

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 October 13, 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  
Glen Fish, Director  
Landon Wilson, Director  
Jeremy Redshaw, Director  
Ken Curtis, General Manager  
Ben Harclerode, Chief of Engineering & Construction  
Rob Walker, Maintenance Supervisor-Via Teleconference  
Eric Sprague, Engineering Technician-Via Teleconference  
Gina Espeland, Admin Assistant Accounting  
Adam Reeves, Attorney  
Robert Stump, Bureau of Reclamation

### **INTRODUCTION OF GUESTS**

#### **In-Person**

Brandon Johnson, MVIC General Manager; Bob Neely, Full Service Irrigator, Chris Estrada, Esmeralda Estrada, Full Service Irrigator

#### **Via Telephone/Teleconference**

Tony Tanner, Full Service Irrigator

### **MINUTES**

#### **APPROVAL OF THE MINUTES**

**MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE SEPTEMBER 8, 2022, ENTERPRISE MEETING.**

**MOTION: LANDAN WILSON**  
**SECOND: JEREMY REDSHAW**  
**MOTION CARRIED UNANIMOUSLY, GODWIN ABSTAINED.**

### **FINANCIAL STATEMENTS**

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

**O&M: AP/CHECK #40761-40865 & PR/CHECK #125451-125516**  
**\$326,462.82**

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

**O&M REPORT** – Rob reported the following:

#### **Pumping Plants and Field Work**

The Dove Creek Pumping Plant was shut down on the evening of the 27<sup>th</sup>, Cahone on Oct 5, Pleasant View and Sandstone on Oct 8, and Fairview on Oct 10<sup>th</sup>. DCPD shut down earlier than planned by 12 hours. Rob stated that he wanted to time it so we didn't leave water in the canal. The control room did a great job. We had advertised that the shutdown would be at 8:00 am on the 28<sup>th</sup>, but I really emphasized to the control room that we couldn't leave any water in the canal. I didn't want to waste any water, and we started on the water screen removal the next day. We tried our best to calculate the amount of water needed to get us to the 28<sup>th</sup> but came up short, and I take responsibility for that. We had the water screen disassembled and pulled out on Oct. 4<sup>th</sup>. We read through the plans for pulling them out and have included some pictures in the packet of the water screen. The screens were supposedly bolted in place from the top. At DCPD, there were no bolts on the top; instead, the screen was welded into place. The other screens came out quicker.

We shut down Cahone Pumping Plant on October 5<sup>th</sup> and pulled the water screen last week. We shut down Fairview on October 10<sup>th</sup>, and was the last water screen scheduled to be refurbished this year. Evoqua has started scheduling trucks to ship the water screens to their factory in Mississippi for repair. I've included a couple of photos of the water screens. We spoke with Evoqua this week. All three screens are on the ground and ready to be shipped. Some literature was included in the packet on the new screens and their specifications. DWCD crew is responsible for removing and installing the water screens with our crane, while Evoqua is responsible for all the shipping. They will include any cribbage. We will be re-installing the water screens next spring before the irrigation season starts. The waterscreens are to be shipped back by February 24<sup>th</sup>.

Pleasant View and Ruin Canyon are scheduled for the 2023/2024 off-season.

We've been working with the Town of Dove Creek and Dolores County to make sure their ponds have stayed full. The Field Techs are winterizing the system, and the plants will be winterized after we have the water screens shipped or as the schedule allows.

#### **Power Plants**

McPhee Power plant is scheduled to run through November 4th at 25 CFS.

Towaoc Power Plant has not been running this last month because of the low flows, and we are replacing the CO2 bottles in the fire suppression system. We had our TFR (Transferred Facility Review) by the BOR last month. They did inspections on both power plants. Everything went great, and I've attached a short summary from Gary. I don't want to steal Robert's thunder either, as he will have a much better report on the inspection.

#### **Winter Maintenance**

We've started removing sediment from the canal around 21 Rd. near Great Cut, we'll move out closer to Dove Creek as the frost allows. We'll finish up on some tire mats, and we have a couple of leaks to repair. Did an inspection on the canal and have six areas of some flash flooding that will need repaired. Once the frost hits, we'll start on the Towaoc Highline projects; we have four this year, which include a drainage clean-out and re-alignment, a liner at check 508, rebuilding the air-vacs on the pipe chute and cleaning up some cross drain areas on Reach 3 by UF&R. We'll team up with MVI on some of the projects, depending on Brandon's long list and schedule of his own.

It is starting out to be a busy off-season again. We're looking to the future of the project and trying to be more proactive instead of reactive.

#### **Personnel Committee**

We had a Personnel Committee Meeting on September 27th. We wanted to thank Godwin, Landan, and Wes for their input. Our next meeting will be scheduled around the Board Workshop.

Simon thanked the board representation on the personnel committee. He brought up the TABOR reserves and said he would like to see health and wellness benefits for the employees. He said he didn't want to lose any employees, especially with their expertise in our project's SCADA, electrical and mechanical fields. There is a lot of professionalism in the District. He said he would like to see morale health and welfare supported as we go through the drought and that the employees of DWCD deserve something. Last year, there was talk about doing nothing, but I think it needs to be looked at. The employees carry the project. Rob stated they have had 5-6 meetings, and this issue has been a huge topic, and the personnel committee has been digging into it. Rob said that he would talk with the Board soon on that subject. Godwin added that they were working on something. Ben, Rob, and Eric Tanner have been participating and leading on giving the outstanding employees a bonus, and it would be a collaboration and working with Ken. It will be presented to the Board soon.

