

RECORD OF PROCEEDINGS

**UPPER YAMPA WATER CONSERVANCY DISTRICT
BOARD OF DIRECTORS MEETING
MAY 18, 2016 1:30 PM
3310 CLEAR WATER TRAIL, STEAMBOAT SPRINGS**

MINUTES

Director Doug Monger called the meeting to order and declared a quorum present. In addition to Director Monger, the Board members present were Bob Woodmansee, Ken Brenner, Ron Murphy, Stephen Colby, Tom Sharp, Webster Jones. General Manager Kevin McBride, District Engineer Andy Rossi, Office Manager Karina Craig, and General Counsel Bob Weiss were also present. Members of the public present included Erin Light, Division Engineer, Colorado Division of Water Resources; Frank Alfone, General Manager, Mount Werner Water District; Dan Berkey, Mount Werner Water Board Member; Joe Messina, Consultant to the District; Frank Schaffner and Rick Milway, members of the Yampa Irrigators Association. Rudy Verner and David Hallford, Special Counsel to the District; Scott Fifer, President, Resource Engineering; and David Bower, Legal Counsel for Steamboat Ski and Resort Corporation, joined the meeting by phone.

The following agenda was proposed:

AGENDA

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| (1) Establishment of Quorum and Call to Order; | |
| (2) Consent Agenda; | action item |
| a) Bylaws amendment: special meeting 24-hour notification | |
| b) Personnel Guidelines: retirement requirement change | |
| (3) Approval of Agenda for Meeting; | action item |
| (4) Approval of the minutes of the March 16, 2016; March 30, 2016;
and April 20, 2016 Board Meetings; | action item |
| (5) Public Input and Comment; | |
| (6) Grant Application, Walker Ditch | action item |
| (7) Bear Reservoir/Yamcolo Administration | action item |
| (8) Financial Report; | action item |
| a) Approval of Disbursements; | |
| b) Budget Comparison; | |
| (9) Report of the General Manager; | |
| a) Master Planning; | action item |
| b) Elk River Augmentation Plan; | action item |
| c) Yamcolo Irrigators Association; | action item |
| d) Steamboat Ski Area Four Counties Lease | action item |
| e) Office Space Update, Mt. Werner Water | |
| (10) Report from District Engineer | |
| a) Reservoir Water Status; | |
| b) Facilities Update; | |
| (i) Stagecoach Grazing Lease | |
| (ii) Facilities Upgrades & Maintenance | |
| (11) Report from General Counsel; | |

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- a) Approval of Stahl Settlement Documents: action item
(12) Executive Session with Bob Weiss, legal Counsel, under CRS § 24-6-402(4)(b) to discuss legal issues on Stahl Litigation. Mere presence or participation of an attorney at an executive session of the local politic body is not sufficient to satisfy the requirements of this subsection (4).
(13) New Business;
(14) Adjournment.

Consent Agenda Director Sharp made a motion to approve consent agenda item (2)(a), District Bylaws amendment to require a 24-hour notification prior to special Board meetings. Director Woodmansee seconded the motion, which was unanimously approved.

Director Murphy made a motion to approve consent agenda (2)(b) amending the Personnel Guidelines to reflect 1% minimum employee retirement account contribution. Director Jones seconded the motion, which was unanimously approved.

Meeting Agenda Manager McBride, in consideration of attendees present, requested to swap the order of items (9) (c) and (9) (d), so that Steamboat Ski Area Four Counties Lease be discussed first, and Yamcolo Irrigators Association second, and to remove from the agenda item (6) Grant Application, Walker Ditch.

Director Sharp made a motion to approve the agenda including the changes proposed above, and additionally, to move item (12) Executive session before item (11) Report from General Counsel. Director Jones seconded the motion which was unanimously approved.

Meeting Minutes Director Sharp made a motion to approve the March 16, 2016; March 30, 2016; and the April 20, 2016 Board Meeting Minutes. Director Colby seconded the motion, which was unanimously approved.

Public Comment

Yamcolo Irrigators Association – Rick Milway, a YIA member and South Routt irrigator, expressed his interest in starting contract negotiations with the Board prior to 2019 termination date of individual Yamcolo irrigator contracts.

