

**Southwestern Water Conservation District
Board of Directors Regular Board Meeting
SWCD Office, 841 E 2nd Avenue
Durango, Colorado
June 12 & 13, 2024**

Present: Dagan Chadd Amy Huff Charlie Smith
Kenny Heldman JR Ford Jenny Russell
Rusty Hinger David Guilliams
Gerald Koppenhafer - 12th (in-person), 13th (remotely)

Absent:

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
Garin Vorthmann, Colorado Legislative Strategies*
Peter Butler, Water Quality Advisor

Guests: Laura Spann, Colorado Water Conservation Board
Rob Genualdi, DWR Division Engineer, Water Division 7*
Peter Nylander, Southern Ute Indian Tribe
Orla Bannon, Western Resource Advocates
Deana Sheriff, Town of Norwood on behalf of Farmers Water Development Company *
Waverly Klaw, Sonoran Institute*
Meryl Corbin, Sonoran Institute*
Kevin Murphy, USGS

**Asterisk indicates participation via Zoom.*

Wednesday, June 12, 2024

1.0 Call to Order – Roll Call and Verification of Quorum

President Jenny Russell called the meeting to order at 1:02 p.m. Roll was taken, and a quorum was established.

2.0 Review and Approve Agenda

Steve Wolff noted the following changes to the agenda:

- Added a Director Update Section (either this afternoon before Executive Session or tomorrow morning)
- Moved Agenda Item 7.4 Discussion of Draft Policy on Use of Assigned Fund Balances before 7.3 August Board Meeting Discussion

There was a board consensus to approve the revised agenda.

3.0 Approve and/or Remove Consent Agenda Items

Charlie Smith motioned to approve the consent agenda, and Rusty Hinger seconded the motion. The motion passes unanimously. The consent agenda included 3.1 approval of minutes (02-29-2024, 03-28-2024, 04-10-2024), and 4.2 Summary and Acceptance of the Treasurer’s Report (March and April).

5.0 General Counsel Legal Report

Beth Van Vurst went over the legal report of the general counsel.

5.1 Monthly 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 March or April water court resumes warranted further discussion with the board or filing a statement of opposition.

6.0 Strategic Plan

Steve Wolff gave an overview of the edits that staff had made to the Strategic Plan, including adding language for the Water Conservation and Infrastructure Partnership and providing updates on indicators. The board was provided with a clean and redlined version of the plan. Jenny Russell had some questions and wanted to give feedback via email. Steve said that in 2027 we’ll do a full review of the strategic plan (the 5-year mark for the plan). Charlie Smith requested that we do not print the document again. The board will be prepared by the next meeting to approve the updates to the plan. Steve overviewed the action plan from 2023 to provide the board with an update and a new action plan that goes from 2024-2025.

7.0 Staff Reports

7.1 2023 SWCD Audit Report Update

Mo Rock gave an overview of how the SWCD 2023 Audit Review was going. She indicated that the audit is due by the end of July and that Fredrick Zink and Associates will get staff a draft on June 28th for review and would be presenting the Audit to the Directors at their July 10th Special Board Meeting.

7.3 August Board Meeting Discussion

Steve Wolff said that we’ve been in discussion with San Juan Water Conservancy District to host our regular board meeting in Pagosa Springs in August. We are thinking of doing a tour on Wednesday August 7th and then a Board Meeting on August 8th from 8 am until noon. Steve mentioned that we could also have a short workshop during the meeting. Some ideas for a workshop were the Water Conservation and Infrastructure Partnership, Colorado River, or other topics. Charlie Smith notified the group he would not be at the meeting.

7.2 Proposed 2025 Grant Program Guidelines

Mo Rock gave an overview of the edits made to the 2024 Grant Program Guidelines, indicating that most changes were updating dates to better align with SWCD’s review process. Other changes include:

Page 2 – Buckets we Offer

- Currently, we do not have a cap for emergency grants; should entities have caps even when applying for different buckets? Staff tentatively put a \$50,000 cap for emergency grants in the redline document. The board asked how much emergency funding we’ve given to entities in the past and discussed what an appropriate amount may be. The staff stated that we generally give out 1-2 emergency grants annually.

