

MEETING MINUTES
REGULAR MEETING
BOARD OF DIRECTORS
MIDDLE PARK WATER CONSERVANCY DISTRICT
Kremmling Town Hall

Zoom Video Conference Option:

<https://us02web.zoom.us/j/84597511794?pwd=aTRhUWxHVVILYkxzMnBqRlNlcWNQZz09>

To Join by Phone: Dial (346) 248-7799, Enter Meeting ID 845 9751 1794

Passcode: 621577

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

Directors:

Jack Buchheister – President (present)
Sean Flanigan – Vice President (present)
Jim Lenzotti – Secretary (present)
Stan Cazier – Treasurer (present)
Mike Eytel (present by Zoom)
Gary Bumgarner (present)
Tom Long (present)

Others present in person:

Richard Doucette, former MPWCD Board Member
MPWCD Water Resources Consultant & Hydrologist Kristina Wynne
MPWCD Attorney Kent Whitmer
MPWCD Attorney Katie Randall
Josh Blanchard, Summit County Commissioner
Matt Brown, on behalf of Circle C Ranch
Ryan Donovan, on behalf of Circle C Ranch
Kyle Whitaker, Northern Colorado Water Conservancy District

Others present by Zoom:

James Heath, Assistant Division Engineer, Division 5
Neal Misbach, Division 5 Water Commissioner
Troy Wineland, Division 5 Water Commissioner
Paula Lariviere
Valissa Tsoucaris

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):

* Denotes an action item.

1. CALL TO ORDER

- A. Approval of Minutes from Regular Meeting held April 14, 2021 *
- B. Approval of Minutes from Special Meeting held May 6, 2021 *

Stan Cazier moved to approve the minutes from both meetings, seconded by Gary Bumgarner. Motion carried unanimously.

2. OPEN FORUM

- A. Presentation and Request from Little King Ranch Representatives

Ryan Donovan and Matt Brown introduced themselves and their client, Circle C Ranch (CCR). Mr. Donovan gave an overview of the water rights portfolio and objectives of CCR. CCR is local to Colorado, and has a keen interest in promoting agricultural interests in Colorado. It is interested in acquiring active, working ranches in the area, with the goal of keeping them active. CCR wants to maintain historical use of water rights, and to keep the yield the same; it is looking for ways (through efficiency or through new sources) to maintain agricultural output. CCR is also interested in promoting recreation and in-stream uses for water, and is interested in potentially expanding its holdings in Grand County. CCR is currently seeking feedback from members of the water community as to potential water project development to see what could be of common interest to everyone involved. The MPWCD conditional right in Haypark Reservoir is located on land owned by CCR. Mr. Brown provided an overview of the property holdings and water rights of CCR, which is primarily located in two locations in Grand County: holdings in the Troublesome Valley and King Mountain Ranch. Mr. Brown explained the status of projects involving Matheson and Little King Reservoirs, and the goals of addressing seepage issues and potentially expanding storage capacity at the same time. Work is underway for both reservoirs to see what might be feasible going forward. CCR is exploring potential partnerships and funding opportunities to help promote the projects in both reservoirs; they have had conversations with the River District, Trout Unlimited, and the Grand County Board of County Commissioners, among others. CCR hopes to explore partnership options with MPWCD as well. Board discussion followed, and Jack Buchheister reiterated that the Board has granted MPWCD staff authority to continue conversations with CCR to explore all available options for partnership. Mr. Donovan and Mr. Brown left the meeting following this discussion.

3. BOARD ADMINISTRATION

- A. Recognition of Service to the Board: Richard Doucette.

Jack Buchheister presented a plaque of recognition to Richard Doucette, in grateful acknowledgment of his past service to the Board of MPWCD. The Board thanked Dick for his thoughtful contributions to the Board over the years.

* Denotes an action item.

B. Remaining 2021 Regular Meeting Date: October 13th

C. Schedule Date for Budget & Long Term Planning Workshop *

The Board scheduled a workshop on August 9 in Summit County from 1-3 P.M. to discuss long-term planning topics and the 2022 budget. Additional details about the meeting location and Zoom meeting information will be provided closer to the date of the workshop.