Director Sharp made reference to Board discussions in earlier meetings regarding overall future contract negotiations; he informed Mr. Milway the District has discussed and may consider establishing future contract terms so their end dates would be staggered, and expressed his desire to offer future contractees reasonable contract terms while providing flexibility to the District. Director Sharp further stated it is too early for the Board to determine pricing for 2019 and that the District will probably start thinking of pricing a year prior to the end of the contract terms. Possible contracting volumes of 200 AF, or smaller increments, was discussed as well; Director Sharp clarified that a contractee may in that case have multiple contracts, each with different end term dates.

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Mr. Milway reiterated his interest in participating in contract negotiations, when the process starts. Director Sharp stated communication pertaining contract negotiation would not start until the year 2017, at the very earliest. He further expressed his belief that pricing is going to change.

Director Monger proposed, and Director Brenner agreed, to include the subject for discussion at the next regularly scheduled Board meeting.

Mr. Milway made reference to a past Yamcolo and Stagecoach water storage swap and asked the Board if such swap would be maintained or if it would expire, upon the termination of some of the District's water storage contracts in 2019. Director Sharp stated that long term liabilities that were related to the Stagecoach Project are now paid in full; no permanent agricultural water storage requirements exist at Stagecoach, and thus agricultural water storage does not need to be tied to Stagecoach. He further clarified the District has the right to divert Yamcolo water to the Colorado basin, should it choose to do so, and the District is permitted to retain and use return flows related to that 4,000 AF of Yamcolo water.

Walker Ditch - Director Monger stated that the Walker Ditch project will probably be deferred till the fall, and that it would likely not be presented to the Board until then.

Application time frames for the District grant programs were discussed. Director Sharp suggested that it appears the District doesn't have enough grant applications to warrant a formalized process limiting submittal times to specific deadlines.

Bear Reservoir/Yamcolo Administration - Manager McBride informed the Board Erin Light, Colorado Division of Water Resources Division Engineer, had contacted the District regarding some potential Bear River and Yamcolo administrative difficulties, and asked the District's cooperation. Manager McBride invited Ms. Light to speak.

Ms. Light spoke about the upper section of the Yampa River, AKA Bear River. She stated that in the past the Bear Reservoir had remained full and her office had chosen to manage that part of the river informally; Ms. Light discussed evaporation at Bear Reservoir. Ms. Light stated she would prefer to manage it in a real time way. She stated that administration by dropping down the Bear Reservoir and making constant changes would be very time intensive, considering Stillwater releases and changes in natural flow. She discussed different ways of administering the Bear Reservoir, Yamcolo Reservoir and Bear River, and made reference to details she presented to the Board through a written letter.

Director Sharp stated replacement water may be needed in very short term period; he suggested that in the event that a call be received from a Yamcolo Municipal and Industrial (M&I) contractee, that such replacement take place at a fixed rate. He further clarified that Bear Reservoir release rates at the discretion of the Engineer's office as Ms. Light was proposing, and potentially at the end of the season of a dry year, would not work for the District, needing to meet its obligations towards contractees.

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The subject was discussed further, including annual timing and rate of the water replacement, Yamcolo reservoir storage pools that would source the replacement water, District's fiduciary responsibilities, and the development of an MOU between both entities. Manager McBride commented on the United States Forest Service (USFS) Yamcolo Special Use Permit that is being negotiated, and expressed his opinion that providing USFS examples of intergovernmental cooperation pertaining water management in the Yamcolo Reservoir area with CPW and the USFS, such as the proposed MOU, would be positive.

General Counsel Weiss stated he thought an MOU could be developed, where the District would essentially be loaning the water assisting the Engineer's Office to ease administration, in that higher area of the Yampa River. Mr. Weiss asked Ms. Light if her staff could draft a proposed MOU and bring it before the Board. Ms. Light confirmed and clarified Colorado Parks and Wildlife (CPW) would have to be involved as well.

Engineer Rossi asked Ms. Light about the expected turnaround time for the MOU, in light of the administration season starting very soon. Ms. Light responded it would probably take about a year. Counsel Weiss suggested perhaps this year administration could follow a more informal way, simply with a letter, provided that current conditions seem to indicate M&I water may not be called this year. Ms. Light responded, Mr. Weiss' proposal would suffice for the current year, and doing so would provide for one year to arrive to an MOU.

Financial Report Office Manager Karina Craig presented the financial reports; the budget comparison report was reviewed and discussed. Director Sharp made a motion to approve the financial report, Director Woodmansee seconded the motion which was unanimously approved.

