

RECORD OF PROCEEDINGS

**UPPER YAMPA WATER CONSERVANCY DISTRICT
BOARD OF DIRECTORS MEETING
WEDNESDAY, NOVEMBER 15, 2023 (12:00 PM)
MOUNTAIN VALLEY BANK COMMUNITY ROOM
2220 CURVE PLAZA, STEAMBOAT SPRINGS, CO
ONLINE MEETING:**

<https://us06web.zoom.us/j/85459548474?pwd=U0xjMTRneHBjeDdOaXEvYnBqU09hQT09>

MINUTES

Chairman Doug Monger called the meeting to order and declared a quorum present. In addition to Chairman Monger, the Board Members present were Ken Brenner, Jim Haskins, Katie Berning, Lyn Halliday, Tom Sharp, Webster Jones and Nicole Seltzer. General Manager Andy Rossi, District Engineer Emily Lowell, Public Information and External Affairs Manager Holly Kirkpatrick, Business Manager Deb Bastian, Finance Manager Karina Craig and General Counsel Bob Weiss were also present. Special Counsel Scott Grosscup was present over Zoom for a portion of the meeting. Members of the public present for some portion of the meeting included Erin Light, Brian Romig and Mendi Figueroa, Colorado Division of Water Resources; Jonathan Bowler, Little Snake Conservation District; Dave Torgler, Town of Oak Creek Administrator.

This meeting was held in person and by videoconference utilizing Zoom. 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) **12:00 PM** Establishment of Quorum and Call to Order
- (2) **12:00 PM** Approval of Agenda for Meeting **Action item**
- (3) **12:05 PM** 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.
- (4) **12:10 PM** Board Member Reports
 - a. Introduction of new Board Member
 - b. Ken Brenner – Little Snake Basin Proposal **Action item**
 - c. Doug Monger – CRD
 - d. Nicole Seltzer – Board Governance Committee Update
 - e. Board Member Disbursements Summary
- (5) **12:25 PM** Consent Agenda **Action item**
 - a. Approval of the Minutes for September 20, 2023, Board Meeting, October 12, 2023 Board Retreat and October 23, 2023, Board Governance/Strategic Planning Committee Meeting
 - b. Financials
 - i. Approval of Disbursements
 - ii. Budget Comparison

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- iii. Local Government Budget Amendment Review
- (6) **12:30 PM** Report of General Manager
- a. General Manager Report
 - b. Bear River Wildfire Ready Action Plan Funding Agreement **Action Item**
 - c. Augmentation Plan Updates
 - d. Update on Holiday Party
 - e. Notice of Expiring Director Terms
 - f. Town of Oak Creek Sheriff Reservoir Project Update and Grant Revision Request **Action item**
 - g. UYWCD 2024 Budget **Action item**
 - h. Colorado River Matters Discussion
- (7) **3:00 PM** District Engineer Report
- a. Update on Reservoir Water Status
 - b. Update on Capital Projects
- (8) **3:15 PM** Public Information Updates
- a. Update on Grant Disbursements
 - b. Community Grant Program Procedures
- (9) **3:25 PM** Report of General Counsel
- a. General Manager Review Procedure **Action item**
- (10) **3:35 PM** Pending Water Cases
- a. Water Resumes
 - b. Status of Other Water Cases
- (11) **3:55 PM** New Business (Limited to emergency matters that came up During the course of the meeting) **Action item**
- (12) **4:00 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 _____(insert description). Mere presence or participation of an attorney at an executive session is not sufficient to satisfy the requirements of CRS § 24-6-402(4)(b). Executive sessions to discuss legal matters are not recorded.
 - b. Executive session under CRS § 24-6-402(4)(e)(I) for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators with respect to _____(insert brief description). This session will be recorded, and a copy of the recording maintained for not less than 90 days.
- (13) **4:45 PM** Board Actions in Regard to Executive Session
- (14) **4:50 PM** Determination of Next Meeting(s) Agenda(s)
- (15) **5:00 PM** Adjournment.

Chairman Monger established a quorum and called the meeting to order at 12:02 PM.

Meeting Agenda. Director Haskins moved to approve the agenda. Director Halliday seconded the motion which was unanimously approved.

Public Input and Comment. Chairman Monger invited members of the public to comment on items not otherwise scheduled on the agenda. There was no comment.

Board Member Reports.

Introduction of new Board Member. Chairman Monger introduced Katie Berning as the new Division 1 Director replacing Ron Murphy who resigned from the Board in September.

