

**April 23, 2008**  
**Minutes-Board Meeting**

The regular monthly meeting of the Lower Arkansas Valley Water Conservancy District Board of Directors was held on Wednesday, April 23, 2008 at 10:02 AM, at 801 Swink Avenue, Rocky Ford, CO 81067.

Chairman Singletary announced a quorum was present with all Directors' being present.

**DIRECTORS PRESENT:**

John Singletary-Chairman  
Pete Moore-Vice Chairman  
Melissa Esquibel -Secretary  
Wayne Whittaker - Treasurer  
Loretta Kennedy  
Lynden Gill  
Leroy Mauch

**DISTRICT STAFF PRESENT:**

Jay Winner –Executive Director  
Bill Hancock – Conservation Program Manager  
Carla Aragon-Quezada-Administrative Assistant  
Peter Nichols-Attorney  
Bart Mendenhall- Attorney

**DISTRICT STAFF EXCUSED:**

Kim Chavez-Financial Officer

**MOTION TO ENTER INTO WATER ACTIVITY ENTERPRISE:**

Director Mauch moved that the Board convene into the Water Activity Enterprise, seconded by Director Moore. Motion unanimously carried.

At the conclusion of the Water Activity Enterprise meeting Director Esquibel moved to reconvene the District Meeting at 10:07 A.M., seconded by Director Whittaker. Motion unanimously carried.

**INTRODUCTION OF VISITORS:**

Chairman Singletary welcomed each of the visitors to the meeting, asked them to introduce themselves and identify the organization which they represent.

**VISITORS PRESENT:**

Alan Ward, Pueblo Board of Water Works; Ken Weber, CSU-Pueblo; Virgil Cochran, SE Land and Environment; Chris Woodka, Pueblo Chieftain; Rick Kienitz, Aurora Water; Jim Valliant, CSU; Kelly Roesch, Pure Cycle; Roy Vaughan, USBR.

## **APPROVAL OF MINUTES:**

- ❖ *March 19, 2008 Monthly Board Meeting Minutes*- Chairman Singletary asked if the Board members had reviewed the minutes for the March 19, 2008 Board meeting and whether there were any corrections or additions. Director Kennedy moved to approve the minutes for March 19, 2008, seconded by Director Whittaker. Motion unanimously carried.

## **TREASURER'S REPORT:**

Chairman Singletary reported that the financial report for the month of March was included in the Board's Monthly Meeting Packet. Director Whittaker reported March total revenues \$502,890.13 and total expenditures \$138,082.14 with total net \$364,807.99. Director Whittaker moved to accept the March Financial Statement, seconded by Director Esquibel. Motion unanimously carried.

## **GM REPORT**

General Manager Winner stated when we had our retreat in 2007. We had (4) four major projects to work on for 2008. Which were the Super Ditch, Fountain Creek, Minnequa and Conservation Easements. I will give a quarterly update.

### **Super Ditch**

As of yesterday we had a tremendous effort come to our fruition. The first one would be the Super Ditch. Also I will let Attorney's Mendenhall and Nichols talk on this subject. A slide show presentation on the Super Ditch was showed. Meeting started at 11:30 a.m. I believe we got a lot further than we had anticipated, beginning of the meeting trying to get things going. I think everyone showed up except one person. Our favorite slide is the last one. It will be coming up shortly. This was the end and we called it our recovery.

Attorney Nichols reported we've been working with the farmers since we took them out to California in February 2007. We were working on details to get the Super Ditch Company formed since the middle of last year. We have been working on the draftings of the bylaws and articles. We've been meeting with the Super Ditch Steering Committee about every other month. We have been working with a Corporate Attorney. Yesterday, Jay set the stage and I re-entered it. Three (3) things have happen in the last 2-3 weeks. If Super Ditch is going to be a player it's time to move forward. First, Pueblo Board of Water Works withdrew or gave up trying to buy water rights from Bessemer Ditch and said they will look elsewhere. Second, City of Fountain bought a ranch, Wet Mountain Valley and they have been a past participate. PPRW (Pike Peak Regional Water) expressed leasing water through the Super Ditch. Third, The Highline canal has an agreement with Aurora in process. So after one hour of Super Ditch meeting one of the Steering Committee members said I'm ready to incorporate now. At the end of the meeting we had a written commitment with (6) six out (7) seven ditch companies signed on. We agreed that on May 7th, 2008 we would have a formal meeting to incorporate. At this meeting anyone who is shareholder is welcome to participate. They will elect incorporator of the Super Ditch; act as corporations of the Super Ditch. There are a couple of changes that need to be made on the Articles of Corporation, bylaws and we plan to file electronically from here.

Hopefully we can make it a functional entity and move ahead. Great progress and great support from the members of the Steering Committee, which had spent a lot of time and energy and they felt it was time to move forward with it.