Report of the General Manager

Master Planning - Mr. Fifer presented the Board with an updated draft of UYWCD water supply and water right master plan. The document was reviewed and discussed with detail, including SWSI demands, low and high demand scenarios, water accounting records, junior and senior water rights, annual Stagecoach fill schedules, water storage related to specific water rights, absolute and conditional water rights and water right due diligence recommendations. Director Sharp inquired about the 3600 AF Bear Reservoir enlargement water right; Mr. Fifer recommended to keep the water right as conditional for now, and added that he expected there will be cycles when that particular water right will be used and supported by the District's water rights accounting program. Director Monger stated the engineering report will support the diligence of the conditional water right. Mr. Fifer spoke next about Division Engineer policies regarding junior and senior reservoirs. Director Sharp expressed his agreement with what he thought is a much improved master plan, since earlier drafts, and stated his opinion that the updated master plan was now ready to be approved by the Board.

Director Sharp made a motion to approve the master plan as submitted, with any non-substantive corrections that may be needed, and to authorize submittal to the Court, to the Colorado Division of Water Resources Division Engineer, and that it also to be submitted as needed for diligence cases. Director Brenner seconded the motion which was unanimously approved.

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Director Sharp made a motion to authorize the filing of applications at the Water Court, for diligence of all those water rights that are up and as required by their decrees, to have finding of diligence by no later than May, in accordance to our master plan, and including the abandonment of some water rights. Director Colby seconded the motion which was unanimously approved.

Report from General Counsel

Approval of Stahl Settlement Documents - Robert Weiss, as counsel for the District, stated that in his opinion discussion of the matter announced to go into executive session constitutes a privileged attorney/client communication. He was therefore recommending that no further record be kept of the executive session.

Director Sharp made a motion to go into executive session. It was seconded by Director Colby and unanimously agreed to go into Executive Session under provision C.R.S. §24-6-402(4) (b) to discuss with counsel legal issues relating to Stahl Litigation. Mere presence or participation of an attorney at an executive session of the local public body is not sufficient to satisfy the requirements of this subsection (4). Special Counsels Rudy Verner and David Hallford were present during the Executive Session. The Executive Session commenced at about 3:00 PM and concluded at about 3:25 PM.

Director Sharp made a motion to approve all of the drafted settlement documents with the Stahls and Acorn Inc. as they were presented to the Board, including the Settlement Agreement with the Stahls and Acorn Inc. and with Brian Stahl, the PCA Termination document and related settlement documents, and including approval specifically of the boundary agreement prepared by D&D Inc., subject to any nonmaterial corrections and amendment as approved by our Counsel and General Manager; and to authorize District Officers to execute the documents and pay the funds. Director Brenner seconded the motion, which was unanimously approved.

Director Monger asked staff to please provide a supplemental budget at the next Board meeting.

Report of the General Manager

Office Space Update, Mount Werner Water - Manger McBride distributed a memo from Mount Werner Water (MWW) to the Board. Director Sharp abstained from discussion and left the room. General Manager of MWW, Frank Alfone and MWW Board Member, Dan Berkey were present.

Mr. Alfone presented that the MWW Board thought it prudent to discuss with the UYWCD Board whether or not the District would be interested in partnering in a fairly substantial remodel of the office space UYWCD and MWW share. Currently there is no formal lease between UYWCD and MWW. Mr. Alfone presented an overview of the project including rental costs.

Dan Berkey drafted the documents presented and offered two options: 1. Commercial lease, preferably long term and 2. Creation of Condominiums, in which the building would be converted into two

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condominiums with UYWCD owning one. Creation of a condominium would require approval by the City of Steamboat Springs.

Director Jones stated the District should do a staffing plan and a facilities plan for the future. Also, Director Jones stated the Board is not prepared to make any decisions today and there was mutual agreement by various directors. He further stated MWW needs to work with the City of Steamboat Springs first. Director Monger said the District would have to decide whether the District would remain in its current location; Mr. Alfone added MWW would like to know the District's decision as soon as possible, within reason.

