

**October 17, 2012**  
**Minutes-Board Meeting**

The regular monthly meeting of the Lower Arkansas Valley Water Conservancy District Board of Directors was held on Wednesday, October 17, 2012 commencing at 10:38 A.M., at 801 Swink Avenue, Rocky Ford, CO 81067.

Chairman Gill announced a quorum is present with Director Esquibel being excused.

**DIRECTORS PRESENT:**

Lynden Gill-Chairman  
Wayne Whittaker-Treasurer  
Leroy Mauch  
Anthony Nunez  
Reeves Brown  
Jim Valliant

**DIRECTORS ABSENT:**

Melissa Esquibel-Secretary

**DISTRICT STAFF PRESENT:**

Jay Winner-General Manager  
Bill Hancock-Conservation Program Manager  
Carla Aragon-Quezada-Office Manager  
Brenda Fillmore-Finance/Water  
Bart Mendenhall-Attorney  
Peter Nichols-Attorney

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

Director Nunez moved that the Board recess the regular Board Meeting and open the Water Activity Enterprise meeting, seconded by Director Whittaker. Motion unanimously carried.

At the conclusion of the Water Activity Enterprise meeting Director Mauch moved to adjourn the Water Activity Enterprise meeting and reconvene the District Meeting at 10:42 A.M., seconded by Director Brown. Motion unanimously carried.

**INTRODUCTION OF VISITORS:**

Chairman Gill 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 Bennet’s Office; Steve Witte, Division II Engineer; Keith Beattie, AGUA; Scott Lorenz, AGUA; Sam Fosdick, AGUA; Alan Ward, PBWW; Rick Kientz, Aurora Water; Doris Morgan, Congressman Gardner’s Office; Jolly Rose, Rocky Ford; Dan Henrichs, Rocky Ford Highline; Mark Pifher, Colorado Springs Utilities (CSU); Brian Lauritsen, Lamar Ag consultant; Mark Marsh, Excelsior Ditch; Scott Brazil, Excelsior Ditch; Mark Morley, AGUA; Chris Woodka, Pueblo Chieftain; Jim Baldwin, Commissioner for Otero County; Tom Rusler, AGUA; Henry Schnabel, Commissioner for Prowers County; Julianne Woldridge, attorney for CWPDA; Dick Wolfe, State Engineer; Matt Proctor, CWPDA; Joe Kelley, CWPDA; Don McBee, Ft Lyon Canal; Curtis Tempel, Ft Lyon Canal; Jake Tempel, Fort Lyon Canal; Josh Weimer, Fort Lyon Canal; Don Higbee, LAWMA; Angie Higbee, LAWMA; Steve Wertz, Ft Lyon; John Stulp, Advisor to Governor Hickenlooper; Gloria Gutierrez, Senator Udall’s office; Bette McFarren, La Junta Tribune; Dale Mauch, Fort Lyon; John Schweizer, Super Ditch; Fred Heckman, Fort Lyon Canal; John Silman, AGUA.

**OFFICIAL DISTRICT BUSINESS:**

**Oath of Office:**

Notary Brenda Fillmore swore in newly elected Director Jim Valliant and notarized the Oath of Office Statement.

**APPROVAL OF MINUTES:**

- ❖ *September 19, 2012 Monthly Board Meeting Minutes-* Chairman Gill asked if the Board members had reviewed the minutes for the September 19, 2012 Board meeting and whether there were any corrections or additions. Director Mauch moved to approve the minutes for September 19, 2012, seconded by Director Valliant. Motion unanimously carried.
- ❖ *September 19, 2012 Work Session Meeting Minutes-* Chairman Gill asked if the Board members had reviewed the minutes for the September 19, 2012 Work Session meeting and whether there were any corrections or additions. Director Mauch moved to approve the minutes for September 19, 2012, seconded by Director Whittaker. Motion unanimously carried.

**TREASURER’S REPORT:**

Chairman Gill reported that the financial report for the month of September was included in the Board’s Monthly Meeting Packet. Director Whittaker reported September total revenues \$30,305.24 and total expenditures \$49,823.69 with total net \$(19,518.45). Director Whittaker

moved to accept the September Financial Statement, seconded by Director Brown. Motion unanimously carried.

**GM REPORT:**

General Manger Winner introduced Peter Nichols, Esq. Special Counsel, LAVWCD and Super Ditch.

**PRESENTATION:**

Special Counsel Nichols gave a power point presentation on Water Leasing in the Lower Ark Valley using one year Substitute Water Supply Plans (SWSP). The presentation involved the Aurora-High Line Canal (2004 & 2005) and Super Ditch – Catlin Canal (2012), which is attached to the minutes as Exhibit A.

General Manager Winner gave an update stated that four (4) grants were fully funded by the Colorado Water Conservation Board (CWCB) for the Arkansas Basin. One (1) Ag-Municipal Conservation Easement Demo, two (2) Catlin Canal grant loan, three (3) Administrated tool, and four (4) El Paso dam project.

General Manager Winner introduced Scott Lorenz, manager of the Arkansas Groundwater Users Association (AGUA).

