

May 28, 2008
Minutes-Board Meeting

The regular monthly meeting of the Lower Arkansas Valley Water Conservancy District Board of Directors was held on Wednesday, May 28, 2008 at 10:05 AM, at 801 Swink Avenue, Rocky Ford, CO 81067.

Chairman Singletary announced a quorum was present with Director Esquibel being excused.

DIRECTORS PRESENT:

John Singletary-Chairman
Pete Moore-Vice Chairman
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

DIRECTOR EXCUSED:

Melissa Esquibel

MOTION TO ENTER INTO WATER ACTIVITY ENTERPRISE:

Director Mauch 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 Moore moved to reconvene the District Meeting at 10:07 A.M., seconded by Director Kennedy. 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:

Scott Herrmann, CSU-Pueblo; Virgil Cochran, SE Land and Environment; Chris Woodka, Pueblo Chieftain; Matt Heimerich, Crowley County Commissioner; Kelly Roesch, Pure Cycle; Steve Witte, Division Engineer, Water Division II; Lola Shrimplin, La Junta Tribune; Tom Simpson, Aurora Water; Bill Long, Bent Co Commissioner & SECWCD; Jim Broderick, SECWCD; Kevin Karney, Otero Co Commissioner & SECWCD; Fred Heckman, Lamar Farmer; Jon Erickson, CO-RADS.

APPROVAL OF MINUTES:

- ❖ *April 23, 2008 Monthly Board Meeting Minutes-* Chairman Singletary asked if the Board members had reviewed the minutes for the April 23, 2008 Board meeting and whether there were any corrections or additions. Director Whittaker moved to approve the minutes for April 23, 2008, seconded by Director Gill. Motion unanimously carried.

- ❖ *April 23, 2008 Work Session Meeting minutes-* Chairman Singletary asked if the Board members had reviewed the minutes for the April 23, 2008 Work Session meeting and whether there were any corrections or additions. Director Kennedy moved to approve the minutes for April 23, 2008, seconded by Director Moore. Motion unanimously carried.

TREASURER'S REPORT:

Chairman Singletary reported that the financial report for the month of April was included in the Board's Monthly Meeting Packet. Director Whittaker reported April total revenues \$134,950.58 and total expenditures \$125,522.29 with total net \$9,428.29. Director Whittaker moved to accept the April Financial Statement, seconded by Director Moore. Motion unanimously carried.

GM REPORT

General Manager Winner directed Board Directors to Tab (1) one of the board packets. On May 15th, 2008 there was an IBCC (Interbasin Compact Committee) meeting in Walden, Colorado. Question were brought up; If we let Colorado's water supply continue to evolve the way it is now, what will our state look like in 50 years? Is that what we want to look like?

General Manager Winner directed Board Directors to Tab (2) two of the board packets. Fountain Creek Foundation Mission Statement: The Fountain Creek Foundation exists to encourage and promote environmental and generational stewardship of the Fountain Creek. The Foundation is a united and neutral voice with a transparent process for Fountain Creek, drawing attention to the Creek's important contributions and risks to urban and rural Southeastern Colorado. We, the Foundation, work to promote and help finance educational, recreational and economic opportunities all along the waterway. The Foundation's mission is primarily carried out through fund-raising, the Internet, public programs, media, partnerships, eco-tourism and distribution of literature and construction of facilities.

Fountain Creek Foundation members are committed to raising the energy, awareness, interest and money to make positive change for the environment, for children and for families. Board members include, David Struthers, (Denver), Michael Kuhne, (Florida), Sue Cortesi (California), Rachael Wallace, (La Junta, Colorado), Linda Everetts, (Denver, Colorado), Dr. Richard Lawrence, (Pueblo), Rayan Pocius, (Colorado Springs). The foundation is actively recruiting for board members and volunteers.

