

**March 19, 2008**  
**Minutes-Board Meeting**

The regular monthly meeting of the Lower Arkansas Valley Water Conservancy District Board of Directors was held on Wednesday, March 19, 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  
Kim Chavez– Financial Officer  
Carla Aragon-Quezada-Administrative Assistant  
Bart Mendenhall- Attorney

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

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

At the conclusion of the Water Activity Enterprise meeting Director Whittaker moved to reconvene the District Meeting at 10:04 A.M., seconded by Director Moore. 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:**

Dwight Gardner, Senator Salazar's Office; Alan Ward, Pueblo Board of Water Works; Ken Weber, CSU-Pueblo; Del Nimmo, CSU-Pueblo; Jason Turner CSU-Pueblo; Fred Heckman, FLCC; GW Werdel, Larkspur; Pat Edelmann, USGS; Virgil Cochran, SE Land and Environment; Chris Woodka, Pueblo Chieftain; Don McBee, Lamar farmer; Rick Kienitz, Aurora Water; Brenda Fillmore, AGUA; Richard White, Grimsley & White; Jim Valliant, CSU; Perry Cabot, Extension Specialist, CSU.

### APPROVAL OF MINUTES:

- ❖ *February 20, 2008 Monthly Board Meeting Minutes*- Chairman Singletary asked if the Board members had reviewed the minutes for the February 20, 2008 Board meeting and whether there were any corrections or additions. Director Esquibel moved to approve the minutes for February 20, 2008, seconded by Director Gill. Motion unanimously carried.
- ❖ *February 20, 2008 Work Session Meeting minutes*- Chairman Singletary asked if the Board members had reviewed the minutes for the February 20, 2008 Work Session meeting and whether there were any corrections or additions. Director Kennedy moved to approve the minutes for February 20, 2008, seconded by Director Moore. Motion unanimously carried.

### TREASURER'S REPORT:

Chairman Singletary reported that the financial report for the month of February was included in the Board's Monthly Meeting Packet. Director Whittaker reported February total revenues \$112,131.92 and total expenditures \$151,469.67 with total net <\$39,337.75>. Director Whittaker moved to accept the ~~January~~ <sup>February</sup> Financial Statement, seconded by Director Esquibel. Motion unanimously carried.

Executive Director Winner introduced Richard White of Grimsley and White.

Richard White – stated that all the Board Members had a copy of the December 31, 2007 Financial Statements. He stated that after the Board Members had time to review the document, if there were any questions, to contact him. Mr. White briefly discussed each financial statement in the handout and stated that the District was in complete compliance with their budget.

Director Whittaker moved to accept and approve the December 31, 2007 Financial Statements, seconded by Director Moore. Motion carried unanimously.

### GM REPORT:

Executive Director Winner introduced Don McBee, Lamar Farmer.

### PRESENTATIONS:

Don McBee, Lamar Farmer gave an update on meetings with State Engineer Steve Witte, saying he is encouraged by the progress being made. They acknowledged that surface sprinklers are not as efficient as well sprinklers. Also found out that poor water quality in most of the valley it also reduces efficiency and that there are a lot of leaky ponds.

Farmers also can't increase acreage, at least on the Fort Lyon and Amity ditch under by-laws of the ditch companies.

McBee stated since improved seed varieties and better farming practices could improve yields over time, farmers do not want to tie the surface irrigation rules to yield.

McBee stated he had the opportunity to make the case directly to Governor Bill Ritter last weekend. State Agriculture Commissioner John Stulp drove Governor Ritter to the McBee farm during the tour of Prowers County..

McBee is optimistic that farmers will be able to make a case that sprinklers are not harming the river.

Chairman Singletary asked McBee, do you feel we (Lower Arkansas Valley Water Conservancy District) are heading in the right direction?

McBee replied, "Yes".

Executive Director Winner introduced Jason Turner, Graduate Student, CSU.

**Jason Turner**, a Graduate Student from CSU worked under Professor Del Nimmo, CSU, gave an update on Fountain Creek Metal and Metalloid Analysis.

Turner said tests last fall and this spring at (14) fourteen sites in the Fountain Creek watershed, were combinations of good site placement, long run times (10) ten day averages, and seasonal variation will allow us to answer: What is in the Creek? When are we seeing the most of it? Where is it all coming from?

The findings from the study included a hotspot in zinc for the Upper Fountain site 4 (UF-4), which is Gold Hill, a development on former mine tailings in Colorado Springs. There was selenium loading that was observed north of Pueblo, where levels increase gradually as you move down the lower Fountain.