Elk River Augmentation Plan – A draft water lease between the Colorado Department of Natural Resources, Division of Parks and Wildlife, and the UYWCD, was presented and reviewed. Counsel Hallford recommended holding on to the Four Counties Water Rights and writing a letter to CPW communicating the District would let them use the District's Four Counties water rights. Director Sharp stated he was pleased the updated draft of the lease included a water lease volume of 360 AF. Manager McBride made reference to section 7.B.ii of the proposed lease, pertaining to payments from the District to CPW. Manager McBride provided the Board the current application fees and annual water charges for the District's Yampa River augmentation plan. Manager McBride was recommending equivalent application and annual fees be charged for the proposed Elk River Augmentation Plan, and that payments to CPW be half of the annual water fees collected. This allocation is recommended as the District will be administering augmentation contracts and recouping the costs for the establishment of the augmentation plan. CPW will be supplying the water and tracking water rights administration. The current annual minimum charge for the existing augmentation plan is \$186.85, applicable to contracts not exceeding 1 AF of annual depletions, and prorated for higher volume contracts. Pricing, and the use of augmentation water for livestock, were discussed. Director Brenner requested that an operational section be added to the lease, to address the management of releases. Counsel Hallford expressed his agreement.

Director Jones made a motion to approve the proposed lease between the District and CPW, with an amendment to state annual assessments would be shared equally by both entities, with the price to be set by the District on an annual basis; and to authorize and delegate to the Executive Committee the implementation of any adjustments as needed and the approval of the final contract. Director Brenner seconded the motion which was unanimously approved.

Steamboat Ski Area Four Counties Lease- Counsel Weiss abstained from discussion; Manager McBride presented two letters from Jeffrey Candrian, Assistant Attorney General representing State and Division Engineers, to David Bower, Legal Counsel for Steamboat Ski Corporation (Ski Corp.). The letters were reviewed and discussed. The Four Counties water rights owned by the District were discussed. Mr. Bower suggested the District could deed the water, lease it, or agree to provide it on an "as needed basis". Mr. Fifer stated the water right is 100% consumptive; he spoke of senior and junior water rights, and suggested leasing more senior water rights would give Ski Corp. operational flexibility. He further added that with regards to using the Four Counties rights at Steamboat Lake, currently most storage at Steamboat Lake is for recreation, not for consumptive uses, and therefore the amount of water that can

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be used for augmentation and other uses is very small. Therefore, he concluded, storing under the District's Four Counties right would broaden the pool giving the CPW operational flexibility into the future.

With respect to the possible use of Four Counties Ditch water rights at Steamboat Lake, Director Sharp discussed different water right priorities that could be dedicated to that use. Mr. Sharp noted that the District intends to abandon some of its Ditch No. 3 Extension and enlargement water rights, and suggested the District offer some of this remaining junior water right for use at the lake. Mr. Fifer differed and suggested the District offers a more senior priority related to Ditch No. 3 right instead.

Director Sharp requested the meeting minutes reflect a discussion ensued pertaining the possibility of using different water rights, that it was concluded that further analysis was needed, and that the subject be tabled for the next Board meeting; and further that this be used to prove diligence.

There was general agreement that the subject of which water rights would be offered to CPW needed further discussion, and also of the District's intent to support an augmentation plan at the Elk River.

Executive Session - David Hallford, as Special Counsel for the District, stated that in his opinion discussion of the matter announced to go into executive session constitutes a privileged attorney/client communication. He was therefore recommending that no further record be kept of the executive session. Counsel Weiss excused himself and left the room.

Director Brenner made a motion to go into executive session. It was seconded by Director Sharp and unanimously agreed to go into Executive Session under provision C.R.S. §24-6-402(4) (b) to discuss with counsel legal issues relating to Four Counties water rights, and the State Engineer's interpretation. Mere presence or participation of an attorney at an executive session of the local public body is not sufficient to satisfy the requirements of this subsection (4). The Executive Session commenced at about 4:35 PM and concluded at about 4:55 PM.

The Chairman then announced that if any person who participated in the executive session believed that any substantial discussion of any matters not included in the motion to go into executive session occurred in the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, that such person state their concerns for the record. No one stated concerns.

Director Sharp made a motion, with respect the Steamboat Ski and Resort Corporation's application for changes in points of diversion of the Four Counties water rights, and pursuant to the District's statement of opposition, for the District to enter into a joint defense agreement to preserve the confidentiality of the information of the agreement, and for the Board to authorize staff to prepare said agreement with assistance of legal counsel and to authorize our Board Chair and Vice Chair to execute the agreement. Director Colby seconded the motion, which was unanimously approved.

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Yamcolo Irrigators Association – Manager McBride reviewed the YIA contract history and negotiations to date. The existing contract was in place for thirty years at a price of \$3.50/AF and it became due four years ago. There were short term price agreements between both parties since then, and this year it looked as if YIA and UYWCD were going to enter into arbitration.

