

RECORD OF PROCEEDINGS

UPPER YAMPA WATER CONSERVANCY DISTRICT
BOARD OF DIRECTORS MEETING
THURSDAY, AUGUST 20, 2020 12:00 PM
ONLINE MEETING:

[HTTPS://ZOOM.US/J/91878477143?PWD=Q0wzMURDQ0xscDJQTjVSBKH0V
M5MUT09](https://zoom.us/j/91878477143?pwd=Q0wzMURDQ0xscDJQTjVSBKH0V
M5MUT09)

MINUTES

Chairman Ken Brenner called the meeting to order at 12:09 PM 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. General Manager Andy Rossi, 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 included Nicole Seltzer, River Network; Kent Vertrees, Friends of the Yampa; Jerry Smith, Barb Scherer, Katie Duncan, Frank Alfone and Courtney Gerber.

This meeting was held entirely 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) **12:00PM** Establishment of Quorum and Call to Order
- (2) **12:05 PM** Approval of Agenda for Meeting **Action item**
- (3) **12:10 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) **12:15 PM** Report of Water Right Cases **Action item**
 - a) Water Court Cases Update
 - b) Water Resume Review
- (5) **12:30 PM** Update on IWMP Progress – Presentation by Nicole Seltzer
- (6) **12:50 PM** Update on HB20-1157 Rule Making Process
- (7) **1:00 PM** New Business (Limited to emergency matters that came up **Action item**
during the course of the meeting)
- (8) **1:05 PM** Adjournment.

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Meeting Agenda. Director Monger moved to approve of the agenda. Director Woodmansee seconded the motion, which was unanimously approved.

Public Input and Comment. Chairman Brenner invited the members of the public present to comment on items not otherwise on the agenda. Kent Vertrees from Friends of the Yampa informed the Board of a potential upcoming project that they will be working on in the near future. Kent stated that Friends of the Yampa has been asked to create an annual river health assessment for the Yampa River that will tie in with the IWMP's river sections. The idea is for them to create the template for a River Health Assessment. This will be similar to what the City of Steamboat Springs did with its stream management plan in the report card it put on the river. However, Friends of the Yampa will also be creating a Steering Committee to help move this forward and would like to ask the District to help with staff time to join the Steering Committee. Kent will provide more information and detail in the future but wanted to let the Board know of this project.

Report of Water Right Cases.

Water Court Cases Update – Special Counsel Grosscup reported that there is no requirement for Board to take action on any pending court actions or matters. The City of Steamboat Springs received a ruling of referee for its augmentation plan for Casey's Pond which is now being forwarded to the Water Judge. Mt. Werner Water & Sanitation has reached stipulations with all parties in its case and wants to receive final review from Division Engineer before submitting proposed ruling to the referee. Tri-State has submitted a supplemental response to the Division Engineer's report. For Water Horse Resources matter, Utah counsel drafted a letter that Scott worked with the Colorado River Water Conservation District's attorneys on to provide our input. That letter noted that the additional information provided still does not solve concerns that the project is speculative and not financially feasible. Scott stated that he believed there are other comments from other opposing agencies. The application is back in front of the State Engineer to make a determination on whether to grant this application to allow them to take the next steps in this process. Chairman Brenner asked how this will progress with 3 states involved. Scott commented that, first, it will need to get approvals from Utah as this is where the diversion starts from. Then there are a number of various entities (Federal, State & County) that will be involved along the way as this plays out.

Water Resume Review – Tom Sharp asked if Public Service Company filed a diligence claim on Wessels water rights and Hinman Park and did the District look at to see if there were any implications to the District. With regard to Hinman Park, Scott noted that, in June, Public Service Company filed 2 diligence applications, one on the Wessels Canal water right and the other on the Hinman Park and a pump station. In a prior case, the District entered into a stipulation with Public Service regarding the use of Hinman Park Reservoir on the lower Yampa and that they agreed it would not call out any water rights on the Yampa. Part of the stipulation was that the District would not file any statements of opposition to future diligence applications for Hinman Park Reservoir water rights provided that they affirm this statement in subsequent diligence applications. Scott stated that he has been in contact with the attorney for Public Service and received a copy of the original application file in June and they did

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not include the term. He believes this was an oversight as the attorneys have changed. Public Service indicated that they would incorporate the terms but recognize that the District may want to file a statement of opposition to ensure that the terms are included.