#### **WATER MANAGEMENT REPORT**

**Water Supply & Accounting** – Ben presented the Inflow/Outflow 1) **September:** The reservoir elevation fell by 5.60 feet. The total change in capacity was 15,771 AF. September inflows total 5,847 AF (53% of average) for a total inflow of 6,100 AF. Usage fell towards the end of the month,

with the Dolores Tunnel at 8,665 AF, Ute Farm and Ranch used 2,398 AF and a total of 7,347 AF for the year, MVIC total was 14,572 AF and 104,078 AF for the year. Did note that MVIC retroactively decided to utilize Narraguinnep stored in McPhee before expending all their call water (no cost for utilizing Narraguinnep water in McPhee). Narraguinnep used up on September 13; then, the additional usage came from call water. Only the difference between the river inflow and MVIC usage comes from storage. The change used up Narraguinnep stored in McPhee first for any division not covered by the river. Dove Creek Canal used 2,339 AF and DCPD was shut down on the 27<sup>th</sup>. FSA use was up to 23,239 AF for the year. The fish pool stayed at 25 CFS. Weather-wise, Great Cut received 1.77 " of rain. Slightly above average for September. Near to slightly above normal temperatures for September. Robert said that he enjoys the average weather. Ben stated that the average precipitation was 1.41, which is at the airport. 2) **October:** Total reservoir elevation change: due to the rains and diversions being reduced, the elevation of McPhee has increased from the 1<sup>st</sup> until the 7<sup>th</sup> and is back down to the same elevation as the first of the month. The total change in capacity to date is 26 AF from the first of the month. September total inflows were 4,788 AF for 5,032 AF total, and the river has been up. MVIC shut down today, with total usage of 3,428 AF/month and 107,506 AF/year. MVIC will have a stock run over the next few days. On October 15; water not used goes to carry over. Projected: Totten Exchange 3400 AF, Upstream Exchange 1500 AF, Project 5,156 AF, Call: 4,000 AF (projected); Projected total left in McPhee equals 14,000 AF. Late-season river flows helped reduce MVIC's demand on stored water, resulting in higher carry-over numbers. Ben noted that MVIC usage is from the river primarily, but the difference is from stored water. Only used 186 AF from storage in October, and the rest is the river. MVIC won't use project water this year. Don asked what MVIC was leaving in the lake. Ben said MVIC is leaving about 14,000 AF as of right now. UF&R still has 2,394 AF and is still running. Full Service is leaving 2,556 AF. Ken and Ben stated that the Narraguinnep retroactively used it up, but it has Groundhog, and when it was moved to Narraguinnep, it became a part of the supply sheet. Only the physical in Narraguinnep is the number. Brandon stated that they are still running, and there is still 4-5000 AF roughly. Don asked if the Board would see some final numbers to look at. Ben stated yes.

### **Projects Update**

We are Still working through the water screens, which Rob reported on. The other projects are still in the queue.

### **FSA Irrigation Over Use**

Ben stated that Chris Estrada used 22.608 AF over his 2022 allocation. Ben stated that he included a letter in the Board packet with background information, penalty numbers, and additional data. He opened it up to Chris to address the Board.

Chris stated that it is a lot of money and didn't see how he used that much water in September. Chris stated that he thought he used water in June and July, tapered off in August, and hardly watered in September. Ben provided his meter reading numbers for the entire year. Chris said he had tried to get a hold of Vince in early July to get an ending meter reading, but didn't know that he had retired. When he finally called the office and talked with Eric Sprague, Eric gave him his readings. Chris stated that he probably relied too much on Vince keeping up with the ending numbers and to tell him when he was getting close. Chris discussed his usage, 2022 crop, and his irrigation practices over the season with the Board.

Landan asked if there were any leaks. Chris stated that he didn't know. Jeremy said he just wanted to know if a leak needed to be chased or if it was water habits. He stated that he doesn't think Chris needs to chase after leaks because Chris stated he uses 9AF for half a circle. The overuse is just one full circle. Chris said they were only watering half of the field, though. Simon asked Ben if there were any discrepancies. Ben stated that we could have the meter tested, but he didn't see a discrepancy. Ben stated that they didn't see a big jump which is typical with a break. The techs went out to check the box and ran several tests. The meter was not turning with the pivot off, indicating there wasn't a leak in the line. Jeremy stated that the Board does need to go over the overuse policy/penalty, but it appears that Chris went over. Don asked if Chris keeps notes/records on his watering. Chris stated that he did not. Simon asked about optional readouts on his pivot box? Chris said he wasn't aware of any. He turns it on and off as needed. Simon asked Godwin if we should hold off till November so the Board could discuss this further. Godwin stated that Chris is a friend and a neighbor. I have complaints on both sides, the water district and Chris. We didn't send any mass texts on Vince leaving or that the new hire was Cole with his number. These are some questions that I have. I can say that Chris should have also tried to contact someone else sooner. Godwin said that the District would help, so FS didn't go over by very much when the overuse penalty was set. There has been a pretty good span on when we read the meters last. Seems like we were reading more often last year with the lack of water. Ben stated that the meters had been historically read at the end of each month. Two guys do the reading over the entire FSA area, so it takes a few days each time. Ben stated that at the end of August, when the meters were read last, Chris was not on the list that we thought was getting close. Godwin stated the Board and Staff are not here to micro-manage the FS water operations, and Chris should have paid more attention to his numbers. All parties could have done more, but a \$213,000.00 penalty is too steep. Jeremy agrees that the penalty policy is not functioning correctly. It's impossible to see the "what ifs" when developing the policy. Bob said that this very thing is why he didn't go over. Don stated that numerous FS farmers were here when the policy was set for 2022. Upon review of the minutes from

