

**SECOND REGULAR JOINT QUARTERLY 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**

April 20-21, 2021

Pursuant to notice duly and properly given, the Second Regular Joint Quarterly 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 April 20-21, 2021 via Zoom.

Directors present during all or part of the meeting:

Martha Whitmore, President, Ouray County	Kathy Chandler-Henry, Vice President, Eagle County
Tom Alvey, Delta County	Steve Acquafresca, Mesa County
Rebie Hazard, Saguache County	Steve Beckley, Garfield County
John Ely, Pitkin County	Doug Monger, Routt County
Alden Vanden Brink, Rio Blanco County	Stan Whinnery, Hinsdale County
Kathleen Curry, Gunnison County	Taylor Hawes, Summit County

Directors not present:

Marc Catlin, Montrose County	Tom Gray, Moffat County
Mike Ritschard, Grand County	

Others present during all or part of the meeting:

Andrew A. Mueller, General Manager, CRWCD
Peter Fleming, General Counsel, CRWCD
Audrey Turner, Chief of Operations, CRWCD
Jason Turner, Senior Counsel, CRWCD
Laurie DePaolo, Executive Assistant, CRWCD
Dave Kanzer, Deputy Chief Engineer, CRWCD
Don Meyer, Sr. Water Resources Engineer, CRWCD
Ian Philips, Chief Accountant, CRWCD
Mike Eytel, Sr. Water Resources Specialist, CRWCD
Hunter Causey, Sr. Water Resources Engineer, CRWCD
Zane Kessler, Director of Government Relations, CRWCD
Brendon Langenhuizen, Sr. Water Rights Engineer, CRWCD
Amy Moyer, Director of Strategic Partnerships, CRWCD
Raquel Flinker, Sr. Water Resources Engineer/Project Manager, CRWCD
Luci Wilson, Accountant, CRWCD
Lorra Nichols, Paralegal, CRWCD
Gracie Wright, Contract Administrator/Information Specialist, CRWCD
Eleanor Hasenbeck, Water Policy & Communications Fellow, CRWCD
Tom Chart, Upper Colorado Endangered Fish Recovery Program
Orla Bannan, Western Resource Advocates
Heather Sackett, Aspen Journalism
Dennis Webb, Daily Sentinel
Brent Gardner-Smith, Aspen Journalism
Ed Millard

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.

David Merritt
Kathrine Duncan
T. Wright Dickinson
John Currier
Jack Lytle, Commissioner, Dagget County, Utah
Gail Schwartz, Colorado Water Conservation Board
Kari Brennan
Maria Pastore, Colorado Springs Utilities
Eric Kuhn
April Long, City of Aspen/Ruedi Water and Power Authority
Scott Chew, Utah State Legislator
Deirdre Macnab
Allen Distel, Cimarron Canal and Reservoir Co.
Luke Gingrich, JUB Engineers
Cary Denison, Trout Unlimited
Nick Edmendorfer, JUB Engineers

Quorum.

President Whitmore found a quorum and called the meeting to order at 8:33 a.m.

Review Meeting Agenda and Objectives.

Peter Fleming requested the addition of Approval of Stipulation with the Municipal Subdistrict of the Northern Colorado Water Conservancy District in the Application for Change of Point of Diversion of the Windy Gap Project as agenda item 4.b.iv. Director Monger moved, seconded by Director Whinnery, to approve the agenda as amended. Motion carried unanimously.

Consent Agenda.

Director Acquafresca moved, seconded by Director Chandler-Henry, to approve the consent agenda as presented. Motion carried unanimously.

- a. Approval of Minutes and Actions Taken:
 - i. Minutes of First Regular Joint Quarterly Meeting, January 19-20, 2021.
 - ii. Minutes of Special Joint Meeting, February 25, 2021.
 - iii. Minutes of Special Joint Meeting March 11, 2021.
- b. Acceptance of Treasurer's Reports, Check Registers, and Financials for General, Capital, and Enterprise Funds for December 2020.

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 (an Enterprise Matter.)
 - ii. CRCA Implementation Matters.
 - iii. Application of Colorado Springs Utilities, Case No. 15CW3019, Water Division 5.
 - iv. Homestake Reservoir Pilot Release Project.
 - v. Colorado River Compact, Interstate, International, and Intrastate Negotiation Matters, including Demand Management.

