

RECORD OF PROCEEDINGS

UPPER YAMPA WATER CONSERVANCY DISTRICT BOARD OF DIRECTORS MEETING WEDNESDAY, FEBRUARY 16, 2022 (10:00 AM) ONLINE MEETING:

[HTTPS://US06WEB.ZOOM.US/J/88580218395?pwd=BKLCVTRBZCtDAWhCSWURtG44SU42Zz09](https://us06web.zoom.us/j/88580218395?pwd=BKLCVTRBZCtDAWhCSWURtG44SU42Zz09)

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, Ron Murphy, Lyn Halliday, Tom Sharp, Webster Jones, Jim Haskins and Nicole Seltzer. General Manager Andy Rossi, Public Information and External Affairs Manager Holly Kirkpatrick, Business Manager Deb Bastian, Chief Accountant Karina Craig, General Counsel Bob Weiss and Special Counsel Scott Grosscup were also present. Members of the public present for some portion of the meeting included Scott Hummer, Colorado Division of Water Resources.

This meeting was held 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) **10:00 AM** Establishment of Quorum and Call to Order
- (2) **10:00 AM** Approval of Agenda for Meeting **Action item**
- (3) **10:05 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.
- (4) **10:10 AM** Report of General, Special Counsel
 - a. Status of Water Cases
- (5) **10:30 AM** Executive Session:
 - 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.
- (6) **11:00 AM** Report of General Manager
 - a. Coal Creek Diversion Project Update
- (7) **12:00 PM** New Business (Limited to emergency matters that came up **Action item**
During the course of the meeting)
- (8) **12:05 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.

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- 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.
- (9) **12:35 PM** Board Actions in Regard to Executive Session
- (10) **1:35 PM** Adjournment.

Chairman Monger established a quorum and called the meeting to order at 10:06 AM.

Meeting Agenda. Director Jones moved to approve the agenda. Director Murphy 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.

Report of General, Special Counsel. Special Counsel Grosscup stated he wanted to discuss Yamcolo Reservoir and how some of the water rights are decreed and the Division Engineers placement of some the water rights on the 2022 abandonment list and the status, negotiations with Public Service Company and its diligence application for the Wessel's Canal and the meeting District staff had with Public Service Company staff.

Executive Session. At 10:12 AM Director Brenner moved, Director Jones 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, Yamcolo water rights and placement on the abandonment list and status with Public Service Company on its diligence application for the Wessel's Canal. 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 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 concern for the record. No one stated concerns.

Board Action Regarding Executive Session. Director Sharp moved that the Board authorize and direct staff and legal counsel to file opposition in protest to the abandonment of 410.9 acre-feet decreed to the Yamcolo first enlargement water right for all beneficial purposes. Director Brenner seconded the motion which was unanimously approved. Director Sharp moved that the Board authorize and direct staff and legal counsel to file appropriate water court proceedings to seek to make absolute all of the remaining conditional uses in the Pleasant Valley storage right that was previously adjudicated, in part, for Yamcolo Reservoir. Director Brenner seconded the motion which was unanimously approved.

Report of General Manager – Coal Creek Diversion Project Update. General Manager Andy Rossi provided an update and reviewed the Wilson Water Group analysis and cost estimate summary. The Board discuss. Further, General Manager Rossi discussed the United States Forest Service (USFS) denial of the District's permit application to install a flow monitoring sensor in Coal Creek culvert. General Manager Rossi stated that with the USFS denial he would need outside consultation to assist him in determining how to move forward with the permitting process. Director Brenner moved that the Board authorize General Manager Rossi to investigate the cost of hiring an attorney and/or consultant to assist District staff with the Coal Creek permitting process and to present a proposal to the Board at the March Board meeting. Director Haskins seconded the

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motion. The Board discussed. Directors Monger, Halliday, Sharp, Murphy, Haskins and Brenner voted in favor. Director Seltzer voted against. Director Jones was no longer present. The motion passed.

New Business. There was no new business.

The meeting adjourned at 12:32 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: Mar 17, 2022

STATEMENT FROM ATTORNEY REGARDING ATTORNEY-CLIENT PRIVILEGE

The undersigned Robert G. Weiss, legal counsel for the District, hereby attests, pursuant to CRS § 24-6-402(2)(d.5)(II)(B), that the portion of the executive session that was not recorded and which related to Yamcolo water rights and placement on the abandonment list and status with Public Service Company on its diligence application for the Wessel's Canal constituted a privileged attorney-client communication under CRS § 24-6-402(4)(b).



Robert G. Weiss, Counsel

Date: Mar 29, 2022

0216 2022 Minutes-final

Final Audit Report

2022-03-29

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