

**Southwestern Water Conservation District  
Board of Directors Regular Board Meeting  
SWCD Office, 841 E 2<sup>nd</sup> Avenue  
Durango, Colorado  
April 10, 2024**

**Present:** Dagan Chadd\*                      Amy Huff                      Gerald Koppenhafer  
Kenny Heldman                      JR Ford\*                      Charlie Smith  
Rusty Hinger\*                      David Guilliams\*

**Absent:** Jenny Russell

**Staff:** Steve Wolff, General Manager  
Mo Rock, Programs Coordinator

**Consultants:** Beth Van Vurst, Van Vurst Law, General Counsel\*  
Pete Foster, Wright Water Engineers  
Carrie Padgett, Harris Water Engineering  
Elaine Chick, Elaine Chick Consulting  
Garrin Vorthmann, Legislative Strategies\*

**Guests:** Jeff Deems, Airborne Snow Observatories\*  
Ken Curtis, Dolores Water Conservancy District  
Ed Millard, Public\*  
Laura Spann, Colorado Water Conservation Board  
Bob Hurford, DWR Division Engineer, Water Division 4 \*  
Rob Genualdi, DWR Division Engineer, Water Division 7\*  
Shannon Mullane, Colorado Sun\*  
Bruce Whitehead, Animas-La Plata Water Conservancy District\*  
Michael Preston, Consultant to Ute Mountain Ute Indian Tribe\*  
Ryan Unterreiner, Colorado Parks and Wildlife\*  
Ty Churchill, Trout Unlimited

*\*Asterisk indicates participation via Zoom.*

**Wednesday, April 10, 2024**

**1.0 Call to Order – Roll Call and Verification of Quorum**

Secretary/Treasurer Charlie Smith called the meeting to order at 10:06 a.m. Roll was taken, and a quorum was established.

**2.0 Review and Approve Agenda**

Steve Wolff noted the following changes to the agenda that were made on 4/09/24 and distributed to the Board:

- Added Executive Session to the morning
- Added SB24-199 (Species Conservation Trust Fund Projects) for discussion
- Moved the afternoon executive session to 'as needed'

There was a board consensus to approve the revised agenda.

### **3.0 Approve and/or Remove Consent Agenda Items**

Gerald Koppenhafer motioned to approve the consent agenda, and Kenny Heldman seconded the motion. The motion passes unanimously. The consent agenda included 4.1 approval of minutes (10/11-12/23, 01/09/24, 02/14-15/24, 02/29/2024), 4.2 Summary and Acceptance of the Treasurer’s Report (January and February), and 4.3 the proposed MOU for Animas River at Durango Water Quality Sampling.

### **5.0 Legislative Affairs**

Garin Vorthmann, Steve Wolff, and Beth Van Vurst gave an update on state legislative affairs. The following bills were discussed:

- SB24-197- Drought Task Force Recommendations
- HB24-1435 – CWCB Projects Bill
- SB24-199 – Species Conservation Trust Fund Projects
- SB24-0127 – Regulation of State Waters #1
- HB24-1379 – Regulation of State Waters #2

Amy Huff motions to take a position of support for HB24-1435 and SB24-199, Rusty Hinger seconds. The motion passed unanimously.

Amy Huff motions to take an amend position on SB24-197 to remove industrial water language as it wasn’t approved by the Drought Task Force, Gerald Koppenhafer seconds. The motion passed unanimously.

### **6.1 Executive Session**

Prior to moving into the executive session, Amy Huff recused herself due to a potential conflict . Gerald disclosed his role as MVIC president and a shareholder of MVIC. Gerald participated in the executive session.

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda items 6.1 Application of the Dolores Water Conservancy District (DWCD), Case No 24CW3001, Water Division 7. The board is authorized to discuss this item under § 24-6-402(4)(b), C.R.S., “conferences with an attorney for the district for the purpose of receiving legal advice on specific legal questions,” and § 24-6-402(4)(e), C.R.S., “determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.”

Kenny Heldman moved that the board move into executive session. Gerald Koppenhafer seconded. The motion passed unanimously.

Beth Van Vurst stated that no further record of the executive session need be kept based on her opinion that the discussion will constitute privileged, attorney-client communications.

### **7.0 Summary and Action Items from the Executive Session**

Beth Van Vurst announced that the board was out of executive session during the executive session, the board discussed agenda item 6.1. No action was taken during the executive session. Discussion on

agenda item 6.1 will continue in open session under agenda item 8.2 Proposed Ratification of Filing of Statement of Opposition in the Dolores Water Conservancy District's Case No. 24CW3001, Water Division 7.

### **8.0 General Counsel Legal Report**

Beth Van Vurst went over the general counsel legal report.

#### **8.1 January and February Water Court Resume for Water Divisions 3, 4, and 7**

Beth Van Vurst said that other than filing a statement of opposition for Case No. 24CW3001 (below), no applications listed in the January or February water court resumes warrant further discussions from the board or filing a statement of opposition.