discussion while setting the policy, Don had not considered an overuse of this magnitude. He brought up the overuse in 2021 and how the highest user had to pay roughly \$7,000, which was a hard swallow for the irrigator. Bob said the difference between 2021 and 2022, in 2021 there were not as many boxes that were being used, and it made a difference with keeping track of the readings and who was getting close to being over. There were fewer meters to read, and the season was much shorter. Don asked Bob if he was reading his boxes regularly? Bob said, yes and as far as he knew, everyone around him was reading them regularly. He did state he didn't know Vince retired, and it would have been nice to have been informed of that and given the new guy's number. Ben stated that Cole has been training. We didn't send out his number because he wouldn't have been able to answer the questions yet. You would have had to call the office anyways. Ben stated his number has been sent out several times this year. Landan said that he went over last year, and it made him more aware and conscious of his meters. The Water District is responsible for watching water meters to an extent, but the FS should be held more responsible for watching their water. The fine is excessive, and maybe we need to cap the escalation, maybe at 8AF, and then anything over and above is fixed differently. Don said that Simon asked if we could punt. Don stated that we still left FS water in the reservoir, which is a joint problem. We sat here last month and denied a FS farmer who wanted water. Bob said that he left a couple because he didn't want to take the risk of going over. Don said he is willing to wait and get more guidance. Landan asked if there were any more irrigators that went over? Ben stated that at least one more came up this week and one in the packet as well who had a pressure relief valve fail. Since we are currently reading meters, there is a possibility of more, so we need to check when the final readings come in. Glen stated that last year we handed the penalty to the FS Farmer and didn't think twice about it and the FS farmer took it hard. Don said that we do have more discussion. Ben asked if there was any direction on possible revisions the Board would like Staff to prepare and bring? Glen remembered that the penalty was set to be stiff enough so an irrigator could not profit from the overuse. Landan asked if there was a mass text or postcard sent out about the penalty fee for this year. There was a postcard definitely in 2021, and not sure in 2022. Chris said that he now realizes that it is important to read the meter and attend more meetings. Ken asked if he got the mass texts. Chris stated that his wife received the messages. Don stated that DWCD should do both, the texting and the postcard in the mail. Godwin stated that he heard that we want to table this issue for now. Ben handed out some tables that he had created for discussion. He went over the different options for revising the policy. The first is the \$800 penalty and then varying adjustments. The rest use a set fee after 5AF of \$800, \$500, \$250, \$110. Jeremy asked Bob and Chris what a reasonable fine in their eyes was. Bob said he wasn't sure and didn't want to comment on the fine. He said that the fine is there to keep someone from using his water to finish a crop and that the penalty was supposed to be more than what the crop yield would generate. Glen said that the crop that you are going to get cannot pay this penalty. Don stated that there are some other reasons to the penalty as well. Godwin asked what we had leftover last year in the lake. Ken stated that it was very little. Jeremy asked if it was like less than 100 AF. Ken said yes. Ben stated that he would bring it back to the Board. Ken stated, responding to Glen, for staff conversations, last year is an anchor point for us, but we have all the numbers, and if you have to unwind last year we can. Ken stated that Staff originally set it at a couple of hundred dollars per acre-feet, and this Board set it at \$800.00/AF and to escalate. We can fix 2021 if we have to. Last year if you went over, you were taking someone else's water. This year, not so much. Don stated that it is a good place to throw in the big picture, Colorado River. We got a letter in the packet for CBT water for farms, and it has gone to M&I and was developed for a farm and has a real high dollar value. The lower basin who are raising vegetables, and you have all the discussions, and everyone wants water, and they make more than what we make off our farms here. The difference of the value of water and the management of our system and doing a fair job. Don stated that we can't go there to the \$213,000 bill for overage; that is just his opinion. Simon thanked Ben for the handout. Landan asked if we can also bring it up to the Farmer Advisory Committee and see what they think would be reasonable. Ken stated that it definitely needs to be a part of the conversation. Ken posed that the differences in 2021 to 2022 had something to do with it. Water tripled and lasted the entire year, which was difficult to manage. It will be brought up at the FAC, and won't throw any individuals under the bus; we will have several examples without identifying any individuals. There is no hurry, but it has to be discussed.

Godwin asked if we wanted to table the additional overuse/leak issue? It was agreed to table this item as well.

