

These written minutes represent the general discussion of the DWCD Board of Directors, DWCD staff, and participants at the DWCD board meeting, and they include a record of any and all board actions taken at the meeting. The written minutes are not intended to provide a word-for-word account of the board meetings. Nor are they a direct quote of any statements offered at board meetings. All DWCD board meetings are recorded on audiotape.

DOLORES WATER CONSERVANCY DISTRICT WATER ACTIVITY ENTERPRISE

MINUTES Regular Meeting May 12, 2022

CALL TO ORDER Godwin Oliver, President, called the meeting to order at 7:00 pm

ROLL CALL

- Godwin Oliver, President
- Simon Martinez, Vice-President
- Don Schwindt, Secretary-Treasurer
- Landan Wilson, Director
- Sheldonna Z. Ives, Director-Via Teleconference
- Wes Wilson, Director
- Glen Fish, Director
- Ken Curtis, General Manager
- Ben Harclerode, Chief of Engineering & Construction
- Rob Walker, Maintenance Supervisor-Via Teleconference
- Eric Sprague, DWCD Engineering Tech-Via Teleconference
- Lisa Jordan, Office Administrator
- Adam Reeves, Attorney
- Robert Stump, Bureau of Reclamation

INTRODUCTION OF GUESTS

In-Person

Marty Robbins, CDWR

Via Telephone/Teleconference

Brandon Johnson, General Manager; Rich Landreth, City of Cortez; Steve Garchar, Dolores County Commissioner

MINUTES

APPROVAL OF THE MINUTES

Don stated that there could be typos with regard to Rob Walker and Rod Dave's names being intermingled and asked that staff check to make sure that the spelling for Rob isn't supposed to be Rod.

MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE APRIL 14, 2022, ENTERPRISE MEETING.

MOTION: GLEN FISH
SECOND: WES WILSON
MOTION CARRIED UNANIMOUSLY.

FINANCIAL STATEMENTS

Glen asked what the payment to Steve Keetch was for. Rob stated that it was for alignment on Eric Tanner's truck, which had front-end issues.

MOTION: TO APPROVE THE MARCH '22 FINANCIAL STATEMENT AND APPROVE THE STATEMENT OF PAYABLES AS PRESENTED.

**O&M: AP/CHECK #40380-40451 & PR/CHECK #125204-125251
\$330,551.22**

**MOTION: GLEN FISH
SECOND: SIMON MARTINEZ
MOTION CARRIED UNANIMOUSLY.**

O&M REPORT – Rob reported the following:

Canal Maintenance – Staff finished the sediment removal on DCC, and the water is currently at Dove Creek. We had water to Dove Creek on Monday, the 9th. The weeds have been burned in the canals as best as possible. South Canal and Hovenweep were filled last week.

Pumping Plants – FVPP was pressurized last week. Over the past week, all the plants were pressurized and are ready to go. Staff is working on a leak in the short lateral that runs south from PVPP, but it can be isolated from the rest of the PV fields. We are currently waiting to get the repair parts which should be in next week. Once we have them, we'll repair the line and get it pressurized.

Dove Creek Lawn & Garden – Staff will be installing Samantha Ebbert's tap this month and starting up the DCL&G system. If we need to pressure the system before installing her tap, we can hot-tap the line as well. Out of Bountiful, UT., Stout LLC is constructing a Dollar General store on the corner of Hwy 491 and Road 8.2 in Dove Creek. Stout has proposing to pour the parking lot on top of the 2" feeder line to the Adobe Milling irrigation tap. They feel that Adobe Milling's responsibility is to pay for the line relocation. Rob has been emailing easement documents and contract literature to Stout's Project Engineer because he believes that it's Stout's responsibility to pay for the relocation of Adobe Milling's feeder line. DWCD owns all feeder lines from the main lateral to the downstream valve beyond the tap. Rob told Denise Pribble with Adobe Milling that she is not responsible for the payment of relocating her line. Rob stated that he told Stout that DWCD would prefer to abandon the existing feeder line and install a new line around the Dollar General property line, to which they agreed. The question is, who is paying for it. Rob will continue working with Stout Construction regarding payment.

