

**February 18, 2009**  
**Minutes-Board Meeting**

The regular monthly meeting of the Lower Arkansas Valley Water Conservancy District Board of Directors was held on Wednesday, February 18, 2009 at 10:00 A.M. at 801 Swink Avenue, Rocky Ford, CO 81067.

Chairman Moore announced a quorum was present with Directors' Singletary and Mauch being excused.

**DIRECTORS PRESENT:**

Pete Moore –Chairman  
Lynden Gill-Vice Chairman  
Melissa Esquibel-Secretary  
Wayne Whittaker -Treasurer  
Anthony Nunez

**DISTRICT STAFF PRESENT:**

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

**DIRECTORS EXCUSED:**

John Singletary  
Leroy Mauch

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

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

At the conclusion of the Water Activity Enterprise meeting Director Nunez moved to adjourn the Water Activity Enterprise meeting and reconvene the District Meeting at 10:12 A.M., seconded by Director Gill. Motion unanimously carried.

**INTRODUCTION OF VISITORS:**

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

**VISITORS PRESENT:**

Loretta Kennedy, Congressman Salazar's Office; Alan Ward, Pueblo Board of Water Works; Ken Weber, Pueblo Co; Del Nimmo, CSU-Pueblo; Jason Turner, Graduate Student-CSU; Ryan Hemphill, Engineer (CSU); Kevin Shanks, THK Associates; Dale Mauch, Farmer and Director of Super Ditch Co; Fred Heckman, FLCC; Henry Schnabel, Bristol County Commissioner; Chris Woodka, Pueblo Chieftain; Pat Edelmann, USGS; Kevin Salter, Kansas; Jim Valliant, CSU-CAES; Kelly Roesch, Pure Cycle; Ollie Ridley, Las Animas; Rick Kienitz, Aurora Water; Lola Shrimplin, La Junta Tribune Democrat.

**APPROVAL OF MINUTES:**

- ❖ *January 21, 2009 Monthly Board Meeting Minutes*- Chairman Moore asked if the Board members had reviewed the minutes for the January 21, 2009 Board meeting and whether there were any corrections or additions. Director Esquibel moved to approve the minutes for January 21, 2009, seconded by Director Whittaker. Motion unanimously carried.
  
- ❖ *January 21, 2009 Work Session Meeting Minutes*- Chairman Moore asked if the Board members had reviewed the minutes for the January 21, 2009 Work Session meeting and whether there were any corrections or additions. Director Esquibel moved to approve the minutes for January 21, 2009, seconded by Director Whittaker. Motion unanimously carried.

**TREASURER'S REPORT:**

Chairman Moore reported that the financial report for the month of January was included in the Board's Monthly Meeting Packet. Treasurer Whittaker reported January total revenues \$15,133.14 and total expenditures \$62,520.82 with total net <\$47,387.68>. Director Whittaker moved to accept the ~~December~~ <sup>January</sup> Financial Statement, seconded by Director Gill. Motion unanimously carried.

Director Whittaker reported that a few directors weren't cashing their checks. Director Whittaker moved to give each director the opportunity to use direct deposit, or if the opportunity of direct deposit is not used, to require the directors to cash their checks within 30 days. Checks will be voided after 30 days and will not be reissued. Motion was seconded by Director Nunez. Motion unanimously carried.

**GM REPORT:**

General Manager Winner introduced Kevin Shanks with THK, Associates of Colorado Springs.

**PRESENTATIONS:** Mr. Shanks gave a power point on Fountain Creek Corridor Master Plan, a copy of which is attached to the minutes as Exhibit A.

General Manager Winner introduced Jason Turner, Graduate Student from CSU-Pueblo. Mr. Turner presented a power point on Arkansas River Basin, a copy of which is attached to the minutes as Exhibit B.

General Manager Winner introduced Don McBee, farmer from Lamar. Mr. McBee stated that they have 8 ponds left. The flow meters are pretty much paid for. Mr. McBee then turned it over to Ryan Hemphill of Lamar.

General Manager Winner stated this has to do with the Solution Committee and the Efficiency Rules. The seepage out of the ponds needs to be ascertained.

Mr. Hemphill stated the State is forcing farmers to make improvements on higher efficiency systems. Right now the H-I Model doesn't include anything pertaining to sprinkler systems on seepage. The H-I Model is based on canal by canal. The Engineer's office has come up with another irrigation program of I-SAM Model. This model does include seepage loss, sprinkler and ponds. The problem is there is no data. He talked to several farmers who want better measurements of the pond losses. This can be done very simple simply with flow meters. All of this revolves around the efficiency rules getting passed. If the rules don't get passed then this work won't be needed. So if they indeed pass there will be some data to support the losses. The reason he attended is to see if the LAVWCD will support CSU- Fort Collins on this study.

Director Nunez asked the cost of the study?

Hemphill replied that it would cost roughly \$1400.00 per unit, the cost share being 50-50 of \$700 per pond. Administration cost will run \$22,000.00 and \$14,000.00 for equipment/labor.

General Manager Winner stated that the District needs a proposal. The way the District's our new agenda is set up is if, the Board receives a proposal it will discuss it. Then it will be referred to staff or committee for review and possible Board action at the following board meeting.

Attorney Nichols stated that at the last meeting the Board authorized retaining Leonard Rice Engineers to provide engineering support to the farmers to work out these efficiency irrigation rules. They will look at the I-SAM Model; part of their modeling will help develop some of those solutions. The solutions are outlined in your board packet. Rice Engineering is under contract and ready to go.

