

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

Via Zoom Video Conference: <https://us02web.zoom.us/j/84550264922>
To Join by Phone, Dial (346) 248-7799, Enter Meeting ID 845 5026 4922

January 13, 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 (present)
Jim Lenzotti – Secretary (present)
Richard Doucette – Treasurer (present)
Mike Eytel (present)
Gary Bumgarner (not present)
Tom Long (present)

Others present:

MPWCD Engineer Kristina Wynne
MPWCD Attorney Stan Cazier
MPWCD Attorney Kent Whitmer
MPWCD Attorney Katie Randall
James Heath, Assistant Division Engineer, Division 5
Sue Avre, Division 5 Water Commissioner
Neal Misbach, Division 5 Water Commissioner
Troy Wineland, Division 5 Water Commissioner
Kyle Whitaker, Northern Water Conservancy District

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 October 28, 2020 Minutes

- Following discussion, the draft October Meeting Minutes were amended to clarify that the application referenced in section 4.D. was submitted by Eric Mangeot from LRE Water on behalf of Big Fish Amalgamated LLC, and requested a contract for water to augment the evaporative losses for two ponds that divert off of Skunk Creek. **Tom Long moved to approve the minutes as corrected, seconded by Sean Flanagan. Motion carried unanimously.**

2. BOARD ADMINISTRATION

A. 2021 Meeting Dates

- As set forth at the October meeting, the remaining 2021 Board meetings will take place on April 14th, July 14th, and October 13th.

B. Board Appointments

- Kent Whitmer explained that the current Board terms for Sean Flanigan and Dick Doucette will end on January 30th. Stan Cazier will be taking over for Dick Doucette, and Sean Flanigan will renew for another term. An Order appointing Mr. Flanigan and Mr. Cazier has been received from the District Judges in Grand and Summit Counties; accordingly, Oaths of Office need to be taken and bonds filed.

C. Open Position: Board Treasurer

- Upon the expiration of Dick's term on January 30, MPWCD will need a new Treasurer. Following discussion, it was decided that Stan would serve as the Treasurer when his Board term begins. All Officer elections will take place at the April meeting. **Following discussion, a motion was made by Dick Doucette to elect Stan Cazier as Treasurer of MPWCD effective February 1, 2021, seconded by Sean Flanigan. Motion carried unanimously.**

D. Approval of Posting of Place of Meetings and Agenda

- Included in the meeting materials is a Resolution Designating the Location for Posting Notice of Meetings of the Board of Directors of Middle Park Water Conservancy District. **A motion to approve the Resolution was made by Jim Lenzotti and seconded by Tom Long.** Tom asked for clarification about the physical posting location in Summit County. Kent explained that under recent changes to the Open Meetings Law, local governments are now encouraged to post the notices of meetings and agendas online rather than in physical locations. As was done last year, notices of MPWCD Board meetings will be posted only on the District's website unless internet access or online posting is unavailable, in which case notices will be posted at the physical locations indicated in the Resolution. **Following discussion, the motion carried unanimously.**

3. REPORTS

A. Financial/Banking

- Mr. Whitmer reported on the District's current financials as follows: Profit & Loss Budget vs. Actual (January 1, 2020 through December 30, 2020), Balance

Sheet (December 30, 2020), Check Register (October 1, 2020 through December 31, 2020), and Accounts Receivable Aging Summary (December 30, 2020). Kent explained the Accounts Receivable report as follows: the amount owed by Winter Park Recreational Association for snowmaking water is still outstanding, but payment is expected within the next month. Bernina DeLoach is shown as not having paid, though the contractee has provided confirmation that a check was sent to MPWCD. Further investigation is required. Kathryn Eslick has not yet paid amounts owed. Kent will follow up with Ms. Eslick to secure payment. A status report will be given to the Board at the April meeting. **Following discussion, Dick Doucette moved to approve the financial reports including check register and bills that have been paid, seconded by Tom Long. Motion carried unanimously.**

- B. **Attorney:** Kent Whitmer presented the following developments that have occurred since the Attorney's Report and Action Items Status List were provided:
- **East Troublesome Fire Recovery:** At the October meeting, the Board directed staff to investigate potential ways that MPWCD can help people who were affected by the East Troublesome fire in Grand County. Kent contacted Alan Martellaro and the Division 5 Engineers office, who has taken the lead in coordinating a collaborative effort among stakeholders including the Division Engineers, the River District, MPWCD, Northern Water Conservancy District, and Grand County. The first stakeholder meeting took place earlier this week, and highlighted many of the issues that will need to be addressed in the wake of the fire. Right now, efforts are in the preliminary stages; stakeholders are trying to clarify the specific water needs of people affected by the fire, such as revegetation, stock watering, irrigating, etc. The Division Engineers found that there are hundreds of exempt wells that fall within the burn perimeter. The concern is that most people with exempt wells do not understand the parameters of their well use; if they need to revegetate, they're just going to do it. Going forward, the group needs to find the best way to legitimize this use. Possible options include a substitute water supply plan or the operation of an administrative exchange. Both options have pros and cons, which were explained by Kent and discussed by the Board. Stan noted that the best solution to these complicated issues may be in the form of new legislation. Kent explained that Northern has formed an East Troublesome recovery group that is comprised of stakeholders involved in the recovery process, and could potentially have access to funding from the NRCS. Kyle Whitaker provided his perspective of the efforts that Northern has undertaken to date, and emphasized Northern's commitment to assisting people affected by the 2020 fires in any way possible. Mr. Whitaker said that Northern is committed to pumping Windy Gap water in 2021, if at all possible. Board discussion ensued, regarding the level and nature of involvement that MPWCD can and should take in these recovery efforts, and the respective roles of other stakeholders. Because the efforts are still in the

