

**Southwestern Water Conservation District
Board of Directors Regular Board Meeting
SWCD Office, 841 E 2nd Avenue
Durango, Colorado
October 09 & 10, 2024**

Present: Jenny Russell Charlie Smith Kenny Heldman
JR Ford Rusty Hinger David Guilliams*(10/09)
Gerald Koppenhafer

Absent: Amy Huff
Dolores County Director Chadd resigned in September 2024).
David Guilliams (10/10)

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

Consultants: Beth Van Vurst, Van Vurst Law, General Counsel
Carrie Padgett, Harris Water Engineering
Elaine Chick, Water Information Program
Garin Vorthmann, Colorado Legislative Strategies (10/10)*
Christine Arbogast, Kogovsek and Associates (10/10)*
Peter Butler, Water Quality Advisor (10/10)

Guests: Rob Genualdi, DWR Division Engineer, Water Division 7 (10/10)*
Orla Bannon, Western Resource Advocates*
Kevin Murphy, USGS (10/10)*
Jeff Deems, Colorado Airborne Snow Observatory (10/10)*
Ryan Unterreiner, Colorado Parks and Wildlife (10/9)*
Ken Curtis, Dolores Water Conservancy District (10/9)*
Adrian Bergere, San Miguel Water Coalition (10/9)*
Bill Hudson, Pagosa Area Water and Sanitation District*
Ty Churchwell, Trout Unlimited (10/10)*
Mark Craig, Mayor of Ignacio
Mrs. Craig
Trisha Solberg, USGS (10)
Kevin Murphy, USGS (10)
Ed Tolen, SW Round Table Chair (10/9)*
Senator Cleave Simpson (10/10)
Jeffery Kane, San Juan Water Conservancy District (10/10)
Renee Lewis, Pagosa Area Water and Sanitation District (10/10)*

**Asterisk indicates participation via Zoom.*

Wednesday, October 09, 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 notified the board that we did add agenda item 20, which will cover the potential sale of Running Iron Ranch in Pagosa Springs, which comes at the request of San Juan Water Conservancy District. Steve also announced that Dagan Chadd had resigned as a Director. We also added 10.4 which is an update on the draft Division 7 measurement rules.

There was a board consensus to approve the revised agenda.

3.0 Approve and/or Remove Consent Agenda Items

Rusty Hinger motioned to approve the consent agenda, and J.R. Ford seconded the motion. The motion passes unanimously. The consent agenda included 3.1 approval of minutes (06/12-13/2024; 09/12/2024; 09/23/2024), and 3.2 Summary and Acceptance of the Treasurer's Report (August 2024), and 3.3 the Water Information Program 2025 Contract.

4.0 Staff Reports

4.1 Proposed 2025 SWCD Employee Health Plans

Mo Rock gave an overview of the district's Employee Health Plans. SWCD is required to resubmit its health plan options to Colorado Employer Benefit Trust (CEBT) annually. Although health plans have been consistent in recent years, Mo requested that the board substitute the PP02 for the PP06 plans to better meet staff needs. Please see the memo for more details.

Charlie Smith motioned to provide staff with the following options for healthcare: PPO2, PP04, and HSA plan, and to keep the vision and dental plans the same as in previous years. JR Ford seconded. The motion passed.

Steve added that in 2026 we may have to revisit the District's \$1200 monthly contribution since insurance premiums have risen substantially since the district allocated this funding.

4.3 Proposed 2025 Meeting and Holiday Schedule

Mo Rock gave an overview of the draft 2025 Holiday and Meeting Schedule to see if the Board Members had any comments. Carrie Padgett and Elaine Chick offered to cover the office in May when Steve and Mo are out. The board directed staff to bring the calendar with any edits to the board at the December meeting for approval.

4.2 Draft Assigned Funds Policy

Steve Wolff presented the draft assigned funds policy that the board discussed at their last meeting. With minimal comments or changes since then, staff is requesting that the board approve the policy.

Rusty Hinger motioned to approve the fund's policy. Gerald Koppenhafer seconded. The motion passed.

4.4 Approval of Updates to the Strategic Plan

Steve Wolff gave an overview of the Strategic Plan, which had been updated from our last meeting to include a few minor edits from Jenny Russell. Staff are requesting that the board approve the plan and do a full review in 2027 (the plan's five-year mark).

Kenny Heldman motioned to approve the strategic plan. Gerald Koppenhafer seconded. The motion passed unanimously.