Turner stated the bottom line is in this study we also asked the question? Are there more metals and metalloids during spring (high water) or fall (draw down)? It appears as if selenium is higher in the fall. The geographic location of all maximums and minimums remain the same from season to season.

Executive Director Winner introduced Jim Valliant, CSU

**Jim Valliant**, Irrigation Specialist for Colorado State University Extension Service.

Valliant stated, "One of the things we did see, that we expected to see, is that if you take care of fallowed land, you won't lose the nutrients in the soil."

The Lower Arkansas Valley Water Conservancy District purchased a 10-acre plot on the Rocky Ford Ditch which Colorado State University Research Center began a test last year. The study will be ongoing until 2010. Most of the water in the ditch has been purchased by Aurora, but the research center continues to operate using water from the ditch.

The Lower Arkansas Valley Water Conservancy District purchased property on the ditch to ensure there would always be a need for water in the ditch.

Lower Arkansas Valley Water Conservancy District in 2006 was concerned about the new state legislation allowing farms to be fallowed for three (3) of ten (10) years under lease programs. LAVWCD proposed a direct test of the impacts. Also the LAVWCD has come up with plan to create a land fallowing, water leasing program called the Super Ditch.

Executive Director Winner stated we're interested in looking at the speed which you can bring land back to production after it's been fallowed.

Valliant said corn was planted on one-quarter of the ground in 2007. This year, half the plot will be planted. In 2009, three-fourths (3/4) of the land will be planted, and all of the farmland will be put in corn in 2010. That will give comparison of land that has been fallowed one (1), two (2) or three (3) years.

Valliant said the study is looking at the value of the corn grown, and uses \$3.29 per bushel, which is about \$2.00 less than farmer can expect now. The yield for the first yield was 178.3 bushels per acre, and the net profit a farmer could expect would be \$121 per acre.

Executive Director Winner stated with this estimate it is very valuable to the Super Ditch, because it gives us the value of water on irrigated acreage and we have to continue to get all the answers we can for the farmers.

Valliant said it's very important that we manage the fallowed land. When you let the weeds grow and crop them close to the ground it prevents wind from carrying soil away. Deep plowing fallowed ground or when you cultivate ground too often it can disturb the soil and deplete nutrients.

Valliant stated the way we use to farm, we can't continue. We need to change the method.

Colorado State University along with the help of Lower Arkansas Valley Water Conservancy District is planning to ask for a state grant. Where they can run more experiments with fallowing up and down the Arkansas Valley to get more of an idea how rotational fallowing can affect crop yields under actual conditions.

#### **GM REPORT:**

Executive Director Winner directed board members to Tab six (6), AMPS AUDIO/VIDEO, in the board packet. We received a proposal on the audio system for the office of \$16,895.00 from Dan Markus of AMPS AUDIO/VIDEO. Motion to accept proposal was made by Director Whittaker, seconded by Director Kennedy, motion unanimously carried.

Executive Director Winner directed board members to Tab seven (7), Letter from Mark A MacDonnell, Attorney at Law from Las Animas, Colorado. Bent County offer is to purchase 11 shares of the Las Animas Consolidated Extension Canal Company Capital Stock, and the water rights represented thereby for the sum of \$4,500.00 per share, or \$49,500.00. The payment would be made by Bent County to LAVWCD in cash at closing. Executive Director Winner

stated that we could sell ten (10) shares and lease one (1) share or put it into a conservation easement. Motion to sell ten (10) shares of Las Animas Consolidated Extension Water Rights and lease one (1) share or put into conservation easement was made by Director Whittaker, seconded by Director Moore, motion unanimously carried with Director Gill abstaining.

**PRESIDENT'S REPORT:**

Executive Director Winner and I went to San Luis Valley February 21-22, 2008 to do a presentation on the Super Ditch for DARCA (Ditch and Reservoir Company Alliance). It was very productive.

Director's Kennedy, Mauch and I went to the Governor's Forum in Denver on February 28, 2008.

Ag Commissioner John Stulp and I had a nice visit. We had a discussion on the Lease Following and Irrigation Rules.

**LEGAL REPORT:**

Land Following-Water Leasing Program.

After Steering Committee meetings on January 19<sup>th</sup> and February 19<sup>th</sup>, Tony van Westrum, Esq., the corporate attorney retained to help develop the Super Ditch Company with the assistance of Counsel, revised suggested articles of incorporation and bylaws for Colorado for-profit corporation. Following review by District staff, consultants, and Counsel, the revised drafts were sent to Steering Committee members to review with their respective ditch companies. The Steering Committee members are also seeking their ditch companies' approval to be the incorporators of the company. Jay Winner, Bill Hancock and Bart Mendenhall have been meeting with various ditch companies, board members and shareholders to answer questions. Another meeting of the Steering Committee is planned for April.

