

RECORD OF PROCEEDINGS

UPPER YAMPA WATER CONSERVANCY DISTRICT BOARD OF DIRECTORS MEETING THURSDAY JANUARY 22, 2015 1:30 PM 3310 CLEAR WATER TRAIL, STEAMBOAT SPRINGS

MINUTES

Chairman John Redmond called the meeting to order and declared a quorum present. In addition to Chairman Redmond, the Board members present were Stephen Colby, Doug Monger, Sam Haslem, Greg Herman, Webster Jones, and Ron Murphy. 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 Doug Allen, Vice President of Mountain Operations, Steamboat Ski & Resort Corporation; Erin Light, Division Engineer, Colorado Division of Water Resources; Mark Fischer and Chelsea Baier with Cantafio Eddington PC; and Kelly Heaney, Water Resources Manager, City of Steamboat Springs. Scott Grosscup with Balcomb & Green, PC joined the meeting by phone.

The following agenda was proposed:

AGENDA

- (1) 1:30 pm - Establishment of Quorum and Call to Order;
- (2) 1:35 pm - Consent Agenda; action item
 - a) Ratification of Yamcolo Special Use Permit Extension
- (3) 1:40 pm - Approval of Agenda for Meeting; action item
- (4) 1:45 pm - Approval of the minutes of the November 19, 2014 Board Meeting and acceptance of Executive Committee Session minutes; action item
- (5) Public Input and Comment;
- (6) 2:00 pm - Potential Land Purchase
- (7) 2:30 pm - Financial Report; action item
 - a) Approval of Disbursements
 - b) Budget Comparison
 - c) Audit 2014
- (8) 3:00 pm - Report of the General Manager;
 - a) Master Planning
 - b) Elk River
 - i) ISF
 - ii) Steamboat Lake Augmentation Water action item
 - c) Yellow Billed Cuckoo
 - d) Available Water for Contracting
 - e) Personnel Guidelines Manual action item
- (9) 4:00 pm - Report from District Engineer
 - a) Reservoir water status
- (10) 4:15 pm - Directors appointments
 - a) Director Monger, Jones, and Hermann
 - b) Officer and Executive Committee elections action item
- (11) 4:30 pm - Report from General Counsel;
 - a) Stahl
 - b) Stagecoach Power Contract Update action item
 - c) Morrison Creek Upper Diversion Diligence

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- (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 Monger made a motion to approve the consent agenda item, Director Murphy seconded the motion which was unanimously approved.

Meeting Agenda Director Monger requested to modify the agenda and add an item to the meeting agenda, after item 5) Public Input and Comment, for review and discussion of the current water lease contract with the Steamboat Ski and Resort Corporation. Director Colby moved to approve the modified agenda. Director Murphy seconded the motion which was unanimously approved.

Meeting Minutes Director Monger moved to approve the November 19, 2014 Board of Directors Meeting minutes and the December 10, 2014 Executive Committee Session minutes. Director Hermann seconded the motion which was unanimously approved.

Ski Area water rights lease contract. Doug Allen, Vice President of Mountain Operations, Steamboat Ski & Resort Corporation informed the Board that the Ski Area presently has well water rights for the Rendezvous Saddle restaurant that are limited to 1.6 AF per year, to be used from November to April. He stated that it had been brought to his attention recently that the decree excludes summer use. Additionally, the restaurant used approximately 1.6 AF of water last year and the Ski Area may want to use the restaurant in the summer, sometime in the future.

Scott Fifer, of Resource Engineering, Inc., joined the meeting by phone. He proposed the contract Exhibit A be amended to reflect no changes in total water contracted and a change in the months of the year the water can be used, to include summer months..