4.5 Directors with Expiring Terms

Steve Wolff gave an overview of the Directors with expiring terms and the next steps for the counties. Directors with expiring terms include Rusty Hinger, Kenny Helman, and Dolores County. Please see the memo for more details.

4.6 Update and Invitation to SWCD's Water Connections Event

Mo Rock invited all Directors and the public to SWCD's annual water connections event. This year, it will be held on October 23rd at Fort Lewis College. The event will have a reception followed by a film, "The Ute Water Legacy," from Rocky Mountain CBS, produced by Christi Bode. After the video, there will be a panel discussion.

4.7 Proposed Changes to SWCD's Capitol Asset Threshold

Mo Rock reviewed our current capital asset threshold. Based on the audit recommendation, staff asked that the board reconsider the threshold based on the auditor and IRS's recommendations.

Charlie Smith motioned to increase the capital asset threshold to \$2,500. JR Ford seconded. The motion passed.

5.0 General Counsel Legal Report

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

5.1 Update on Draft Division 7 Measurement Rules

Beth notified the board that there is a stakeholder meeting next week for the Division 7 measurement rules and that they are moving through the rule-making process.

5.2 Review Scope of Work for SWCD's Consulting Service Agreements

Beth Van Vurst discussed our typical process for developing and maintaining consulting service agreements. We are reviewing these agreements and trying to streamline the process. Beth walked through our current contractors, including legal and technical work, highlighting general contract terms, rates, and scopes of work. Beth confirmed that, where appropriate, the board was okay with moving forward with three-year contracts (that roll over from year to year) versus one-year contracts.

5.3 Monthly Water Court Resume for Water Divisions 3, 4, and 7

Beth Van Vurst said that they reviewed the monthly water court resumes. The July resume did not contain anything of concern, but we will discuss two applications in the August resume in Executive Session.

Beth Van Vurst also spoke to the MVIC settlement SWCD agreed to at the last board meeting; she included the settlement in the confidential board packet.

6.0 Update on Water Conservation Activities

6.1 Water Conservation and Infrastructure Partnership Update

Steve Wolff and Mo Rock gave an update on water conservation activities. We are working on our B2E application, and the deadline was pushed from mid-October until late November. The application will request about 25 million dollars. If SWCD were awarded this grant, we would need more staff support. The staff and board discussed indirect costs for the projects and SWCD. The board said that they would like to minimize the indirect costs so more money can go towards the projects. Steve gave an update on B2W funds and let the board know it would flow through UCRC or the State. We thought that announcement would come out in October, but we now expect it to be in November. Carrie walked through some of the projects in the B2E package application. Please see the board packet for more information.

Orla Bannon commented that she appreciated all the work that the team is doing in the Partnership. She said it was exciting to see these move forward, and Western Resource Advocates was happy to send a letter of support.

Steve Wolff discussed the need for staff if we receive these grant funds. He said that we may need half-time or full-time employees if we receive this funding. The board was open to this idea and discussed the pros and cons of having an employee versus a contracted position. JR Ford thought that an employee would make more sense due to the nature of the position. Steve Wolff agreed as it would help facilitate a better working relationship and hopefully lead to less turnover. Since this position could take over the district's financials, the board also discussed how it might change the Program Coordinator Job description to be more focused on program coordination.

7.0 Director Reports

Since the board had time, they moved to Director Reports. Most directors reported having a wet summer but dry the last few weeks.

- Kenny Heldman – The Gurley Dam’s repairs bid came in at \$80,000 over the original bid, so they are looking for more money.
- Charlie Smith—In San Juan County, meetings and discussions continue about activities at Howardsville. They also discussed how Southwestern Water Conservation District’s water rights may be used for restoration. Bonita Peak CAG did a treatment plant tour.
- JR Ford – In Archuleta County, Pagosa Area Water and Sanitation District (PAWSD) wants to sell the Dry Gulch reservoir site (aka, Running Iron Ranch), and San Juan Water Conservancy District does not want them to sell it. San Juan River temperatures have risen; JR thinks it's due to geothermal water, so they are considering pumping this water back into the hot springs.
- Rusty Hinger – Rusty had a joint meeting with Mineral and Archuleta County to discuss the village at Wolf Creek and cutthroat trout.
- Gerald Koppenhafer – A compound in the Chicken Creek/Mill Wood Area recently sold. The fence boundaries are all messed up, but the compound is fencing off forest service land. The Forest Service and others will take down the fence this week.
- Jenny Russell – San Miguel Project Diligence Case wrapped up; all remaining water rights have been conveyed to San Miguel County, half of which is for the Norwood Water Commission Service Area, the same amount for environmental and recreational purposes, and 500-acre feet for augmentation purposes. They have two diligence periods to get the work done. There has been no hard frost in Telluride or Norwood, which is different from past years. BLM wild and scenic area of critical concern (ACEC) is being discussed, but is separate from the National Conservation Area that is being proposed. The ACEC area would go upstream, including Beaver Creek.