Counsel redrafted an application to the Arkansas Basin Roundtable for a \$150,000 grant to support development of the following-leasing program. Counsel is working with Colorado Water Congress Board (CWCB) to finalize the grant.

Conservation Easements. The purpose of this action is to support and foster the creation of conservation easements that protect water rights in the Lower Arkansas River basin in perpetuity.

The Colorado Coalition of Land Trusts (CCLT) and other, including Jay Winner, have been working with Rep. Kathleen Curry on H.B 08-1353 to address growing public concern over conservation easements, including conservation values, public benefits, appraised values, and state costs. Counsel does not believe the legislation is strong enough to restore public confidence in the tax credit program, particularly the conservation value of easements and the responsibility of land trusts that accept easements.

Counsel will need to update the guide if Congress – as expected – enacts changes in federal tax law to extend certain benefits past December 31, 2007.

Water Court Litigation. The purpose of this action is to protect the water resources available to the Lower Arkansas Valley. Application of Tri-State Generation & Transmission to change the use of Amity Canal shares from agriculture to industrial (power plant), Case No. 74.

Counsel recommends that the Board approve sending an RFP to three or more water engineering firms to provide water engineering support for this precedent-setting case, which is rapidly moving forward. Responses will be submitted to the District for approval and direct contracting. Motion made by Director Whittaker to have three or more water engineering firms to provide quotes for water engineering support, seconded by Director Esquibel, motion unanimously carried

Executive Director Winner stated we partner with other entities.

Attorney Bart Mendenhall stated that Counsel continues to work on finishing up the details for conservation easements closed in 2007.

Conservation Program Manager Bill Hancock and I are starting to work on easements for 2008.

Work continues on refining the entity documents for the Super Ditch and discussing them with the participants.

Counsel is in the process of rewriting several of the District's water leases to facilitate financial reporting.

**COMMITTEE REPORTS:**

Personnel: Nothing at this time.

Liaison: Nothing at this time.

Legal: Nothing at this time.

**DIRECTOR'S COMMUNITY REPORT:**

Director Esquibel stated we're getting two (2) new judges.

Director Whittaker reported, winter water concluded. Ditch is now running water, in a couple of weeks farmers will start to irrigate. Farmers had a good year last year. The price of Diesel has risen.

Director Moore reported that Crowley County had two (2) openings for County Commissioners.

Director Gill reported Governor Ritter was in town on March 14, 2008. There were interesting comments on renewable energy and how it could be marketed. Private Prison will be completed by the first part of next month. They're looking at expanding the Fort Lyon Correction Facility.

Director Mauch reported Governor Ritter was in town on March 15, 2008. I had breakfast with Governor Ritter and had a nice visit with him. Also, I visited with Ag Commissioner John Stulp the following day. We haven't received any moisture.

Director Kennedy reported she had joined Chairman Singletary and Executive Director Winner for three (3) productive meetings.

Chairman Singletary reported the moles are out. Good fires from burning corn and weed fields. It will be an interesting Ag year with diesel prices.

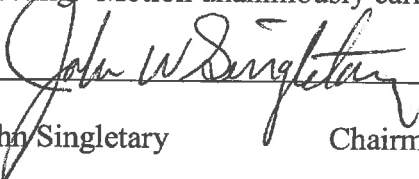
**PUBLIC COMMENT:**

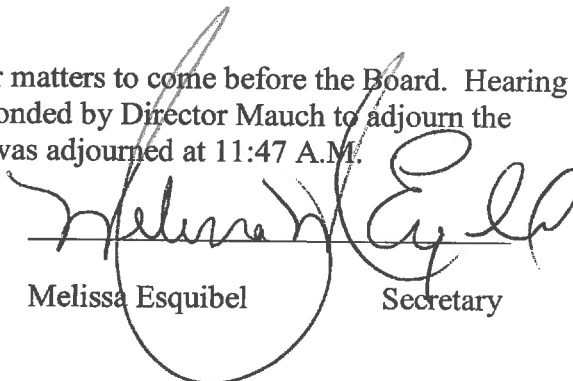
Chairman Singletary asked if there were any comments.

Del Nimmo of CSU reported City of Pueblo has received grant money and on April 7, 2008 will present it at the City Council meeting. Mr. Nimmo introduced Perry Cabot, CSU Extension Specialist.

**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