Manager McBride discussed the potential effect of the proposed change in the District's ability to fill Stagecoach reservoir with specific rights. Scott Grosscup, with Balcomb & Green, PC, expressed his understanding that the District would be under no obligation to deliver the water in case of a drought or if the water were out of priority. Mr. Grosscup proposed to amend and re-state the existing contract with a revised Exhibit A. He further suggested the Board could adopt the Exhibit A as requested and that there would be no need to re-sign the agreement. Director Monger stated he does not oppose the proposed scenario, however, he would like the item be added for discussion in the next Board Meeting agenda. No action was taken on this item. Counsel Weiss did not participate in this discussion.

Public Input and Comment

Cattlemen's Association Follow-up. Division Engineer Light informed the Board that Dick Wolfe, State Engineer and Director, Colorado Division of Water Resources, and she drafted a response to the letter the District sent to Mr. Wolfe requesting an administrative solution to stock watering

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after the irrigation season concludes. This letter has been sent and is now being reviewed by the Attorney General's office.

Potential Land Purchase Mark Fischer and Chelsea Baier with Cantafio Eddington PC were present representing owners of 107 acres of land adjacent to the District's proposed reservoir on Morrison Creek. The land owners, Betty Lay and Hattie Miles, are at the beginning of a foreclosure process and are interested in selling the property. They are elderly and would like to remain in their homes if possible. Mr. Fischer and Ms. Baier asked the District if they may be interested in the property. The foreclosure sale date is April 19, 2015 but that deadline may be extended. Mr. Fischer stated that with a non-binding letter of intent from the District, his office could approach Wells Fargo, the owner of the 1st mortgage, and begin the process to find out what the options are for purchase. Directors and Staff discussed possible problems, benefits, and concerns including: access to the reservoir, the possibility that a park could be created at the reservoir, the cost of an appraisal, existing sediment studies, existing and possible easements, and the District's fiduciary responsibility.

Director Monger moved that District staff seek and provide the board with more information about the potential land purchase and to delegate to the Executive Committee the drafting of a letter of possible intent of purchase. Director Haslem seconded the motion which was unanimously approved.

Financial Report

Cash Disbursements – The Cash Disbursements report was reviewed. Director Monger moved to approve the Cash Disbursements report, Director Jones seconded the motion which was unanimously approved.

Budget Comparison – The Budget Comparison Report was presented and reviewed. The new dam operator assistant position was discussed, a candidate has been offered the position, his background experience was discussed, and he will start working at the end of January.

Audit 2014 – The upcoming Audit Planning Meeting with the auditor, Chris Catterson, was discussed. Director Monger and Redmond expressed interest in attending the meeting.

Report of the General Manager

Master Planning – Manager McBride reviewed the status of the Master Planning. Mr. McBride described a meeting with Division Engineer Erin Light and plans for future meetings on master planning modeling with the Division engineer. The diligence of several water rights are tied to the District's Master Plan. The District's model will use paleo-hydrology as an input, and this was agreed to by the Division Engineer. A memo documenting a December 11, 2014 Water Master Plan Coordination Meeting was presented and discussed.

Several maps were presented and discussed. These included a map showing UYWCD Contractees and their points of diversions from hydro base. A map displaying the nodes used in the model being developed by the District was also shown. A map that showed additional detail of Contractees' points of

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diversions in the vicinity of the City of Steamboat Springs was used to illustrate that large water users are represented in the model, but there is a question of how many of the District's smaller Contractees are represented. There is a baseline of what the river looks like now, but the District wants to make sure future uses are represented as accurately as possible. In addition, the District is focusing on water supplies and is soliciting water needs so they will be included. Kelly Heaney, Water Resources Manager of the City of Steamboat Springs, expressed interest in being part of a plan to augment flows through the City and in keeping 100cfs in the river down to the treatment plant.

Mr. McBride summarized that there are three tiers in the current water planning efforts: the District's Water Plan, the Basin Implementation Plan, and the State Water Plan. Director Monger inquired about how this modeling ties in with the Basin Implementation Plan. Manager McBride answered that we are working to use essentially the same base model in the BIP and our master plan to avoid conflicting modeling assumptions. Both consumptive and non-consumptive uses will be modeled.