#### **Water Bank & Irrigator Pools**

Ben stated that last month Gary and Trent Nielson came to the meeting asking to move water between their pools. The Board asked for more information on Board policy and procedure at this meeting. We'll go over the basics of leasing/pooling and the waterbank, and then he'd like input from the Board on where they may like to adjust the procedures and criteria going forward. There are two ways farmers can manage their additional water needs. You can lease water, and the bill is ultimately responsible to the landowner, even if there is a lessor. Generally speaking, you can move water between any box that is owned or leased in the same pool. It provides flexibility and water can be focused on crops as the farmer sees fit. There are three general criteria that DWCD enforces when it comes to leasing. The leased parcel has to be paid up. The allocated acres to the box must be leased; an individual can't lease half a field. Thirdly, the leased box can not have any water use prior to leasing. Once water flows, the field can't be leased or a lease revised. Leasing closes in late May for accounting purposes and future waterbank projections. Ben provided two pieces of correspondence that go out to all FS at the beginning of the season. It is paperwork that DWCD is

required to keep. The first one is RRA, and it is updated before each season. If leases change, the account has 30 days to update it. The second is a crop census form that would also change with leasing, especially in the late season. We send out account leasing in their billing. This is how we keep track of who is being billed and for what, with any changes. The billing procedure needs to remain the same once the account paperwork is set for the year. The past two years, we created greater pools where irrigators could add boxes to their pool without officially leasing them. Greater pools were not reflected in the billing but were handled between the irrigator and the owner. It was something that made it more flexible in an extremely short supply year. Greater pools were managed at Great Cut and never came down to the District office. Don said that Greater Pools is the kind of thing we need to consider for documenting appropriately to show Reclamation how we found flexibility to address drought conditions—finding ways that are non-traditional and we have to memorialize our innovative procedures for the future and possibly renegotiate contracts as necessary. The opportunity is right, and the need is great to find innovative ways to manage our current supplies. All of this stuff ties together in my mind with all the Colorado River Issues we are facing. The simple thing is that MVIC has its own way of shares to be leased versus what we do and take what has been working in both entities and how it can work together.

Ben stated that leasing and pooling are up to the farmer, giving them the flexibility to use water efficiently and effectively. In addition to leasing, DWCD uses a "waterbank" as an overall pool to increase the allocation for FS. Water that isn't being used or won't be used by a farmer or entity gets redistributed to all FS. When Reclamation came up with the allocations, they assumed a crop rotation of beans, grains, hay, etc; now FS mainly grows alfalfa – a water-intensive crop. For example, in 2019, the final allocation for FS was 32", not 23.8". DWCD increased the allocation by pooling all unused water, like Kinder Morgan's land, that we know can't be used. It all goes into the waterbank. In addition, we identify FS users that won't use their full allocation and take some of that water and put it into the waterbank. The waterbank pool is then added to FS allocation and redistributed to all users, increasing everyone's allocation. Allocations increase slowly, 25", 28" 32" as the waterbank pool grows.

If leasing criteria were changed, say to allow late-season leasing, the waterbank won't be as effective or accurately managed. If we allow water to move between users in the late season, projections for the waterbank will be reduced or incorrect. It comes down to two options, the end-users responsible for finding unused water and working out deals on an individual bases or DWCD utilizing the waterbank to redistribute. Don stated that those are the concepts that we have to explore. Jeremy asked if the greater pools cause the problems or if it is the late-season adjustments to leasing? Ken stated it's the caveat of why we don't allow leasing after a box is used. If an irrigator says they are done on September 1<sup>st</sup> and can sell the rest of their allocation, Staff has already projected the water into the waterbank pool. Jeremy said that we are in the water-selling business, so whatever gets our water out there for sale better is what we need to look at? Ken stated it had been the Boards position to keep it in the pool in the past, so if we want to change it, we can. We must comply with RRA in any situation, though. Jeremy asked why the RRA is a big deal. It's not a big deal, Ken stated it's documentation we must provide by law. It's a reclamation law limiting how much any individual can farm, around 960 acres. We must comply with the record-keeping, is all. We get audited every five years by Reclamation. Typically leases are at least a year, so paperwork is updated once. If leasing goes shorter term, it just means more paperwork potentially. Ken stated we certainly always comply with the law. We are looking for direction of where we are looking to go for the future if there are changes we'd like to try. Ken stated that we will also take it to the Farmer Advisory meeting for input.

Landan asked for clarification if someone is using less water or not at all; where is it going? How does that work? Ben stated they look at usage and project out for the entire season. For example, if a user is using a constant supply each month and our projection shows they won't touch 40AF of their allocation, we add that water to the waterbank. All water in the waterbank is redistributed to all of FS. We project all year and as the season goes on our calcs are more accurate. If you go back to full years, we have gone back up to 32" August/September timeframe several times, partly due to the waterbank. In MVIC's case, they leave shares up to the individual. We (DWCD) take excess water and redistribute it to all irrigators. We put it out over the whole pool, and those you need it can use it. We offer it to everyone, and the ones that need 32" can pull it. The goal is to maximize the use of available water.

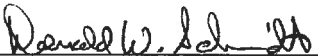
Adam asked if Kinder Morgan could lease their water? Ken stated no because of RRA.

Ben stated to let him know if you have any ideas on how to revise our current procedures or ways you'd like Staff to look into for maximizing water usage.