Power Plants – McPhee Power Plant will run for about a month this year, between May 23 and June 29. Layne Electric is coming out on May 23 to test the power plant. Towaoc Power Plant will be running next week as enough flow is being sent down the THC. Sean with Cross Canyon is currently evaluating the plant to troubleshoot some start-up issues.

Weed Control – Refurbishment of the spray truck is complete, and the truck is back. Frank has been treating the canal, and ROW's on the Towaoc Highline.

Irrigation Season Maintenance – The crew is well aware of our budget constraints, and we are tightening the purse strings where we can, but there are still plenty of projects through the irrigation season. Now with a smaller crew, we are focusing on time management, scheduling, and making do with the repair parts that we have. We haven't been keeping our valve shop stocked over the last year and will need to order some items as delivery takes 6-12 months. Rob stated that staff would be working with what they have and trying to get by with what is in the shop. We're looking forward to a productive season with our farmers!

Annual Bureau Sight Inspection was on May 12 on the Dam and the Dike. There were two recommendations: filtering the hydraulic oil on the gates at Great Cut and the pulleys on the spillway at the dam. They were thankful for the facilities being in good working order.

WATER MANAGEMENT REPORT

Water Accounting – Ben presented the Inflow/Outflow **1) April:** The reservoir gained almost 13 feet for the month. Active capacity increased from 26,028AF to 61,477AF. Total inflow reached a low of 329.2 CFS on April 15 and a high of 1,560 CFS on April 22. The total inflow for April was 40,648AF. UF&RE turned on on April 4. MVIC had a stock run which ran for five days. The U-Lateral ran five days mid-month reaching a high of 18.2 CFS, then turned off, then turned back on later in the month. MVIC call water began storing on April 9 after the Totten and Upstream exchanges were filled. For the month of April, MVIC stored 24,133AF. The Dove Creek Canal came on April 19. The control room staff had to balance flows as they got water where it needed to go. For the month of April, a release of 7cfs from the dam is going to the lower Dolores River. Narraguinnep filled on April 4, and the water is being stored in McPhee. There was .16" of precipitation. There were seven days of flows over 795cfs in April. **2) May:** The reservoir is up 8 feet from the beginning of the month. Active capacity is up to 88,381AF. There was some cool weather on May 5, and staff believes the river peaked on May 8 at 1,950cfs. As of May 12, the total inflow for May is 33,200AF. UF&RE had a low

usage of 10.3 CFS on May 4 and a high of 26.8 CFS on May 8. The Lone Pine came on on May 1 and has remained flowing. Call water is at 36,594 AF for the season. The fishery has been at 7 CFS and increased to 10 CFS today. There has not been any precipitation so far in May. Project water stored is 19,520AF.

Don asked if the fish flows would go up to 25 CFS when McPhee Powerplant is being tested and then start going down again. Robert stated that the flows at 50 and 75 CFS will only be for a matter of hours for testing purposes only.

Ben stated that after many discussions, it was determined that the 70% forecast would be the best forecast to use at this time. He stated that he ran some charts to show what is in McPhee. Currently, Project water holds 30,000 AF, which is 82% of the 36,646AF used for allocation at the 70% forecast. The remaining amount needed is 6,600AF. The other charts depict the senior water buckets. They will fill as the days go forward. MVIC DIV+CALL is at 43,032AF, which is about 60% of stored water and gives a look at how much there is to go to get to 72,000 AF limitation between April-June. Ken stated that if 122KAF comes in it will fill the senior and Project water buckets. If a volume less than that comes in, the timing comes into play. We based the 5.4"/Acre on the 122KAF forecast with the current flows, ASO, etc. Don stated that with the hot weather coming, we ought to know where we are in the next ten days. Landan asked for clarification on the 72,000 AF. Ben explained that 72,000AF is the limit MVIC can divert and store between April 1 and June 30. Once that limit is reached, MVIC no longer diverts directly from the river but its storage. The river flow goes to project water for the rest of that time frame. Any flows over 795CFS also go to project water. Landan asked if the total active capacity is everyone's water, not just the projects? Ben said that it is. Ken said that if you look at the inflow/outflow, don't forget that diversions are going out as the buckets are filling up. The second bar chart is DWCD Project Water Used To-Date. FSA has used 5%, UF&RE has used about 16%, and the fishery 8% of their current allocation. Ben said they went back and looked at the last 20 years of when the river peaks before and after the peak. There is about a 50/50 split. On normal years it is around May 17; on dry years, it is earlier; this year was May 8.

