

# RECORD OF PROCEEDINGS

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**UPPER YAMPA WATER CONSERVANCY DISTRICT  
BOARD OF DIRECTORS MEETING  
JANUARY 23, 2019 1:30 PM  
MOUNTAIN VALLEY BANK COMMUNITY ROOM  
2201 CURVE PLAZA, STEAMBOAT SPRINGS, CO**

## 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, Ken Brenner, Ron Murphy, Stephen Colby, Tom Sharp, Webster Jones. General Manager Kevin McBride, District Engineer Andy Rossi, Office Manager Karina Craig, Administrative Assistant Barbara Wilson, and General Counsel Bob Weiss were also present.

Members of the public present included Andy Mueller and Peter Fleming, Colorado River District; Jackie Brown, Tri-State Generation & Transmission; Erin Light and Scott Hummer, Colorado Division of Water Resources; Claire Sollars, Colorado Water Matters; Nicole Seltzer, River Network; Greg Glunz, AECOM; and Lyn Halliday, Environmental Solutions Unltd., Upper Yampa River Watershed Group.

Ryan Golten, Consensus Building Institute; Andrea Parker, AECOM; and Scott Grosscup, Balcomb & Green attended parts of the meeting by phone.

The following agenda was proposed:

### AGENDA

- (1) *1:30 pm* Establishment of Quorum and Call to Order;
- (2) Consent Agenda; action item
  - a) Approval of Disbursements;
  - b) Approval of the minutes of November 14, 2018 Board Meeting and the December 19, 2018 Board Meeting;
- (3) *1:40 pm* Approval of Agenda for Meeting; action item
- (4) Public Input and Comment;
- (5) *1:45 pm* Colorado River Management Drought Contingency Planning; Andy Mueller, General Manager and Peter Fleming, General Counsel, Colorado River District
- (6) *2:45 pm* Integrated Water Management Plan; Nicole Seltzer action item
- (7) *3:00 pm* 2018 Budget Comparison; action item
- (8) *3:10 pm* Election of Officers;
- (9) *3:20 pm* Report of the General Manager;
  - a) Office Update;
  - b) Stagecoach Firming;
  - c) Non-consumptive Water Pricing; action item

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- d) February 20, 2019 Work Session Agenda;
- e) Contract Negotiations;
- (10) 4:20 pm Report from District Engineer
  - a) Reservoir Water Status;
  - b) UYWCD Water Order Procedures;
  - c) Williams Fence Agreement; action item
  - d) Yampa River Basin Water Quality Study; action item
- (11) 4:40 pm Report from General Counsel;
  - a) Water Horse; action item
  - b) Board Appointments; action item
  - c) Water Resumes; action item
  - d) 16CW3016 Diligence Case; action item
  - e) Response on Yampa Call by Division Engineer;
  - f) Status of other Water Cases, if any;
- (12) Executive Session with Bob Weiss, legal Counsel, under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, and Contract Negotiations. 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.

An informal conversation with Andy Mueller and Peter Fleming of the Colorado River District began at 1:00 pm. Some of the topics he discussed were: overuse in the lower basin, water levels and releases at Lake Mead and Lake Powell, components affecting interstate calls, demand management discussions; compact obligations, from the four upper basin states, and equitable apportionment within the state. Also discussed were operational challenges of the Lake Powell turbines relative to water levels and inflows, power production, funding, upriver reservoirs operations, and programs supporting native fish populations,

The meeting was called to order at 1:30 pm.

**Consent Agenda** Director Monger made a motion to approve the consent agenda, Director Jones seconded the motion which was unanimously approved.

### **Meeting Agenda**

Director Brenner requested item 8 (b) be added to the agenda to discuss who should represent the District at the River District meeting in three or four weeks.

Director Monger moved to approve the amended agenda. Director Redmond seconded the motion which was unanimously approved.

**Public Comment** There were no comments at this time.

**Integrated Water Management Plan (IWMP)** Nicole Seltzer, Science and Policy Manager for River Network, presented. Ms. Seltzer reviewed that she had already updated the Board in October about the scope of work, which is available on the Yampa/White/Green Roundtable website. The IWMP is awaiting approval of a grant request from the CWCB. There was clarification that the

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UYWCD Board has approved \$10,000 for three years, totaling \$30,000, for the project. Director Monger clarified that if the CWCB did not fund the project, the project would go away, and the District's contribution would go away as well.

Ms. Seltzer asked the Board if they would like updates at the District Board meetings. There was general consensus that Director Brenner's reporting to the board would be enough.

Director Jones made a motion that Director Brenner represent the District in the IWMP committee. Director Murphy seconded the motion which was unanimously approved.

