

MEETING MINUTES
REGULAR MEETING
BOARD OF DIRECTORS
MIDDLE PARK WATER CONSERVANCY DISTRICT

Via Zoom Video Conference:

<https://us02web.zoom.us/j/85040652586?pwd=L2RlVlY0eU9hRGJlR0VNRGplbytGQT09>

To Join by Phone, Dial (346) 248-7799, Enter Meeting ID 850 4065 2586

April 14, 2021, 1:00 p.m.

The meeting was held via Teleconference due to social distancing requirements necessitated by the COVID-19 virus.

Directors:

Jack Buchheister – President (present)
Sean Flanagan – Vice President (not present)
Jim Lenzotti – Secretary (present)
Stan Cazier – Treasurer (present)
Mike Eytel (present)
Gary Bumgarner (present)
Tom Long (present)

Others present:

MPWCD Engineer Kristina Wynne
MPWCD Attorney Kent Whitmer
MPWCD Attorney Katie Randall
James Heath, Assistant Division Engineer, Division 5
Neal Misbach, Division 5 Water Commissioner
Josh Blanchard, Summit County Commissioner

Jack Buchheister called the meeting to order. The Board generally followed the agenda, and the following topics and resolutions were discussed and passed, as the case may be, during the meeting (a copy of the agenda is attached):

1. CALL TO ORDER
 - A. Approval of January 13, 2021 Minutes

Jim Lenzotti moved to approve the January minutes as presented, seconded by Jack Buchheister, with Gary Bumgarner abstaining. Motion carried.

2. BOARD ADMINISTRATION

- A. Remaining 2021 Meeting Dates (July 14th and October 13th)

The Board discussed whether the July meeting could be held in person. General agreement that an in-person meeting would be preferable if COVID restrictions allow. A decision will be made approximately one month prior to the meeting as to the logistics; the meeting date will stay the

same. The Board directed MPWCD staff to investigate the cost of purchasing equipment to set up a Zoom room at the Whitmer Law Firm as an option going forward.

B. Officer Elections

- i. President: Jack Buchheister
- ii. Vice-President: Sean Flanigan
- iii. Secretary: Jim Lenzotti
- iv. Treasurer: Stan Cazier

Gary Bumgarner moved to elect all Officers to their current positions as listed above, Tom Long seconded. Motion carries.

3. REPORTS

A. Financial/Banking

Mr. Whitmer reported on the District's current financials as follows: Profit & Loss Budget vs. Actual (1/1/21 through 3/31/21); Balance Sheet (4/2/21); and Check Register (1/1/21 through 3/31/21). The District is on track with its projected budget for 2021. No Accounts Receivable report was included in the Board packets because there are no outstanding balances. After the Board packets went out, the final report of the 2020 audited financials was provided to the Board by email.

Following discussion, Stan Cazier moved to approve the financial reports including the Check Register, and to accept the 2020 Audit. Seconded by Jim Lenzotti. Motion carries.

B. Attorney

The Attorney's Report and Action Items Status List were included in the Board packet materials. Recent developments that were not included in the report and status list will be discussed as they come up under particular agenda items later in the meeting. Mr. Whitmer explained that the attorney update letters have been sent out quarterly rather than monthly, in keeping with the Board's directions and to keep costs down. The Board directed Mr. Whitmer to continue the practice of providing reports quarterly rather than monthly.

C. Engineer

Kristina Wynne presented the following updates since the Engineer's Report was provided:

- **Updated Basin Hydrology Numbers:** in the last two weeks the reservoir contents haven't changed much from what was indicated in the report, but snowpack has changed quite a bit. At the beginning of April the Colorado River Basin was at 89% of the median. As of today, it's about 70% of median. Runoff has started: snow is melting and water is running. The Shoshone plant is currently down because one of the turbines is not working. The Cameo call came on this morning, which is relatively rare at this time of year. The bottom line is that it is a dry spring. The projection is still that Northern will pump Windy Gap this summer, but we will have to see. Willow Creek is currently pumping storage into Granby Reservoir.

- **GCWSD Lease:** This winter, MPWCD used 20 acre-feet of water leased from GCWSD. It is nice to have this water available higher in the Fraser Valley when Windy Gap water is not available.
- **MPWCD Exchange Diligence:** Kristina is evaluating the potential to make an absolute claim in the diligence application due at the end of the month. The Board briefly discussed the nature of this water right, and expressed the desire to go for absolute rights to the extent possible.
- **Wild and Scenic:** still moving along. Right now the group is focusing on developing a monitoring plan for channel maintenance flows. In general, the group is operating under the guidelines approved last year.
- **Learning by Doing:** is likely moving forward with a new project this year: installing an aquatic passage structure on Cabin Creek.
- **Sunset Ridge Pond:** as discussed in recent meetings, there were some problems with making releases from the pond due to beaver dam issues. Kristina believes that the issues have been resolved, but will get in touch with Sunset Ridge to make sure, and to provide guidance as to storing water in the pond in the event there's free river this spring.