Ben stated that there was an ASO flight this week, and they had just received the data. The data indicates around 55KAF (+/- 5KAF) left in the basin. They don't know how much was melted and flowing at this time. Ben stated that staff would be looking at this more to build historical data. They can look at the difference from an earlier flight to a later flight to see how much SWE there is in the mountains. Ben stated that he physically went to The Meadows and reported that 2-4 feet of snow remained in that area. Ben also went to Black Mesa on May 10. He stated that 2-4 feet of snow remained with drifts as high as 6 feet.

Discussion: Don stated that there is a Dolores Gage and the Rico Gage, and as we try to get a feel from each of the tributaries where there is a watershed, he envisions groundwater wells. If there were places to put groundwater wells above each watershed, this could help us understand how much water will end up in the reservoir. Ben stated that wells could be difficult, but a stream gauge could be helpful. Ken noted that we would probably map our basin in the future to identify better what Don is getting at. One of the challenges is where to pick a well location. Ken stated that John Porter worked on installing Sharktooth SNOTEL and Vern Harrell was instrumental in where the SNOTELS were placed. Sharktooth is the latest melting Snotel, and we have a long history comparing its melt out with what's come across the Dolores gauge after melting. Black Mesa will also provide something similar. Don stated that there has to be a way to figure out what each basin contributes to McPhee's overall inflow. It would be helpful to figure out watershed efficiency over time and the changes to it. Robert stated that one thing that could be useful as far as forest health is that the ASO flights give aspects of the snow banks, and that could be analyzed in many different ways. It was stated that there have also been a lot of dust events this season. Ben said that CODOS had predicted a severe amount of dust on snow. April and May winds could contribute to the loss of snow in the mountains. Staff will continue to monitor. It was noted that there are no upcoming storms in the next ten days.

Godwin said that he has had people call and ask if the staff has had time to predict how far the water will go in late-season water. Ben stated that people are still pooling and will have until May 25. Quite a few people wanted late water, so staff will do their best to drag it out. Simon asked how many farmers were growing corn? He stated that those irrigators will want water later in the season. Godwin said that the people talking to him think they might be able to get two cuttings of alfalfa on small fields instead of a shortcutting on all fields. Ken asked if there were suggestions on the best way to get the information out. Wes stated that he had thought there might be water until August. Ben stated that it is all in how they use it. If people are spreading it out on more fields, then it could go fast. Ben stated that once all of the leases are complete, they will have a better idea. Godwin asked if that information could be sent out in a mass text. Ken and Ben agreed that information could be sent that way.

UF&RE M&I Water Lease – DWCD did not lease their MVIC class A shares this year but proposed exchanging a portion of UF&RE M&I allotment with their MVIC class A shares. MVIC has set their allocation at 32" for the season at this time, so the class A shares equate to 453AF. The exchange will adjust 453AF of DP M&I from UF&RE to FSA. The final allotment would be 3,253AF to FSA and 747AF to UF&RE of DP M&I water.

No additional exchanges will take place if MVIC increases its allocation as the season progresses. Even if MVIC increases to a near full supply (48"), the AF increase would be 226 AF (max) for the 170 class A shares. The increase would make a nominal change to FSA supply at that time; thus, the exchange is set at a max of 453AF. The Board set a cost of \$33.17/AF for the leased water at the April 14th board meeting. The table below breaks down the cost to UF&RE.