preliminary phase, Kent requested authorization from the Board to become involved in the East Troublesome recovery group coordinated by Northern, with the expectation that more will be known by the time the Board meets in April about the efforts that will be needed and how the various stakeholders will be involved. The Board granted this request. Dick Doucette urged Kent to explore potential legislative options as soon as possible, given the status of the legislature this year. Given that this is a statewide issue, it would be best to act while there is momentum behind this effort. The Board directed Kent to follow up with Grand County Commissioners to explore potential legislative options to address this issue.

- **Annual Meeting with Division Engineers:** Next, Kent provided a report on the annual meeting between MPWCD staff and the Division 5 Engineers, which took place in December. The meeting included a discussion about water sources that are available to MPWCD in the Fraser Valley, and their use as replacement water for MPWCD contractees. To date, the Division Engineers have been flexible in allowing MPWCD to release this water on behalf of contractees even though their decrees don't specifically list them as replacement sources. So long as the system has been made whole, the Division Engineers have been willing to allow such use. That said, Alan Martellaro emphasized the fact that he will be retiring this summer, and the next Division Engineer may not be willing to allow for this informal arrangement to continue. At the meeting, MPWCD staff mentioned that the water currently leased from Grand County Water & Sanitation District may become a more permanent option to MPWCD if plans to line and expand the reservoir come to fruition in coming years. Ongoing investigation is needed to evaluate other available options that could address this issue.

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

- Updated Basin Hydrology Numbers: so far this year has been very dry. The current basin hydrology numbers are worse than when the report was sent out at the end of December. As of today, the numbers are slightly worse than what was seen in 2018. We are looking at some challenges for the upcoming year.
- The Windy Gap call is not currently on. MPWCD has been making releases from Wolford Mountain Reservoir. MPWCD still has approximately 12 acre-feet of water available that has already been paid for under the lease with GCWSD#1. This water will need to be released before the end of the contract term in April. Sunset Ridge Pond releases continue to be problematic for various reasons; the most recent issue was caused by a beaver dam that interfered with releases. MPWCD will continue to work with the HOA to

resolve these issues going forward.

- The 2020 accounting form has been reviewed with and approved by the Division Engineers, and has been provided to the Board.

4. CONTRACTS / REQUESTS

A. Ratification and Approval of GCWSD No. 1 Short-Term Water Lease

- At the October meeting, the Board authorized Kent to enter into a lease with GCWSD#1 for water that is stored on the Fraser River. Following the October meeting, the lease was entered into. MPWCD made an initial purchase of 10 acre-feet, and used almost this full amount in short order. Kent and Kristina evaluated the use of this water and potential future needs, and requested authorization from Jack Buchheister to purchase an additional 10 acre-feet. Jack approved this request. Kent now seeks ratification and approval from the Board for entering into the lease, as included in the October meeting materials. **Following discussion, a motion to ratify approval of the lease agreement was made by Sean Flanigan and seconded by Tom Long. Motion carried unanimously.**

B. Shald Contract Application

- Included in the meeting materials was a contract application from Dan Shald for 0.2 acre-feet of water to augment two exempt wells for non-exempt purposes. **Following discussion, Jim Lenzotti made a motion to approve this contract request, seconded by Sean Flanigan. Motion carried unanimously.**

C. Board Discussion: Replacement of Evaporative Losses for Ponds

- Included in the meeting materials is correspondence between Bill Paddock and Kent Whitmer. Mr. Paddock sought information about MPWCD's willingness to provide a water contract to replace evaporative losses for ponds. No application was submitted by Mr. Paddock, and no application fee was paid. Additionally, after the Board materials were sent out, two applications were submitted and application fees paid, on behalf of Eric White/James Peak Ranch and Kevin Mize, both requesting water contracts to replace evaporative losses for ponds. Neither application indicated the source of water requested. The applications were circulated to the Board by email before the meeting. Kent explained the current procedure for responding to these types of applications; the River District is willing to provide contracts to replace evaporative losses for ponds, so long as the applicant has first come to MPWCD. Given that the MPWCD has historically denied these requests, Kent requested direction from the Board about the best way to handle these contracts in the future. If the Board knows that the requests will be denied, a straightforward policy would be helpful to reference for the applicants without requiring them to go through the application process for the sole

purpose of being able to apply to the River District. The Board discussed the potential benefits and characteristics of such a policy, including whether to grant water contracts that serve domestic purposes in addition to replacing evaporative losses. Following discussion, the Board directed Mr. Whitmer to contact Bill Paddock and Eric White/James Peak Ranch and Kevin Mize, and to advise them that MPWCD will not provide the contracts as requested, and suggest that they contact the River District. Furthermore, the Board directed Mr. Whitmer to research historic treatment of similar requests and to evaluate the current Bylaws and Rules and Regulations to determine any changes that could be made to clarify how MPWCD will respond to such requests in the future.