- David Guillems – Dry right now, wet summer.

8.0 Partner and Contractor Updates

8.1 Water Information Program

Elaine Chick provided an update on the Water Information Program (WIP). WIP is hosting a Water Law in a Nutshell course. Currently, there are 30 participants. The WIP steering committee met earlier this month and approved the WIP 2025 budget and WIP Coordinator Contract. The Southern Ute Indian Tribe is considering becoming a WIP partner and contributing up to \$3,000. Elaine is in the process of updating the website to become ADA-compliant. Unfortunately, the WIP education video for Montezuma County has been postponed until spring. Ed Tolen has resigned as the chair for the WIP steering committee.

8.3 Harris Water Engineering Report

Carrie Padgett provided the Board with an update on her activities related to SWCD. Carrie gave an overview of the recovery program meetings she has attended. She is happy to report that they are finding wild-produced razorback suckers.

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

The board recessed for a short break

8.2 Southwest Basin Roundtable & IBCC Report

Steve Wolff introduced Ken Curtis and Adrian Bergere from the Interbasin Compact Committee (IBCC) and Ed Tolen, chair of the Southwest Basin Round Table. Ken Curtis spoke to the board regarding current happenings, including an upcoming dredge and fill workshop. He also discussed the IBCC meeting and the round table guidebook. Adrian brought up that a large part of the IBCC meeting was a discussion of Round Tables and how DNR works with CDPHE and the Water Quality Division. Adrian also notified the board about a workshop he is hosting for the hydrologic modeling that SWCD helped fund.

8.3 Ute Mountain Ute Indian Tribe

Ute Mountain Ute Indian Tribe was unable to make it to the meeting to give the board an update.

9.0 Public Comment

There is no public comment.

10.0 Executive Session

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda items 10.1-10.5. More specifically, those are 10.1 Proposed extension of C.R.S. § 37-92-305(3)(c) to Water Division 7, 10.2 Water Supply Planning within SWCD, 10.3 August Water Court Resumes for Water Divisions 3 and 4, 10.4 Division 7 Draft Measurement Rules, and 10.5 Colorado River Compact intrastate and interstate matters, including post-2026 Colorado River guidelines. 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.”

Rusty Hinger moved that the board move into executive session. Kenny Heldman seconded the motion. The motion passed.

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.

11.0 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 10.1-10.5. No action was taken during the executive session. However, there are items Beth recommends the Board follow up on in open session.

During executive session, the board discussed an application contained in the Division 3 August Water Court Resume by the San Luis Valley Water Conservancy District (SLVWCD), which was assigned case number 24CW3008. Through that application, SLVWCD seeks to change a portion of the Church Ditch water right for use within its augmentation program. SLVWCD's augmentation program relies, in part, on use of the Pine River Weminuche Pass Ditch transmountain water rights and it is unclear how this application fits within the overall augmentation program. Beth Van Vurst recommends that the SWCD file a statement of opposition in this case.

The second item includes two applications included in Division 4 August Water Court Resume by the Tri-State Generation and Transmission Association. These include case numbers 24CW3035 and 24CW3036. Tri-State seeks to maintain conditional storage rights in Trout Lake and Hope Lake Reservoirs through these diligence applications. It's unclear if Tri-State needs these water rights since they have stopped using the Nucla facilities. Beth recommends that the board file a statement of opposition in these cases to learn more about why Tri-State is filing these rights and to protect users in San Miguel Basin.

Beth Van Vurst recommends a motion to file a statement of opposition in all three cases above, which include case numbers 24CW3008, 24CW3035, and 24CW3036.

JR Ford made a motion to file statements of opposition in case number 24CW3008, 24CW3035, and 24CW3036. Rusty Hinger Seconded the Motion. The motion passed.