Ken asked Bob Neely if he'd like to address the Board. Bob said he wanted to speak on the conversation of "right-sizing" the project. He asked if Ben could go back to 1989 and pretend that every farm is developed like it is today. Everyone is using water; how many years would have been shortage years if everyone had been fully online since the beginning? He suspects at least nine years in that timeframe. Bob believes that the project was over-allocated. He wants to get back to right-sizing the allocation, so we can keep the farms that have water going. His understanding is that money is available to buy back allocation in the West. The money will be short-lived, so we need to hurry. We can't wait five years, because if we keep having short years, nobody will be around farming. The Board needs to look at allocation buy-back because we can't continue going on like

this. The whole thing needs to bring back the water history if every farm was developed like it was today from the beginning. If every farmer was developed the way it is today at the beginning, there would have been a lot more shortage year, like 2002. Since people came on slowly, the records don't accurately reflect the shortage it would have been. Godwin asked if the allocation is bought back; what happens to that water? Bob said we aren't selling water; the land stays with the land owner. The federal government will buy back the allocation, not the land. Bob said that the Bureau made the statement early on that Irrigators would never get less than half their water. He believes there is at least nine years that wasn't the case. Bob said that the District can't continue if the farmers go out. It would be up to management to figure out what allocations to sell back. It could be voluntary, but the District can't run all the plants at half capacity. That wouldn't be cost-effective. Jeremy asked where Bob had seen the money source for allocation buy-back? Bob said that Ken could tell you about it. Ken stated that there is a lot of Federal money out there, but there are not many rules developed yet. We will talk about scheduling and where you direct Staff to go. Ken stated that he doesn't have a specific program that he knows of. There is a lot of federal money trying to fix things in the Colorado Basin, and it is not something that we are applying for soon, though. Bob said if he can help with some ideas, he is glad too. Don stated that he hears his concerns and has heard them other times he's come. He appreciates where he is coming from. There is not an easy solution and asked Bob if he would be willing to talk offline. Don stated that the Board is not stonewalling you; it's a big question and hard to get started.

**ADJOURNMENT**      Dolores Water Conservancy District Water Activity Enterprise Board meeting  
adjourned at 8:54 pm.

  
Donald W. Schwindt, Secretary-Treasurer

  
Godwin Oliver, President

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## **DOLORES WATER CONSERVANCY DISTRICT**

### **MINUTES**

Regular Meeting  
October 13, 2022

**CALL TO ORDER** Godwin Oliver, President, called the meeting to order at 8:54 pm.

#### **ROLL CALL**

Godwin Oliver, President  
Simon Martinez, Vice-President  
Don Schwindt, Secretary-Treasurer  
Glen Fish, Director  
Landan Wilson, Director  
Jeremy Redshaw, Director  
Ken Curtis, General Manager  
Ben Hardlerode, Chief of Engineering & Construction  
Rob Walker, Maintenance Supervisor-Via Teleconference  
Eric Sprague, Engineering Technician-Via Teleconference  
Gina Espeland, Admin Assistant Accounting  
Adam Reeves, Attorney  
Robert Stump, Bureau of Reclamation

#### **INTRODUCTION OF GUESTS**

##### **In-Person**

Brandon Johnson, General Manager; Chris Estrada, Esmeralda Estrada, Full Service

##### **Via Telephone/Teleconference**

Tony Tanner, Full Service Irrigator

#### **MINUTES**

#### **APPROVAL OF THE MINUTES**

**MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE SEPTEMBER 8, 2022, REGULAR MEETING.**

**MOTION: SIMON MARTINEZ**  
**SECOND: JEREMY REDSHAW**  
**MOTION CARRIED UNANIMOUSLY, GODWIN ABSTAINED.**

**MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE SEPTEMBER 8, 2022, EXECUTIVE SESSION MEETING.**

**MOTION: JEREMY REDSHAW**  
**SECOND: SIMON MARTINEZ**  
**MOTION CARRIED UNANIMOUSLY, GODWIN ABSTAINED.**

Godwin asked Don before we approve the minutes for the Special Board to Board Meeting if he was comfortable using the minutes that he had provided and Don agreed.

**MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE SEPTEMBER 20, 2022, SPECIAL BOARD TO BOARD MEETING.**

**MOTION: JEREMY REDSHAW  
SECOND: LANDAN WILSON  
MOTION CARRIED UNANIMOUSLY, SIMON ABSTAINED.**

#### **FINANCIAL STATEMENTS**

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

**ADMIN: AP/CHECK #12230-12244**

**\$19,920.55**

**MOTION: SIMON MARTINEZ  
SECOND: LANDAN WILSON  
MOTION CARRIED UNANIMOUSLY**

#### **AGENCY REPORTS**

**BOR Report** – Robert Stump talked about the Transferred Facility Review (TFR) that Gary wrote up a nice summary. He reported that we don't have the official review yet, however Gary's representation is accurate and they were impressed with how the plants were kept up. It was education to them about the Dolores Project and they commented on the SCADA system and how complicated it is to stay on top of Towaoc Power Plant and the flow through the plant. They were very happy, had very minor, abated safety requirements because some of the FIST manuals were just revised. Kudos to the District. Robert talked about the water screens that will be shipped as soon as scheduled. There are submittals that will be reviewed and he will want to do a shop visit once they get them broken down in accordance with the specs. Evoqua seems like a good company to work with. Robert reports that on the UMUT drought response effort there is a slow period when the Fiscal year shuts down but are continuing to work on the grant. He thinks 4 weeks before they see it awarded and affects T/H budget. Jeremy asked if there is any reason for it to not be awarded. Robert stated that there is not any reason that he sees.

