

## RECORD OF PROCEEDINGS

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**UPPER YAMPA WATER CONSERVANCY DISTRICT  
BOARD OF DIRECTORS MEETING  
THURSDAY, JULY 16, 2020 (10:00 AM)  
MOUNTAIN VALLEY BANK COMMUNITY ROOM – ACCESS IS LIMITED TO  
DIRECTORS AND STAFF ONLY  
PUBLIC ACCESS VIA [HTTPS://BLUEJEANS.COM/870246034](https://bluejeans.com/870246034)**

### MINUTES

Chairman Ken Brenner called the meeting to order and declared a quorum present. In addition to Chairman Brenner, the Board members present were Bob Woodmansee, Doug Monger, Jim Haskins, John Redmond, Ron Murphy, Lyn Halliday, Tom Sharp, and Webster Jones. Acting General Manager/District Engineer Andy Rossi, Marketing/Communication Manager Holly Kirkpatrick, Chief Accountant Karina Craig, Business Manager Deb Bastian, General Counsel Bob Weiss and Special Counsel Scott Grosscup were also present. Members of the public present for some portion of the meeting included Carolyn McCormick, Peak HR Consulting, LLC; Taylor Adams, Hydros Engineering; Jon Snyder, Michelle Carr and Kelly Romero-Heaney, City of Steamboat Springs; Erin Light, Colorado Division of Water Resources; Mickey O’Hara and Alyson Gould, Colorado Water Trust; Andrew Bauer, Yampa River Fund; Frank Alfone, Mt. Werner Water & Sanitation District; John Currier, River District; Jennifer Wellman, Nature Conservancy; Adam Sommers of Aqua Works DBO, Inc.; Steve Colby of Morrison Creek Water & Sanitation District; Kelly Beal; Jerry Smith, and Barb Scherer.

This meeting was held entirely by videoconference utilizing the BlueJeans platform. The meeting agenda included instructions to the public describing the process to participate in the meeting and comment on agenda items.

The following agenda was proposed:

### AGENDA

- (1) *10:00 AM* Establishment of Quorum and Call to Order;
- (2) *10:05 AM* Approval of Agenda for Meeting
- (3) *10:15 AM* Executive Session:  
Executive Session under CRS § 24-6-402 (3.5) and (4)(e)(I) concerning employment of a new general manager. This session will be recorded, and a copy of the recording maintained for not less than 90 days.
- (4) *11:15 AM* Appointment for UYWCD General Manager Position **Action Item**  
**11:45 AM Break for Lunch (30 minutes)**  
**Resume Meeting**

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- (5) *12:15 AM* Public Input and Comment  
The Board will make no decision nor take action, except to direct the General Manager. Those addressing the Board are requested to identify themselves by name, organization, if any, and address. Comments shall not exceed three (3) minutes.
- (6) *12:25 PM* Consent Agenda; **Action Item**  
a) Approval of the minutes of June 18, 2020 Board meeting  
b) Approval of disbursements;  
c) Financial Report including Budget comparison and 2020 budget required deadlines and schedule  
d) Augmentation Contract
- (7) *12:30 PM* Report of General Manager;  
a) Report on Findings of Risk Study Analysis of Yampa Doctrine and Equitable Apportionment (Presentation and Q&A with Taylor Adams of Hydros Engineering)  
b) Morrison Creek Wastewater Plant Upgrades (Steve Colby, Morrison Creek Water and Sanitation District, Engineering Consultant available for Q&A)  
c) Colorado Water Trust Stagecoach Reservoir Water Storage Contract **Action item**  
d) UYWCD Strategic Plan Implementation - 2020 Strategic Plan and Work Efforts Update, Proposed Schedule for 2021 Strategic Plan Update.  
e) Proposal for Revised Schedule for 2020 UYWCD BOD Meetings **Action item**
- (8) *2:00 PM* Committee Reports
- (9) *2:10 PM* Report of General Counsel  
a) Bylaws Amendment **Action item**
- (10) *2:20 PM* District Engineer Report  
a) Reservoir Water Status  
b) Capital Projects Update
- (11) *2:30 PM* Consideration/Action on District Project  
a) UYWCD Infrastructure Grants  
b) Scholarships
- (12) *2:40 PM* Board Member Reports
- (13) *2:50 PM* Discussion of Pending Legislation and State Affairs – Definition of the Waters of the United States (WOTUS): State of Colorado vs. United States Environmental Protection Agency and Corp of Engineers
- (14) *3:00 PM* Pending Water Cases  
a) Water resumes;  
i) Catamount Application  
b) Status of other water cases, if any;  
i) Water Horse Update  
ii) Colorado Division of Water Resources 2020 Abandonment List
- (15) *3:15 PM* New Business
- (16) *3:20 PM* Executive Sessions:  
a) Executive session under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, Contract Negotiations and n/a. Mere presence or participation of an attorney at an executive

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session is not sufficient to satisfy the requirements of CRS § 24-6-402(4)(b). Executive sessions to discuss legal matters are not recorded.