- Steve Wolff asked if the board would like to proceed with capping the Emergency Grant. JR Ford stated that he was comfortable proceeding with a \$50,000 cap over five years. The board directed staff to clarify what would count as an emergency in the grant guidelines and that the board could consider grant applications over \$50,000 if they thought the emergency warranted it, but wanted to proceed with the \$50,000 limit in the guidelines. JR Ford gave a history of how we delegate grant funding and explained why unspent grant funds get moved into our unassigned funds categories.
- Mo asked the board to clarify if they would like \$50,000 in the emergency bucket, for an entity, or a five-year max. Charlie stated that we need to be prepared for multiple emergencies and that \$50,000 won't be enough for users if there is a big water year, or fire, causing lots of damage. Steve mentioned that we could keep the overall program at \$250,000, move money around to allow for \$50,000 in the emergency bucket, and then reevaluate when we do our budget and have an idea of our revenue to see if we have room for the extra \$50,000 in our grant program. There was general consensus to move forward with this approach.

Jenny Russell brought up that we did not discuss, in detail, the measurement rules, or providing an additional bucket to potentially fund measurement devices. Steve said that there will be a need for this discussion and that we can dive deeper into it at a future meeting.

Mo also stated that with the new website, the application may change, making it connect to Excel rather than manually updating these columns.

7.4 Discussion of Draft Policy on Use of Assigned Fund Balances

Steve Wolff and Beth Van Vurst began discussing SWCD's assigned funds and drafting a policy and memo to provide context for those assignments. By way of background, in 2015, when SWCD finished the ALP Lawsuit, our reserve accounts were down. There was a line item in our budget called a 'reserve fund' that held \$350,000/year. In 2020, the board discussed creating assigned funds, to better account for how the Board envisioned using these funds.

After much discussion about the draft memo included in the Board packet, the Board asked staff to develop a simple policy that outlines the spending of the assigned funds. Staff said they would bring that to the Board in August.

7.5 General Manager Activities

Steve Wolff gave a brief overview of activities outside of the other memos. This includes the UCRC meeting and activities and the meeting with the River District about post-2026 items. Please see Steve's memo for more details.

7.6 Programs Coordinator Activities

Mo Rock updated the board on a few activities that were not addressed elsewhere in the Meeting. These include the WEco Board Meeting and the Arkansas River Basin Tour she attended during the first week of June. Mo informed the board that the ADA-compliant website, through Streamline, would be up and running by July 1st, 2024. She also asked the board if they would like to keep the functionality of the current website, where board members can log in to a special portal to access old confidential board documents. There was a general consensus that the board does not currently use this functionality, so SWCD will not provide it in the future. Please see Mo's memo for more details.

7.7 Update on Water Conservation Activities

7.7.1 Water Conservation and Infrastructure Partnership Update

Steve Wolff and Mo Rock gave an update on water conservation activities. We had our second partner meeting on May 1st; we had 33 entities and 38 individuals. We've had good participation and interest. Jenny Russell asked if Norwood was represented; Carrie Padgett said that their mayor was on but would welcome adding anyone else to the email list. In January, SWCD was awarded a community navigator grant. Due to TABOR concerns, San Juan Resource and Development Council is serving as the fiscal agent. Steve touched on needing more capacity to build capacity in the Southwest. SWCD also applied for a BOR WaterSmart Grant. The grant is in the BOR water strategy category, which includes early-stage planning activities. We can use our funds on the CWCB grant and the CWCB grant as matching funds. The total of this grant is \$345,000. We will hear if we are awarded this in early 2025. Please see the packet for more details on the grants and tasks assigned to the community navigator (Carrie Padgett).

7.7.2 Growing WaterSmart Workshop

Mo Rock gave a brief overview of the WaterSmart Workshop that SWCD is partnering with the Sonoran Institute and Babbitt Center. There will be a more extended presentation tomorrow morning. Please see the flyer in the packet for more information.

7.7.3 Budget Discussion

Steve Wolff went over our current budget, which included \$50,000 for the CWCB Local Capacity Grant Match and \$50,000 for the CWCB Technical Services Grant Match. We do not foresee needing the funding in the technical services grant, so the staff asked that the Board to shift those funds to match the growing WaterSmart Workshop. **Rusty Hinger made a motion to reallocate the funds to the growing WaterSmart workshop; Gerald Koppenhafer seconded. The motion passed.**

8.0 Public Comment

There is no public comment.

Director Reports

Since the board had time, they moved to Director Reports.