**Division of Water Resources Report** – Not in attendance

**T/H Committee Report** – Godwin stated that the Committee met September 21, 2022 1) The Committee paid DWCD and MVIC. 2) The Committee passed their 2023 Budget. Don had a question on what was on a worklist item, property access. Robert stated that there is a drainage under the T/H canal and downstream in the drainage and it is just downstream from McElmo crossing. It leaves the canal ROW and passes through 2 other parcels and beyond. One of the parcels had some dikes constructed and filled up with sediment and it plugs the culvert under the canal. Have been talking with the 2 parcel owners on cleaning it out. We ran the canals and the trench to restore the drainage path before. During the discussions the one landowner said that it would impact the use of his land and wanted to know what the BOR or committee were proposing to him as a benefit and what we were willing to offer for the impact to his land. He talked to the solicitor to evaluate our rights and there are certain easement type rights that could require the landowner to do the work himself, but doesn't have any confirmation from the solicitor yet. Don asked if Reclamation didn't get an easement for the natural drainage would it still be BOR that would go in and solve the problem that is potentially damaging the T/H Canal? Robert agreed, mostly controlled by Colorado law, but is impacting federal facilities. Don said he would appreciate a better education as it unfolds as it probably impacts other areas of the THC.

**Next T/H Meeting** – The Committee will meet at the DWCD, Cortez Office October 19, 2022 at 2:00 p.m.

**MVIC Report** – Brandon passed around several pictures of the work at Groundhog. They showed the wall structure with rebar and old structure with the rebar connection. Others showed the thimbles in place, looking down a wall a week later getting ready to pour. The pump truck pouring 2' thick by 26' tall walls. Next looking in the guard gates and grade beam structure coming from the pump house to the gates themselves. The top of the structure looking down shows the problem that the wing wall not connected to the original structure and the gap. Today it has been fixed and the project is going good, on schedule, though have had a lot of rain that caused some delays. Also working on end of season water shut off that will finish up tomorrow, then will switch to stock run on Monday night.



Jeremy asked about the 14,000 AF not used and if there is a reason they didn't use it. Brandon said that it started raining and they stopped diverting. You can see the drop off on the inflow/outflow.

## **GENERAL MANAGERS REPORT**

Ken mentioned that the Water Information Program and Four Corners Water Center is presenting a seminar "Water law in a Nutshell" it is Wednesday, October 26, 2022 8:00 AM – 4:30 PM at Fort Lewis College. If you are interested in attending, please confirm with Gina.

**Set Upstream Users Inclusion Hearing 8:00 PM November 10, 2022:** Ken stated that we are required to have a public hearing with legal notice to bring new upstream users into District boundaries, by individual parcels for county assessments. DWCD has traditionally held this hearing at the regular November Board meeting.

**MOTION: TO SET THE UPSTREAM USER INCLUSION HEARING FOR NOVEMBER 10, 2022 AT 8:00 P.M.**

**MOTION: JEREMY REDSHAW**

**SECOND: LANDAN WILSON**

**MOTION CARRIED UNANIMOUSLY**

**Set Budget Hearing 8:15 PM November 10, 2022:** Ken stated that the Board needs to set a public hearing with legal notice for 2023 DWCD budget that must happen prior to December adoption. This is traditionally held at the regular November Board meeting.

**MOTION: TO SET THE 2023 BUDGET HEARING FOR NOVEMBER 10, 2022 AT 8:15 P.M.**

**MOTION: JEREMY REDSHAW**

**SECOND: SIMON MARTINEZ**

**MOTION CARRIED UNANIMOUSLY**

**Budget Presentation:** Ken stated that the 2023 draft budget was distributed to the Board with the expectation to be discussed at the workshop and hearing. There are a couple of handouts on the history of past costs for operating supplies and other costs. This makes up the bulk of the O&M 200 budget.

The other sheet asked for was about payment history. Ken provided spreadsheet of monthly payments going back to 2015 for Full Service regular payments that we get. We have reviewed in the past and may help estimate the winter carryover. There are 2 budget action items.

### **Budget Request for SWBRT Grant (ASO) & 8% Increase for Cloud Seeding:**

We have an opportunity to get two ASO flights from a grant that he turned in today with \$13,000 DWCD funds for match. In the past we have been riding on the coat tails of others for these flights. We have a allocation timeline that shows when we used last year's flights. Longer term it will also teach us about the basin snowpack characteristics if a program gets stood up that we can pay into. We need Board approval because it is not in this year's budget and next year's will not be approved until December.

Normally, all new expenditures are discussed during the budget process and approved as part of the complete budget in December. These two winter programs budgets are needed to meet the grant cycle and contracting for the start of cloud seeding operations in November.

Longer term CWCB is trying to grow the program and would probably require local matches to continue. A more precise future outlook is not yet available, but while we continue to use and evaluate, we will support CWCB stand up a larger program, probably with federal support.