Jenny Russell adjourned the meeting at 5:00 pm.

Thursday, October 10, 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.

14.0 Legislative Affairs

14.1 Federal Affairs Update

Christine Arbogast gave an update to the board on Federal Affairs. Christine stated that there is a lot of speculation going on since they are operating on a continuing resolution. There will likely be an end-of-year resources package. There is a jurisdictional crossover, which may lead to issues with passing the bill. The Colorado Senators have a lot of bills that they are trying to add, but it is unknown what will get in. A priority is the ESA for the Recovery Program. The Senators added the Recovery Program to the National Defense Authorization Act, which gives it a more likely positive outcome. Other bills being

discussed are the System Conservation Pilot Program, Water Projects Navigator Bill, Dolores NCA, and others.

Regardless of how the election turns out, changes will occur in Senate committees, leading to speculation. The committees experiencing the most change include the Senate Energy and Natural Resources Committee and the Senate Agricultural Committee. The current chairs of these committees are termed out.

Christine discussed BOR bucket funding through the IRA Funding. Although speculative, there is a strong opinion that if Republicans take control of the House, they will attempt to claw back the IRA funding. It is unclear if they will pull back the infrastructure money since only a year is left. Christine also commented on the SWCD application and gave a shout out to the group due to its coordinated efforts.

14.1 State Affairs Update

Garin Vorthmann, Steve Wolff, and Beth Van Vurst gave an update on state legislative affairs. Garin's update focused on Interim Committee Work in the Water Resource and Agricultural Committee and the American Indian Affairs Sub-Committee. Please see Garin's report for a complete list of bills covered in this update.

Additionally, Garin updated the board on the Colorado Dredge and Fill stakeholder process. Stakeholder meetings are scheduled for 2024 and 2025. Garin also brought up the property tax special session. This special session was called after the failure of proposition HH. SB24-233 was created out of this bill, which ultimately passed, but many legislators did not think this went far enough. The board had no questions or comments on Garin's update.

Peter Butler gave an update on attending water quality division meetings regarding Dredge and Fill. The formal rule-making process will not start until 2025. It will be about four months long and begin in August next year. Peter also gave an update on the Bonita Peak Area. Peter said that most of the metal loading in the Animas comes from four mines in the Gladstone Area, which is up Cement Creek. All four drainages were historically treated, but the treatment plant was shut down in 2002. EPA built a new treatment plant in 2025, but it just treats the Bonita Peak Mine. The American Tunnel drainage bulkhead is on BLM land but does not have a treatment plant. BLM does not have the funding to continually operate a treatment plant once the EPA is done with the superfund site. Peter thinks there may be a political push next year to get funding for this project.

16.0 Comments from Senator Cleave Simpson

Senator Cleave Simpson gave the board an update. He first discussed the Rio Grande Water Conservation District's happenings and then spoke to the federal legislation to develop and implement a water resource management plan from the Rio Grande River headwaters to Mexico.

The Rio Grande Water Conservation District (RGWCD) has challenges managing aquifer systems in Division 3. RGWCD has six sub-districts, which have been operating for twelve years and cost 100 million dollars. The District is facing critically low aquifer levels even though they cut pumping by 1/3. The largest sub-district operates by implementing a fee for acre-feet of draw; it started at \$45 but has risen to \$150. The state engineer is obligated to hold the district accountable for fixing the lowering aquifer; they had 30 years to fix this but are 20 years into it without a workable solution. There is a plan to move the cost per acre-foot to \$500 this year, and if they do not see improvement, they will move the cost to \$1,000. This will dry farms out, but they are operating under a decree and have very few options left.

Senator Simpson is a part of the Water Resources and Agriculture Committee and said that he raised concerns to Senator Roberts about the transparency in water right transactions bill, which would require broader disclosure of water right conveyances.

Steve Wolff inquired about the coalition formed to protect natural resources in the San Luis Valley. Senator Simpson provided an overview of the history of the San Luis Valley and the focus that has been placed on the water exportation from the valley. During the most recent export risk, all the countries came together to create an intergovernmental agreement. This is set up as an advisory committee that has a voice and makes recommendations to the county that is at risk. Steve brought up 1041 regulations and working together with the counties, and how this experience may be relevant.

Jenny Russell asked what happens to the money that folks pay to pull water from the aquifer. Senator Simpson stated that they utilize it for the crop share program and to purchase water rights. They have transitioned to buying wells versus buying property.