### ***2018 Budget Comparison***

General Manager McBride presented a memorandum written by Karina Craig detailing changes in summary budget line items. Also, a memorandum from the District Engineer detailing Yamcolo Capital expenditures was presented and reviewed. A budget amendment was requested. Director Monger said that going forward the budget should not be amended for small dollar changes. He mentioned as an example, that the County approves an operating budget, a capital budget, and a personnel budget.

Director Sharp moved to amend the 2018 budget on the three items presented; legal expenses from \$163,000 to \$166,864, Yamcolo Capital from \$292,500 to \$302,537, Office Space, capital, from \$500,000 to \$6,000 and to appropriate the increased funding. Director Colby seconded the motion which was unanimously approved.

### ***Election of Officers***

Director Sharp moved that the existing Board president (Ken Brenner), Vice-president (Doug Monger), and the Executive Committee (Ken Brenner, Doug Monger, Web Jones, Tom Sharp, and John Redmond) extend their term for one year. Director Woodmansee seconded the motion which was unanimously approved.

### ***Appointment of Representative to the Colorado Water Conservation Board (CWCB)***

Director Sharp moved that should Director Brenner apply to represent the District at the Colorado Water Conservation Board, for the General Manager to write a letter of support indicating that the current motion of support was passed by the Board. Director Jones seconded the motion, which was unanimously approved.

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### *Western slope Steering Committee*

Director Sharp made a motion to appoint Director Redmond as representative to the River District Western Slope Advisory Committee. Director Colby seconded the motion which was unanimously approved. There was discussion and agreement to reimburse Director Redmond's expenses at the per diem rate. The General Manager was asked to send a letter to the Advisory Committee.

### *Report of the General Manager*

Office Update – The new office lease with Mountain Valley Bank was reviewed and discussed. The \$500,000 that was budgeted in 2018 would be allocated over several years. Director Jones asked if the District is taking advantage of the District's tax-exempt status with the construction project. Director Brenner asked Manager McBride to find out. Director Jones asked Manager McBride to look into State Bid pricing for furniture needs.

Stagecoach Firming – The AECOM "Stagecoach Reservoir Firming Project Board Work Session" document was reviewed and discussed. Andrea Parker with AECOM was present on the phone and said AECOM is working on item 1.1 of the project outline. Ms. Parker would like to have insight from the Board on the questions presented at December work session. There was general agreement that the General Manager would make the first attempt to answer the questions and that the Directors would consider possible responses at the February Board meeting.

### Non-consumptive Water Pricing-

Director Sharp mentioned that the Board had decided at the October 2018 Board retreat that a policy for non-consumptive water pricing ought to be developed. With that in mind, Director Sharp had sent information to board members, and was asking Directors to provide their opinion.

Directors Brenner and Sharp agreed that pricing ought to be a percentage of the new M&I pricing. The 2018 M&I pricing was \$118.13, adjusted to \$121.91 for 2019.

Director Brenner said other, external parties, will have comments. He said the Board should develop a written proposal as a starting point. Director Sharp suggested a bullet point outline for discussion.

There was agreement that staff would bring a bullet point outline of topics that need board discussion as a start for development of a non-consumptive water price policy. Director Sharp stated he wished to have this developed by June 1<sup>st</sup>, 2019.

Director Brenner mentioned that the River District has priced their non-consumptive water at the same price as their agricultural water.

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Director Brenner thinks the community expects, and he hopes, that the ERC water is affordable, administrable, and useful to District constituents.

There was discussion of discounts being available if the ERC water could reach the City of Craig, the Town of Hayden, or the Hayden Power Plant, or the City of Steamboat. Director Jones asked if take or pay would be wise in these types of contracts. Director Sharp said it would be a good topic for further discussion. Directors Sharp and Jones agreed a one year term contract might be the best.

There was agreement that a range of decision points would be brought to the next board meeting for discussion.

### February 20, 2019 Work Session Agenda-

Ms. Ryan Golten summarized the purpose here is to give prepare a 360 assessment of the District in the coming weeks, and to bring the findings to the February 20, 2019 Board meeting.

A committee whose members are Ken Brenner and Bob Woodmansee was appointed at the last Board meeting to guide the Assessment process. A document with a proposed approach for the 360 Review was presented and reviewed.

Counsel Weiss commented that as he understands it this is not a personnel matter. Interviews would be oral and notes would be confidential. The 360 Assessment report would be reviewed in open session and it would be of public record.

Director Monger moved to approve moving forward with the 360 assessment of the District with CBI and to authorize the expenditure of the \$20,076, and that it might require a budget amendment at a later time. Jim Haskins seconded. There was unanimous approval of the motion.