4. REPORTS

A. Financial/Banking

Mr. Cazier reported on the District's current financials as follows: Profit & Loss Budget vs. Actual (January 1, 2021 through June 30, 2021), Balance Sheet (June 30, 2021), Check Register (January 1, 2021 through June 30, 2021), Accounts Receivable Aging Summary (July 1, 2021), and CSAFE Shareholder Statements (June 1, 2021 through June 30, 2021). Income is looking good for this time of year, most of the property taxes are in, the bills have been sent out, so hopefully by October we'll have a clearer picture of the overall progress for the year. For the middle of the year everything looks on track. **Following discussion, Stan Cazier moved to approve the financial reports, seconded by Gary Bumgarner. Motion carried unanimously.**

B. Attorney

The Attorney 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.

C. Water Resources Consultant and Hydrologist

Kristina Wynne presented the following updates since the BBA Water Report was provided:

- **Updated Basin Hydrology Numbers:** It shouldn't come as any surprise that conditions are dry. The good news is that Dillion did fill and is spilling. This may have to do with lower demand on the east slope given all of the rain they've gotten this spring. Green Mountain Reservoir reached an administrative fill at the end of June. Northern did pump Windy Gap: the first 3,000 acre-feet goes to MPWCD and will be available in a few weeks. A soil moisture map was included in the meeting materials to show the current conditions. Several different operational calls have been coming on and keeping everyone busy. In June, the Colorado River was down to 300 c.f.s. at Kremmling due to many factors, including low snowpack this spring and water providers filling reservoirs. Wild & Scenic and Learning By Doing have been working to find different ways to operate so as to get some more water in the river and to try to address high water temperatures. The Shoshone Outage Protocol has

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been in effect, because one turbine has been down for several weeks. It's a bit of a moot point because the Cameo call came on Sunday.

- **Accounting:** the new accounting form has been helpful. The Bookover letter is due to Northern by the end of the month; usually between 7-10 acre-feet of water owed to Northern is booked over to them out of the Windy Gap account. This year, we expect the total amount to be between 15 and 20 acre-feet, because MPWCD will be paying the additional 7 acre-feet owed from last year as well.
- **SWSP, East Troublesome Fire:** The River District is paying BBA to draft the application, and MPWCD will be the applicant. BBA has pulled together the lagging parameters and developed reasonable irrigated acreage estimates. The estimates are conservative and assume that all household-only permits within the burn area will in fact be participating. There was a lot of interest when the Division Engineers put out the survey this spring, but in the real world it is unlikely that 100% of permit holders will participate. Now BBA is working on how long the various users can participate: some users will only be able to participate for one year because their lagged depletions won't actually reach the river until four years later. The five-year timeframe limit sets the guidelines for participation. Kristina hopes to have a finalized draft within the next few weeks.
- **Wild and Scenic:** Kristina will continue to attend the meetings.
- **Learning By Doing:** Kristina continues to attend bi-monthly meetings and occasional calls to stay abreast of recent developments.

5. LASERFICHE SCANNING *

Kent Whitmer reported that Stan Cazier has provided a few more boxes of MPWCD records that will need to be scanned into Laserfiche. The initial estimate of the cost to scan these documents is less than \$5,000. Kent requested authorization from the Board to get a more concrete quote from Peak Imaging, who had scanned the records into Laserfiche when the transition was first made several years ago, and to allow MPWCD staff to move forward with this project if the cost is below \$5,000. **A motion was made by Jim Lenzotti, seconded by Gary Bumgarner, to authorize MPWCD staff to get a quote to scan these documents into Laserfiche, and to provide the quote to Jack for approval so scanning may be completed. Motion passed unanimously.**

Mr. Whitmer also reported that it has come to staff's attention that MPWCD does not have a formal document retention policy. Kent will take a closer look at the issue and formalize a plan for the Board to review and approve at a future meeting. Kent explained that the District will need to continue to keep the storage unit for physical records of the District; Will Berry researched the issue several years ago and no statutory changes have occurred since that time. The Board discussed details about access to Laserfiche, how documents are currently stored and processed, and directed MPWCD staff to conduct further research into a proposed policy.

* Denotes an action item.

6. REVISIONS TO BYLAWS

- A. Recap of discussion from April meeting, implications of changes, potential discussion at long-term planning workshop.

Mr. Whitmer reported that the potential revisions to the District Bylaws came from prior Board discussions about how to approach requests for water contracts to replace evaporative losses from ponds. MPWCD staff reviewed the bylaws that are currently in place, and came to the conclusion that Bylaws changes bring about bigger discussions and long-term planning implications that merit more careful consideration than can be given during a regular Board meeting. Such issues include water contract issuance policies, potential changes to the District's pricing structure, operational changes that could come into effect if MPWCD were to pursue a global augmentation plan, etc. Mr. Whitmer proposed that this agenda item be tabled for now, and discussed in further detail at the long-term planning workshop.