170 Shares at	2.6 Aft/Share	3 ft/share	3.5ft/share	
Acre feet	453 Ac-Ft	510 Ac-Ft	595 Ac-Ft	
Total Lease	1200 Ac-Ft	1257 Ac-Ft	1342 Ac-Ft	Includes: 747AF DWCD M&I + 170 class A shares
\$33.17/AF	\$39,804	\$41,694.69	\$44,514.14	

Last year, class A shares were leased at \$80/share with a \$50 administration fee per lease. A total of 24 leases were sold, and the final MVIC allocation was 2.5 feet for a final cost of \$34.82/AF. Total Revenue was \$14,800 in 2021 from leases.

2022 Water Smart Grant Resolution – Meters – Ben stated that he submitted the meter grant on April 28 and signed the Water Smart Grant Resolution.

Dolores County Pond – Dolores County has proposed an 8AF pond for the Road Dept. The thought is having earlier access to water so they could get the mag chloride earlier in the spring. A pond would provide access to early and late water. They want to put it in the general vicinity of the town's pond and DCL&G pond as a first option. Another optional location is by the DCPD. Ben stated there might be a potential for the County to use DWCD's 7AF DC L&G pond. He noted that allowing the County to use the DCL&G pond could be an opportunity to get the liner paid for. If they don't utilize the DCL&G pond building, it would mean another pond. Wes asked for clarification on DWCD not charging the County for M&I water. Ken stated that the District traditionally does not charge either County as a fellow government serving the greater good of the public. DWCD doesn't charge both counties. Ken was asked if we would charge, and he said we probably wouldn't charge however this is a little different than a canal grab. There may be some power chargers if they are pulling from the pipeline. Everything is still developing, so he asked Ben to look into this and bring it to the Board.

Discussion: Steve Garchar stated that Dolores County could use the water in the spring and the fall. Also, the pond could be utilized for fire suppression during fire season. The County is looking at two different sites, as Ben stated. Steve stated that using the DCL&G pond is another possibility. Don said that just listening to what has happened with internal squabbles, DWCD needs to continue to sell ourselves in different manners as far as PR. DWCD needs to figure out what works for us to build goodwill constantly. Steve feels DWCD has had good outreach and thanked us.

Other

Simon stated that he has begun working with the Colorado Department of Agriculture (CDA) and seeing the money available through the State from USDA, Soil Health, Drought Resiliency, and other programs. Simon stated that if Ken is ok with it, he would like to send information out to the Board and staff. Simon is beginning to understand the workings, but there is money flowing through the State to help those who grow food. Simon stated that the grants wouldn't last forever but right now if our farmers don't apply for the funding, someone else will, so irrigators should take advantage of these programs. Ken stated that Simon should send the information to the staff.

ADJOURNMENT Dolores Water Conservancy District Water Activity Enterprise Board meeting adjourned at 8:02 pm

Donald W. Schwindt, Secretary-Treasurer

Godwin Oliver, President

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DOLORES WATER CONSERVANCY DISTRICT

MINUTES

Regular Meeting

May 12, 2022

CALL TO ORDER Godwin Oliver, President, called the meeting to order at 8:02 pm

ROLL CALL Godwin Oliver, President
Simon Martinez, Vice-President
Don Schwindt, Secretary-Treasurer
Landan Wilson, Director
Sheldonna Z. Ives, Director-Via Teleconference
Wes Wilson, Director
Glen Fish, Director
Ken Curtis, General Manager
Ben Harclerode, Chief of Engineering & Construction
Rob Walker, Maintenance Supervisor-Via Teleconference
Eric Sprague, DWCD Engineering Tech-Via Teleconference
Lisa Jordan, Office Administrator
Adam Reeves, Attorney
Robert Stump, Bureau of Reclamation

INTRODUCTION OF GUESTS

In Person

Marty Robbins, CDWR

Via Telephone/Teleconference

Brandon Johnson, General Manager; Steve Garchar, Dolores County; Rich Landreth, City of Cortez;

MINUTES

Don stated that he thinks it is important to include that Wes volunteered to represent DWCD on the M&R Team in the minutes.