Director Brenner explained that the District met a second time with YIA and presented an amended proposal. YIA then sent a written request for additional documentation, and then accepted the District's amended proposal. Manager McBride added that the District hired Ben Johnston as legal counsel, conversations between the parties had continued and an agreement was reached.

Director Sharp made a motion for the approval of the third arbitration settlement agreement between the District and YIA, at \$11.75/AF as presented to the Board. Director Brenner seconded the motion, which was unanimously approved.

Report from the District Engineer

Reservoir Water Status – The status of Stagecoach Reservoir and Yamcolo Reservoir water was discussed. Engineer Rossi reported that Stagecoach Reservoir is full and has started spilling. Yamcolo Reservoir is expected to fill in the next week.

Director Sharp inquired if the District has sold any Yamcolo Enlargement water. Manager McBride stated the District will offer it once Yamcolo reservoir is full.

Mr. Rossi stated the Five Pine Mesa ditch is not open yet.

Facilities Update - Engineer Rossi reported that there will be some re-prioritization of Stagecoach upgrade projects. An updated projected budget for upgrades and maintenance at Stagecoach Dam and reservoir will be presented at the July Board of Directors meeting.

Engineer Rossi reported that a dive contractor is scheduled to work on the stagecoach stem guide brackets in the first week of June and we will need to have a spill in order to complete the work.

Director Murphy asked if the main breaker was replaced or repaired. Engineer Rossi explained that it was replaced with a used breaker. Director Murphy suggested we rebuild the old breaker as insurance.

Additional maintenance issues and the possibility of building a reserve fund for turbine maintenance was discussed.

Discussion on safety and training followed. Engineer Rossi said Assistant Dam Operator Matt Blankenship has been doing a very good job and that in his opinion, things are much safer now.

Director Brenner asked if the District still has green power for sale. Manager McBride said we have naming rights, the District met with the Ski Corp. and they are interested, and the Ski Corp's new gondola was delayed another year.

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Stagecoach Grazing Lease - CPW took over the management of the Sickles Place grazing lease and they have received three applications but have not selected someone yet.

Yamcolo Special Use Permit - The current objective is to obtain a 30-year permit with minimum release requirements that would be the same as they were presented in the last meeting. Discussion followed.

Determination of future meetings The scheduled date for the next Board meeting was confirmed, being Wednesday July 27, 2016 at 1:30 PM, at the District's office.

The meeting was adjourned at 5:30 PM.

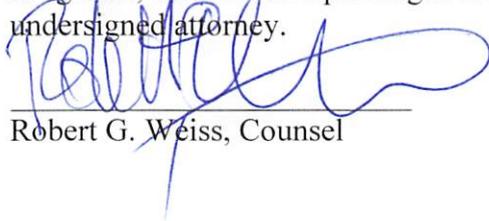
I certify that the foregoing constitutes a true and correct summary of the proceedings at the above referenced meeting.



Kevin McBride, District Secretary/Manager

STATEMENT FROM ATTORNEY REGARDING ATTORNEY-CLIENT PRIVILEGE

The undersigned Robert G. Weiss hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that the portion of the executive sessions that were not recorded and which related to the Stahl Litigation, constituted a privileged attorney-client communication in the opinion of the undersigned attorney.



Robert G. Weiss, Counsel

Date: 7-27-2016

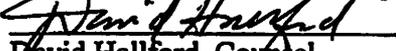
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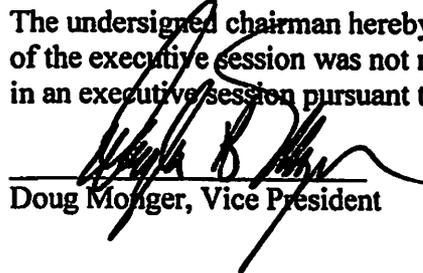
The undersigned David Hallford hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that the portion of the executive sessions that were not recorded and which related to the Four Counties water rights and the State Engineer's interpretation, constituted a privileged attorney-client communication in the opinion of the undersigned attorney.


David Hallford, Counsel

Date: 8/2/16

STATEMENT FROM CHAIR OF EXECUTIVE SESSION REGARDING ATTORNEY-CLIENT PRIVILEGE

The undersigned chairman hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that all of the executive session was not recorded and was confined to the topics authorized for discussion in an executive session pursuant to subsection (4) of CRS Section 24-6-402.


Doug Monger, Vice President

Date: 8/1/16