5. LONG TERM PLANNING:

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

- Kent explained that whenever the issue comes up at GCWSD#1 Board meetings he makes sure to emphasize that MPWCD is very interested in being part of the conversation and potentially collaborating on efforts to line and expand the reservoir.

B. Grand County Mutual Reservoir and Ditch Company

- Mike Eytel reported that the group is still plugging away at 2 years in. They're in the process of getting the Grand County Irrigated Land Company's support and are in discussions with the CWCB and the Division 5 Engineer's office. The group hopes to use the temporary loan statute rather than having to go the route of a substitute water supply plan. A temporary loan should allow enough flexibility for the GCILC, and would not require the group to go through the two-meeting process before the CWCB.

C. Little King Reservoir

- No discussions have happened since the East Troublesome Fire. Kent will follow up with the owners to see what the status is and how our interests could potentially align in the future.

D. Bunte Highline

- There was nothing new to report. It is anticipated that MPWCD's involvement will be minimal and focused on keeping the water on the West Slope going forward.

E. Funding Sources for Water Rights Development

- MPWCD staff continues to investigate potential funding sources for water rights development.

6. STATUS OF DILIGENCE APPLICATIONS

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

- Kent reported that the deadline to file a diligence application is in April. The original decree creates a substitute water supply and exchange for certain MPWCD contractees. For this specific group of Windy Gap contractees, which are primarily towns in Summit and Grand Counties, the exchange allows MPWCD to substitute Wolford Water instead of Windy Gap water in these existing augmentation plans. Kent discussed the importance of maintaining this conditional water right, and requested authorization from the Board to draft and file the diligence application. **Following discussion, a motion to authorize filing a diligence application for the Exchange was made by Tom Long, seconded by Jim Lenzotti. Motion carried unanimously.**

7. OTHER BUSINESS

Dick Doucette made a further comment regarding Little King Reservoir. In a recent flyover of the burn area, Dick believed that the ranch was spared by the fire. Given its location, this water right could be useful for augmentation purposes in the future, and he urged Kent to keep the channels of communication open. Following discussion, the Board directed Kent to contact the owners and reiterate MPWCD's interest in potential collaborations.

Tom Long indicated that it was no longer necessary to mail a paper packet to him. Jim Lenzotti and Mike Eytel agreed.

Kent requested permission from the Board for him and Katie Randall to attend the upcoming Colorado Water Congress convention, which will be held virtually. Permission was granted; Stan Cazier will be attending as well. Any interested Board members are encouraged to attend.

Katie and Stan have been attending Colorado River Basin Roundtable meetings. When Stan becomes a Board member, he would like to continue attending Roundtable meetings as the MPWCD representative. The Board approved this request.

Katie provided an update on the Headwaters Group, which met on January 7. The most recent draft of the Watershed EA was received at the end of 2020, and Northern is in the process of reviewing and providing comments. It is anticipated that the plan will go out for public comment at the end of March or early April. Some geotechnical work was done in November, and the results have been sent to the lab. Work is moving forward with CPW on limnology studies and the potential impacts that the connectivity channel may have on water quality in the reservoir. Fundraising issues continue to be a focus for the group. It is looking

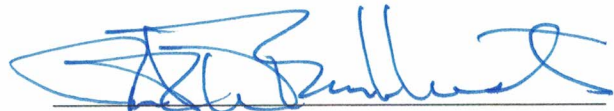
increasingly unlikely that any construction will take place in 2021, due to a lengthy NRCS review process and public comments.

Stan provided an update on Basin Implementation Plan meetings and the Interbasin Compact Committee. An article published in the New York Times and an opinion piece in the Denver Post have been making waves. The articles pertain to outside investment companies buying up water rights on the West Slope, and the future of Demand Management in the entire Colorado River Basin. It's a hot issue and is getting quite a bit of attention from the water community.

Kyle Whitaker provided an update report on the Windy Gap Firming Project lawsuit. The Judge dismissed the federal suit last month. Northern anticipates that construction will begin on Chimney Hollow Reservoir in Spring of 2021, with approximately 4 years of construction work needed before water can be stored in the Reservoir.

Dick Doucette said that it's been a pleasure to serve on this Board, and that he couldn't be happier that Stan will be replacing him. The Board thanked Dick for his years of service to MPWCD, and for bringing his perspective and depth of knowledge to the Board.

8. ADJOURNMENT The meeting adjourned at approximately 2:35 PM. The next meeting will take place on April 14th.



Jack Buchheister, President