Mr. Cazier agreed that this is a good conversation to have. These issues have been treated in bits and pieces over the years, but it's time to look at everything from a global perspective. It is time to evaluate the rates that MPWCD charges, the implications of a compact call in the near future, and existing water supply for the District.

Mr. Buchheister directed MPWCD staff to research further and for the Board to prepare to continue this discussion at the long-term planning session.

7. CONTRACTS / REQUESTS

- A. Ratify Aspen Springs Short Term Supply Request *

Mr. Whitmer reported that this application is for C Lazy U; they are being proactive and trying to revegetate on a short-term basis this summer before the SWSP comes into effect. This short-term contract for 1.0 acre-foot has been administratively approved. **Following discussion, Stan Cazier moved to ratify approval of this short-term contract request, seconded by Tom Long. Motion carried unanimously.**

- B. Elk Creek Vista Application *

Mr. Whitmer provided the following summary of this application: Elk Creek Vista is a parcel that was carved out of the Byers Peak Ranch property outside of Fraser. Mr. Whitmer disclosed that he represents Byers Peak Ranch on their real estate dealings, but has not been involved at all in this water application; the applicants are represented by separate water counsel. Before this meeting, Stan Cazier brought to MPWCD staff's attention that there is a history between prior owners of this property and Denver Water. Several decades ago, water rights associated with the Byers Peak Ranch property were conveyed to Denver Water separately from the land. As a result, there is less water available on this property than there was in the

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past. Stan pointed to the MPWCD policy that is attached as Exhibit B to the District's Bylaws and to water allotment contracts, which restricts contract issuance to properties where water had previously been conveyed separately from the land for the purpose of transbasin diversion. Kent read a paragraph from the policy, which has particular importance for this water contract application. The paragraph reads: "The provisions of this section shall be liberally construed by the Board to discourage providing Windy Gap Water or Wolford Mountain Water being provided to any property which is or which was part of a parcel that presently or previously had water rights previously appurtenant to some part of the property and which water rights have been conveyed separate and apart from the real property. The decision of the Board of Directors of the Middle Park Water Conservancy District in all cases involving interpretation of this section shall be final and absolute." Mr. Whitmer requested further information from Stan Cazier regarding the history of this policy, the reasons for its enactment, and whether it should be added to the list of topics for discussion at the long-term planning session. If someone four owners ago in the chain of title conveyed water separately from the land, should that prevent the current owners from receiving a MPWCD contract?

Mr. Cazier provided the following history of this policy: it resulted from a Supreme Court decision arising out of actions taken by the City of Thornton in the 1980s. There were concerns that similar actions would happen in Grand and Summit Counties, and the MPWCD Board at the time thought it appropriate to restrict these types of contract requests. Denver Water was buying up ranches in the Fraser Valley for the senior water rights, not requesting a call for those rights, and then the water was effectively gone. The intent of the statute referenced in the policy is that anyone who diverts water from the Colorado River Basin, primarily water conservancy districts at that time, must make sure that they make water available to do this. Property owners on the West Slope could make a killing by selling their water to Denver at a premium, and then come back to MPWCD for a much cheaper contract. The feeling among the MPWCD Board at the time was that this should not be allowed. The policy at Exhibit B was drafted so as to show the rationale behind its enactment as much as possible.

Board discussion followed: Jack Buchheister asked MPWCD staff to research whether the Board is required by statute or by the District's rules and regulations to enforce this policy to the letter, or if there is room for discretion. Kent Whitmer replied that staff would research and get back to the Board. Tom Long noted that owners can learn whether water rights have been separately conveyed by looking at their title policy. It's the owner's responsibility to ensure adequate water exists before buying. Mike Eytel requested additional information about the amount of water requested in this contract application. Details of the request were discussed and explained by Mr. Whitmer. Gary Bumgarner noted that the prior owners of this property have conveyed their water off the land, so this policy applies. **Following discussion, Gary Bumgarner moved to deny the contract application, seconded by Tom Long. Mike Eytel voted against. Motion carried.**

* Denotes an action item.