APPROVAL OF THE MINUTES

MOTION: TO APPROVE THE MINUTES AS CORRECTED FOR THE APRIL 14, 2022, REGULAR MEETING.

**MOTION: DON SCHWINDT
SECOND: LANDAN WILSON
MOTION CARRIED UNANIMOUSLY.**

MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE APRIL 14, 2022, EXECUTIVE SESSION MEETING.

**MOTION: SIMON MARTINEZ
SECOND: WES WILSON
MOTION CARRIED UNANIMOUSLY.**

FINANCIAL STATEMENTS

Glen asked if there was some particular issue that was being discussed since the LEMMING amount was higher. Adam stated that discussions have recently been on reconciliation, NCA and water rights filings but nothing in particular. This is just a combination of items.

MOTION: TO APPROVE THE MARCH '22 FINANCIAL STATEMENTS AND APPROVE THE STATEMENT OF PAYABLES AS PRESENTED.

ADMIN: AP/CHECK #12161-12178

\$14,603.65

**MOTION: GLEN FISH
SECOND: SIMON MARTINEZ
MOTION CARRIED UNANIMOUSLY**

AGENCY REPORTS

BOR Report – Robert Stump stated that **1)** there was an Annual Site Inspection at the Dam and Dike. There were two minor recommendations, one for filtering the hydraulic oil on the gates. Robert noted that these are minimal things. Robert stated that he wanted to voice that DWCD does an excellent job. He thanked DWCD for the good work and having the facilities in good working order. **2)** Robert has been working on the MOA for water screens. Reclamation put out a synopsis with sources sought for small business. There was no response, so solicitation will go out to all businesses.

Division of Water Resources Report – Marty stated that McElmo Creek is on call and CDWR has been administering MVIC Totten water releases to McElmo.

T/H Committee Report – Godwin stated that the Committee met April 20, 2022 **1)** The Committee paid DWCD and transferred \$59K out of reserves to cover costs.

Next T/H Meeting – The Committee will meet at the DWCD, Cortez Office May 18, 2022 at 2:00 p.m.

MVIC Report – Brandon reported that **1)** MVIC had a slow start up due to wind but they are fully online now. They had a lot of breaks and blow outs this season. **2)** Cylinders for the Groundhog project are unavailable so that project is in limbo. **3)** MVIC plans to move on to Totten as soon as they catch up with regular maintenance. **4)** McElmo deliveries out of Totten started at the end of April.

GENERAL MANAGERS REPORT

Southwest Basin Roundtable, SWBRT – From the April 28 SWBRT quarterly meeting. The SWBRT CR Issues Subcommittee met and heard a presentation from Dr. Perry Cabot from CSU, stationed in the Grand Valley. He reported on the findings from high mountain meadow fallowing and deficit irrigation from around Kremmling, Colorado just off the mainstem river. The work will go on several years should a DM ultimately be stood up. Early findings show fallowing saving about 40% of conserved consumptive use, CCU. Deficit irrigation saves about 14%. We also heard from Amy Ostdiek of CWCB about the hard pause on DM and switch to drought resiliency. The briefing memo for CWCB was handed out at the March 16 workshop and included in the May mail out. This will be the current direction starting at the May 18 CWCB meeting with a workshop, where Ken has 5 minutes that will focus on local solutions.

For the regular roundtable meeting, the real news is a change in funding for grants from CWCB that has made money available such that the SWBRT will entertain grants at each quarterly meeting up to \$100,000. There will no longer be State WSRF funds for larger projects, which instead would have to access Water Plan Grant funds.

Ken stated that there will be another subcommittee regarding some of the details around grants. Ken may be asking Ben to supplement our meter purchases with that type of grant.

Discussion: Glen stated that the biggest part of the SWBRT meeting was spent on how they would administer the grant with additional money. Glen stated that there was email sent by Ed Millard regarding the poor treatment that he (Ed) received by that group. Glen stated that he agrees with Ed in that he was treated poorly by that group.