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Ken Brenner – Little Snake Basin Proposal. Director Brenner and Jonathan Bowler provided the Board with information and an overview on the Headwaters of the Colorado (HoC) Initiative and the request for a Letter of Support for the WaterSMART Cooperative Watershed Management Program Phase I. In addition, Director Brenner requested support to serve on the HoC Steering Committee. The Board discussed.

Director Sharp moved to authorize the General Manager to draft a letter of support to for the HoC with the conditions that the District does not commit to any future funding, there will be no use of staff time and the District does not request the creation of an Upper Yampa Water Conservancy seat on the Steering Committee. Director Jones seconded the motion which was unanimously approved.

Director Brenner also reported on the C9 Summit Conference held on November 14, 2023. He reported that changes will likely be proposed for the interactions between the IBCC, CWCB and the basin roundtable groups.

Doug Monger – CRD. Director Monger provided an update on the direction the River District provided to General Manager Andy Mueller regarding the Drought Task Force.

Nicole Seltzer – Board Governance Committee Update. Director Seltzer provided the Board with an update on the progress of the Board Governance Committee and that the committee plans to bring decisions to the Board for review and approval.

Lyn Halliday – Water Quality Analysis. Director Halliday provided the Board with an update on the water quality analysis process and noted that LRE Water and their sub-contractor Plummer has been selected to conduct the modeling portion of the analysis.

Board Member Disbursement Summary. The Board reviewed the current disbursement of payments to Board Directors.

Consent Agenda. General Manager Rossi informed the Board of a typographical error on Page 3 of 6 of the Cash Disbursement Report. The description in the Memo column should be “Water Quality Analysis, passthrough” in lieu of “Water Rights Analysis, passthrough”. The Board reviewed and discussed the consent agenda. Director Monger moved to approve the minutes of the September 20, 2023, Board Meeting, the October 12, 2023, Board Retreat and to accept the October 23, 2023, Board Governance/Strategic Planning Committee. Director Brenner seconded the motion which was unanimously approved. Director Brenner moved to approve the cash disbursements as corrected. Director Sharp seconded the motion which was unanimously approved. Director Brenner moved to approve the budget comparison as presented. Director Jones seconded the motion which was unanimously approved.

Report of General Manager.

General Manager Report. General Manager Andy Rossi provided the Board with a report summarizing the current and ongoing activities of the District.

Bear River Wildfire Ready Action Plan (WRAP) Funding Agreement. General Manager Andy Rossi provided the Board with an update on the Bear River WRAP project and Colorado Strategic Wildfire Action Program (COSWAP). Director Brenner moved to authorize the UYWCD General Manager to sign the Bear River WRAP funding agreement. Director Halliday seconded the motion which was unanimously approved.

Augmentation Plan Updates. The Board reviewed the current augmentation plans contract summary document.

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Update on Holiday Party. General Manager Rossi provided the Board with the holiday party update.

Notice of Expiring Director Terms. General Manager Rossi informed the Board that Director Haskins, Brenner and Halliday terms expire on March 8, 2024. Staff will publish a public notice of Application for Appointment of Directors to the District in January 2024. Directors interested in continuing to serve on the Board of Directors will need to file an application.

Town of Oak Creek Sheriff Reservoir Project Update and Grant Revision Request. Oak Creek Town Administrator Dave Torgler provided an update on the Sheriff Reservoir project and that the Town of Oak Creek is requesting an additional extension of the project completion date as per section 4B of the original funding contract. The Board discussed. Director Brenner moved to approve the revision of the original UYWCD-Town of Oak Creek Grant Funding Contract, sections 1.B., 4.A., and 4.B. through the end of 2024. Director Haskins seconded the motion which was unanimously approved.

UYWCD 2024 Budget. General Manager Rossi and Finance Manager Karina Craig provided the Board with an overview and update on the 2024 budget process. The Board discussed the special legislative session being convened by Governor Polis regarding the increase in property tax revenue. General Manager Rossi informed the Board of a typographical error in the ADM (administration) detail budget Draft, September 20, 2023, column. A corrected ADM budget was provided to the Board as additional documents.

Director Berning disclosed that she works for the Yampa River Fund and will abstain from voting on the proposed contribution to the Yampa River Fund Endowment for calendar year 2024. Director Sharp moved to approve the authorization of a one-time contribution to the Yampa River Fund Endowment in calendar year 2024 in the amount of \$150,000 subject to execution of a grant contract in a form acceptable to the General Manager and District legal counsel. Director Brenner seconded the motion. The vote passed with the abstention of Director Berning.