- (17) 3:25 PM Board actions in regard to Executive Sessions
- (18) 3:30 PM Determination of next meeting agenda - September
- (19) 3:35 PM Adjournment.

Chairman Brenner established a quorum and called the meeting to order at 10:08 AM.

**Approval of Agenda for Meeting.** Director Sharp moved to approve the meeting agenda. Director Haskins seconded the motion, which was unanimously approved.

**Executive Session.** At 10:18 AM Director Sharp moved, Director Woodmansee seconded, and it was unanimously agreed to go into Executive Session under provision CRS § 24-6-402 (3.5) and (4)(e)(I) concerning employment of a new general manager. This session will be recorded, and a copy of the recording maintained for not less than 90 days.

The Board discussed the interviews of the two finalist and deliberated the appointment of the next General Manager. The Board came out of Executive Session at 12:03 PM.

Chairman Brenner asked the Board if there was any discussion in the Executive Session that was outside the scope of the Executive Session. No directors expressed that concern.

**Appointment for UYWCD General Manager Position.** The Directors provided their individual perspectives of the finalists. Director Sharp moved to authorize the Board President to offer Andy Rossi the position of General Manager of the District as an “at will” employee at a salary of \$150,000/year substantially in accordance with terms and provisions of an employment letter prepared with the assistance of General Counsel Bob Weiss and Carolyn McCormick and when such letter is finalized this authorization includes authority for the President to execute it on behalf of the District when those terms are finalized with Andy Rossi. Director Monger seconded the motion. Chairman Brenner asked if there was any public comment for this item. There were no comments. The motion was also supported by Directors Halliday, Murphy, Jones, Redmond, Haskins, and Brenner. Director Woodmansee did not support the motion. The motion passed with an eight in favor and one opposed.

**Public Input and Comment.** Chairman Brenner invited the members of the public present to comment on items not otherwise scheduled on the agenda. There were no comments.

**Consent Agenda.** Marketing/Communications Manager Kirkpatrick informed the Board that an adjustment needs to be made to the Augmentation contract to round the contract amount from 3.022 AF to 3.1 AF to provide the District the ability to administer the contract. Chairman Brenner asked to pull item 6.c (Budget Comparison) from the Consent Agenda motion. Director Monger moved to approve the Consent Agenda items 6.a, b & d with the adjustments as noted by Holly Kirkpatrick regarding the augmentation contract. Director Haskins seconded the motion, which was unanimously approved.

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Chairman Brenner commented the District seems to be underspending portions of the budget and it seems to be less than halfway spent. He further noted that when we get closer to the end of the year, we will take a good look at budget comparison and note that there will probably be an under expenditure overall and that we can talk more about how we are going to deal with it at that time. Director Jones moved to approve Consent Agenda item 6.c., Director Woodmansee seconded the motion, which was unanimously approved.

### ***Report of the General Manager.***

Report on Finding of Risk Study Analysis of Yampa Doctrine & Equitable Apportionment  
Taylor Adams provided a presentation on the Yampa Doctrine & Equitable Apportionment

### Morrison Creek Wastewater Plant Upgrades

Adam Sommers discussed Morrison Creek's submission of a site approval amendment application to the Colorado Department of Public Health and Environment for improvements to its existing wastewater treatment system. Chairman Brenner asked if this presentation was for notification or if this was implying the Districts support and what is the intended outcome to be. Adam stated that this is a notification and there is no requirement for District to respond. However, Adam did state that he would appreciate if the District could provide a brief email saying that the District reviewed the application at their board meeting on July 16<sup>th</sup> and, if you elect to do so, supports the application.

Director Monger moved to accept the report as Morrison Creek's diligence in providing the Upper Yampa Water Conservancy District notice of the improvement project. Directors Haskins and Murphy seconded. Directors Sharp and Woodmansee abstained from voting due to their responsibilities as General Counsel and board member with the Morrison Creek Board of Directors. The vote passed with a 7-0 in favor.

Director Monger moved to support this project, in concept, based on the improved water quality being discharged in the discharge permit and the replacement of an aging infrastructure. Director Halliday seconded. Directors Sharp and Woodmansee abstained from voting due to their responsibilities as General Counsel and board member with the Morrison Creek Board of Directors. The vote passed with a 7-0 in favor.