### Contract Negotiations-

Director Sharp spoke on behalf of the Price Negotiating Committee. He summarized recent meetings with contractees interested in new or renewing contracts into the near future. The committee has met with the City of Steamboat Springs, Tristate, Yamcolo Irrigators Association and individual irrigators. Meetings and negotiations are ongoing.

### ***Report from the District Engineer***

#### Reservoir Water Status –

A report from the District Engineer with information about Yamcolo Reservoir, Stagecoach Reservoir and the Yampa River, was included in the meeting packet. There was no discussion during the meeting.

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### UYWCD Water Order Procedures-

Background information and a draft letter regarding water order procedures was presented, reviewed and discussed.

### William Fence Agreement –

An agreement was presented and reviewed. Engineer Rossi discussed the location the agreement will be affecting. Counsel Weiss summarized information he had written in the communication form.

Director Monger moved to approve the proposed agreement between Pamela and Steven Williams, Trustees of the Steven J. Williams Living Trust and the District, Director Jones seconded the motion, which was unanimously approved.

### Yampa River Basin Water Quality Study –

Ms. Lyn Halliday spoke on behalf of the Upper Yampa River Watershed Group. She thanked the Board for its current and past support. She described projects currently undertaken by the Group, and sources of funding. The Watershed Group is asking the Board for the distribution of a \$5,000 contribution for the project that was included in the 2019 approved annual budget.

Director Monger moved to approve a \$5,000 contribution to the Upper Yampa Watershed Group. Director Redmond seconded; the motion was unanimously approved.

### Report from General Counsel

#### Water Horse –

Special Counsel Grosscup discussed a memo he had written regarding the status of the case. The applicant has until early February to respond to questions from the Utah State Engineer.

Regarding the budget, he was asking for an additional \$2,500 in case Water Horse produced any new documents and so Mr. Grosscup could review them and report at the next Board meeting.

Director Sharp moved to approve an additional expenditure, not to exceed \$2,500, for review of documents that might be provided by the Water Horse applicant. Director Woodmansee seconded the motion, which was unanimously approved.

#### Board Appointments –

Counsel Weiss described the upcoming Board application process.

#### Water Resumes-

Counsel Grosscup presented a Memorandum regarding his recent review of the Division 6 and 6 Water Resumes. The information was reviewed and discussed. Counsel Weiss stated Mr. Grosscup would be presenting updates such as this on regular Board Meetings. Director Sharp said directors should be notified of anything that impacted the District's water rights, policies, or structures.

16CW3016 Diligence Case- There was no discussion. The topic would be addressed during Executive Session, as appropriate.

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### Response on Yampa Call by Division Engineer-

Counsel Weiss asked the Board for direction. Director Sharp stated his opinion that no further action would be needed until Division Engineer's office issued a statement indicating whether it considers the basin over-appropriated, or not. It was his opinion that, at that time, the District could assess what steps might be appropriate.

Status of other Water Cases- There was no discussion.

### ***Executive Session***

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 moved, Director Woodmansee seconded, and it was 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 Water Resumes, Water Cases, and Contract Negotiations. 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 5:40 PM. and concluded at about 6:10 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 to approve de Catamount Stipulation as discussed by the Board with Counsel Grosscup during Executive Session. The motion was seconded by Director Woodmansee and unanimously approved.

***Determination of future meetings*** The scheduled date for the next Board meeting was confirmed, being Wednesday February 20, 2019 at 1:30 PM, at Mountain Valley Bank Community Room, 2220 Curve Plaza, Steamboat Springs, CO.

The meeting was adjourned at 6:15 PM.

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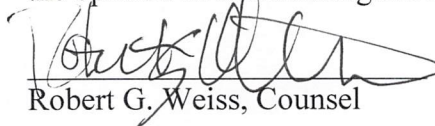
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I certify that the foregoing constitutes a true and correct summary of the proceedings at the above referenced meeting.

 Date: 4/26/2019  
Kevin McBride, District Secretary/Manager

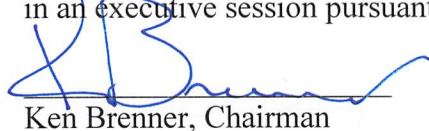
### STATEMENT FROM ATTORNEY REGARDING ATTORNEY-CLIENT PRIVILEGE

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 session that was not recorded and which related to Water Resumes, Water Cases, and Contract Negotiations constituted a privileged attorney-client communication in the opinion of the undersigned attorney.

 Date: 5-15-2019  
Robert G. Weiss, Counsel

### 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.

 Date: 4/24/19  
Ken Brenner, Chairman