- Charlie Smith - San Juan County—We recently had a meeting about natural resource damage funds. Many voices said that although they need funding, they do not have the capacity to manage it.
- Rusty Hinger—Mineral County—stream flows are going down, but they've been getting some consistent rain. To keep the dust down on his roads, Rusty has been putting dawn dish soap in the water mix.
- Amy Huff—La Plata County—It has been hot and dusty, but there have been a few scattered rain showers.
- Dagan Chadd – Dolores County – Hotter than usual, and McPhee is low.
- Gerald Koppenhafer—Montezuma County—Mancos River was on priority 62 but dropped to 40; it is surprising how long the flows stayed high. Narraguinnep Reservoir has a dam restriction at 5,000- acre-feet due to a split on an edge rock. They are going to put a patch on for \$300,000. If that doesn't work, the fix will be more expensive.
- Kenny Heldman – The river is falling fast and there has been no new moisture. There are 68 cfs coming into Gurley and 178 cfs coming out.
- JR Ford—The San Juan River is busy with rafters, and its flow has dropped about 400 cfs. In about a week, they will no longer be rafting. They are ready to start the two miles of the San Juan restoration work.

- Jenny Russell – San Miguel County is dry. There was a lot of dust between patches of snow up high. There was a public meeting to discuss the proposed Dolores National Monument in Nucla. The meeting was well attended and there was a lot of discussion for and against.

The board recessed for a quick break at 3:08 p.m.

9.0 Executive Session

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda items 9.1-9.3. More specifically, those are 9.1 Colorado River Compact intrastate and interstate matters, including post-2026 Colorado River guidelines, 9.2 settlement negotiations regarding the application of the Montezuma Valley Irrigation Company in case number 18CW3052 in Water Division 7, and 9.3 settlement negotiations regarding the applications of the Bureau of Land Management (BLM) in case number 21CW3014 in Water Division 3 and 21CW3029 in Water Division 7. The board is authorized to discuss these items 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.”

For items 9.2 and 9.3, Beth Van Vurst recommends inviting our water rights engineer, Pete Foster, to participate in those discussions.

Beth Van Vurst noted that one or more board members may decide to recuse themselves from participating in the executive session discussion of MVIC’s Case No. 18CW3052 in order to avoid a potential or perceived conflict of interest. As a result, Beth recommended making two separate motions to enter into executive session – the first motion is to discuss the MVIC case and then a second motion for the Colorado River and BLM water court matters.

Charlie Smith moved that the board move into executive session to discuss MVIC Case number 18CW3052. Kenny Helman seconded the motion. The board took a roll call vote, all board members voted yes.

Kenny Heldman made a motion to move into executive session to discuss agenda items 9.1 Colorado River Matters and 9.3 BOR Settlement Negotiations. Dagan Chadd seconds the motions. The board took a roll call vote, all board members voted yes.

Beth Van Vurst asked any board members choosing to recuse themselves for the MVIC discussion to exit the room. Amy Huff and Gerald Koppenhafer left the room for the MVIC discussion.

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.

10.0 Summary and Action Items from the Executive Session

Beth Van Vurst announced that the board was out of executive session. The board discussed agenda item 9.1-9.3. No action was taken during the executive session. However, there is one item Beth recommends the Board follow up on in open session. During executive session the board discussed a revised settlement proposal in MVIC’s case number 18CW3052. Beth Van Vurst requested that the board make a motion to approve the revised settlement proposal. Rusty Hinger made a motion to

approve the MVIC settlement as revised in the executive session, and JR Ford seconded. Amy and Gerald abstained from the vote. The motion passed unanimously.

Jenny Russell adjourned the meeting at 5:30 pm.

Thursday, June 13, 2024

11.0 Call to Order – Roll Call and Verification of Quorum

Jenny Russell called to order the meeting at 8:30 am. Roll was taken, and a quorum was established.

12.0 Review and Approve Agenda

No changes were made to the agenda, and it was approved.

13.0 Growing Water Smart Special Presentation

Waverly Klaw and Meryl Corbin presented the Growing Water Smart (GWS) Program. The Sonoran Institute, SWCD, the River District, and the Babbitt Center are hosting a GWS workshop next year. For more information, please see growingwatersmart.org or the board packet.

14.0 Legislative Affairs

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

The legislative session ended on May 8th. 520 bills passed, 105 were voted down, and 75 died on the calendar. This year was a big water year, mostly around the Dredge and Fill Bill. Originally, there were two bills, SB24-0127 and HB24-1379, focused on the topic. These two bills ended up being ‘bundled together’ into SB24-127. This program will be housed under CDPHE. Another Bill focused on water was a bill that addressed the drought task force recommendations. Some other bills that Garin summarized are:

- SB5 prohibits water practices for nonfunctional turf
- SB26 requires public engagement for three different divisions at the state
- SB31 clarifying local enforcement of the Noxious Weed Act
- SB30 – requires CSU and CU to collaborate on green infrastructure studies
- HB1435 Colorado Water Conservation Projects Bill
- SB199 – Appropriates money for projects to conserve native species
- JR4 – annual resolution to approve water project fund eligibility lists
- HB1362 – incentivize the grey water use
- HB1454 – extends the grace period for digital accessibility for 1 year
- SB131 – Prohibiting carrying firearms in certain government offices, educational institutions, and polling locations.