Monitoring & Recommendation Team – The M&R Team met Friday April 29 and heard reports from Jim White, CPW, and Dr. Gigi Richard of Fort Lewis Four Corners Water Center. Jim's power point presentation was included in the mail out. Though bad, 2021 was not catastrophic per the findings. Our goal remains to keep the, round tail chub, RTC, off any ESA listing.

Gigi talked about the Dolores River Adaptive Management Support, DRAMS, that is a 5-year project to establish a monitoring protocol and get several baseline years monitored. Work may help inform future management actions including spill releases. The voluminous amount of information is best viewed on the website, Four Corners Water > Dolores River.

Discussion: The pools remained on the lower Dolores. The cold water fishery, trout & sculpin, shrunk back towards the dam. Ken stated that they are doing more pit tag arrays and finding out that the suckers travel a long way. They had a sucker come out in Green River from the Dolores, this shows that the fish will go where the water is and we won't see them in the dry years. In 2021 they found pools and were able to survive. Jim White did say, antidotally, that they caught more small mouth bass with fishing poles than electro-fishing. It will be interesting to see how the flows in 2022 support them. The group has potential to get good information. There were also flushing flows with the monsoons last summer. Gigi's group has a good website where this information can be found. It was stated that river channel complexity is going down post McPhee, and sedimentation is a concern. Some of the higher flows of 2017 & 2019 have not added a lot of complexity. Ken stated that there have also been several member changes to the M&R Team. Gerald Koppenhafer is representing Montezuma County, Danny Wilkin is representing MVIC, Micky will take over for Celine Hawkins and Rica Fulton will represent DRBA. Steve Garchar and Amber Clark will co-chair the Team. Steve Garchar said that the RTC numbers are up 2/3 at the Dove Creek Pumps and noted that they have been gathering information from that location for over 30 years. The numbers for small mouth bass were also up.

Colorado River Basin Issues – DCP/DROA – Most of the news revolves around digesting the lower Powell releases of 7.0 MAF that are now approved, which combined with 500 KAF out of Flaming Gorge should keep Powell safe for this year. Next year could be worse and cause a deeper crisis. One twist is that the LB received "operational neutrality" e.g. they will not face deeper cuts based on the lower Powell releases than they would have otherwise. AZ CAP accounting & modeling makes the Dolores Project look like simple math. More info available from CAP site if anyone is interested. Intrastate, see the SWBRT update for CWCB actions.

Ken included an article by Don Schwindt and Dan Keppen that ran in the Colorado Sun. Don stated that he and Dan used a lot of the information that Don presented at the SWCD seminar and the FFA policy brief. He & Dan had to cut the article down significantly, but he's still trying to build the story with FFA. Ken stated that you can pull talking points from the FFA position.

Ken stated that he and Robert held a tour with Utah State University students and pulled Landan Wilson and Bob Neely in to discuss farming. Ken stated that there were there were four or five Dolores County trucks driving around getting water from the canal while the Utah State students were visiting. Bob Neely told them that even through the hardships there is still benefit from the project. The students asked about DM and Ken said we were not for it as ineffective and that we want to keep our agriculture community intact going forward. Don state that he was sorry that he missed the tour. Ken stated that Jack thanked Ken and Robert for the tour and claimed that he didn't remember saying that the Dolores Project should have not been built. It was a good group, with knowledge and good questions. The same group visited UF&RE the next day.

Legislation Update – Federal, State & DWR Rule Making – The last 3 updates from April 18, 25 & May 2 were included in the mailout. As the session winds down there are fewer bills to discuss, but most involve funding decisions, see SB22-215 Infrastructure Investment and Jobs Act Cash Fund and also SB22-206 Disaster Preparedness and Recovery Resources. The interest now turns to the Interim Committee that will first meet in August at the summer CWC conference.