C. Northern Colorado Water Conservancy District Application *

Kyle Whitaker presented the details of this application request and provided the following background information: Northern currently has all its West Slope staff at the Farr Pumping Plant. It's an old Reclamation facility and staff has overgrown it over time. Northern is looking to build a West Slope campus below the Willow Creek Dam. There is not a municipal water supply in that area, so they will have to drill a well. The Farr pumping facility diverts out of the penstock and treats it on site. The new campus looked to do something similar, but given the location it isn't feasible. The well is primarily for indoor use by staff and occasional public use for tours and educational programs. Limited outdoor uses are proposed to establish trees and shrubs around the facilities. Due to its location and because it is a commercial building, the new campus building is required to have a fire suppression sprinkler system. The only way to meet the needs of the system is to have a pond; an enclosed tank would have been very large. As part of the planning process, Grand County Fire Department is going to build a campus adjacent, and asked Northern to make sure that the pond would be adequate to supply their campus fire suppression as well. Ideally, the pond will not be filled out of the well: it'll be pulled out of the Willow Creek canal. As part of the fire suppression requirements, Northern must show the ability to keep a pond filled at all times, which is where the well comes into play. Jim Lenzotti asked for additional details as to why an enclosed tank would not be feasible. Kyle responded that he would need to get some more information about the specifics, but he knows that the architects concluded that it would be cost prohibitive. Kristina Wynne asked whether the building would be served by septic wastewater treatment; Kyle confirmed that it would be septic. Mr. Whitaker provided additional information as to why C-BT water would not be usable for this purpose: C-BT is decreed for very specific purposes: supplemental irrigation and supplemental municipal uses on the East Slope. Northern does not have the ability to use other Windy Gap elements for use on this side of the Divide. Stan Cazier commented that the Municipal Subdistrict has frequently and historically made water available when they didn't have to. This would be an exception to the rules and changes discussed earlier because additional water has been made available for use on the West Slope. **Stan Cazier made a motion to approve this application, seconded by Gary Bumgarner. Jim Lenzotti requested that the evaporative losses from the pond be calculated and considered before the application is approved; specifically, Jim requested additional information as to why an enclosed tank would not be an option for fire suppression water. Stan amended the motion to make approval of the application contingent on approval by MPWCD staff of proof of the efficiencies and volumes of water needed for the pond. Motion passed unanimously.**

* Denotes an action item.

D. Town of Winter Park Application *

Katie Randall provided the following summary of this application: the Town of Winter Park has requested a contract for 3.4 acre-feet of water total; 1.7 acre-feet from Wolford and 1.7 acre-feet from Windy Gap. The water will be used to augment depletions from a well that will serve a bus barn facility, including office and bathroom uses and bus washing, on a parcel leased from Grand County. This application was also flagged by Stan Cazier as being potentially problematic given the policy attached as Exhibit B to the MPWCD Bylaws and water contracts. The property where the bus barn is located has been leased by the Town of Winter Park from Grand County. Grand County purchased the property from Denver Water, who reserved any associated water rights as part of the conveyance.

Board discussion followed: Stan Cazier mentioned that Grand County has 15 acre-feet of MPWCD water, and it is not restricted as to location of use. The Board further questioned whether the Town of Winter Park also potentially has water available, and suggested that if not, the Town could go to the River District, since the River District does not have a similar policy regarding contract restrictions. **Following discussion, Gary Bumgarner made a motion to deny the application, seconded by Tom Long.** Mike Eytel commented that the Board should ask who MPWCD is here to serve: the water users in Grand and Summit Counties. This is an insult to our partners in Grand County, and this policy is antiquated and needs to be addressed. **There being no further discussion, a vote was held. Mike Eytel voted against; motion carried.**

8. LONG TERM PLANNING

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

Kent Whitmer reported that GCWSD is still in the process of evaluating the costs of expanding and lining their reservoirs. They know that MPWCD is interested and when they get the numbers and when they feel like there's enough demand to move forward with the project, they will let us know.

B. Grand County Mutual Reservoir and Ditch Company

Mike Eytel reported that the group has reached a bit of an impasse with the Irrigated Land Company, so the project is currently at a standstill.

No further long-term planning topics were discussed.

* Denotes an action item.

9. STATUS OF WATER COURT APPLICATIONS

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

Katie Randall provided an update on the application: requested a finding of diligence and to make a portion of the Exchange absolute. The application was filed in April, and no statements of opposition were filed. We are waiting for the Summary of Consultation at this point.

B. Municipal Subdistrict, Northern Colorado Water Conservancy District –Application to Correct Erroneously Described Points of Diversion for Windy Gap

Katie Randall provided a summary of this application, which was filed in April: the application seeks to correct the decreed location for points of diversion of the Windy Gap project, but no physical changes are proposed. The application seeks to bring the decreed locations into line with what exists in reality. MPWCD filed a friendly statement of opposition in this case for monitoring purposes; similar statements were filed by the River District and Grand County. A stipulation and proposed decree has been circulated among all opposers. Following review by Kent, Katie and Kristina, it is recommended that the Board approve the stipulation and proposed decree.