4. ESTABLISHMENT OF 2022 WATER SERVICE AND USE FEES

Kent Whitmer discussed the suggested rates that will be established for 2022, which are in line with the 5% yearly increase provided under the District's Windy Gap and Wolford Contracts. The new rates would go into effect for the bills sent out in July 2021 for water provided in 2022. The Board discussed the need to evaluate whether the District's rates for water are appropriate and in line with what is being charged by other west slope entities. The Board directed staff to research the cost of water on a per-acre-foot basis and provide a report at the next meeting. **Following discussion, Gary Bumgarner moved to approve the 2022 Water Service and Use Fees as presented, seconded by Jim Lenzotti. Motion carries.**

5. WOLFORD MOUNTAIN REQUEST AND PAYMENT CRWCD

Kristina Wynne explained that last year MPWCD ordered 500 acre-feet of water from Wolford Mountain Reservoir, which was double the estimated depletions. In 2022, it is possible that there will be more depletions than last year, so if MPWCD stays with the same approach in prior years, Kristina would recommend that the District order 525 acre-feet. Another factor to consider is that the 525 acre-feet calculation assumes that MPWCD would be able to replace all demands from Wolford. We do not know whether Windy Gap water will be available. Given that MPWCD will potentially be providing water for the SWSP to replace depletions associated with revegetation efforts following the East Troublesome fire, this could potentially strain the limits of what MPWCD would be able to provide if only 525 acre-feet are ordered. If all of the SWSP releases are made from Wolford, the calculation would likely bring the District closer to 600 acre-feet to conservatively be able to meet all of its obligations. The Board discussed available options and considerations that affect the amount of water to order, particularly given the impacts to Northern's operations following the fire and the potential for the SWSP application to move forward. **Following**

discussion, Stan Cazier moved to order 600 acre-feet of water from Wolford Mountain Reservoir, seconded by Gary Bumgarner. Motion carries.

6. BOARD DISCUSSION: REPLACEMENT OF EVAPORATIVE LOSSES FOR PONDS

Kent Whitmer provided background for this agenda item: in the past few years, when water contract requests have come through for water to replace evaporative losses for ponds, such requests have been met with resistance by the Board and generally have not been approved. MPWCD staff would like to have clearer guidance from the Board, and a bright line policy about how these requests should be handled going forward. The Board discussed the current availability of uncontracted supplies in Granby and Wolford Mountain Reservoirs, and the ongoing need for water higher up in the Fraser Valley. The Board considered how ponds are used for emergency fire protection purposes, but also how many domestic users can have their needs met when compared to the amount of water that is needed to replace evaporative depletions. After discussion, the Board reached the following consensus: the MPWCD policy will be to deny requests for contracts to supply water to replace evaporative depletions for ponds. If, in the discretion of MPWCD staff, a request for a water contract to replace evaporative depletions presents an opportunity of mutual benefit to the applicant and to the District, MPWCD staff may refer such request to the Board for consideration. **Gary Bumgarner moved to approve this policy of MPWCD going forward; seconded by Stan Cazier. Motion carries.**

Stan Cazier mentioned the concern that MPWCD has with potential contractees filing water court applications that claim MPWCD water as an augmentation source, before any application is received or approved by the Board. The River District manages the situation by having a blanket policy to file a statement of opposition to any water court application that is published in the resume that claims to have a contract without having the contract application granted beforehand. MPWCD staff will evaluate this concept and present at the July meeting for discussion of whether to adopt a similar policy.

Next, the Board discussed a provision in the bylaws pertaining to the authority of MPWCD staff to approve annual contracts of up to 35 acre-feet of water. No guidance is given as to whether staff has a similar authority to grant long-term requests without prior Board approval. Stan Cazier described a resolution that was adopted in the past that granted staff the authority to approve contracts of up to 1 acre-foot for domestic purposes. Anything over that amount or for other uses must be referred to the Board for approval. Following discussion, the Board directed MPWCD staff to draft an amendment to the bylaws to include the substance of this resolution, reflecting the staff's authority to grant long-term contract requests for domestic purposes in an amount not to exceed 1 acre-foot. The bylaws amendment will be considered at the July meeting.