Steve Wolff asked Senator Simpson about the budget. He projected that the State is nine hundred million dollars in deficit.

Beth Van Vurst asked what happens if the sub-district does not work in San Luis Valley, in a situation where the state engineer does not approve the annual replacement plan. Senator Simpson stated that the options are limited; people can pursue their own augmentation plans. He also clarified that if it is not approved, it results in a one-year suspension, allowing them to return the following year with an alternative plan. Without snow, they cannot support 500,000 acres of land.

17.0 Hydrology Reports

17.1 Hydrology and Other Updates for Division 7 from Division Engineer

Rob Genualdi gave an update for Division 7. Flows range from 44% to 75% of the average, and precipitation is approximately 69%. Vallecito Reservoir, Lemon Reservoir, and McPhee Reservoir are above average. He gave an update on Division 7 Measurement Rules; there will be a meeting in Durango next Thursday at the Holiday Inn. They are hoping this will be the last stakeholder meeting.

17.2 Colorado River Basin Update

Steve Wolff gave a brief overview of the conditions of the Colorado River Basin. Please see the report in the board packet.

17.3 Colorado Airborne Snow Observatory

Jeff Deems gave an update on Colorado Airborne Snow Observatories. He gave an overview of water year 2024 for the Dolores Basin. Please see the CASM website for more information on the program: [About Us – Airborne Snow Observatories](#) There may be funding next year from the Upper Colorado River Commission to fund flights above Navajo Reservoir.

17.4 Update from USGS – Kevin Murphy

Kevin Murphy and Trisha Solberg with the USGS gave an update on river gauges. Trisha went through her presentation, which is included in the board packet.

The board recessed for a quick break and stated that they would be doing item 20 prior to the budget discussion.

20.0 Potential Sale Running Iron Ranch

Jeffery Kane, General Counsel for the San Juan Water Conservancy District, gave an overview of the potential sale of the Running Iron Ranch. The Dry Gulch Reservoir site, which lies within Running Iron Ranch property, is jointly owned by an Juan Water Conservancy District and the Pagosa Area Water and Sanitation District (PAWs). PAWSD would like to sell the property and no longer be under the financial stress of the property. Both parties are working with the Colorado Water Conservation Board, which holds the loan on the property.

19.0 2025 Budget Discussion

Steve Wolff went over our current budget, noting the following:

- We have been fortunate in our revenues this year. Over the next four years, we'll experience more revenue stress as property tax bills ratchet down.
- We have a placeholder for a new staff member, if this moves forward, we may need to make an adjustment to the budget.
- SWCD also cannot afford to continue to support all the gauge funding since USGS does not increase its contributions annually, even though the gauge costs increase annually. This year, costs are increasing by about 8%, due to rising expenses and other partners dropping out. Steve recommends dropping the Hermosa Creek gauge and exploring outside partners to fund this seasonal gauge. If we do that, our contributions will still increase for the year, but not significantly (\$800). Charlie Smith said it is tough to give up a gauge, but finding outside partners is a good idea.
- The carryover grant line item shows \$15,000 for the Animas River Partnership Grant that was carried over from 2024.
- Attorney fees have been lowered based on 2024 numbers from \$400,000 to \$300,000. They have also been adjusted to reflect the need for outside attorneys (like a TABOR Attorney), moving \$25,000 from the General Counsel to Special Counsel.
- ASO line item added to help contribute to the Upper San Juan ASO Program for \$50,000.
- Jenny Russell gave an update on the Telluride Institute which is reforming their program and would like the funds in 2025.
- Jenny Russell stated that she would like to have a personnel committee meeting in the next few weeks to discuss wage increases for staff and the PTO policy.
- Steve stated that we are currently \$200,000 in the black.

Charlie Smith made a motion to approve the posting of the draft budget. Rusty Hinger Seconded. The motion passed unanimously.

Steve said that we would have our budget hearing at our Regular December Board Meeting.

20.0 Upcoming Meetings and Announcements

- October 23, 2024 Fall Connections Event – Fort Lewis College
- November 13, 2024 SWCD Special Board Meeting (if needed)
- December 11-12, 2024 SWCD Regular Board Meeting (Budget Hearing)
- February 2025 Joint Meeting with CRWCD?

21.0 Adjournment

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

A handwritten signature in blue ink, appearing to read 'CS', with a horizontal line extending to the right from the end of the signature.

Charlie Smith, President