Following discussion, Gary Bumgarner moved to approve the stipulation, seconded by Jim Lenzotti. Motion carries unanimously.

10. OTHER BUSINESS

A. The Board discussed the potential timing and implications of a compact call. Stan Cazier reported that the State Engineer has held meetings to discuss how a compact call would work in practice. Although a compact call is still likely years away, the reality is that the levels at Powell and Mead are dropping precipitously. This could affect MPWCD operations in the future, and it is going to get worse before it gets better. This is the idea behind demand management – trying to get ahead of the problem as much as possible. The Board needs to understand that this is real, and it could be a significant problem for the District, especially given the details of how this will play out in negotiated efforts. James Heath reported that the State Engineer has started to take some steps towards what it will actually look like to start administering a compact call. A press release will be coming out in the next week or so, detailing the steps that will need to be taken if that comes to pass.

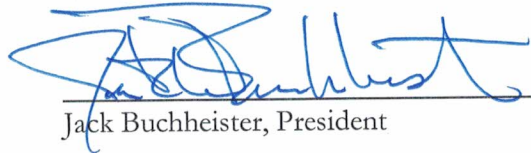
B. East Troublesome Fire Recovery: Kyle Whitaker provided an update on Northern’s involvement in the fire recovery efforts. Aerial seeding and mulching operations started today, and are expected to continue for the next 40 days. Sediment and debris management controls are underway, in an effort to control the debris coming down Supply Creek and the North Fork of the Colorado. Kyle noted that Northern currently has a temporary water contract with MPWCD to enable use of the well at

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the West Slope Campus facility for construction purposes. One of the goals of attending this meeting and requesting a permanent contract is to avoid having to use the temporary water contract for construction purposes, and using that water instead for fire recovery efforts. Jim Lenzotti asked if there is anything that MPWCD can do on a short-term basis to help. Mr. Whitaker responded that it appears the only solution would be for Northern to get another short-term contract.

11. ADJOURNMENT

The meeting was adjourned at 3:25 PM.



Jack Buchheister, President

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NOTICE OF MEETING AND AGENDA
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1. CALL TO ORDER

- A. Approval of Minutes from Regular Meeting held April 14, 2021 *
- B. Approval of Minutes from Special Meeting held May 6, 2021 *

2. OPEN FORUM

- A. Presentation and Request from Little King Ranch Representatives

3. BOARD ADMINISTRATION

- A. Recognition of Service to the Board: Richard Doucette
- B. Remaining 2021 Meeting Dates (October 13th)
- C. Schedule Date for Budget & Long Term Planning Workshop *

4. REPORTS

- A. Financial/Banking
 - i. Profit & Loss Budget vs. Actual (1/1/21 through 6/30/21)
 - ii. Balance Sheet (6/30/21)
 - iii. Check Register (1/1/21 through 6/30/21)
 - iv. Accounts Receivable Aging Summary (7/1/21)
 - v. CSAFE Shareholder Statements (6/1/21 through 6/30/21)

* Denotes an action item.

vi. Approve Financials *

B. Attorney

i. Attorney's Report

ii. Action Items Status List

iii. Additions since Attorney's Report or Action Items Status List

C. Engineer

i. Engineer's Report

5. LASERFICHE SCANNING *

6. REVISIONS TO BYLAWS

A. Recap of discussion from April meeting, implications of changes, potential discussion at long-term planning workshop

7. CONTRACTS / REQUESTS

A. Ratify Aspen Springs Short Term Supply Request *

B. Elk Creek Vista Application *

C. Northern Water Conservancy District Application *

D. Town of Winter Park Application *

8. LONG TERM PLANNING

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

B. Grand County Mutual Reservoir and Ditch Company

C. Little King Reservoir

D. Bunte Highline

* Denotes an action item.

E. Funding Sources for Water Rights Development

F. Open Discussion and Direction to Staff

9. STATUS OF WATER COURT APPLICATIONS

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

B. Municipal Subdistrict, Northern Colorado Water Conservancy District –
Application to Correct Erroneously Described Points of Diversion for Windy Gap

10. OTHER BUSINESS

A. East Troublesome Fire Recovery Effort

11. ADJOURNMENT

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