

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

<https://us02web.zoom.us/j/87195774878?pwd=bzhBeXpRK3k0VE8xL1JUZ3hVb0VKQT09>

To Join by Phone, Dial (346) 248-7799 Enter Meeting ID 871 9577 4878

January 12, 2022, 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 Flanigan – Vice President (present)  
Jim Lenzotti – Secretary (present)  
Stan Cazier – Treasurer (present)  
Mike Eytel (present)  
Gary Bumgarner (not present)  
Tom Long (present)

Others present:

MPWCD Water Resources Consultant & Hydrologist Kristina Wynne  
MPWCD Attorney Kent Whitmer  
MPWCD Attorney Katie Randall  
Caleb Foy, Lead Assistant Division Engineer, Division 5  
Sue Avre, Division 5 Water Commissioner  
Neal Misbach, Division 5 Water Commissioner  
Timothy Ritschard, Division 5 Water Commissioner  
Paula Lariviere, member of the public  
Kyle Whitaker, Northern Colorado Water Conservancy District  
Josh Blanchard, Summit County Commissioner  
David Bower, Johnson & Repucci  
Mike Tiehen, Arapaho Valley Ranch

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 13, 2021 Minutes

- **A motion was made by Stan Cazier, seconded by Gary Bumgarner, that the minutes be approved as presented. Motion carried unanimously.**

2. BOARD ADMINISTRATION

A. 2022 Meeting Dates

- As set forth at the October meeting, the remaining 2022 Board meetings will take place on April 13<sup>th</sup>, July 13<sup>th</sup>, and October 12<sup>th</sup>.

- The Board discussed preferences for meeting format and location. It was generally agreed that face-to-face meetings are preferable when it is safe to do so. The Board tentatively set the April and October meetings to take place in Kremmling, with the July meeting to be held in Summit County.
- The Board discussed preferences for the frequency of updates in the form of Attorney letters from Kent and Katie. It was proposed by Stan Cazier that MPWCD attorney updates be provided monthly rather than quarterly. The Board directed Kent and Katie to provide brief monthly updates to keep Directors apprised of current events and developments, with a more comprehensive update to be provided quarterly in conjunction with Board meetings.

#### B. Board Appointments

- Katie Randall explained that the current Board terms for Gary Bumgarner and Jim Lenzotti will end on January 30<sup>th</sup>. Both Directors have indicated they are willing to renew for another term. An Order appointing Mr. Bumgarner and Mr. Lenzotti has been received from the District Judges in Grand and Summit Counties; accordingly, Oaths of Office need to be taken and bonds filed.

#### C. 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 Stan Cazier. Motion carried unanimously.**

### 3. REPORTS

#### A. Financial/Banking

- Included in the meeting materials were the following financial reports: Profit & Loss Budget vs. Actual (January 1, 2021 through December 31, 2021), Balance Sheet (December 31, 2021), Check Register (October 1, 2021 through December 31, 2021), and Accounts Receivable Aging Summary (December 31, 2021). Stan Cazier provided a summary of the reports and invited questions from the other Directors. **Following discussion, Stan Cazier moved to approve the financial reports including check register, seconded by Gary Bumgarner. Motion carried unanimously.**

- B. **Attorney:** Kent Whitmer and Katie Randall presented the following developments that have occurred since the Attorney's Report and Action Items Status List were provided: Katie Randall provided an update on the Water Court application that is pending for the MPWCD Substitution & Exchange water right. A response to the Summary of Consultation has been filed, along with a proposed ruling. The proposed ruling will need to be approved by the Water Referee before the Water Judge can issue a decree. Jim Lenzotti asked about the status of the study and analysis



undertaken by GCWSD#1 regarding the potential expansion and lining of their reservoir. Kent Whitmer confirmed that GCWSD#1 is still pursuing this investigation, and is aware of MPWCD's interest in exploring a potential partnership for this project.

