

December 10, 2008
Minutes-Board Meeting

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

Chairman Singletary announced a quorum was present with all Directors' 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
Kim Chavez-Financial Officer
Peter Nichols-Attorney
Bart Mendenhall-Attorney

DISTRICT STAFF EXCUSED:

Carla Aragon-Quezada-Administrative Assistant

MOTION TO ENTER INTO WATER ACTIVITY ENTERPRISE:

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

At the conclusion of the Water Activity Enterprise meeting Director Gill moved to reconvene the District Meeting at 10:10 A.M., seconded by Director Mauch. 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:

Ryan Hemphill, Farmer, Hasty, Co; Matthew Proctor, CWPDA; Don McBee, Farmer, Fort Lyon; Scott Reed, Prowers; Fred Heckman, Farmer, McClave; Burt Heckman, Super Ditch Director & Farmer, McClave; Dale Mauch, Super Ditch Director & Farmer, Lamar; Rick Kientz, Aurora Water; Alan Ward, Pueblo Board of Water Works; Dwight Gardner, Senator Salazar's office; Jim Valliant, CSU-CAES; Kelly Roesch, Pure Cycle; Ken Watts, USGS; David Mu, USGS.

APPROVAL OF MINUTES:

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

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

TREASURER'S REPORT:

Chairman Singletary reported that the financial report for the month of November was included in the Board's Monthly Meeting Packet. Director Whittaker reported November total revenues \$57,928.30 and total expenditures \$97,518.67 with total net <\$39,590.37>. Director Whittaker moved to accept the October Financial Statement, seconded by Director Moore. Motion unanimously carried.

General Manager Winner introduced Financial Officer Kim Chavez, Lower Arkansas Valley Water Conservancy District (LAVWCD) to give a presentation on the General Budget.

2009 FINAL BUDGET PRESENTATION:

Financial Coordinator/Budget Officer Kim Chavez gave a short review of the 2009 Final Budget. She reported that the assessed valuation of the five counties is \$1,272,056,549.00 with revenues of \$2,168,901.00; expenditures of \$2,704,400.00; fund balance of \$608,000.00. The mill levy for the year 2009 has not changed from the previous year of 1.5.

2008 FINAL BUDGET RESOLUTION:

Director Esquibel moved to adopt the Resolution and Order 08-15 passed and adopted in a regular meeting of the Board of Directors of the Lower Arkansas Valley Water Conservancy District to accept the 2009 Final Budget, seconded by Director Gill. Motion unanimously carried.

GM REPORT:

General Manager Winner presented Director Loretta Kennedy a plaque of appreciation of all the hard work and dedication to the Lower Arkansas Valley Water Conservancy District. Director Kennedy will be stepping down as of December 2008. The District and Staff would like to say thank you for everything you've done. You will be greatly missed.

Director Kennedy said it was an honor and pleasure to work with this board, although I will be sitting on the other side of the table. You will have my complete support on agriculture and rural

economy. This board has done amazing job certainly has been my privilege and thanks to Leroy's leadership when we first started and John picked up the ball and moved forward and General Manager Jay Winner who has done an amazing job throughout the state with his leadership. This has been a privilege working with all of you.

PRESENTATIONS: General Manager Winner introduced Dale Mauch, Farmer of Lamar, Colorado. He came to the Board of Directors asking for support on the Irrigation Efficiency Rules.

Mauch stated I would just echo a lot of things Director Kennedy just said. On the Super Ditch, your board is so valuable to our area in such a short time. A lot of times you don't get credit for the things you do. One of the biggest things is the Super Ditch it has a long way to go and we would have never got to this point without all of you. First of all I would like to say thank you for the support and making the Super Ditch get to where it is today. We are here to ask for something else. Some of these farmers here today are on the Irrigation Efficiency Rules committee. It's not the efficiency rules that we tend to disagreed. We are here to ask the board to support us with your engineering and your legal firm to help us as long as we go with this process. We are here to ask, formally to use your legal counsel and your engineering as we sort out where we're headed on this, the end result we still don't know.

Director Esquibel, I would move that we at this time as a board whole heartily support our farmers. The farmers with their negotiation with the State regarding Efficiency Rules and Regulation and that we would further follow this up by passage of resolution that would state we are committing our facilities, finances and resources to help, seconded by Director Gill. Motion unanimously carried.

Amendment: Resolution as a Board we support the farmers. Director Whittaker made motion to accept resolution to help support farmers, seconded by Director Kennedy. Motion unanimously carried.

Attorney Nichols will send out a (RFP) Request for Proposals for Engineer.

General Manager Winner introduced Ken Watts, United States Geological Survey (USGS). He gave a power point on CBM Production & Water Resources in the Raton Basin, Southeastern Colorado.