Mr. Lorenz stated that the Lower Ark District wasn't working with the well users. He stated there was a lot of mistrust. He did mention there was a meeting in February of this year, but there were no follow up meetings.

Mr. Lorenz presented to the Lower Ark Directors a resolution which he handed out to each of the directors. He suggested that the LAVWCD adopt a resolution supporting cooperation and refraining from competing for the same sources of replacement water. The Lower Ark district provides replacement water for farmers (Rule 10 Plan) under state surface irrigation rules. "We're asking the district to refrain from taking water from some farmers and giving it to others," he stated.

LAVWCD directors stated, "The district's goal is to help all farmers, and cited instances where the district has assisted well groups." Director Mauch handed a copy to Mr. Lorenz where the LAVWCD has funded the three well users in the past with water issues; AGUA, Lower Arkansas Water Management Association (LAWMA) and Colorado Water Protective and Development Association (CWPDA).

General Manager Winner suggested to the well user groups, support a member on the Arkansas Basin Roundtable to keep well-augmentation issues in the forefront. The Ark Basin Roundtable has helped with issues such as Super Ditch and surface irrigation rules. We meet once a month in Pueblo at CSU-Pueblo.

Dale Mauch, farmer from Lamar and also a Rule 10 Plan participant asked State Engineer Dick Wolfe if the 2010 surface irrigation rules could be suspended until the pond study is complete in 2 years. Mr. Mauch stated Mr. Wolfe we would like to have the state help us, because sometimes it seems like you're (state) the enemy.

Dick Wolfe, State Engineer replied that the state's actions are bound by court decreed rules that make it difficult to alter or suspend any of the provisions. Maybe with the pond study there might be a chance of an adjustment.

General Manager Winner asked when the pond study is finished do we get the water back.

Mr. Wolfe replied could be different retroactive. We'll look at it and evaluate it.

Tom Rusler, Pueblo County farmer asked if the accounting for the Rule 10 Plan could be done after the irrigation season, rather than in advance.

Dick Wolfe, State Engineer replied the rules require a plan prior to the irrigations season and can't be altered without a change in the court decree. Mr. Wolfe said the rules could be amended to reflect the results of the pond study.

Julianne Woldridge, attorney for the (CWPDA), stated I'm speaking for all well users even though I don't represent the other two. Why don't we put together a task force that would bring the well groups, district and state together to work on a way to make water less contentious? "Our biggest problem is us vs. them mentality."

Chairman Gill stated "the spot market may not even be there in the future." We thank you for bringing these things to our attention."

Director Reeves stated we should take a step forward, and put on a positive attitude.

General Manager Winner introduced Brian Lauritsen, Project Manager for the pond study. He then gave an update on the project.

**COMMITTEE REPORTS:**

Personnel: None.

Acquisition: None.

Legal: None

**BOARD ACTION:** None

**LEGAL REPORT:**

**Attorney Bart Mendenhall:** Attorney Mendenhall's stated that a copy of his legal report is attached to the minutes as Exhibit B.

**Berg Hill Greenleaf & Ruscitti LLP**

**Peter Nichols:** A copy of Attorney Nichols' legal report is attached to the minutes as Exhibit C.

**PUBLIC COMMENT:**

Mark Pifher of Colorado Springs Utilities explained to the board of Directors that Colorado Springs has been working on the stormwater solution. He stated that a task force has formed with three committees to look at business concerns, homeowners' issues and governmental resources for controlling stormwater runoff into Fountain Creek. He stated that he was aware that the LAVWCD board had written two letters one of which was to the Bureau of Reclamation (BOR).

Mr. Pifher suggested that they (CSU) could meet with 2 board members from LAVWCD and members from Colorado Springs Utilities to try to come up with a solution.

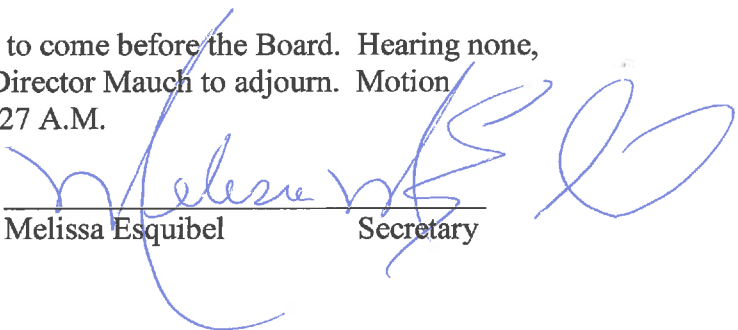
Mr. Pifher also informed the board that he has been appointed to fill the Arkansas River basin seat on the Colorado Water Quality Control Commission. He said please don't hesitate to contact me if you have any questions or if you need me to present anything to the Water Quality Control Commission.

Alan Ward of Pueblo Board of Water Works (PBWW) gave an update on the spot market.

**ADJOURNED:**

Chairman Gill asked if there were any other matters to come before the Board. Hearing none, motion was made by Director Nunez, seconded by Director Mauch to adjourn. Motion unanimously carried. Meeting was adjourned at 12.27 A.M.

  
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Lynden Gill Chairman

  
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Melissa Esquibel Secretary