### **Fountain of Opportunity Power Point**

#### **A Fountain of Opportunity:**

- Fountain Creek challenges
- Recent Fountain Creek successes
- Fountain Creek Corridor Master Plan
- Upcoming Opportunities

#### **A Fountain of Change:**

##### *Historic creek conditions*

- Erosive sands & soils
- Flashy rain events
- Sparse ground cover
- Erosion, sedimentation, flooding

##### *Watershed transformation*

- More people
- More water
- Acceleration of waterway instability
- Water quality impacts

#### **FC Corridor Master Plan**

- IGA – Lower Arkansas Valley Water Conservancy District & Colorado Springs Utilities
- FC Corridor Master Plan – Southern CS City limit to Arkansas River
- THK Associates – Consultant
- \$600K over 2 years (10/07-10/09)
- Builds on the FC Vision Task Force goals & strategies and the Corps Study

#### **FC Corridor Master Plan Goals**

- Reduce erosion, sedimentation, & flooding: improve water quality
- Create wetlands & riparian areas
- Sustain productive Ag lands
- Lay-out trail with recreational and educational opportunities – create demonstration projects
- Gain public & private support, create partnerships and facilitate implementation & funding

#### **Wetlands & off channel detention**

- Improve water quality (E.Coli, selenium...)
- Help regulate erosion & sedimentation
- Attenuate flooding (~100 acres wetlands could attenuate ~3500-5500 cfs over 1 hour)
- Provide wildlife habitat & viewing

- Provide educational opportunities

**Natural Creek Sinuosity:**

- Slows creek velocity
- Carries less sediment
- Results in less sedimentation

**Bank stabilization reduces**

- Creek movement out of the flood plain
- Sediment source

**Demonstration Projects:**

- Include wetland, off-channel detention, sinuosity, and/or bank stabilization elements
- Offer recreation, education, field testing, &/or wildlife viewing
- Get the public informed & involved
- Two projects drafted & federal earmark funds requested, partnerships & grants for funding being pursued

**Minnequa**

Minnequa is very challenging. Pueblo received a grant (3) three years ago and are still working on it. We need to do something by the end of June or grant from GOCO will go away.

**2. Resolution 08-05**

The Lower Arkansas Valley Water Conservancy District, whereas, the City of Pueblo Lake Minnequa Restoration Project has been underway for sometime LAVWCD agrees to provide funding in the amount of \$600,000 for said project, to be phased over a period of three (3) years. Said funding is conditioned upon the completion of the grant from the Great Outdoors Colorado, and the grant's actual funding. Motion was made by Director Mauch, seconded by Director Esquibel, to adopt Resolution 08-05, motion unanimously carried.

**Conservation Easements**

We have (14) fourteen in the works and haven't slowed down yet. Even with new rules. Bill Hancock and Attorney Mendenhall have been doing a good job.

Director Esquibel made Motion to give permission to General Manager Winner to attend and give presentation on the Super Ditch on May 28-30, 2008 in Scottsdale, Arizona to the (USCID) Urbanization of Irrigated Land and Water Transfer – Water Management Conference, seconded by Director Kennedy. Motion unanimously carried.

**1. Resolution 08-04**

The Lower Arkansas Valley Water Conservancy District, whereas the States of Colorado and Kansas continue to attempt to resolve differences arising out of the allocation of water between the two states. One (1) year for reimbursements on expenditures and time frame. Motion was made by Director Esquibel, seconded by Director Whittaker, to adopt Resolution 08-04, motion unanimously carried.

Motion made by Director Esquibel to donate \$50,000.00 to Colorado State University Pueblo Water Quality Study Funding. The board also voted to make an additional \$50,000.00 available if other entities contribute to funds, seconded by Director Whittaker, motion unanimously carried.

Motion made by Director Mauch to donate \$5,000.00 to Ordway Community, seconded by Director Esquibel, motion unanimously carried.

**PRESIDENT'S REPORT:**

Chairman Singletary reported General Manager Winner, Attorney Nichols and Singletary travel to Washington DC on April 14-16, 2008 for NWRA (National Water Resource Association) Federal Seminar. We visited with Colorado Senator's, Congressman and Congresswoman. We talked about current water issues. The Conduit was brought up several times. The Lower Arkansas Valley Water Conservancy District is behind the Conduit 100%. We also took a tour which was very interesting.

**LEGAL REPORT:**

Attorney Nichols discussed Land Following Water Leasing Program. Another meeting of the Steering Committee was held on April 22<sup>nd</sup>, at which time Committee members and shareholders for six of the seven ditches signed on as incorporators. Formal incorporation of the Super Ditch Company will be on May 7<sup>th</sup> in the District's offices, at which time additional shareholders representing the various ditches are expected to become incorporators. The incorporators will elect the initial board of the Company at the meeting, with one member representing each ditch plus (2) two at large members. Following incorporation, the Company will enter into lease negotiations with potential water users.

Counsel is working with CWCB (Colorado Water Conservation Board) to finalize the grant.

Counsel submitted an application for \$450,000 to the CWCB (Colorado Water Conservation Board), which it will consider at its May meeting.

The first phase of the study Stonewall Springs to Monument is scheduled for completion in April. The second phase of the study, Timber Lake to Upper Black Squirrel, will begin around May 1<sup>st</sup>.