Amy Huff asked about a land use bill. Jenny Russell said they did not do a big omnibus bill, but it got split into smaller bills.

Garin spoke to looking into legislative committee activities during the interim.

Please see Garin’s memo for more information.

Candace Jones joined the meeting and told the Directors she was excited to help host the August Board meeting. She said she'd happily guide the board on a tour of the Park Ditch and Yamaguchi site.

Ty Churchwell and Peter Butler spoke to the Good Samaritan Legislation and the Animas River Natural Resources Damage Funds.

15.0 Request for Emergency Grant from SWCD

Deana Sheriff, on behalf of Farmers Water, reviewed their emergency grant application for the Gurley Reservoir. The grant request is for \$50,000.

David Guilliams moves to approve the emergency grant, Rusty Hinger Seconds. Kenny and Jenny recused themselves. The motion passes unanimously.

The board recessed for a short break.

16.0 Hydrology Reports

16.1 Colorado River Basin Hydrologic Conditions

Steve Wolff gave a brief overview of the conditions of the Colorado River Basin. Overall, we are seeing dry conditions. Although we had over 100% of normal snowpack, observed streamflow is closer to 60% of normal.

16.2 Division Engineer for Water Division 7

Rob Genualdi gave an update for Division 7. Flows are about 51% of the average, and precipitation is about 69%. Vallecito Reservoir, Lemon Reservoir, and McPhee Reservoir are full. Rich Valdez was hired as the new water district 29/77 water commissioner; John Hunyadi was hired to replace Jason Ullman as the assistant state engineer. Lastly, they are continuing to work on developing the Division 7 measurement Rules and setting up more meetings.

16.3 Update from USGS – Kevin Murphy

Kevin Murphy, with USGS, gave an update on river gauges. He stated that the streams were running about normal but are starting to drop rapidly.

Ken Curtis gave a quick update on the Dolores Project. They hit peak reservoir content this week, and inflows are now dropping below outflows. They are anxiously waiting for the monsoons. Dolores Basin Airborne Snow Observatory data confirmed the discrepancies between Snowtel forecasted runoff and observed runoff data.

17.0 Partner Updates

17.2 Harris Water Engineering Report

Carrie Padgett provided the Board with an update of her activities related to SWCD. Carrie's written report is in the Board packet.

Carrie Padgett gave an overview of the recovery program meetings she has attended. She is happy to report that they are finding wild produced razortail suckers. Navajo Reservoir cumulative inflows are around 2,000 cfs. They are only releasing 300 cfs, so they are gaining storage.

Animas Watershed Partnership is pursuing a watershed management plan. Carrie is working with the project team to do a grant through CWCB that is due July 1st.

Jenny Russell asked about salinity activities at Paradox. Carrie stated that the injection well is still operating, but at a reduced capacity. No alternative has been agreed to so the future at Paradox is uncertain. Steve reminded the Board that during the EIS process, there was no preferred alternative selected due to lack of consensus by the program partners.

17.1 Water Information Program

Elaine Chick provided a written report detailing current WIP activities but wasn't present due to the Forest and Faucets Training coinciding with the board meeting. Please see the board packet for her report.

The board moved to public comment.

18.0 Public Comment

Laura Spann asked about meeting the criteria at Paradox due to changes. Steve Wolff did not think the criteria changed. There were no other questions from the public.

The board took a quick break.

17.3 Southern Ute Indian Tribe

Pete Nylander gave the Directors an update on current happenings at the Water Resources Division of the Southern Ute Indian Tribe.

20.0 Upcoming Meetings and Announcements

- July 10, 2024 Zoom Call SWCD Board Update and Audit Acceptance
- August 7, 2024 Time/Location TBD SWCD Board Basin Tour OR Workshop
- August 8, 2024 Time/Location TBD SWCD Regular Board Meeting
- September 12, 2024 SWCD Office, Durango SWCD Budget Workshop

18.0 Adjournment

President Jenny Russell Adjourned the meeting at 12:03 pm.



Jenny Russell, President