### CWT SC Reservoir Water Storage Contract

The water storage contract was reviewed. Director Sharp voiced concerns with paragraph 3 regarding 2020 price guarantee. The intent of the contract is to be for 2020 only and for the water to be used prior 10/31/2020.

Director Monger moved to authorize the Acting General manager to finalize and Board President to sign 2020 water contract with CWT for up to 4,000 AF of Stagecoach water at a price of \$40.23 plus the 2018 to 2020 CPI adjustment per acre foot for delivery prior to November 1, 2020. Director Redmond seconded the motion. Director Sharp moved to amend the prior motion to direct that the final contract provide the amount of water to contract this year cannot exceed 4000 AF and must be delivered before November 1, 2020. Directors Monger and Redmond accepted the amendment. Director Sharp

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commented that he agrees with the form of the motion but opposes the sale due to price. The motion passed eight in favor and one opposed.

### Strategic Plan Implementation

The Board reviewed the Strategic Plan work efforts. Director Halliday commented that the District may want to include, under water quality, efforts underway to investigate water quality parameters at Stagecoach Reservoir associated with Algae testing and CDPHE rule making proceedings. General Manager Rossi stated that these were unintentional omission. However, he did leave off the 303d M&E list with Leonard Rice as we had reached holding pattern as we have not yet executed the contract with water sampling company. The contact is to be finalized within 48 hours.

Acting General Manager Rossi stated that he will continue with this format but will take comments/recommendations from the Board on the format of the plan. Chairman Brenner discussed that he would like to meet as a Strategic Plan Implementation group meet prior to the September board meeting. This would provide the committee time to make general recommendations to the Board and then to meet again on September 28<sup>th</sup> to further refine and bring back to board at the retreat in October. A major part of the board retreat will be the prioritization and implementations on the budget and the work plan in general. Chairman Brenner stated that he and Andy will work together in the next weeks to get a memo out to the Board with details and recommendations for the formation of a Strategic Plan committee.

### Proposal for Revised Schedule for 2020 BOD Meeting

Chairman Brenner stated that he understands the request but is reluctant to cancel scheduled meetings. He would like to keep the August and December meetings on the schedule with the intention of cancelling them, as there can be unforeseen things that can come up. He would like to modify Andy's recommendation to say with the intention of cancelling the August and December meetings but keeping them on the schedule and only utilizing them if needed .

Director Sharp noted that the new Bylaws does allow prospective agendas to be created in which the only item listed other than approving the agenda is the question of new business. This will make it easy to cancel a meeting if there is no new business intended.

Director Sharp moved that the August and December meetings are kept on the schedule and the Board will set the agenda to Approval of Agenda as item 1 and item 2 as New Business and that is an approved exception to the Bylaws requirement. Director Haskins seconded, which was unanimously approved.

***Committee Reports.*** Chairman Brenner commented that the Search Committee drafted a letter of commendation for Deb Bastian for her support to the Search Committee. He asked if there were any concerns with the Search Committee submitting the to her personnel file. With none, the Search Committee will take this action.

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### ***Report of General Counsel***

#### Bylaws Amendment

Director Sharp moved to approve the Bylaws effective 07/16/2020 as the new Bylaws replacing the prior Bylaws of the District. Director Woodmansee seconded, which was unanimously approved.

### ***District Engineer Report***

#### Reservoir Water Status

Reservoir water status was discussed.

#### Capital Projects Update

Projects update was provided and discussed.

### ***Consideration/Action on District Projects***

#### UYWCD Infrastructure Grants

Marketing/Communication Manager Holly Kirkpatrick stated that the first completed applications were received in June. After the first round, she will have a better idea of timeline/procedures and how to smooth out the process. She further noted that she is seeing a significant increase in interest and feels we will be making a significant impact this year.

#### Scholarships

The District awarded two \$2,000 scholarships. One \$2,000 scholarship went to Sierra Mitchell and the other to Tanya Petach. If the board would like to see the applications, contact Holly. Additionally, Holly stated that she would like to invite the winners to a Board meeting this year and encouraged all Directors to review their profiles and thank you notes. Chairman Brenner commented that he believed in the past that this has been brought to the Board as recommended grant recipients as part of the Consent Agenda and perhaps it can be done that way again in the future. Marketing/Communication Manager Holly Kirkpatrick noted she will bring these as recommendations through the Consent Agenda in the coming years.

***Board Member Reports.*** No reports were provided.

***Discussion of Pending Legislation and State Affairs.*** Reviewed and discussed the Waters of the United States court ruling.