7. CONTRACTS / REQUESTS

- A. Ratify Harrington Landscapes Short Term Supply Request
- B. Ratify Johnson Short Term Supply Request
- C. James Peak Application (Revised)

- D. Mize Application (Revised)
- E. Hill Application
- F. Stanek Application
- G. Eldridge Application

The Board discussed each contract request in turn, and discussed the desirability of holding a planning session later in the year when in-person meetings are allowed again to discuss MPWCD's policies, pricing strategies and treatment of contract requests based on proposed uses and source. **Following discussion, Stan Cazier made a motion to approve all contract requests listed above, with the clarification that the Mize application and the James Peak applications are approved as amended, for the restricted uses included in the amended applications. Motion was seconded by Tom Long. Jim Lenzotti voted against, motion carries.**

8. LONG TERM PLANNING

A. Purchase / Long-Term Lease of GCWSD#1 Augmentation Pond Water

Kent Whitmer explained that GCWSD is in the process of going through water court to get a global augmentation plan approved; this pond is one of the augmentation sources included in the application. During the water court process, GCWSD discovered that the volume of the pond had been incorrectly measured. Rather than measuring the pond's volume by the top of the water level, it was inadvertently measured from the top of the dam. That means that there is not as much capacity in the pond as previously thought. Based on this discovery, it is less clear whether GCWSD will have water available to sell on permanent basis to Middle Park, even if it moves forward with the project of deepening and lining the pond. Once they get through the augmentation plan application process, LRE will re-evaluate their water needs and existing supplies, and then GCWSD will get in touch with Middle Park. The project isn't off the table, but this is an unexpected hiccup.

B. Grand County Mutual Ditch and Reservoir Company

Mike Eytel reported on the status of the GCMDRC efforts. A lot of brain power has been spent working with the Irrigated Land Company, CWCB, Division Engineers, and others to review and refine the consumptive use report. The group is inching closer to its goal of getting the pilot project up and running.

C. Little King Reservoir

Kent Whitmer reported that he has kept the conversation moving forward. The ranch did not burn in the fire. The owners are actively looking to repair their dam and get it to the point where they can store water in the reservoir. They would like some assistance and collaboration from an entity like MPWCD, which could help make more funding opportunities available. What that relationship may look like is still an open question at this point. We are still exploring potential options that may be mutually beneficial going forward.

D. Bunte Highline: nothing to report at this time.

E. Funding Sources for Water Rights Development: nothing to report at this time.

F. Open Discussion and Direction to Staff: none.

9. STATUS OF DILIGENCE APPLICATIONS

A. Middle Park Water Conservancy District Exchange – Application due April 2021

The application and Exchange right were discussed during the Engineer's report earlier in the meeting. Drafting is currently underway, and everything is on track to file by the end of the month.

10. OTHER BUSINESS

A. East Troublesome Fire Recovery Effort

Kent Whitmer provided an update on the East Troublesome fire recovery effort. At the meeting last October when the fire was burning, the Board directed staff to work with the Division Engineers and other stakeholders to try to figure out how to help people affected by the fire. Specifically, the Board was interested in trying to see if there's a way for MPWCD to provide water to help landowners revegetate areas that were burned. MPWCD staff has been involved in several stakeholder conversations since then. Out of these conversations, it's been decided that the only viable options are for an administrative exchange (essentially, trucking water to affected properties, with 1:1 replacement required), or a Substitute Water Supply Plan (SWSP) which is much more practical. For well owners to participate in a SWSP, they will need to apply for a new well permit to allow for temporary outdoor use of household-only wells. From these discussions, conversation turned to whether landowners would be interested in participating in the SWSP. A survey has been developed and will go out via email to well owners located in the burn area to gauge their interest in participating. Depending on the levels of interest, the SWSP may or may not move forward. If it is determined that the SWSP should go forward, the MPWCD Board may need to hold a special meeting to discuss available options and for the Board to provide guidance to staff. Further discussion included funding options and fire recovery efforts that are currently underway in the affected area.

B. Report from Stan Cazier:

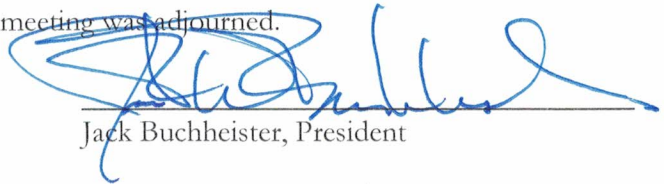
Stan Cazier provided a report on the following items:

- **IBCC:** The IBCC held a regular meeting on February 23. Another meeting was held in March to discuss demand management in detail. Further discussions have taken place regarding issues on the Yampa and White Rivers, and establishment of a water equity task force which will work on revisions to the Water Plan.

- **Northern spring meeting:** still no firm answer on whether they will be pumping this summer. The East Troublesome fire was devastating to their system. Also discussed was the appeal in the Windy Gap Firing Project case, which is expected to continue to cause delays in the Chimney Hollow construction.
- **Colorado River Water Users Association:** virtual Board meeting will take place on May 25. It looks like the annual meeting is on track to take place in-person in Las Vegas in December.

11. ADJOURNMENT

There being no further business to discuss, the meeting was adjourned.



Jack Buchheister, President