#### **8.2 Proposed Ratification of Filing of Statement of Opposition in Dolores Water Conservancy District's Case No. 24CW3001, Water Division 7**

Beth quickly summarized the DWCD's water court application. Beth expressed that since the deadline for filing statements was between SWCD meetings, she filed a statement of opposition to preserve the District's ability to participate in this case. Prior to filing, that action was discussed with and supported by the Board President and General Manager. Beth recommends that the board ratify the statement of opposition. The board opened the floor for public comment.

Ken Curtis, DWCD, spoke to the board and expressed that he believed that SWCD should not ratify the statement of opposition that Beth filed on the district's behalf.

Beth clarified that the process for participating in a water case is through filing a "statement of opposition". This does not mean the District is necessarily opposed to the Court approving DWCD's application. "Friendly" statements of opposition are filed, at times, just to preserve a party's ability to participate in a court case. Beth filed the statement of opposition in DWCD's case to learn more about what is being done and how this water right is being used. Beth expressed that we participate in these cases to learn more and confirm that the original appropriation hasn't been expanded or used in a way that would harm other water users. Steve reminded the Board the SWCD must represent all water users in the District and expressed that, although it is uncomfortable, he believes it is the right thing to do.

JR Ford motioned to ratify the filing of SWCD's statement of opposition, stating that he wanted the district to stay consistent and look after some of the smaller water users, he doesn't want us to take the lead or bring up new issues. David Guilliams seconded. The board had a roll call vote and the motion passed 5 – 2 (1 recused, 1 absent).

#### **8.3 Draft Contract for Implementation of CWCB Local Capacity Grant**

Beth Van Vurst gave an overview of the local capacity grant the district received earlier that year. The grant covers about 75% of the total project costs for this phase. Staff and General Counsel have been working to create a joint contract between SWCD, San Juan Resource Conservation and Development Council (SJRCDC), and Harris Water Engineering. This seems the most efficient way to get money on the ground. SWCD will still provide guidance on all project aspects, SJRCDC will administer the grant, and

Carrie Padget with Harris Water Engineering will help organize this project phase. Charlie Smith asked what the period is for this contract; Steve stated that the grant money had to be spent in 2025.

*The board took a short break until 1:30 pm.*

## **9.0 Staff Reports**

### **9.1 Colorado River Basin Conditions & Activities**

Steve Wolff went over general hydrologic conditions but stated that it is becoming outdated. Overall, the snowpack is looking a little above normal, but runoff is looking below normal. Please see Steve's Memo for more information.

### **9.2 Colorado River Basin Post-2026 Alternatives**

Steve Wolff and Beth Van Vurst compared the upper basin and lower basin proposals. Recently, the conservation community also put forward a proposal. The staff has created a table showing the differences, which can be found in the board packet.

### **9.3 2024 Board Committee Assignments**

Steve Wolff went over the proposed 2024 board committee assignments. This looks the same as last year; if there are any changes, please reach out to staff. See the attached memo for more information.

### **9.4 SWCD Water Conservation and Infrastructure Program Update**

As briefly discussed earlier, Steve Wolff gave an overview of the status of the Water Conservation and Infrastructure Program. Carrie Padget clarified that the pipeline started with the BIP, and almost 100 projects have been added. These projects have a lot of backing behind them. There has been lots of interest at partner meetings including from both tribes. Additionally, we have been waiting on BOR's 'bucket two' funding and are applying for a WaterSmart grant to help plan the program.

### **9.5 CWCB Instream Flow Program Recommendations**

Steve Wolff gave an overview of Instream flow recommendations, including on Goat Creek and Burrows Creek (potentially related to the Mineral Point ditch acquisition). The proposed reach for Goat Creek was recently updated. Recommended amounts are being determined with BLM studies happening this summer for Burrows Creek.

### **9.6 Summary from SWCD's 40<sup>th</sup> Annual Seminar**

Elaine Chick gave a quick overview of the Annual Seminar. There were approximately 250 people in attendance, which was a bit less than last year, but this can be due to changing the seating arrangement from 'schoolhouse' to round tables. For 2025, we have reserved Thursday, March 27, for the board dinner and Friday, March 28th, for the seminar event. Amy Huff commented that everyone she talked to really liked the event and thought it went well; they also appreciated the round tables.

### **9.7 SWCD Website Update**

Mo Rock gave an update on the legislation requiring public entities to have a website that satisfies certain accessibility standards by July. After reviewing multiple options, the staff has agreed that Streamline offers the most comprehensive package and therefore recommends the board move forward with them. Please review the board packet for details. There was consensus from the board to allow Steve to sign any paperwork to move us forward with Streamline.

## **10.0 Questions & Comments from the Public**

Elaine Chick asked about website compliance and if WIP could bundle with SWCD. Mo Rock stated that since they have different domains, there wouldn't be a better 'deal', but it would be worthwhile chatting with Streamline.