General Manager Winner directed Board Directors to Tab (3) three of the board packets. Statewide Water Supply Initiative (SWSI) Phase I Report. Communications with water providers and their representatives during the early months of 2008 indicate that water demand in 2030 is expected to exceed supplies (even after accounting for IP&P). Increased gross gap by 13,029 AF, or a total gross gap of 30,429 AF, counties with the largest increases in gross gap are El Paso County and Lake County. Causes of the increase in gross gap are increased demand and loss of groundwater supplies.

General Manager Winner directed Board Directors to Tab (4) four of the board packets. The Colorado State University Pueblo Water Quality Study funding. The City of Pueblo agreed to appropriate \$75,000 for the study and possibility of receiving a grant from US Environmental Protection Agency for \$60,000 for this project. Winner stated this is a worth while study.

General Manager Winner directed Board Directors to Tab (5) five of the board packets. Lower Arkansas Valley Super Ditch Company officers were elected: John Schweizer, Jr., President; Dale Mauch, Vice-President; Burt Heckman, Secretary; and Frank Milenski, Treasurer. On May 15, 2008 Super Ditch Company met for the first time as Board of Directors. Next meeting for directors will be on June 17, 2008.

General Manager Winner stated that the Town of Fowler received \$281,000.00 in grant money which the Lower Arkansas Valley Water Conservancy District being a major help. Also, Tim Gates received 1.6 million dollars for Geospatial Decision Support System for Integrated Water Management in Colorado's Arkansas River Basin.

PRESENTATIONS:

General Manager Winner introduced Jon Erickson of CO-RADS (Colorado Radionuclide Abatement and Disposal Strategy).

Jon Erickson – CO-RADS

Erickson gave a power point presentation on Regulatory Requirements, Health effects, Historical Perspective, Current Efforts. And a *Project Overview*: Basic Approach, Five Phase approach, Challenges, Coordination with Other Parties, Available Resources and Contractor Services.

Erickson stated the levels of radioactivity are not an immediate health hazard, but long-term exposure increases the risk for kidney disease and certain kinds of cancer. The risk builds up over time, if we felt it was a risk, we'd recommend drinking bottled water and obviously we haven't done that.

General Manager Winner introduced Steve Witte, Division Engineer, Water Division II.

Witte gave the board an update on water supply, weather changes have been a big factor, average flow in the Upper Basin. He thanked the board for their assistance of the purchase of water for Kansas. State Engineer Dick Wolfe has come up with a Advisory Committee Rules which will consist of one (1) representative from ; SECWCD, UPAK, LAVWCD, Arkansas Ditch, District 67, Arkansas Basin Roundtable, Water Protection, AGUA, ect. This group will work to evaluate

methods of looking at systems improvement on compliance, efficiency improvements, maintaining the Ark River Compact. Meeting will take place sometime in July. Motion made by Director Moore to elect General Manager Winner to be on the Advisory Committee, seconded by Director Whittaker. Motion carried unanimously.

General Manager Winner introduced Commissioner Matt Heimerich of Crowley County.

Heimerich gave the board an update on the fire that took place in Ordway, Colorado. He also thanked the board for their donation of \$5,000.00 that was delivered by Director Moore. He talked about vegetation to the land and what they need. He asked the Board if they were willing to fund part of the money needed, which is around \$25,000 to \$50,000 for spray of nap seeds. Motion made by Director Whittaker to donate \$10,000.00 to the fund for seeds and spray, seconded by Director Mauch. Motion carried unanimously.

General Manager Winner introduced Dr. Scott Herrmann of CSU-Pueblo

Dr. Herrmann gave the board an update on living organisms as environmental indicators of Water and Sediment conditions in Fountain Creek and the Lower Arkansas River. Anticipated Research effort for summer and fall 2008: Synoptic collection June 2008; Fish sampling for organics and metals, Sept. 2008; Chronic toxicity studies, Hwy 50 Bridge; Chironomid collection, July 2008; Sediment sampling, organics and metals.