The other request is to increase our weather modification funding by 8% from \$17,500 to \$18,900. Telluride has already agreed and new dollars will be matched by SWCD go to additional seeding hours. Additionally, our 5% administration fee works out to about \$6,000 per year offsetting the increase. I will send contracts out in the next few weeks and need to commit soon for the upcoming season that starts in November.

Jeremy asked if the ASO cost would go up to \$200K in the future and Ken said we could not afford that. He doesn't know what local match will be required in a permanent program. In the future, an agency like NOAA would hopefully pick up and may get to state legislation in 2024 through CWCB. There is some number we can probably afford long term. Jeremy asked if there are any other programs that replace it without spending. ASO supplements current forecast methods. Ken stated that we will continue with CRBFC – Colorado River Basin Forecast Center forecasts and possibly other forecasts. We will bring their SNOTEL based forecasts to the Board in the spring.

Don stated that in the memo it states \$12,500. Ken stated that he worked the numbers and figured out it is actually \$13,000 for the grant.

**MOTION: TO APPROVE BUDGET REQUEST FOR SWBRT GRANT (ASO) FOR \$13,000 & 8% (\$1,500) INCREASE FOR CLOUD SEEDING**

**MOTION: DON SCHWINDT**

**SECOND: SIMON MARTINEZ**

**MOTION CARRIED UNANIMOUSLY**

**DWCD Board Workshops/Set Budget Workshop:** Given the Board moved their regular workshops for in depth topics to the third Wednesday of each month, October 19, I would suggest that the first one be the budget workshop. Start time would be 5:30 PM and DWCD would have dinner provided. Board can alter date and/or time at their discretion. The Board agreed to meet Wednesday, October 19, 2022 at 5:30 P.M.

Future workshops dates are Wednesday November 17 and December 15. Ken stated that he will schedule them and bring them up at every meeting.

**Set FSA Farmer Advisory Committee Meeting Date:** It was still a tough year getting some feedback from farmers would be good. We've had good turnouts given the tough conditions and continuing the relationship is helpful. The Pleasant View Fire Station has been working well. Potential dates I see are Monday 10/17, Tuesday 10/18, Wednesday 10/19 if no budget workshop, Thursday 10/20, Monday 10/24 and Tuesday 10/25. We could push to the week of November 7 or November 14<sup>th</sup>. Godwin said that we talked earlier about the discussion for thoughts on overage.

The Board agreed to set the FSA Farmer Advisory Committee Meeting on October 24, 2022 at 5:30 P.M. at Pleasant View Fire – Text and Postcard notifications will be sent out.

#### **Investment shift from ColoTrust to CD's and/or Treasuries:**

Ken stated that he handed out some new information on interest rates. The handouts and mailout info are what Don & Ken have been reviewing to propose changing some investment allocations from ColoTrust into CD's, treasuries or government secured enterprises (GSE) with PEAKs Investment.

We had gone to a more conservative fund at COLOTRUST, Prime, some months back and now we're looking for more yield. Don said that we have FDIC insurance on CD's or suggested looking at treasuries. We have not looked at treasuries before due to low yields. We can do CD's, treasuries, government enterprise bonds and COLOTRUST. Ken stated that he included an information Email from PEAKs regarding Government Sponsored Enterprises (GSE's). Our original discussion was about moving from ColoTrust Prime to Plus, for additional yield. That would bring more commercial exposure as opposed to federal protection. Our CD's have always had FDIC insurance and that was our first inclination, but that market has been less active recently. Given the rising rate environment, treasuries now look very competitive. The Board has previously directed Don & I to make the ongoing investment decisions as CD's mature, but we have not brought additional money out of ColoTrust. Going forward the question for the Board is can we move additional funds from ColoTrust into longer term fixed investments? The tables in the mailout show the proposed amounts. We have made the two initial purchases, but can backtrack with some near-term maturing CD's. On the 30<sup>th</sup> we talked to PEAKs and decided to jump 2 of them ahead of this meeting. If the Board doesn't agree we can replace with near term maturing CD's. If you want to invest in CDs and hold to their term we would line up a Water Supply Management reserve maturing every year. Beyond the two that we purchased early we are recommending additional investments up to \$1,276,000 from ColoTrust.

Ken reviewed 2 sheets on ColoTrust Prime, more conservative, and Plus which is less conservative. COLOTRUST is like a money market, readily available and will always lag the market. We locked the last two really good ones in for 5 years. The ColoTrust yields have come back. Today's rate environment is moving fast. PEAKS have sent out 2 new rate sheets in 2 days. Today they expect .75% fed rate increase on November 2 and inflation of 8.2%. We have not been in treasuries since we started in 2015 and would ask the Board to make the switch from COLOTRUST to PEAKS and making sure having the water supply coming due every year. We would still be keeping \$2.2 M at COLOTRUST.

Don shared that in 2008 downturn the federal government bonds became risky and he was looking for FDIC insurance on CD's. Treasuries were not available before. Beyond that Don wanted to feel comfortable with PEAKS information and wanted Board approval on additional investments.

The explanation that we got on COLOTRUST is the 60-day lag time that it takes time to turn around rates. We should be looking at a conservative, high, expenditure to keep in COLOTRUST and keep it high at a rate that is still comparable. He thinks that we will get better yield on the larger market investments over time.