Regarding Wessels Canal application, Scott commented that it is another question if the District wants to oppose as it is currently involved in Tri-State's application as it relates to the Wessels Canal water right. From a strategic position, it would be very difficult to say that the Wessels Canal could not call out any Yampa River rights because this was a Yampa River water right and it would be fully subordinating its interest to all junior rights.

Director Sharp expressed concern on when/if Public Service decides to get out of the electric business within our district and seeks to market or sell its water right portfolio that includes the Wessels right and it is sought to be moved and placed elsewhere. The District would then be in a fight over the prospect with someone that wants to make some use of the water rights. The District may want to raise objections under can and will with respect to the Wessels rights with Excel. Scott noted that these are valid questions and it is up to District if it wants to oppose these water rights as they are senior to a number of the District's water rights. There are questions about can and will and he does not know what kind of fight Public Service would put up in this situation.

Director Sharp moved that the District enter a statement of opposition to the Public Service diligence application to the Wessels Canal water rights and, additionally, if the District does not get confirmation of the restatement of the Hinman Park Reservoir stipulation, the District will enter a coordinated statement of opposition on the Hinman Park to get the stipulation reaffirmed. Director Monger seconded the motion which was unanimously approved.

Update on IWMP Progress. Nicole Seltzer from River Network provided an update on the Yampa-White-Green Basin Roundtable IWMP progress. In early 2021, IWMP will use complete reports to make recommendations on focus areas for 2021. IWMP has started conversations and has asked its 25 members to work on questions to explore and answer during the process. Currently they are working on condensing and categorizing the questions and will prioritize them at their next meeting. The District helped to support this project by providing a \$30,000 grant. As they move forward, Nicole has a couple of ideas how the Districts can assist as the committee narrows its focus.

1. Assist with technical work, i.e. return flow, surface water
2. Pick up some of the work the committee decides not to prioritize that may be a priority for the District.

Update on HB20-1157 Rule Making Process. General Manager Rossi provided an update on HB20-1157 and provided the proposed language for the changes. He highlighted **6k. Temporary (Expedited and Renewable) Loans of Water to the Board**, section **(2) Renewable Loans** subsection **a., d. & h.** Director Sharp stated that he asked, a couple of meetings ago, if it would be possible to have water from storage be released for utilization down past Catamount Reservoir (past the only instream section the District has on the main stem) and that Special Counsel Grosscup stated that he believed there was still a limitation with respect to that type of loan use. However, in the proposed rules it appears that the CWCB

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is of the opinion that the District could do an allotment contract for water out of Stagecoach and be useable for any stretch in the river between CWCB and other DNR agencies determined to be an improvement of the natural environment that could be of any duration and any location. Director Sharp asked if this is the way the proposal is reading and processing through to provide great flexibility for the CWCB to improve the environment. Andy referred the Board back to 6k. and felt that the application would have to be explicit for a specific part of the river. The original text of the legislative act for HB20-1157 explicitly state that the use of the loan program is limited to ISF reaches. However, he noted that this does need to be clarified in the CWCB rules for Renewable Loans. Further discussion ensued on the subject of CPW review of the potential for “improvements” to flows and the consideration of new studies and/or analysis. The Board felt it would be useful for Andy to submit the noted questions to the CWCB. Andy stated that we would discuss with the Water Trust to be sure on the same page as they are partner before submitting questions.

New Business. There was no new business.

Director Woodmansee moved to adjourn the meeting at 1:33 PM. The motion was seconded by Director Sharp 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 15:31 MDT)

Andy Rossi, District Secretary/Manager

Date: Sep 17, 2020






2020 0820 Board Meeting Minutes-final

Final Audit Report

2020-09-17

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| Created: | 2020-09-17 |
| By: | Deb Bastian (dbastian@upperyampawater.com) |
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| Transaction ID: | CBJCHBCAABAA9F_STKScfW6eYMKSQHeqNFAde6uo2Vkn |

"2020 0820 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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-  Email viewed by Andrew Rossi (arossi@upperyampawater.com)
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-  Document e-signed by Andrew Rossi (arossi@upperyampawater.com)
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