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

- Updated Basin Hydrology Numbers: the reservoirs are more or less the same since the report was provided. Snowpack levels are looking better in the South Platte and Upper Colorado River basins, but there is still a lot of winter to go. Winter operations are going smoothly; MPWCD has been making releases from Wolford Mountain Reservoir and Granby Reservoir. The gauge below Windy Gap is frozen; it is unknown whether and when an ISF call may come on. Kristina participated in a call with the Bureau of Reclamation regarding Northern Colorado Water Conservancy District's operations. As of right now it looks like they are projecting to pump Windy Gap water in the spring, but again there is a lot of winter to go.
- Accounting: The annual meeting between MPWCD personnel and the Division Engineer's Office took place in December. During the meeting, Kent, Katie, and Kristina provided an overview of MPWCD operations, discussed the accounting forms for WY2021, and discussed the current status of the proposed SWSP for properties affected by the East Troublesome Fire. The DEO has requested that MPWCD update its accounting form to clarify the source of augmentation water that is released on behalf of specific MPWCD contractees. The current MPWCD accounting form contains this information in a general sense, but it takes a bit more investigation than the DEO would like. Ultimately it would be a good idea to update the accounting form in keeping with this request. Not only will this help to avoid over-replacing for contractees that hold both Windy Gap and Wolford contracts, but it will also provide additional clarity should MPWCD decide to move forward with a blanket augmentation plan. Kristina estimated that that this would take a few days of work for BBA to complete, and requested direction from the Board before moving forward. Following discussion, the Board provided direction to BBA to move forward with the changes to the accounting form as described for WY2022.
- **East Troublesome SWSP:** At the December meeting, MPWCD personnel discussed the current status of the proposed SWSP for properties affected by the East Troublesome Fire. The Division Engineers are not able to approve any SWSP without the existence of some mechanism to replace depletions to calls on the tributaries. Right now, the only available replacement supplies under the proposed SWSP are on the mainstem of the Colorado, which could not be used to meet a call made by a local structure on upper tributaries. Several discussions have taken place between MPWCD personnel and the DEO to try to find a workable solution. One option would be to pare back the operation of this SWSP, and only replace for wells that affect the



mainstem downstream from MPWCD's augmentation supplies (approximately 37 of the original 263 wells identified within the burn area). Another option would be to try to secure no-call agreements for the local structures that could be impacted. BBA is currently working to clarify the contact information for owners of these structures, to see if this may be a workable option. Another potential solution would be to truck water above these calling structures. BBA analyzed this option to determine how much water would be needed, and whether this would be a feasible option. Following this analysis, it appears that this may be a workable option for the first year of operation of the SWSP, but in later years this would involve hundreds of truckloads of water each day, which is not feasible. The Board discussed potential legislative solutions to this problem, and provided direction to Kent and Katie to follow up with research into the matter. The Board also discussed the potential feasibility of providing water deliveries directly to landowners rather than pursuing an SWSP, and expressed a desire to know more about the actual demand among landowners to participate in such a program. **Following discussion, Gary Bumgarner made a motion that MPWCD move forward with a revised SWSP that covers only those wells that affect the mainstem of the Colorado River with MPWCD's existing water supply, in the absence of a no-call agreement. If MPWCD gets a no-call agreement from any of the calling structures on the upper tributaries, then the SWSP request will be amended to include the additional wells that would be covered. Motion was seconded by Tom Long, and carried unanimously.** Further discussion involved communicating with the River District to ensure adequate funding exists for BBA to complete the work needed to revise the SWSP request, and direction to BBA to follow up with research regarding the number of wells on the mainstem that had also responded to the survey from the DEO to express interest in participating in an SWSP.

- **Learning by Doing: Grand County Stream Management Plan Update Funding Request:** Kristina Wynne summarized the efforts that are currently underway by Learning By Doing to update the Stream Management Plan for Grand County. The Grand County Stream Management Plan was originally developed in 2010, and was limited in scope; it focused mostly on fisheries. LBD has been seeking grant support to update the stream management plan and to do some comprehensive analyses on data collected. As part of this effort, LBD has asked all seven participating members (including MPWCD) to contribute to the current shortfall in funding. Currently, \$3643 is needed from each LBD member to close the funding gap. The Board discussed the difficulty of responding to these types of funding requests, given the relative size of MPWCD's budget compared to other LBD members. The Board also acknowledged the importance of this project and the need to show support and unity among LBD participants. This is a flagship program for Grand County, and it is important to update the Stream Management Plan. **Following further discussion, Stan Cazier moved that MPWCD**



**contribute \$2500 to Learning By Doing to support the Grand County Stream Management Plan, seconded by Mike Eytel. Motion carried unanimously.**

#### 4. CONTRACTS / REQUESTS

##### A. Ratification and Approval of Van Stelle Short-Term Contract

- Tim Van Stelle submitted a request for 0.5 acre-foot of Windy Gap water on a short-term basis to replace depletions associated with pumping his well for irrigation to establish new landscaping in the summer of 2022. Mr. Van Stelle has submitted an SWSP request to the Division Engineers to approve the short-term use of this water. In keeping with the MPWCD Bylaws, this request was administratively approved by MPWCD staff. **Jim Lenzotti made a motion to ratify the approval of this short-term request, seconded by Stan Cazier. Motion carried unanimously.**