Director Vanden Brink moved, seconded by Director Ely, 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 11:11 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:

- a. Matters Proposed for Executive Session:
 - i. Wolford Mountain Reservoir (an Enterprise Matter.)
 - ii. CRCA Implementation Matters.
 - iii. Application of Colorado Springs Utilities for Finding of Reasonable Diligence, Case No. 15CW3019, Water Division 5.
 - iv. Homestake Reservoir Pilot Release Project.
 - v. Colorado River Compact, Interstate, International, and Intrastate Negotiation Matters, including Demand Management.

Mr. Fleming also reported that there were no action items resulting from Executive Session.

Director Alvey moved, seconded by Director Chandler-Henry, to authorize counsel to execute a stipulation with a property owner (Allmon) to resolve opposition in the Application of the Colorado River Water Conservation District and West Divide Water Conservancy District, Case No. 20CW3056, Water Division 5. Motion carried unanimously.

Director Hawes moved, seconded by Director Ely, to authorize counsel to execute a stipulation for Northern Water’s Municipal Subdistrict’s application for a change of point of diversion of the Windy Gap Project. Motion carried unanimously.

General Manager’s Report.

Drought Contingency Planning and Demand Management Update:

Andy Mueller reported that discussions will begin between the Bureau of Reclamation and the Upper Colorado River Commission regarding water releases from Flaming Gorge Reservoir in water year 2022 if poor hydrologic conditions require the releases to maintain a level of 3,525’ (minimum power level) in Lake Powell. Mr. Mueller also reported that the Colorado Water Conservation Board staff continues to move forward with their feasibility study of demand management. They have presented a draft framework; however, the framework does not provide sample rules or sideboards, but presents a list of threshold issues/elements identified by its Demand Management Workgroups and appears to focus on process.

Demand Management Stakeholder Group:

It was reported that the River District’s Demand Management Stakeholder Group continues to meet with the intention of concluding the initial phase this summer and providing a report later this year.

Colorado River Basin Hydrology Short Term Forecast for 2021:

Dave Kanzer reported that extremely dry hydrology and low soil moisture conditions are persisting throughout the Colorado River Basin. Inflow to Lake Powell is projected to be at 45% of average. It was also reported that drought conditions are on par, or worse, than those in 2002 in much of the basin and sub-basins.

Yampa River Proposed Finding of Over Appropriation and Proposed 2021 Pilot Project:

Andy Mueller recounted events that resulted in the Division 6 Engineer’s request to the State Engineer’s Office for an over-appropriation designation on the Yampa River and its tributaries above the confluence of the Yampa and Little Snake Rivers. This was precipitated by calls on the river in 2018 and the first-ever administration of the river, which happened again in 2020. This has led to a river modeling study to determine

potential future releases, and the creation of a pilot project to quantify the current and future water needs in the Yampa River Basin. The River District has requested a delay on issuance of a decision on the designation of over-appropriation and is assisting by providing funding for the pilot project, public outreach and education efforts, and providing water from Elkhead Reservoir to facilitate the pilot project.

East Troublesome Fire Recovery Effort:

Mike Eytel reported that Grand County and Northern Water are co-sponsors for the NRCS Emergency Watershed Protection Program for two areas impacted by the East Troublesome Fire. The fire covered over 182,000 acres and was the second largest fire in Colorado's history. The EWP program provides funding for construction costs for emergency restoration. Numerous projects have been identified for treatments to reduce threats to lives and property. River District staff has been providing assistance to Grand County and other stakeholders and is participating in weekly calls and coordination meetings.

Presentation on the Recovery Program by Tom Chart, Director of the Upper Colorado River Endangered Fish Program.

Tom Chart provided a summary of activities, accomplishments, and future challenges for the Recovery Program. The program's goal is the recovery of endangered fish while allowing water development to proceed in the basin. Some program elements include habitat and instream flow management, habitat development, and management of non-native fish. Achievements range from completion of PBOs for the Colorado River 15 Mile Reach and the Yampa and Gunnison Rivers, flow recommendations, and completion of beneficial structures such as fish ladders and screens. The program is scheduled to sunset in 2023 and the major challenge facing the program is securing funding to continue with recovery efforts.

Presentation on Green River/Flaming Gorge Operations by T. Wright Dickinson.

