

**September 23, 2009
Minutes-Board Meeting**

The regular monthly meeting of the Lower Arkansas Valley Water Conservancy District Board of Directors was held on Wednesday, September 23, 2009 commencing at 10:10 A.M, at 801 Swink Avenue, Rocky Ford, CO 81067.

Chairman Moore announced a quorum was present with Director Esquibel excused.

DIRECTORS PRESENT:

Pete Moore-Chairman
Lynden Gill-Vice Chairman
Wayne Whittaker -Treasurer
Leroy Mauch
Anthony Nunez
Reeves Brown

DISTRICT STAFF PRESENT:

Jay Winner-General Manager
Bill Hancock-Conservation Program Manager
Carla Aragon-Quezada-Office Manager
Bart Mendenhall-Attorney

DIRECTOR ABSENT:

Melissa Esquibel-Secretary

DISTRICT STAFF ABSENT:

Brenda Fillmore-Finance/Water

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 Mauch. Motion unanimously carried.

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

Chris Woodka, Pueblo Chieftain; Gregg Ten Eyck, Leonard Rice Engineer; Eric Hecox, CWCB; Rick Kienitz, Aurora Water; Mike Bartolo, CSU-AURL; Pat Edelmann, USGS; GW, Larkspur; Bill Hancock, LAVWCD; Jim Sandoval, Otero County Commissioner; Ken Weber, Pueblo;

Kelly Roesch, Pure Cycle; Fred Heckman, FLCC; Gloria Gutierrez, Regional Representative, Senator Mark Udall Office.

APPROVAL OF MINUTES:

- ❖ *August 19, 2009 Monthly Board Meeting Minutes-* Chairman Moore asked if the Board members had reviewed the minutes for the August 19, 2009 Board meeting and whether there were any corrections or additions. Director Mauch moved to approve the minutes for August 19, 2009, seconded by Director Brown. Motion unanimously carried.
- ❖ *August 19, 2009 Work Session Meeting Minutes-* Chairman Moore asked if the Board members had reviewed the minutes for the August 19, 2009 Work Session meeting and whether there were any corrections or additions. Director Mauch moved to approve the minutes for August 19, 2009, seconded by Director Brown. Motion unanimously carried.
- ❖ *August 27, 2009 Special Meeting Minutes-* Chairman Moore asked if the Board members had reviewed the minutes for the August 27, 2009 Special Meeting minutes and whether there were any corrections or additions. Director Mauch moved to approve the minutes for August 27, 2009, seconded by Director Brown. Motion unanimously carried.

TREASURER'S REPORT:

Chairman Moore reported that the financial report for the month of August was included in the Board's Monthly Meeting Packet. Treasurer Whittaker reported August total revenues \$38,454.70 and total expenditures \$86,075.59 with total net <\$27,620.89>. Director Whittaker moved to accept the August Financial Statement, seconded by Director Brown. Motion unanimously carried.

General Manger Winner stated that the board needed to elect a budget officer per C.R.S. 29-1-104 at this time. Director Gill nominated Financial/Water, Brenda Fillmore, seconded by Director Nunez. Upon vote Brenda was appointed Budget Officer.

GM REPORT:

General Manager Winner introduced Eric Hecox of Colorado Water Conservancy Board (CWCB).

PRESENTATION: Mr. Hecox gave a PowerPoint presentation on Colorado River Issues and connections to the Arkansas Basin. He also reviewed current CWCB/IBCC/Basin Roundtable planning activities – Colorado's Water Supply Future, which is attached to the minutes as **Exhibit A.**

General Manager Winner directed Board Directors to Tab (3) three of the board packets. Five entities that will participate in the South Ark Gage Agreement: Upper Arkansas Water Conservancy District, Town of Poncha Springs, City of Salida, LAVWCD, and Mt. Massive

Lakes. The cost of such equipment, construction, and installation, with each Party's share being 20% of and each shall share equally in the cost of maintenance of the gauging station once installed. Motion made by Director Whittaker to sign agreement, seconded by Director Nunez. Motion unanimously carried.

Attorney Mendenhall gave an update on status 1041's regulation as regards Larkspur shares.

Attorney Nichols gave an update on Consumptive Use Rules.

General Manager Winner introduced Gregg Ten Eyck of Leonard Rice Engineers. Mr. Ten Eyck gave a power point presentation on Compact rules governing improvements to surface water irrigation system in the Arkansas River Basin in Colorado, "Rule 10 Compact Compliance Plan", which is attached to the minutes as **Exhibit B.**

Director Whittaker asked Fred Heckman, what do the farmers think of this compliance plan?