**MOTION: TO DIRECT DON AND KEN TO MAKE ONGOING INVESTMENT DECISIONS AND MOVING THE MAJOR SHIFT FROM COLOTRUST TO OTHER FIXED INVESTMENTS WITH PEAKS AS PRESENTED TO THE BOARD.**

**MOTION: LANDAN WILSON  
SECOND: JEREMY REDSHAW  
MOTION CARRIED UNANIMOUSLY**

**Colorado River Basin Issues – DCP / DROA / Drought Resiliency:** Ken stated that he mailed out multiple articles that have continued to come out, but little real news. The article by Schmidt, Fleck and Kuhn urging federal unilateral action that should keep the heat on the conversation & negotiations. The newest information is the announcement for drought mitigation funding from Inflation Reduction Act to increase water conservation and efficiency within the Colorado River Basin. The Department is working to invest in long term system efficiency improvements across the Basin including at least \$500 million in the Upper Basin states.

There is also a letter by Northern, though not sure why released now. It does kind of set a tone for Northern who has otherwise been publicly pretty quiet through the current crisis.

Real news finally dropped on Thursday October 6 when CA offered potential cuts of 400,000 AF requiring help with the Salton Sea and did not include a cost. Three articles are copied onto a single handout that cover reaction from around the basin. My initial first take is that several have called it a good first step. More recently Reclamation released prices that will be paid in the LB for leaving unused water in Mead, from \$330/AF for one year to \$400/AF for 3 years, a little more for multiyear contributions. So, the process continues and more to come.

Don stated that people are staking their public position. The big players in CO Water, Southwestern and Colorado River Conservation Districts, Northern and Southeastern WCD's like us with big Reclamation transmountain diversions, all them have more money than us. The Northern position is a unique animal that impacts the Colorado River, originally for supplemental ag water has changed to municipal. We need to be thoughtful how we set our position and be aware of how things unfold. Because of that we need to talk a little more later.

**Reconciliation Process Review:** Hydrographs going back to 2012 that fill in a few gaps from the prior set were in the Board packet. With completion of the draft budget a final set of charges will be prepared and sent out to project users. Records change and will be more difficult from 2009 back. It will be in competition with other projects this winter. Wanted the Board to have these for the record.

Landan asked if we were going to send these with the billing to MVIC. Ken stated that we have to put the whole package together that will go to MVIC. Only thing the Board has to decide is about interest on the dredging and Ken's recommendation would be to link it to COLOTRUST as very trackable.

Jeremy confirmed that Ken's recommendation was to base an interest rate on COLOTRUST since it is easy to track and middle of the road. Jeremy asked if we are ready to make a decision on the interest? It has been discussed, but a motion has never been made and won't be used until next years.

Adam thought it would be an accurate reflection of the lost opportunity on the assets to do the dredging. Jeremy said he is okay with it. Don stated that he has told you where he stands. Don stated that he thinks that it needs some interest and will support what the rest of the Board wants.

**MOTION: TO USE COLOTRUST PRIME RATE ON THE AMORITIZATION OF THE DREDGEING.**

**MOTION: JEREMY REDSHAW**

**SECOND: DON SCHWINDT**

**MOTION CARRIED UNANIMOUSLY.**

#### **LEGAL REPORT**

Adam stated that he nothing for open session, but a number of items for Executive Session. He would recommend an Executive Session to discuss the Water Rights Filings, the Upstream Filings, the 87.3 Case, Colorado River Issues, Matters Related to MVIC charges and Water Supply and Land Use.

Adam stated that he spoke with John Justus and they are supportive of Bill McDonald as a mediator and of mediation. John has spoken with the potential mediator who is checking out any potential conflicts with prior work with the Bureau of Reclamation.

Brandon added that MVIC decided not to meet for a Board to Board until a mediator has been established.

**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 WATER RIGHTS FILING, THE UPSTREAM FILINGS, THE 87.3 CASE, COLORADO RIVER ISSUES, MATTERS RELATED TO MVIC BILL AND WATER SUPPLY AND LAND USE.**

**MOTION: LANDAN WILSON**

**SECOND: SIMON MARTINEZ**

**MOTION CARRIED UNANIMOUSLY.**

**RECESSED FOR EXECUTIVE SESSION AT 10:24 PM  
RECONVENED REGULAR MEETING AT 11:21 PM**

#### **REPORT OUT OF EXECUTIVE SESSION**

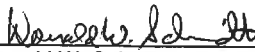
Adam reported that in Executive Session the Board discussed pending water rights, applications, water supply protection & land use, reconciliation matters with MVIC charges and Colorado River issues and no decisions were made.


#### **OTHER**

Jeremy added one option for the Full Service fine discussion; that you owe the fine, but you also have to pay the water back. Adam wondered how that might work when we have excess water to lease. The fine did work to deter the overuse, unfortunately these folks lost track.

**NEXT DWCD BOARD MEETING – Thursday, November 10, 2022 - 7:00 P.M.**

**ADJOURNMENT** Meeting adjourned at 11:23 P.M.

  
Donald W. Schwindt, Secretary-Treasurer

  
Godwin Oliver, President