### ***Pending Water Cases***

#### Water Resumes

Special Counsel Grosscup commented that there is nothing in Division 5, but a case was filed by Public Service Company that is a diligence finding for its Wessels Canal water right and Hinman Park water right. Public Service owns an interest in the Wessels canal as does Tri-State. The District has, on occasion, filed in opposition in diligence cases or to make absolute. This water right is significant on the Yampa River as the Wessels Canal, in total, is decreed for a 120 cfs and has an earlier appropriate date of 1961 so it is senior to many of the District water rights. If it is ever to be constructed it would have an impact on the administration on the Yampa River. Director Sharp commented that the Hinman right may have already been limited to not interfere with any of the Districts projects above the confluence of the Elk, but do not believe there is any similar limitation with Wessels flow right. He further suggested that if the District needs to file a statement of

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opposition, that this be added to the agenda for August. Scott will look into this and will have a report to the Board for the August meeting.

### Catamount Application

A short memo was prepared for the Board to describe the impacts of the filing. The primary issue is the Catamount refill is senior to the Stagecoach and Yamcolo refill rights and if there is a shortage, Catamount could potentially place a call and refill ahead of Stagecoach and Yamcolo with District water rights. This is the reason to patriciate in this case and suggest a settlement term and condition that Catamount would agree not to place a call for its refill rights if it were to curtail the ability of the District to fill their reservoirs under their refill right. General Counsel Grosscup will file the opposition to work on a resolution. Acting General Manager Andy Rossi offered to reach out to Catamount to explain our position so we can work together.

### Status of other Water Cases

The Board reviewed the status of current water cases. Director Sharp moved to amend the prior decision early for the agenda for the August meeting to add a new item "Water Court Case Update" as an action item. Director Halliday seconded, which unanimously approved.

### Water Horse Update

An update was provided to the Board. Special Counsel Grosscup stated that the River District is still on board and agreed to have Wyoming counsel review and then draft a letter in response that the project still fails under Wyoming law because it does not satisfy the speculation requirements of Wyoming law and it is highly unlikely that it would be permitted. In about 60 days there should be a draft response letter for review.

### 2020 Abandonment List

The Board reviewed the released 2020 abandonment list. Special Counsel Grosscup stated that the District should prepare a formal objection to the 2020 abandonment list and provide this to the board for formal ratification at the next meeting. Director Sharp moved to give direction to Special Counsel Grosscup to prepare an appropriate objection to the Districts water rights listed on the 2020 abandonment list. Director Redmond seconded, which was unanimously approved.

***New Business.*** Acting General Manager provide information on:

Yampa River Closures: The City of Steamboat Springs and CPW are discussing a closure on the Yampa River in downtown.

First Flow Coordination: The first flow coordination call hosted by the River District. The Elkhead management team looking at flow target, for decision making point, of 134 cfs at the Maybell gauge and it is currently running at 360 cfs.

Steamboat Lake water contract: The City of Steamboat Springs reached an agreement with Public Service and State of Colorado for a water contract out of Steamboat Lake.

District Engineer: Will be advertising for new District Engineer as soon as possible.

***Executive Session.*** After discussion, it was determined there was no need for an Executive Session.

***Determination of next meeting agenda.*** Discussed the amended agenda for the August meeting. For September, will have an update on the integrating the strategic plan and the budgeting process, final formulation for October retreat, continuation of water cases discussed and a presentation from the High

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Altitude Snow Observatory Program. Additionally, the Basin Implementation Projects list update was just released and we will provide input on projects for inclusion on the list.

Director Sharp moved to adjourn the meeting at 5:05 PM. The motion was seconded by Director Halliday, which was unanimously approved.

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

*Andrew Rossi*

[Andrew Rossi \(Sep 17, 2020 16:13 MDT\)](#)

Andy Rossi, District Secretary/Manager

Date: Sep 17, 2020








# 2020 0716 Board Meeting Minutes-final

Final Audit Report

2020-09-17

Created:	2020-09-17
By:	Deb Bastian (dbastian@upperyampawater.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAgeBoHi-IOmD8JpHhWeuraPzWc2125_gd

## "2020 0716 Board Meeting Minutes-final" History

-  Document created by Deb Bastian (dbastian@upperyampawater.com)  
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-  Document emailed to Andrew Rossi (arossi@upperyampawater.com) for signature  
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-  Document e-signed by Andrew Rossi (arossi@upperyampawater.com)  
Signature Date: 2020-09-17 - 10:13:07 PM GMT - Time Source: server- IP address: 63.224.69.143
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