Ken believes the Fire Suppression Ponds remains alive, but hasn't heard anything final yet. Ken stated that he will probably turn his attention to long term ASO funding that a statewide group is working on. Ken asked Don if the SWCD Board will review the final legislation of what passed and what didn't after SWCD and CWC have a chance to digest what did pass.

Summer Water Congress – Ken stated that the anti-speculation program will be big on the summer agenda. Ken will push for the ASO and they need more support for the Interim Committee.

Reconciliation Process – This will mainly be discussed by Adam under his legal report as our water operations staff has not worked on this since last month. We will pick up the last direction after the water season start up settles down.

Other

Ken stated that in keeping up with our PR messaging, **1)** he has an upcoming Forest to Faucets tour for teachers and Eric also has a tour with Battlerock school students. The Forests to Faucets is scheduled for June. **2)** CWC will be here on May 15-17. Don stated that Christine Arbogast is the Chair of Federal Affairs Committee. CWC started out as a State-run organization to support Reclamation projects. Before the 1970's it was severed from being a state organization. They have been a part of the Dolores project since the beginning. At the Ag Expo this year Fozzie's Farm, Jay Loschert, had a setup for kids about the Dolores Project.

LEGAL REPORT

MVIC 87.3cfs Water Rights Filing – MVIC still working through the 87.3cfs change case. There is a Status Conference scheduled for tomorrow May 13. Adam hasn't heard anything new.

MVIC Reconciliation – Reply to MVIC – Adam stated that a draft reply to MVIC was in the Board packet to be discussed further in executive session.

Water Rights Cases – There are three cases pending on the Upper Dolores that Adam thinks the Board should consider filing Statements of Opposition in. Statements of Opposition are due at the end of the month. Two are new upstream cases where the diminimus has been exceeded. These would be the first ones where there is a private augmentation plan that uses our upstream exchange water and stores it in a pond to make up for the instream flow when they might otherwise be out of priority. Adam thinks that we should monitor those and see how they operate and make sure that there are no pitfalls. Adam doesn't envision us being vigorously opposed but thinks it is important to know what is going on since we haven't done these before. The other is a Rico case. Rico is proposing to change its point of diversion to its well field using a senior water right, senior to the instream flow, because they are having trouble getting it from its decreed location. Adam stated that we should consider being involved in part because we have reserved a bunch of the diminimus for Rico and if it turns out with this case that they don't need that diminimus anymore it would be a real benefit to upstream users if that diminimus could come back into our system so we don't have to do side by side augmentation plans. Adam recommends the Board authorize filing relatively friendly statements of opposition in all of these cases.

MOTION: TO AUTHORIZE FILING STATEMENTS OF OPPOSITION ON THREE WATER RIGHTS CASES 22CW3013, 22CW3014 AND 22CW3015.

**MOTION: DON SCHWINDT
SECOND: WES WILSON
MOTION CARRIED UNANIMOUSLY.**

Executive Session Protocol Review – Ken asked Adam to review executive session protocol with the Board.

Colorado has an open government policy. All the activities that a government is involved in are supposed to be discussed openly in public. There are limited basis for which a board can enter into executive session. The ones the District usually relies on are matters of negotiation or to receive legal advice. There are other ones, for example: acquisition of a piece of property or certain personnel matters. Executive session can only be entered into with a motion of the Board. Executive session is then entered and the public has to be excused. The matters discussed in executive session are confidential cannot be discussed with the public outside of executive session. Executive session does not require a motion to be closed. The President can close executive session at any time and reopen the public session. Adam stated that one important thing is that in executive session, decisions are not to be made. The board leaves executive session to take an action with respect to the advice that has been given. There could be discussion after the executive session. The point is decisions have to be made in open session with the publics ability to give input.

Ken asked how do you characterize Direction to Negotiators? Adam stated that for example: if the District were going to buy a piece of property and Ken was the negotiator. The Board might say, "Ken, get the best deal you can but this is the maximum we are willing to pay". That sort of instruction can be given instruction in executive session because it is not fair to for someone whom you are going to have a negotiation to know your negotiation strategy where you are going to end up ultimately and how far you can be pushed. That is a good example of instruction for negotiators.