Ed Millard asked about the post-2026 guidelines. He thought there were five proposals now and wondered why we only talked about three. Steve clarified that he didn't think the other proposals were full alternatives; just added language or broad concepts. Ed also asked a few hydrologic-specific questions regarding the system's storage. Beth and Steve clarified live storage and total storage and where they see these definitions fitting into the proposals.

*The board took a one-hour break for lunch*

### **11.0 Special Presentation**

Jeff Deems from the Colorado Airborne Snow Measurement Project gave a presentation on CASM's work. Please refer to CASM's website for the most up-to-date information: [Colorado Airborne Snow Measurement Program \(coloradosnow.org\)](https://coloradosnow.org)

### **12.0 Partner Updates**

#### **12.1 Division Engineers for Water Divisions 4 and 7**

Bob Hurford gave an update for Division 4. Overall, the basin is experiencing a slightly above-average snowpack. Currently, the southwest is in drought conditions.

Robe Genualdi gave an update for Division 7. Flows are about 51% of the average, and precipitation is about 81% to date. Jason Ullman was promoted to state engineer. Division 7 measurement rules are on hold until State Engineer Ullmann gets his feet under him. Rob also gave an overview of the San Juan-Chama Project since he's recently received several inquiries about it.

#### **12.2 Water Information Program**

Elaine Chick presented on the Water Information Program.

- **Children Water Fest** – Planning is underway; it will take place on May 15<sup>th</sup> at Fort Lewis College.
- **Forest to Faucets** – Forest to faucets will be on June 12<sup>th</sup> and June 13<sup>th</sup>, taking place in Pagosa at the Pagosa Area Water and Sanitation District.
- **Water Law in a Nutshell** – Looking at the beginning of June to do an online course and do one later in the year in Norwood.
- **Working on a new video project** – Working with Ken Curtis and Kristi Bodie to make informational videos.
- **Seminar** – Has a videographer making videos of each of the panels, which will be uploaded to the SWCD website.

#### **12.3 Harris Water Engineering Report**

Carrie Padgett gave an overview of the Harris Water Engineering Report, please review her report in the packet. Navajo water availability supply email came out this morning, which indicated the most probable scenario is 60% of runoff, which is about 420,000 acre feet of flow into the reservoir.

#### **12.4 CWCB Grant Opportunities**

Laura Spann gave an overview of CWCB Grant Opportunities. For the water plan grant, 52 applications were approved in March, totaling \$17.4 million. All of WaterSmart's funding has been allocated, proving

the need for these funds. The drought task force bill allows CWCB to waive the match requirements for the two tribes. There are 3 grant recipients in the Southwest for the Water Planning grants, including SWCD. For more funding opportunities, please review the CWCB funding opportunities.

### **13.0 Public Comment**

There were no questions from the public.

*The board took a quick break.*

### **14.0 Director Updates and Issues for Discussion**

SWCD Directors gave updates for their counties. Overall, all counties were experiencing lower snow down low while maintaining average or above-average snow at higher elevations. Directors also expressed concern regarding runoff due to dry soil conditions and early low elevation melt-off. Other topics some directors touched on were:

- Dagan Chadd stated that the town of Rico is progressing in its sanitation system.
- J.R. Ford discussed that Archuleta County has been holding more meetings over storage needs between San Juan Water Conservancy District and Pagosa Area Water and Sanitation District.
- Charlie Smith noted that he continues to work with the EPA on the advisory and planning group, but it is a slow time of year.
- Gerald Koppenhafer thought that Groundhog Reservoir might fill this year.
- Kenny Heldman expressed concerns over a proposed national monument on the Lower Dolores River, which may affect water rights in the future.
- Amy Huff said that they are expecting Vallecito Reservoir to fill this year but not have excess to spill like they did last year. She also stated that the reservoir now has its first-ever recreation plan, which will better help manage users on the lake. Amy Huff also talked about the Natural Resource Damage funds, which had criteria released recently. She stated that Ty Churchwell with Trout Unlimited spearheads a group working to move multiple projects forward.

### **15.0 Downscaled Risk Study Presentation for Southwestern Colorado**

Peter Foster gave a presentation that overviewed the work WWE had recently completed on the down-scaled risk study analysis. Hydro's initial phase four study determined this risk by identifying the whole Southwest as one basin. Breaking this area further down can help SWCD identify risks to our nine individual basins. Pete and Steve noted that these results are preliminary, have not been discussed with local water users, and that they only look at water rights (not the condition of infrastructure or other risks to water usage). This presentation will also be given to the SW Basin Roundtable later this month. Please see the board packet for more information on this presentation.

### **16.0 Executive Session**

An executive session was not needed at this time.

### **17.0 Summary and Action Items from Executive Session**

An executive session was not needed at this time.

### **18.0 Upcoming Meetings and Announcements**

- April 25, 2024, SWCD Special Board Meeting
- May 09, 2024, SWCD Special Board Meeting

- June 12-13, 2024, SWCD Regular Board Meeting

**18.0 Adjournment**

Secretary/Treasurer Charlie Smith Adjourned the meeting at 4:03 pm.



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Charlie Smith, Secretary-Treasurer