PRESIDENT'S REPORT:

Chairman Singletary reported he toured the Ethanol Plant in Yuma County, found it to be very interesting. Chairman Singletary praised Southeast Colorado Water Conservancy District (SECWCD)'s involvement with the Conduit.

Motion made by Director Gill on Resolution 2008-09 LAVWCD support for the Arkansas Valley Conduit and the funding plan, seconded by Director Moore. Motion unanimously carried.

Motion made by Director Moore to have LAVWCD write a thank you letter to SECWCD for all the hard work they have accomplished on the Conduit, seconded by Director Mauch. Motion unanimously carried.

LEGAL REPORT:

Attorney Mendenhall gave an update on the legal report.

On May 5, 2008, Counsel participated in a planning meeting for the Super Ditch incorporation meeting with other counsel and staff.

On May 6, 2008, General Manager Winner and I participated in a meeting with the Highline Canal Board of Directors involving a wide-ranging number of issues.

The incorporation of the Super Ditch Company successfully occurred May 7, 2008. There were incorporators acting from all of the major companies, with the exception of the Bessemer. The incorporators were enthusiastic, and eager to proceed.

The Super Ditch Company had its first Board meeting on May 15, 2008. It organized itself, electing officers, and determined that it wanted to acquaint itself with interested potential lessees. To that end the Board directed counsel and staff to invite interested potential lessees to a meeting to be held at a later date.

Counsel and Conservation Easement Program Manager Bill Hancock continue to work on conservation easements. We are having difficulty with one in particular. This individual has donated several good easements in the past, but has historically failed to retain counsel to assist it. In this instance, we are having difficulty obtaining a clear chain of title for the water rights involved. It is unclear whether we will be able to obtain the necessary chain without a quiet title. I do not know if the grantors are able, or willing to assist him with this. They would have been much more cooperative, no doubt, if the donor had obtained counsel prior to closing on the property several years ago.

Trout, Raley, Montano, Witwer & Freeman, PC

Water Leasing Program

Formal incorporation of the Super Ditch Company occurred on May 7th in the District's offices, at which time approximately 30 shareholders representing the various ditches became incorporators.

The incorporators elected the initial board of the Company at the meeting, with one member representing each ditch, as follows: Dale Mauch, Ft. Lyon; John Schweizer, Jr., Catlin; Ray Smith, Oxford; Joel Lundquist, High Line Canal; Donny Hansen, Holbrook; Lee Schweizer, Otero; Burt Heckman, At Large; Frank Milenski, At Large. Upon incorporation, the Board elected the following officers: John Schweizer, Jr., President; Dale Mauch, Vice-President; Burt Heckman, Secretary; Frank Milenski, Treasurer.

The Board decided to invite organizations that have expressed an interest in leasing water from the Company to a series of one-hour "get acquainted" sessions beginning on June 17th. Invitees include the Colorado Department of Natural Resources, Pikes Peak Regional Water Authority, El Paso County Water Authority, the Morley Companies, Colorado Springs, Aurora, Fountain, South Metro Water Authority, Pure Cycle, INV Energy, Park Water & Sanitation District, Pueblo Board of Water Works, and the Douglas County Water Authority.

Counsel is working with the General Counsel to draft a Memorandum of Understanding which will set forth the District's and the Company's obligations and rights with regard to implementation of the water leasing program prior to the time the Company becomes self-sufficient. The draft MOU will be presented to both Boards for their review and comment at their next meetings.

Counsel will continue working with CWCB staff to finalize the grant.

The CWCB declared Lower Ark the "clear winner" of the competitive grant program on May 21st. The CWCB voted to fund the project at \$320,000 at this time, and invited the District to

submit another application for consideration in November. The CWCB did not award any other grants at the May meeting.

Pikes Peak Regional Water Authority (PPRWA) contracted with Boyle Engineering for the study. The first phase of the study, Stonewall Springs to Monument, was completed in draft form in April. The second phase of the study, Timer Lake to Upper Black Squirrel, will begin around June 1st.