T. Wright Dickinson presented his concerns regarding unintended adverse impacts being experienced by Green River water users in Utah and Colorado as a result of releases being made from Flaming Gorge Reservoir as part of normal reservoir operations and flow management for endangered fish as addressed by the Recovery Program. Those issues include flooding and/or erosion of cultivated land, road flooding, and interference with the recreational fishing industry. Mr. Dickinson requested that the River District advocate for Recovery Program funding to mitigate and prevent these impacts in the future, and assistance in creating and proposing possible solutions to that end. Andy Mueller proposed that staff analyze the situation with the goal of presenting potential options at the July 20-21, 2021 board meeting.

PPFP Funding Template.

Director Acquafresca moved, seconded by Director Alvey, to approve the PPDP funding agreement template as presented. Motion carried unanimously.

PPFP Update and Funding Approvals:

Amy Moyer reported that the PPFP information and applications have been posted on the district's website. Branding and outreach strategies and materials are being developed to market the program. Ms. Moyer then provided overviews of two projects proposed for Board approval. Director Monger requested that applications and background information for projects being presented for Board approval be included in future meeting packets.

Proposed Approval of Fish Creek Reservoir #2 Repair and Conservation Project:

Director Monger moved, seconded by Director Whinnery, to approve the request to contribute in the form of a grant, \$154,134 from the Colorado River District Partnership Project Funding Program for the Fish Creek Reservoir #2 Repair and Conservation Project subject to the applicant executing the appropriate funding agreement and conditions outlined. and that the awarded funds be attributed to the PPFP funding categories: Productive Agriculture (50%), Infrastructure (30%), Healthy Rivers (5%), and Watershed Health and Water Quality (10%) and Conservation and Efficiency (5%). Motion carried unanimously.

Proposed Approval of Yampa Proposed 2021 Pilot Project:

Director Alvey moved, seconded by Director Hawes, to approve the request to contribute, in the form of a grant, in an amount not to exceed \$50,000 from the Colorado River District Partnership Project Funding Program for the 2021 Yampa River Flow Pilot Project and that the awarded funds be attributed to the PFPF funding categories: Productive Agriculture (50%) and Healthy Rivers (50%). Motion carried unanimously.

Ms. Moyer reported that additional projects totaling \$195,441 have been approved under the General Manager's authority (up to \$50,000 per grant) since the January quarterly board meeting. Director Chandler-Henry requested an expense summary be provided for approved projects.

General Manager's Report-(Cont'd.)

Regulation #93 Colorado's 303(d) List and Monitoring and Evaluation List:

Mike Eytel reported that the River District has applied for party status for an upcoming Regulation #93 Rulemaking hearing to support de-listing of a 66-mile segment of the Gunnison River. The de-listing is the result of a multi-year effort of the Selenium Task Force and Selenium Management Program workgroup to achieve a major reduction of selenium in the reach. The River District is an active participant and funding partner of the effort.

Upper Colorado River Wild and Scenic Alternative Management Plan:

Proposed Approval of Contract with RCC Associates:

Director Chandler-Henry moved, seconded by Director Hawes, to authorize the General Manager to enter a contract, as fiscal agent for the Upper Colorado River Wild and Scenic Stakeholder Group, in an amount not to exceed \$54,500 with RCC Associates. Motion carried unanimously.

Proposed Approval of Contract with Bishop Brogden and Associates:

Director Hawes moved, seconded by Director Ely, to authorize the General Manager to enter a two-year contract with Bishop Brogden and Associates in an amount not to exceed a total of \$28,500 subject to annual appropriations, for technical support to the West Slope Water Users' Interest Group related to support the Wild & Scenic Alternative Management Plan. Motion carried unanimously.

Triennial Salary Survey Process Update:

Audrey Turner reported that a Request for Proposals will be published in April for a consultant to conduct the triennial salary survey with a final report being presented at the October 19-20, 2021 quarterly meeting. The survey was first initiated in 1996 as directed by the Board.

Approval of Proposed Procurement Policy:

Director Alvey moved, seconded by Director Beckley, to adopt the Management and Procurement Policy for Federal Awards. Motion carried unanimously. (The Policy is attached as Appendix A.).

Appointment to Kobe Water Authority Board:

Director Acquafresca moved, seconded by Director Beckley, to continue the appointment of David H. Merritt to the Kobe Water Authority Board. Motion carried unanimously.

President Whitmore recessed the meeting at 3:36 p.m.

Wednesday, April 21, 2021

President Whitmore found a quorum and reconvened the meeting at 8:32 a.m.

Public Comment.

No public comment was received.

Directors' Updates and Concerns.