Chairman Monger moved to approve his signature on Resolution 2023-4 to Appropriate Sums of Money, Resolution 2023-5 to Set Mill Levies and Resolution 2023-6 to Adopt Budget and Salary Range Schedule as presented and subject to potential adjustments on final property assessments provided. Director Jones seconded the motion which was unanimously approved.

Colorado River Matters Discussion. General Manager Rossi provided the Board with information on the recently revised draft Supplemental Environmental Impact Statement (SEIS) from the Department of Interior's Bureau of Reclamation and the proposed short list ideas from the Colorado River Drought Task Force regarding the post 2026 guidelines process. The Board discussed. Staff was directed to provide the Board with the latest short list after the Task Force's meeting to be held November 16, 2023. The Board will review and determine if further action will be taken.

District Engineer Report.

Update on Reservoir Water Status. District Engineer Emily Lowell provided an update on the reservoir water status.

Update on Capital Projects. District Engineer Emily Lowell provided the Board with a summary of the facility improvement and maintenance projects during 2023.

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Public Information Updates.

Update on Grant Disbursements. Public Information and External Affairs Manger Holly Kirkpatrick provided a written update to the Board on grant disbursements.

Community Grant Program Procedures. Public Information and External Affairs Manger Holly Kirkpatrick provided a review and overview of the Community Grant Funding program that was formalized in 2022.

Report of General Counsel. Chairman Monger provided an overview of the annual performance review process for the General Manager. The Board reviewed the draft evaluation survey. Director Brenner moved to approve the General Manager evaluation form as presented and requested staff to send the review form to the Board and the General Manager on November 27, 2023. Director Jones seconded the motion which was unanimously approved.

Pending Water Cases.

Water Resumes. Special Counsel Grosscup commented that there were no water court applications filed in the month of September of concern to the District. In October, the application for Moffat County's umbrella augmentation plan was filed. Director Sharp moved to authorize Special Counsel Scott Grosscup to file an opposition in support of Moffat County's application for an umbrella augmentation plan to allow the District to assist Moffat County as necessary and to protect the District's augmentation plan interests in the future. Director Brenner seconded the motion which was unanimously approved.

Status of Other Water Cases. Special Counsel Grosscup provided a review and update of Water Court **Case No. 20CW3019 and 20CW3020** (diligence application filed by Public Service Company of Colorado for 52.5 cfs decreed to the Wessels Canal Hinman Park Reservoir and the Saddle Mountain Pump Station), **Case No. 22CW3102** (Opposition to water measurement rules), and **Water Horse Resources**. The Special Council further noted that there are 4 cases set for trial between the District and Tri-State (**Case No. 21CW3046**-Tri-State's diligence application for the Crag Station Ditch and Pipeline, **Case No. 22CW3002**-Yamcolo Reservoir Second Filling, **Case No. 22CW3108**-Little Morrison Diversion and **Case No. 22CW3018**-Pleasant Valley Reservoir Rights at Yamcolo Reservoir and that he has had conversations with Tri-State attorney's regarding settlement options.

Executive Session. At 3:34 PM Chairman Monger moved, Director Brenner seconded, and it was unanimously agreed to go into Executive session under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, Contract Negotiations and cases involving Tri-State Generation. Mere presence or participation of an attorney at an executive session is not sufficient to satisfy the requirements of CRS § 24-6-402(4)(b). Executive sessions to discuss legal matters are not recorded.

The Executive Session ended at 3:59 PM. Immediately after the conclusion of the executive session and the resumption of the public meeting, the Chairman 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 concern for the record. No one stated concerns.

Board Action Regarding Executive Session. Director Brenner moved to direct Special Counsel Grosscup, General Counsel Weiss and General Manager Rossi to work with Directors Sharp and Jones to make an offer to enter mediation with Tri-State on the 4 pending cases and to split the cost of mediation 50/50. Director Haskins seconded the motion which was unanimously approved.

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New Business. There was no new business.

Determination of Next Meeting Agenda. The agenda for the January 18, 2024, Board Meeting was reviewed.

The meeting adjourned at 4:03 PM.

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

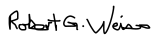


Andy Rossi, District Secretary/Manager

Date: Jan 19, 2024

STATEMENT FROM ATTORNEY REGARDING ATTORNEY-CLIENT PRIVILEGE

The undersigned Robert G. Weiss, legal counsel for the District, hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that the portion of the executive session that was not recorded and which related to cases involving Tri-State Generation constituted a privileged attorney-client communication under CRS Section 24-6-402(4)(b).



Robert G. Weiss, Counsel

Date: Jan 23, 2024









1115 2023 BOD Meeting Minutes - Final

Final Audit Report

2024-01-23

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