Mr. Heckman replied, "We have a philosophy. There is no physical measurement in the completion into the river, this is all computer model and so with that it's not statically sound. The State gave us a sheet on I-Sam model that proved that we (farmers) put improvements and that we were farming more acres. The State will not admit that there is a difference between surface delivery and ground water delivery. I think that is the biggest hang up. We object to surface delivery on "what- if" bases that we can't control. We don't agree with their definition of what material damage is. Now we got the good report started and we worked with them. We know we have to live with the rules and we will obey the rules. We just don't agree that the rules are necessary because of trying to make a computer program with Mother Nature. There were a couple of points in here that the LAVWCD with the grant money will pay the 1200-1500 ac/ft.

Attorney Nichols replied we are looking into getting more grant money.

Director Whittaker asked Mr. Heckman, Do you think the plan that the District has is a benefit to the farmers and do you see anything wrong with it?

Mr. Heckman replied, I think we discover a little bit how this money is going to be divided. No, I don't see anything wrong; I think it's a good plan. I don't know how else we would deal with it on an individual basis.

Director Whittaker asked, do you think the District has done the best they can.

Mr. Heckman replied, absolutely.

Director Whittaker replied we as a board need to make a motion.

Motion made by Director Nunez to give authority to improve or continue development compact compliance plans as an option for the farmers to minimize the effective cost to the Ag

community in complying with the rules that will be published on September 30, 2009. Attorney Nichols requested the authority to work with General Manager Winner and Leonard Rice to apply for additional funds from CWCB to prepare those plans and have them ready for implementation when the rules go into effect on January 1, 2011, including purchase of water, seconded by Director Brown. Motion unanimously carried.

Vice Chairman Gill stated I just want to make a few comments. There has been a huge amount of discussion on this. I hope the concerns have been expressed. We could provide the data implementation. I hope this is something that fits into our mission statement for LAVWCD. I'm all for it. For both helping with being the facilitator agent for the farmers and implementing these rules, which you call "Rule 10".

LEGISLATIVE REPORT: None

DIRECTORS' DISCUSSION: None

COMMITTEE REPORTS:

Personnel: None.

Acquisition: None.

LEGAL REPORT:

Melissa Esquibel: None

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

Attorney Mendenhall had a correction on his legal report. Chairman Moore was also present for the August 27, 2009 meeting held in Lamar, Colorado.

Motion made by Director Whittaker to change December 9th, 2009 board meeting to December 14th, 2009 at 10:00 a.m. for final budget for 2010, second by Director Nunez. Motion unanimously carried.

Trout, Raley, Montano, Witwer & Freeman, PC

Attorney Peter Nichols: Attorney Nichols the Board packet as **Exhibit D.**

Counsel recommends filing a statement of opposition in Case No. 09CW96, Application of Donala Water & Sanitation District concerning its purchase of the Mount Massive Ranch in Lake County for transfer of the irrigation water rights to municipal use in El Paso County.

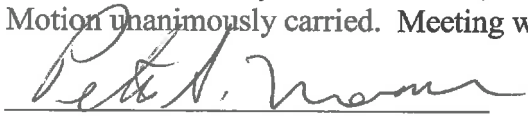
Motion made by Director Whittaker to file statement of opposition in Case No. 09CW96, Application of Donala Water & Sanitation District concerning its purchase of the Mount Massive Ranch in Lake County for transfer of the irrigation water rights to municipal use in El Paso County, seconded by Director Nunez. Motion unanimously carried.

BOARD ACTION: Irrigation Efficiency Rules

PUBLIC COMMENT: None

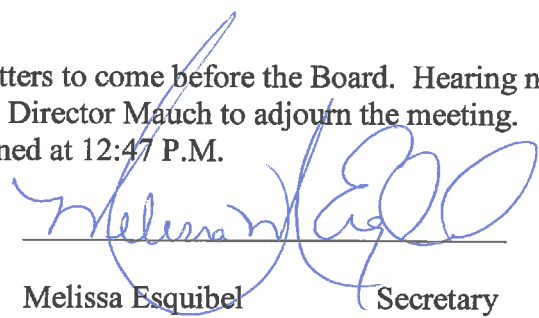
ADJOURNED:

Chairman Moore 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 the meeting. Motion unanimously carried. Meeting was adjourned at 12:47 P.M.



Pete Moore

Chairman



Melissa Esquibel

Secretary