in the amount of \$102,000, as recommended by staff. Motion carried unanimously.

Community Funding Partnership (CFP) Administrative Changes.

Community Funding Partnership 2021 Review.

After a year of operating the CFP, Amy Moyer reported that some adjustments should be made to the program:

- a) General Manager Authority Caps: The Board delegated authority to the General Manager to review, consider, approve and/or deny CFP applications in amounts up to \$50,000 for any single project. This delegation of authority limits the authority to an aggregate total of \$400,000 in any single calendar year. Staff requests that this annual cap be increased to an aggregate total of \$1,000,000 in a single calendar year. This will assist and allow for a quicker response to emergency project needs, projects operating on an accelerated timeline, or projects that are small or limited in scope. To assure accountability, Staff will continue to provide a comprehensive report on grants approved under this provision to the Board on a quarterly basis.
- b) Emergency Project Assistance: Staff requests authorization for the General Manager to provide funding on an emergency basis through a modified Emergency Grant Agreement Template allowing for reimbursement of project costs up to six months prior to the date of the application. Emergency projects will follow the standard process for application consideration, including the delegations of authority granted to the General Manager to review, consider, approve and/or deny applications.

Director Hawes moved, seconded by Director McInnis, to revise the General Manager's Authority Cap and Emergency Grant Agreement Template as recommended by staff. Motion carried unanimously.

- c) Grant Contract Agreement Template: Staff has identified several updates to streamline our contracting processes and better align the Grant Agreement Template to the CFP Program. Changes include:
- A standard three-year period of performance following the date of the Award Letter.
 - Initial disbursement upon notification of project commencement.
 - Lowering minimum insurance requirements to align with the State of Colorado grant programs and industry standards.
 - Allowance to reduce the River District funding award if total project costs are reduced >10 percent than originally estimated at the time of application.

Director McInnis moved staff's recommendation to update the Grant Agreement Template with a

modification to amend the language in the contract to allow the River District funding award to be reduced proportionally, at the discretion of the General Manager, if total project costs are less than originally estimated at the time of application. Director Vanden Brink seconded. Motion carried unanimously.

- d) Program Guidelines (No Action Required): staff recommended to conform to the other contract template Grant Agreement Template (to include the amended language aforementioned in subparagraph (c)).

Director Chandler-Henry moved, seconded by Director Vanden Brink, motion carried unanimously.

Project Operations and Updates (Enterprise Matters).

Wolford Mountain Reservoir.

Approval of Continuing Service Agreement with Landmark Consultants, Inc., re: Surveying Work.

Director Roeber moved, seconded by Director Monger, to approve a contract with Landmark Consultants, Inc. re: Surveys in an amount not to exceed \$91,534 for continued surveys. Motion carried unanimously.

Approval of Continuing Services Agreement with Edexco, Inc. re: Water Delivery, Water System Maintenance Repair and Excavation.

Director Vanden Brink moved, seconded by Director Chandler-Henry, to authorize the General Manager to execute a three-year agreement not to exceed \$90,000 with Edexco Inc.

Water Marketing Policy.

Ian Philips reviewed the District's Water Marking Policies. Under the Policies, contracts executed after 2006 are subject to annual price increases. Those increases are limited to the Consumer Price Index (CPI) plus the New Growth Index (NGI). For 2022, the amount is 3.70% for CPI and 1.30% for NGI, for a total of 5.00%.

Director McInnis moved, seconded by Director Roeber, to approve staff's recommendation of an increase equal to the CPI plus the NGI for a total increase of 5.00% for 2022. Motion carried unanimously.

Demand Management Conceptual Market Structure Discussion (Continued).

Andy Mueller presented on updates and feedback to the Conceptual Demand Management Market Structure that was presented to the Board in October. The Board had a detailed discussion regarding certain elements in the Conceptual Demand Management Market Structure. Based on the conversation, the Board directed staff to update the Conceptual Proposal for further discussion at its April quarterly meeting.

Annual Policy Review Discussion.

President Whitmore directed staff to bring this item back during the next quarterly meeting in April 2022.

Future Meetings.

- a. Second Regular Joint Quarterly meeting, April 19-20, 2022, Glenwood Springs, CO.
- b. Third Regular Joint Quarterly Meeting, July 19-20, 2022, Glenwood Springs, CO.
- c. CRWCD Budget Workshop/Special Joint Meeting, September 15, 2022, Location (TBD).
- d. CRWCD Annual Seminar, September 16, 2022, Colorado Mesa University.
- e. Fourth Regular Joint Quarterly meeting, October 18-19, 2022, Glenwood Springs, CO.
- f. Other Meetings:
 - i. Lower Basin Fact Finding Tour: November 2-4, 2022, Location (TBD).

Adjourn.

There being no other business before the Board, *President Whitmore* adjourned the meeting at 1:38 p.m.



Martha Whitmore, 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 C. Fleming, General Counsel