He then spoke of a meeting at the round table, and a discussion of water allocation in the Colorado River Basin. The IBCC conceptual agreement was presented in a previous meeting, various points were discussed, including a transmountain diversions that would be allowed only when certain triggers were met such as high water levels in Lake Powell and in wet years. Kevin discussed the small amount of storage in the Yampa basin and the small amount of use in the Yampa and White Rivers. The Yampa White Round Table stance is for an allotment of native flow in the Yampa River not subject to compact curtailment a.k.a. equitable apportionment.

A red-lined document was presented by Manager McBride from the West Slope caucus discussion on the IBCC Conceptual Agreement. The Board discussed the comments made by Manager McBride and directors Redmond and Colby expressed their agreement with the presented document and its proposed edits. Mr. McBride stated that the phase II of the draft basin implementation plan has a completion deadline of April 2015.

Elk River – The subjects of an Increased Instream Flow (ISF) and a proposed Augmentation Plan at the Elk River were discussed.

The Colorado Water Conservation Board and the Bureau of Land Management have proposed an increase in the amount of instream flow below Steamboat Lake. The District has concerns due to its interest in an augmentation plan there and has opposed the proposal. The CWCB's proposal started a conversation among interested parties on the topic of how much water is needed for augmentation in the Elk River. Division Engineer Light stated she has been looking into water rights and augmentation water needs in the Elk River and Steamboat Lake; she is writing a summary of her findings. A draft was presented; Ms. Light suggested the total possible depletions needing to be replaced are 360 AF. Mr. McBride indicated Director Sharp had expressed his opinion that 500 AF would be a conservative estimate to supply water needs in the area and he had proposed the District ought to pursue an augmentation plan for the Elk River area for that amount water.

There was a discussion about a water decree pertinent to the Elk River Valley which had been amended in 1999 through a change case; about various water rights filings, different legal interpretations of water uses, and communications with Colorado Parks and Wildlife. Director Monger inquired if an

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augmentation plan, if implemented, would contribute to fulfill instream flows downriver from Steamboat Lake; Ms. Light confirmed it would.

Mr. McBride stated there is an indication that the Colorado Parks and Wildlife, CPW, may be interested in leasing water to the UYWCD.

A draft letter to CPW from the District was presented; the letter requests a contract with CPW for a 500 AF allotment, states the District will be preparing to file a master augmentation plan for the Elk River from the headwaters to the confluence with the Yampa River, and that the District will be unable to support an ISF increase until an augmentation source has been obtained. There was agreement that the proposed letter was appropriate and fits well with the District's Master Plan.

Mr. McBride added the District may be interested in pursuing a raise of Steamboat Lake; discussion followed. It was suggested that a paragraph be added to the letter in reference to increased capacity.

Yellow Billed Cuckoo – A memo about the Endangered Fish Recover Programs and its interaction with the Yellow-billed cuckoo and cuckoo habitat was discussed. A map showing the critical habitat of the cuckoo along the Yampa River was presented. The habitat of the four endangered fish on the Yampa River and the cuckoo may be in conflict. An EIS may be needed for future work involving the critical habitat on the Yampa River.

Available Water for Contracting – A table showing the water available for contracting in Stagecoach and Yamcolo Reservoirs was presented and discussed. Manager McBride described how the exchange water between Yamcolo and Stagecoach came to be. Mr. McBride believes the adoption of a policy on this topic is needed in order to move forward with new contracts and towards an enterprise financial model. Staff will be working on this issue and plans to bring a memo regarding the Exchange water at a future Board meeting for discussion.

Personnel Guidelines Manual – The Personnel Guidelines manual was presented and reviewed. The manual has been reviewed by Mountain States Employer Council and by District's counsel. The manual includes a Drug and Alcohol Testing section for general reference; a separate and more detailed policy will be submitted to the Board for approval. Director Monger discussed performance based drug testing practices. Director Hermann agreed that the Drug and Alcohol Testing policy should be further discussed when it's presented to the Board.