Don stated that some agencies like CWC held workshops specifically geared towards educating Board members. All Board members should take advantage of those opportunities.

Godwin agreed that at Don's urging he has learned from the CWC Annual conference and the SDA booklet that the Board receives each month are good resources for Boards.

Glen brought up confidential materials included in the Board packets. Staff & attorney will work to mark appropriately.

Water Rights Protection & Supply Discussion involving legal advice and/or negotiations subject to Executive Session

Adam asked for an Executive Session to discuss the following: water rights cases in which the Board voted to file statements of opposition, response to MVIC's letter on the topic of Reconciliation.

MOTION: MOVE INTO EXECUTIVE SESSION PER CRS 24.6.402(b) TO OBTAIN ADVICE FROM COUNSEL AND CRS 24.6.402(e) MATTERS OF NEGOTIATION FOR

DISCUSSIONS ON: RESPONSE TO MVIC'S LETTER ON THE TOPIC OF RECONCILIATION AND WATER RIGHTS CASES IN WHICH TH BOARD VOTED TO FILE STATEMENTS OF OPPOSITION AND WATER RIGHTS PROTECTION & SUPPLY.

**MOTION: SHELDONNA Z. IVES
SECOND: WES WILSON
MOTION CARRIED UNANIMOUSLY.**

**RECESSED FOR EXECUTIVE SESSION AT 9:04 P.M.
RECONVENED REGULAR MEETING AT 10:12 P.M.**

REPORT OUT OF EXECUTIVE SESSION

Adam reported that in Executive Session the Board discussed a reply to MVIC on the Reconciliation letter, necessary further information on the water rights cases 22CW3013, 22CW3014 and 22CW3015. Briefly touched on Water Rights Protection & Supply. No decisions were made.

Other

Ken put the final letter on the NCA to Senator Bennet in the packet. Ken stated that Montezuma County is aware of the letter. He thinks if they could they would support it but they are caught by concern of the National Monument. Don stated that he had a message from Steve Wolff who shared the letter with Jenny Russell, Dagan Chadd and himself as the interested Board Directors from these affected counties. Kenny Holman of Montrose should be included too. Steve said in that it appears that DWCD is trying to be neutral. Don stated that he will have a hard time saying we are trying to be neutral. Steve also expects the supporters of the NCA to come asking SWCD for support. Don's response and preferred phrasing is not necessarily neutral but we want people to know that we want to work together, we want to remain friendly and have a constructive relationship with our Senator. We think it is our responsibility to say truthfully what it does for water and what it doesn't and it doesn't do quite what we had initially expected and wanted to have happen. So, neutrality is the wrong way to characterize it. From a water side, it is not helpful and we tried to explain that as clearly as we could in the letter. Adam stated that he thinks we were disappointed that there was no benefit to water users. Don fully intends on that being his public position and will vote against support if someone moves to support the legislation. Adam stated that there was a robust discussion about it and he doesn't think there was any benefit, or very little if any, benefit to water users. We anticipated a release from Wild and Scenic Suitability and what we didn't get as a practical matter was a release from Wild and Scenic Suitability as to the water issues. As to the land use issues there was an effective release from Wild and Scenic Suitability. Don's view as a Board member for SWCD is that SWCD is supposed to be supportive of their water users and their developed water in particular. Ken asked if the Board would have a problem with Ken and Adam showing up to a meeting as negotiators and could speak to it, if asked. Don stated that would be good to have another voice. Adam thinks they need to understand DWCD's position was not supportive, but it was not opposition, it was disappointment. We made clear our disappointment in the letter and we recognized the counties were benefited and we didn't want to get in the way. Don is in favor of Ken and Adam being the spokespeople at the SWCD meeting.

NEXT DWCD BOARD MEETING – Thursday, June 9, 2022 - 7:00 P.M.

ADJOURNMENT Meeting adjourned at 10:20 P.M.

Donald W. Schwindt, Secretary-Treasurer

Godwin Oliver, President