Director Acquafresca relayed concerns from the Mesa County Board of County Commissioners (BOCC) including Shoshone permanency, supporting, and expanding cloud seeding programs, supporting an interstate phreatophyte management program, and resolution of the Lower Basin structural deficit. Directors throughout the District relayed concerns about intensifying drought conditions, potential municipal water shortages, high levels of tourism impacting public lands and waterways, increased fire danger, and Wall Street speculators buying agricultural lands and water rights for possible future financial gains. Directors also invited staff to meet with the District BOCCs to provide updates on River District activities and issues.

White River Storage Project Update.

Director Vanden Brink relayed the appreciation of the Rio Blanco Water Conservancy District (RBWCD) board to the River District for its assistance in seeking a solution to water shortages in the White River Basin. He went on to recount the issues that led the RBWCD to find a storage solution to provide some certainty for water users within the basin. Some of those issues include a significant loss of storage space in Kenney Reservoir due to siltation, the Town of Rangely having no water storage for drought protection, limited uses decreed to two other small reservoirs in the county, and the possibility of a future Colorado River Compact call. These and other factors led to the RBWCD to seek and receive a conditional water right for 66,720 acre-feet with multiple decreed uses for the Wolf Creek Reservoir Project. The project has garnered broad support throughout Rio Blanco County and the project proponents are currently addressing the pre-permitting phase for the project.

Annual Policy Discussion.

President Whitmore reminded the Board of the policy review process. In 2004, the Board chose to formalize the development and review process of River District policies. Approximately one-third of the policies are reviewed by the Board annually and must be noticed on the agenda for a minimum of two quarterly meetings before final action can be taken.

Agricultural Water Use:

Director Vanden Brink moved, seconded by Director Hazard, to adopt the River District's Agricultural Water Use Policy as presented. Director Acquafresca moved, seconded by Director Ely, to add the word "integrity" before the words "and utility" to the second bullet of the policy statement. Directors Vanden Brink and Hazard accepted the amendment, and the motion as amended carried unanimously.

Further discussion led to a proposal from Andy Mueller to modify the second bullet point of the policy statement as follows: "Supports legislative and administrative actions protecting pre-Colorado River Compact water rights and opposes any legislative or administrative actions that erode the integrity and utility of pre-Colorado River Compact water rights." Director Beckley moved, seconded by Director Hawes, to adopt the Agricultural Water Use Policy as modified. Motion carried unanimously.

Colorado River Storage Projects Act:

Director Alvey moved, seconded by Director Acquafresca, to adopt the River District's Colorado River Storage Projects Act Policy as presented. Motion carried unanimously.

Staff was directed to evaluate the District's policies to ensure they are aligned with the stated goals of 7A..

Colorado's Prior Appropriation Doctrine:

Director Monger moved, seconded by Director Chandler-Henry, to adopt the River District's Colorado Prior Appropriation Doctrine Policy with the substitution or removal of the word "equitable" in the policy. Motion carried unanimously.

Federal Water Rights:

Director Hawes moved, seconded by Director Ely, to adopt the River District's Federal Water Rights Policy as presented. Motion carried unanimously.

Upper Colorado River Recovery Program:

Review and discussion of the policy was tabled to the July 2021, quarterly board meeting with direction to staff to review the policy for any potential modifications or updates considering the presentation from Recovery Program executive director Tom Chart. Staff was also directed to include language addressing funding issues and language regarding no injury to water users. (The policies are attached as Appendices B.-F.).

Speculation in Water Resources:

By consensus, staff was directed to include language in the policy statement section that any demand management program would have to be designed to discourage water speculation.

General Manager's Report-(Cont'd.).

Approval of Simplified Contract Form:

Director Hawes moved, seconded by Director Monger, to approve the simplified contract template and associated process, and approve the general liability and auto insurance requirements at a minimum of \$500,000 for low-risk administrative contracts with final contract review and approval by the General Manager. Motion carried unanimously.

Approval of Proposed Changes to the Employee Home Ownership Program:

Director Alvey moved, seconded by Director Monger, to amend the Employee Home Ownership Program guidelines to change the interest rate for new program participants from a fixed 4%, to a fixed interest rate based on the prime rate less 1% at the time the employee applies to the program, with a floor set at 2% and an interest rate cap set at 5% with a review of interest rates every two years. Motion carried unanimously.

Andy Mueller reported that the organizational chart is being updated with new positions for some staff members. Director Monger requested that the updated organizational chart be sent to the Board. Mr. Mueller also introduced Raquel Flinker as a new senior water resources engineer and project manager

External Affairs.