Director Jones moved to approve the Personnel Guidelines as presented. Director Haslem seconded the motion which was unanimously approved.

Report from the District Engineer

Reservoir water status – Engineer Rossi presented the following information:

- Stagecoach Reservoir Operations data for Accounting year 2014 was presented and discussed. Stagecoach water storage has been good this year and everything is running smoothly. Adjustments to

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the reservoir water storage will be made in response to the developing snow pack as winter progresses.

- A chart showing a historical perspective of Yamcolo Reservoir water storage from 1997-2015 was presented and discussed. The Yamcolo Reservoir Volume chart was discussed. Volume is holding steady and there will be no sudden moves so we can leave the reservoir water level in the best possible position for the 2015 water use season.

The Stagecoach Shed was discussed. The construction of the shed is complete.

Director Monger inquired about the status of all the projects at Stagecoach Reservoir. Engineer Rossi explained the electronic upgrades are complete except for some fine-tuning.

Directors Appointments

Directors Monger, Jones, and Hermann – Three director positions are expiring, one from each Division. Current Directors Jones and Monger have reapplied. Director Hermann will present his paperwork. No members of the public have expressed interest. If no one else applies, it is expected that the Judge will appoint the current Directors without the necessity of a hearing.

Officer and Executive Committee elections – Director Monger moved to reappoint Director Redmond as President. Director Murphy seconded the motion which was unanimously approved.

Director Haslem moved to reappoint Director Monger as Vice President. Director Murphy seconded the motion which was unanimously approved.

Director Jones moved to reappoint the current Executive Committee members: Directors Sharp, Monger, Hermann, Brenner and Redmond. Director Monger seconded the motion which was unanimously approved.

Report from General Counsel

Stahl – Counsel Weiss briefly summarized the status of pending cases. The dismissal of the marina case was partially reversed by the Court of Appeals; the District asked the Court of Appeals to reconsider the dismissal. On January 22, 2015, the Court of Appeals denied the District's request for reconsideration. Counsel Weiss discussed governmental immunity and tort claims. Counsel Weiss has met and discussed possible further actions with the Executive Committee. Counsel Weiss discussed and explained processes and procedures for further actions.

The District could choose to file a petition with the Supreme Court, who would then perform a discretionary review. The Executive Committee recommended that the District file a cert petition in the Supreme Court. The filing deadline of February 19th.

Director Jones moved to authorize the submittal of our claim for consideration to the Supreme Court. Director Hermann seconded the motion which was unanimously approved.

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There is a second case regarding the District's Rules and Regulations. The District has responded to part of the complaint, and requested a dismissal of the remaining items in the complaint. This motion is pending before Judge O'Hara.

Counsel Weiss advised the Board that no Executive Session was needed in the Stahl cases. The agenda was modified to delete the Executive Session.

Stagecoach Power Contract Update – Counsel Weiss spoke about the contract that is currently in effect for the sale of power generated at the Stagecoach Powerhouse. The contract is with Xcel and expires in October 2015. Information has been sent to Diane Johnson with Yampa Valley Electric Association, YVEA, because they have expressed interest in buying Stagecoach power. Counsel has requested YVEA meet with us again to discuss their offer and terms. Karl Kumli with Dietz and Davis, PC has been asked to assist with this meeting. Different aspects of pricing of power production were discussed.

Morrison Creek Upper Diversion Diligence – Counsel asked the Board to authorize filing of the diligence due in February. Director Monger moved to approve the filing of the diligence on the Morrison Creek Upper Diversion. Director Colby seconded the motion which was unanimously approved.

Determination of future meetings The scheduled date for the next Board meeting is Wednesday March 18, 2015 at 1:30 PM, at the District's office.

The meeting was adjourned at 5:00 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