Counsel and the General Manager continue to discuss outstanding issues with Aurora involving permanent water transfers and water leases and to exchange drafts of potential settlement language with Aurora in the context of the District's lawsuit with the Bureau of Reclamation. Counsel recommends that the Board approve hiring Leonard Rice Engineers to assist in the Tri State litigation. The firm formerly represented High Plains and the Independent Shareholders Group on the Fort Lyon Canal, has a good understanding of the hydrology of the Lower Arkansas River and ditch operations/issues, and has no conflicts of interest. Proposals submitted in response to the RFP were circulated to the Board under separate cover. Motion made by

Director Gill to hire Leonard Rice Engineers on Case no. 07CW74, second by Director Moore. Motion unanimously carried.

Counsel have met and discussed settlement with the United States and Aurora, as required by court rules.

Counsel filed Lower Ark's Response to the motions to dismiss and a First Amended Complaint on March 24, 2008. Counsel provided copies of the Response to the Board under separate cover.

The United States' and Aurora's replies are due April 25, 2008.

Judge Nottingham has assigned the case to a magistrate for procedural reasons. Counsel filed a joint proposed Case Management Order with the United States and Aurora on April 16 2008, as required by court rules. A hearing on the proposed Order will be held on April 23, 2008 in Denver. The proposed Order contemplates a decision by the court on the administrative record, no depositions, discovery, interrogatories or trial, but the possibility of oral argument. We will attempt to reserve the ability to challenge what is in the record, i.e., things we think might be missing, and to supplement the record, however. Arkansas Native objected to portions of the order that it felt related to its unique legal theories.

Depositive motions in the case are due October 2, 2008

Counsel worked with Legal Committee Chair Esquibel to draft a conflict of interest policy.

Attorney Mendenhall reported Counsel arranged for and attended a joint meeting with State Engineer Dick Wolfe, Division Engineer Steve Witte, Kansas vs Colorado attorney Dennis Montgomery, and John Knapp of the USDA NRCS. The meeting was very productive and both sides felt that they had come to a better understanding of the other, and thought they had found areas of cooperation.

Counsel also arranged for and attended a meeting with the same Colorado representatives and Mark McDonnell, Bent County Attorney and two of the Bent County Commissioners. Again, it appeared the both sides had a clearer understanding of the other. Attorney McDonnell also represents many Ft. Lyon Canal shareholders, who are among those to be most heavily affected by the proposed efficiency rules.

Motion made by Director Gill to have a letter of intent to transfer agreement with PPRW Authority and the Super Ditch, second by Director Moore. Motion unanimously carried.

**COMMITTEE REPORTS:**

**Personnel:** Nothing at this time.

**Liaison:** Nothing at this time.

Legal: Motion to adopt state which policies made by Director Esquibel, second by Director Moore. Motion unanimously carried.

**DIRECTOR'S COMMUNITY REPORT:**

Director Esquibel reported not much in Pueblo. Went through Ordway, our condolences go out to these people. On May 7<sup>th</sup>, 2008 Incorporate entity. Fountain Creek update very nice, Thanks.

Director Whittaker reported farmers planting, people working together to help out the town of Ordway. What's going to happen again? We need to do something before it happens again in (5) five years.

Director Moore reported we had a fire and it could have been worse. So much wind, ditches are full of sand and dirt.

Director Gill reported revegetation possible, need to manage properly. I'm amazed with Super Ditch.

Director Mauch reported Prowers dry, use a lot of precaution.

Director Kennedy reported agree with all comments, talked about important issues.

Chairman Singletary reported busy planting and running water. Pueblo received a little rain.

**PUBLIC COMMENT:**

Chairman Singletary asked if there were any comments.

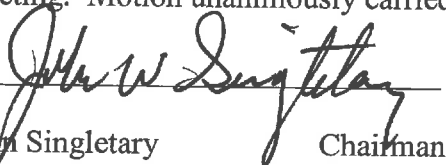
Jill Valliant of CSU announced there will be an Arkansas River Water Plan meeting in Las Animas at Bent's Fort Inn on April 23, 2008 at 4:30 p.m.

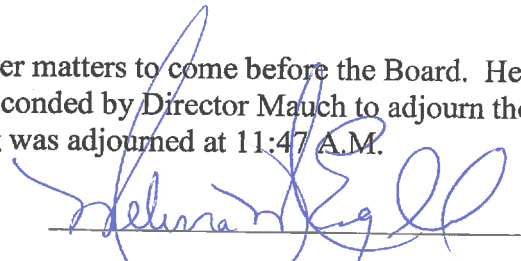
He also announced the Arkansas River Basin Water Forum in Westcliffe, Co on May 30 and April 1, 2008.

Roy Vaughn of Bureau of Reclamation (BOR) gave up-date on snow pack.

**ADJOURNED:**

Chairman Singletary asked if there were any other matters to come before the Board. Hearing none, motion was made by Director Esquibel, seconded by Director Mauch to adjourn the meeting. Motion unanimously carried. Meeting was adjourned at 11:47 A.M.

  
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John Singletary                      Chairman

  
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Melissa Esquibel                      Secretary