PSOP negotiations, 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.

Water Court Litigation- The District has hired Leonard Rice Engineers to assist in the Tri State litigation upon Counsel's recommendation. The firm formerly represented High Plains and the Independent Shareholders Group on the Fort Lyon Canal, has a good understand of the hydrology of the Lower Arkansas River and ditch operations/issues, and has no conflicts of interest.

Resolution 08-06

The Lower Arkansas Valley Water Conservancy District adopts and makes a part of District policy the "Lower Arkansas Valley Water Conservancy District Educational Travel Policy Board of Directors." Motion was made by Director Kennedy, seconded by Director Moore, to adopt Resolution 08-06, motion unanimously carried.

Resolution 08-07

The Lower Arkansas Valley Water Conservancy District gives General Manager, R Jay Winner, authorization to execute a contract with Keith M Howe for the purchase of said real property as more fully described in the proposed contract, attached hereto and made a part hereof by reference. Motion was made by Director Kennedy, seconded by Director Moore, to adopt Resolution 08-07, motion unanimously carried.

Resolution 08-08

The Lower Arkansas Valley Water Conservancy District Board of Directors adopt and create the Conflict of Interest Policy known as "Ethical Principles and Fiduciary Duties Policy for the Lower Arkansas Valley Water Conservancy District" as a policy of the District. Motion was made by Director Kennedy, seconded by Director Moore, to adopt Resolution 08-08, motion unanimously carried.

Resolution 08-09

The Lower Arkansas Valley Water conservancy District Board of Directors unanimously and wholeheartedly declares its support for the Arkansas Valley Conduit and the funding plan devised by the SECWCD. LAVWCD requests and urges the assistance of the Colorado Congressional Delegation in taking any action that promotes and encourages the construction of the Arkansas Valley Conduit and the adoption of the funding plan devised by the SECWCD.

COMMITTEE REPORTS:

Personnel: Nothing at this time.

Liaison: Nothing at this time.

Legal: Nothing at this time.

DIRECTOR'S COMMUNITY REPORT:

Director Whittaker reported water irrigation is taking place around the area.

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 stated we want rain.

Director Mauch reported Prowers is dry, we need rain. I guess we better be thankful the dry weather instead of tornados. Getting our corn planted and nothing happening with Ethanol Plant.

Director Kennedy reported BOR having an open house from 6-8:00 p.m. if you wish to make a comment; you can do so by appointment.

Chairman Singletary reported been busy irrigating and planting crops. So far it looks good for the season.

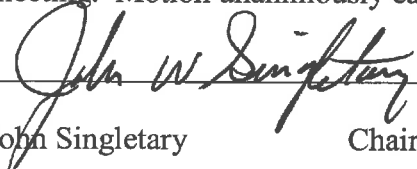
PUBLIC COMMENT:

Fred Heckman farmer from Lamar stated farmers look to LAVWCD for protection on rule making. Advisory Committee, they need to understand different ground and surface users. They have a couple of wells mention and nowhere do they mention any Canal Companies. If you understand Well & Canal Companies the use is different on the rules. Appointed representative for farmer isn't protective.

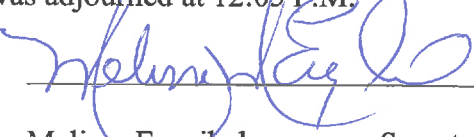
Virgil Cochran, SE Land and Environment stated that Prowers nominated Donny McBee and Dale Mauch to the Committee.

ADJOURNED:

Chairman Singletary asked if there were any other matters to come before the Board. Hearing none, motion was made by Director Mauch, seconded by Director Whittaker to adjourn the meeting. Motion unanimously carried. Meeting was adjourned at 12:05 P.M.



John Singletary Chairman



Melissa Esquibel Secretary