Information and Outreach Committee Report:

Zane Kessler and Eleanor Hasenbeck reported that the Water with Your Lunch series continues to be quite popular with more webinars being developed. The River District will once again hold virtual State of the River meetings for the mainstem Colorado, Gunnison, White, and Yampa River Basins being scheduled from mid-May through June. The annual water seminar will also be scheduled. Outreach efforts continue with redesigning the district's website, sending electronic newsletters, and utilizing social media platforms.

State Affairs:

Zane Kessler reported that staff has been attending stakeholder meetings hosted by the Colorado Department of Public Health and Environment (CDPHE) regarding potential legislation to address the loss of federal permitting activities in certain State waters with the implementation of the Trump Administration's Waters of the United States rule. A bill may be introduced this year to authorize and direct the establishment of a state-run dredge and fill permit program overseen by the CDPHE's Water Quality Control Division.

Mr. Kessler presented the following bills for consideration:

HB21-1268: CONCERNING A REQUIREMENT THAT COLORADO INSTITUTIONS OF HIGHER EDUCATION STUDY POTENTIAL USES OF EMERGING TECHNOLOGIES TO MORE EFFECTIVELY MANAGE COLORADO'S WATER SUPPLY.

Recommended Position: Support if Amended.

Director Monger moved, seconded by Director Hawes, to **support HB21-1268 if amended** to define or strike water trading language in the bill. Motion carried unanimously.

SB21-240: CONCERNING THE TRANSFER OF MONEY FROM THE GENERAL FUND TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND FOR WATERSHED PROTECTION PROGRAMS.

Recommended Position: Support.

Director Hawes moved, seconded by Director Alvey, to **support SB21-240**. Motion carried unanimously.

SB21-087: CONCERNING AGRICULTURAL WORKERS' RIGHTS.

Recommended Position: No Position.

Director Monger moved, seconded by Director Acquafresca, to **monitor SB21-87**. Motion carried unanimously.

Federal Affairs:

Zane Kessler reported the following: Senator Bennet has been named chair of both the Senate's Subcommittee on Conservation, Climate, Forestry, and Natural Resources as well as the Subcommittee on Energy and Natural Resources. Senator Hickenlooper has been appointed to the Subcommittee on Water and Power, and Representative Boebert is serving on the House's Subcommittee on Water, Oceans and Wildlife.

Project Operations and Updates. (Enterprise Matters).

Proposed Approval of Contract with HDR Engineering, Inc., re: Engineering Services:

Director Monger moved, seconded by Director Chandler-Henry, to authorize the General Manager to enter into a contract with HDR Engineering, Inc. in an amount not to exceed \$323,840 subject to review by general counsel, for engineering services at Wolford Mountain Reservoir. Motion carried unanimously.

Anti-Speculation Task Force Update.

Peter Fleming reported that the task force has been meeting periodically to address water speculation. Mr. Fleming reminded the Board that the approach has been to balance the protection of water rights as a vested property right that is based on the beneficial use of water versus discouraging speculation in water rights for a pure profit motive (especially regarding the potential future "non-use" of existing water rights). The task force is required to submit a report to the legislature in August 2021. Mr. Fleming will provide an update at the July 2021 quarterly meeting.

Future Meetings.

- a. Third Regular Joint Quarterly Meeting, **July 20-21, 2021, Glenwood Springs, CO.**
- b. CRWCD 2022 Budget Workshop, **mid-September 2021 Location TBD.**
- c. CRWCD Annual Seminar, **TBD.**
- d. Fourth Regular Joint Quarterly Meeting, **October 19-20, 2021, Glenwood Springs, CO.**
- e. Board Fact-Finding Mission to Lower Basin, re: Agricultural Fallowing and Augmentation Programs, **TBD.**
- f. Other Meetings:
 - i. CWC Summer Conference, **TBD.**
 - ii. CRWUA Conference, **TBD.**

Director Monger requested an update on fire mitigation efforts in Grand County at the July 20-21, 2021 quarterly meeting.

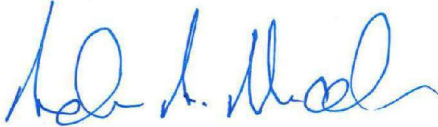
Adjourn.

There being no other business before the Board, President Whitmore adjourned the meeting at 11:58 a.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 Fleming, General Counsel