What is CBM?

- Coal Bed Methane
 - Natural gas (mainly methane) in coal beds
 - Gas is compressed & trapped in coal by water pressure
 - Produced by reducing water pressure in the coal by several hundred psi (1 psi=2.3a ft of water)

- CBM in Colorado

- San Juan Basin
- Raton Basin
- Piceance Basin

57 Percent of proved CBM reserves in the USA are in Colorado

Potential Concerns with CBM Production on Water Supply Wells & Water Quality

- CBM Drilling & Development (Hydraulic Fracturing = Fracing)
- Methane – Explosion hazard
- Water-Supply Wells
 - Water-level declines & Well interference
 - Methane & Fracing fluids
 - Water-quality degradation from disposal
- Stream depletion
- Disposal of produced water & water quality

Drilling & Methane Hazards

- July 20, 2006 – Las Animas County – Drilling operations in the North Fork Ranch area of Las Animas County appear to have impacted two domestic water wells. COGCC staff observed water being blown out and over the casing of one domestic well
- April 17, 2007 – Las Animas County – House under construction explodes.
- June 1, 2007 – Huerfano County – A domestic-well house was damaged by what is thought to have been a methane explosion

Stream Depletion

2007 – Study by S.S. Papadopoulos & Associates, Inc., sponsored by DWR, CGS, & COGCC

Findings:

- Ground water in the Raton Basin coal beds is tributary to streams.
- Estimated depletion of Cucharas & Purgatoire Rivers in 2006-2007 from CBM Production was about 2,500 acre-feet per year.

Disposal Methods Produced Water

COGCC rules allow disposal of produced water from oil & gas wells in the followings ways:

- Lined and unlined pits – 73%
- Injection wells – 25%
- Discharge to water of the state - <2%
 - Requires Discharge permit from WQCD of CDPHE
 - Permitted commercial facility
 - Road spreading
 - Reuse for enhanced recovery, recycling, and drilling
 - Alternate domestic water supply to surface owners

Resolution 08-13

The Lower Arkansas Valley Water Conservancy District has been offered Temporary Water Storage Contracts #09XX6C0016 (temporary storage for non-project irrigation water) and contract #09XX6C0017 (temporary storage of non-project municipal and or domestic water) – Fryingpan Arkansas Project, Colorado by the United States Department of Interior, Bureau of Reclamation. Motion was made By Director Whittaker, seconded by Director Moore, to adopt Resolution 08-13, motion unanimously carried.

Resolution 08-14

The Lower Arkansas Valley Water Conservancy District holds a conservation easement donated by Stealey's Wild Rose Ranch has respectively proposed a conservation easement to be donated to the District in 2008, consisting of second donation of a staged conservation easement of a working cattle ranch in Fremont County, Colorado. Motion was made by Director Esquibel, seconded by Director Moore, to adopt Resolution 08-14, motion unanimously carried.

General Manager Winner directed Board Directors to Tab (2) two of the board packets. Pat Edelmann of USGS will coming to the next board meeting on his request.

PRESIDENT'S REPORT: Chairman Singletary stated again I just want to say thank you, Loretta.

LEGAL REPORT:

Attorney Mendenhall reported on December 1, he attended the Catlin Canal Shareholders annual meeting. He gave a report on the progress of the Super Ditch and answered questions for the shareholders.

Counsel attended a Super Ditch Board meeting on November 24, 2008.

Counsel and General Manager Winner attended the High Line Canal Shareholders meeting on December 15. A number of High Line shareholders were upset with their Board of Directors over its agreement with Aurora.

Counsel working with Judge Maes' clerk to get the appropriate documentation prepared for the end of year appointments of Directors' by the Court.

Counsel and Bill Hancock continue to work to get Conservation Easements closed by the end of the year. We have two closed and have at least two to go.

Trout, Raley, Montano, Witwer & Freeman, PC**Water Leasing Program:**

- The Company negotiating team (John Schweizer, Fred Heckman and Peter Nichols) has begun negotiating with potential lessees. The team reported to the Company Board on September 22, 2008. The board held a follow up negotiating session with one potential

lessee on October 20th, and received a formal offer from another. The Super Ditch Board met on October 21st and November 24th to review its negotiating position and the negotiations. The team has scheduled a meeting with the entity that made the formal offer to discuss it on December 18th. The team is working to schedule a follow up meeting with another potential lessee right after the first of the year.