Attorney Nichols also stated that in addition LAVWCD Board talked about CWCB putting \$250,000.00 into the 2009 project to provide assistance to Lower Arkansas Valley Water Conservancy District to implement the solution if these rules go forward. It looks like the rules will be adopted. The grant will be available on July 1, 2009 to help the LAVWCD to put together a compliance plan.

Attorney Nichols stated that he agrees with Ryan Hemphill. These rules are probably coming, what the farmers and the District need to do is try and insure that they are as workable as

possible and they are based on real, actual, data. The farmers that install irrigation efficiency or want to install for the future will be able to get assistance from LAVWCD.

**LEGISLATIVE REPORT:**

General Manager Winner directed Board Directors' to Tab three (3) of the board packets. Two lawmakers, Mike May of Parker and Ted Harvey of Highlands Ranch, issued a statement calling for a ballot measure to end the conservation easement tax credit program in order to fund transportation projects.

**DIRECTORS' DISCUSSION:**

- Archives from Frank Milenski Family:  
Directors agreed to have files put in archives. Director Nunez suggested that the Pueblo City Library does archiving and might be a resource. General Manager Winner will look into this research.
- Tamarisk:  
Jean Van Pelt of SECWCD is asking for \$10,000.00 in support a joint committee on Tamarisk between Colorado and Kansas. This item will go into Board Action at next board meeting.
- CSU Project:  
CSU Project is asking for support of \$100,000.00. Director Whittaker asked if there were other partners. General Manager Winner replied City of Pueblo \$75,000.00; PPBW \$25,000.00 and Pueblo Co \$75,000.00. Director Whittaker asked if the LAVWCD could have a budget layout. Professor Nimmo said he would get one to the District before next board meeting.
- Directors discussed Congressman Salazar's request for proposed earmarks: Directors suggested Fountain Creek; Tamarisk;
- The Directors discussed Arkansas Valley Native, LLC Proposal for joint legal representation in the Aurora Lawsuit:  
After discussion, the Directors agreed that there would be a conflict of interest and declined to pursue joint representation

**COMMITTEE REPORTS:**

Personnel: None.

Acquisition: None.

**LEGAL REPORT:**

**Melissa Esquibel:** None

**Attorney Bart Mendenhall:** Attorney Mendenhall reported he assisted Special Counsel Nichols in expediting acceptance by the Prowers County Commissioners in accepting the revegetation covenants. This included attending their meeting in Lamar on February 10<sup>th</sup>.

Attorney Mendenhall reported counsel has been working with the real estate department of Colorado State University to finalize the Right of First Refusal for property and water rights at the Experiment Station. This includes tracking down information, to expedite the process.

Counsel has made contact with Keith Howe, after his winter stay in Arizona, and is in process of finalizing the contract of purchase for the land adjoining the Experiment Station. The property will be used by the Station as part of the Right of First Refusal.

Counsel continues to work with the Bent County Attorney on the sale of Las Animas Consolidated Extension shares to Bent County.

Counsel is in the process of drafting a contract and associated documents for use in the purchase of Larkspur shares.

The Oaths and bonds of the reappointed and newly appointed directors have been filed with District Court.

**Trout, Raley, Montano, Witwer & Freeman, PC**

**Attorney Peter Nichols:** Attorney Peter Nichols discussed his legal report, a copy of which is attached to the minutes as Exhibit C.

**BOARD ACTION:**

**Resolution 09-03**

The General Manager has been in negotiations to purchase certain property and water rights known as the Larkspur Ditch. Motion was made by Director Esquibel, seconded by Director Gill, to authorize General Manager Winner to execute contacts Larkspur Inc. shareholders for the purchase, and to adopt Resolution 09-03. Vote was 4-0. Director Whittaker disclosed a conflict of interest as secretary of Larkspur, Inc., and abstained from discussion and vote. A copy of Resolution 09-03 is attached to the minutes and made a part hereof by reference.

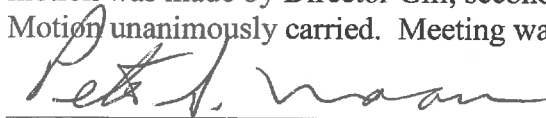
**PUBLIC COMMENT:**

Jim Valliant invited everyone to the annual Arkansas Valley Basin Forum March 31 and April 1, 2009 to be held at CSU-Pueblo.

Prowers Commissioner Henry Schnabel reported the Tamarisk in Prowers County is thick around Holly and from the river to the state line.

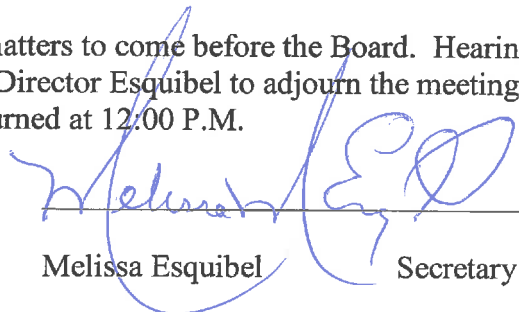
**ADJOURNED:**

Chairman Moore asked if there were any other matters to come before the Board. Hearing none, motion was made by Director Gill, seconded by Director Esquibel to adjourn the meeting. Motion unanimously carried. Meeting was adjourned at 12:00 P.M.



Pete Moore

Chairman



Melissa Esquibel

Secretary