- The Controller asked the CWCB to consolidate this contract with the contract for the alternatives to agricultural transfers, discussed below. Counsel is working with CWCB staff to revise the contract and combined scope of work covering both grants. Counsel hopes to have the contract completed and signed by the state before the end of 2008.
- A draft of the second phase of the study, from the Fort Lyon Canal headgate has been completed and presented to the Super Ditch Company. Boyle is making some revisions in response to a request to correct an erroneous assumption concerning water quality. The next phase, from Timber Lake to Upper Black Squirrel, may be deferred.

Regional Water IGA: The purpose of this action is to negotiate a comprehensive settlement of water-related issues that threaten the economic future of the Lower Arkansas Valley.

- 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. Settlement discussions are occurring in the context of the District's lawsuit with the Bureau of Reclamation, discussed below. SECWCD has expressed an interest in resuming negotiations, to which Counsel responded positively. Counsel and staff held a meeting with Colorado Springs October 23, 2008 to discuss finalizing the draft IGA developed last year. Counsel for both parties is working to revise and update the draft IGA to reflect the discussions.

II. LEGAL REPRESENTATION

A. Water Court Litigation. The purpose of this action is to protect the water resources available to the Lower Arkansas Valley.

- Counsel does not recommend filing any statements of opposition this month.
- Counsel are participating in other water rights' applications at the water court level that could affect the amount of water available for use in the Lower Arkansas Valley, including:
 - Application of St. Charles Mesa Water District for Changes of Water Rights, Case No. 04CW08. Counsel settled the case in early December with terms and conditions on the revegetation of dried up irrigation land sought by the District, following approval of the Board.

Other Matters:

D. Drought Grant. The purpose of this action is to prevent the curtailment of pumping to meet Colorado's water delivery obligations to Kansas under the Arkansas River Compact.

- Counsel is drafting a Drought Grant to obtain reimbursement for the LAVWCD's lease of water for delivery to Kansas to meet Compact obligations, as requested by the Division Engineer. Counsel prepared and filed the application in early December.

E. Arkansas River Efficiency Rules. The purpose of this action is to support irrigators' actions and options to increase the efficient use of water without undue burden or a reduction in their water rights.

- Counsel is working with the General Manager to further refine the rules, and to develop a program to implement the rules with minimal impact on any irrigators and irrigation improvements. The LAVWCD may be asked to administer a program to replace out of priority depletions to the River on behalf of the irrigators.

COMMITTEE REPORTS:

Director Kennedy-Personnel: None.

Director Kennedy-Liaison: None.

Director Esquibel-Legal: None.

DIRECTOR'S COMMUNITY REPORT:

Director Esquibel reported not too much going on in Pueblo. Fremont got a little more snow than Chaffee County, a lot of snow up that way.

Director Whittaker stated it's been a pleasure working with you Loretta. You're a sharp lady. You always came up with the solutions to the problems. We hope you'll still attend the monthly meetings.

Director Moore reported not much happening in Crowley County.

Director Mauch stated "I've known Loretta when we were both Commissioners. It was nice having a city slicker like her. We worked on a lot of agriculture items. Not too often do you find a city slicker who knows their stuff and does it well." He reported on Powars County, its cold and the crops went downhill.

Director Gill reported quiet in Bent County and also I want to thank you Loretta.

Director Kennedy reported I want to thank Ken Watts, USGS for that wonderful presentation on CBM. Pueblo is getting ready for the parade of lights.

Chairman Singletary stated I want to thank the Board and District. Have a good Holiday. This has been a good year. Thanks for the hard work and dedication.

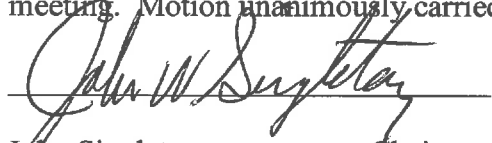
PUBLIC COMMENT:

Jim Valliant reminded Director Kennedy if she is cold that she was invited to their annual field trip in July where she could warm up.

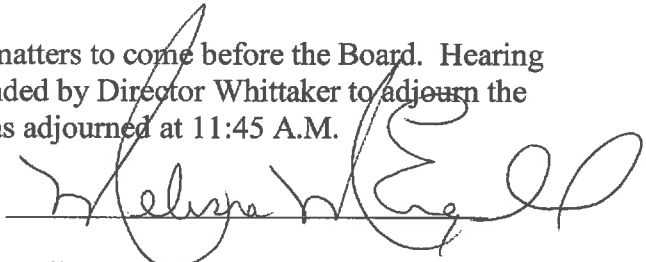
Dwight Gardner of Senator Salazar's office said that they were waiting for the new administration on January 20, 2009 to be sworn in.

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 Whittaker to adjourn the meeting. Motion unanimously carried. Meeting was adjourned at 11:45 A.M.



John Singleton Chairman



Melissa Esquibel Secretary