##### B. Arapaho Valley Ranch Contract Application

- Arapaho Valley Ranch has submitted a request for a mixed water allotment contract in the amount of 4.6 acre-feet of water (2.3af each from Windy Gap and Wolford) to supply augmentation water. Arapaho Valley Ranch is a guest ranch located on approximately 39 acres between Monarch Lake and Lake Granby. The water will be used to augment depletions associated with the existing Arapaho Valley Ranch Well, for domestic and commercial uses. David Bower joined for a portion of this meeting as attorney for Arapaho Valley Ranch, but was unable to attend for the entirety of this conversation. Mike Tiehen, whose group recently purchased Arapaho Valley Ranch, was present for this conversation. Kristina Wynne represents Arapaho Valley Ranch, and in that capacity, she provided additional information to the Board about the proposed operations of the Ranch, the water rights associated with the property, and augmentation plan that will be sought by Arapaho Valley Ranch in connection with this contract request. Arapaho Valley Ranch will also be requesting a contract from the River District to augment depletions from a pond on the property. The water sought from MPWCD will only be used to augment depletions associated with domestic uses and for irrigation purposes in dry conditions when their junior water rights are not in priority. Arapaho Valley Ranch is not proposing to be covered by the septic payback to Northern. Jim Lenzotti asked if this is a case similar to the Board's earlier discussion about contractees "doubling up" their contract requests from Wolford and Windy Gap. Kristina confirmed that Arapaho Valley Ranch is requesting 2.3af from each source, as a belt and suspenders approach. Kristina clarified that under the current day-to-day operations it does not make sense for MPWCD to double-release for these contractees, but the water would still be committed to them in the total cumulative amount of both contracts. Kent Whitmer added that the contract application clarifies that the augmentation sources would be alternates to each other. Stan Cazier provided historical

context to this arrangement: previously, the Division Engineer had indicated a preference that MPWCD contractees list an alternate source of augmentation in their respective decrees. The Board discussed contracting options available to MPWCD, including awarding a contract for total of 2.3af but providing that the water may be released from either source (Wolford or Windy Gap), charged at the then-current rate for Wolford supplies. **Following further discussion, Gary Bumgarner made a motion to award a contract in the amount of 2.3 acre-feet, to be provided from either Wolford or Windy Gap supplies in the discretion of MPWCD. Motion was seconded by Jim Lenzotti.** Kent Whitmer clarified that MPWCD staff will contact David Bower following the meeting to ensure that this structure will be acceptable to contractee, given that the contract amount awarded differs from the amount requested. **Motion carried unanimously.**

C. Contract Extension Requests:

- Under the MPWCD Bylaws, water contracts must be entered into and paid for in full within nine months of Board approval, unless otherwise extended. Shald has received a Decree from the Water Court, but is outside of the nine-month window for signature and payment of the contract. Mize, White/James Peak Ranch, Roper, and Eldridge are all continuing to make their way through Water Court, and have not yet received their respective decrees. **Following discussion, Stan Cazier made a motion to approve 9-month extensions for all contract requests, to October 2022. Motion was seconded by Tom Long, and carried unanimously.**

D. Boenish Contract Request Abandoned:

- Katie Randall provided an update on this contract request, previously submitted by Ken and Carla Boenish and approved by the Board, to augment a proposed subdivision of 40 acres. Upon further investigation and research, Ken and Carla Boenish decided to abandon the proposed subdivision project, and will no longer need the MPWCD contract water requested.

5. LONG TERM PLANNING:

- A. Purchase / Long-Term Lease of GCWSD#1 Augmentation Pond Water: Nothing new to report.
- B. Grand County Mutual Reservoir and Ditch Company: Mike Eytel reported that the group is still working on this proposed pilot project; negotiations continue with the Grand County Irrigated Land Company.
- C. Little King Reservoir: Nothing to report.
- D. Bunte Highline: Kristina Wynne continues to monitor; nothing new to report.



- E. Funding Sources for Water Rights Development: MPWCD staff continues to investigate potential funding sources for water rights development.
- F. Open Discussion and Direction to Staff:
  - Stan Cazier provided that as part of the Windy Gap Bypass project, John Sikora at AECOM mentioned that an additional 10 c.f.s. of water may be present at the Windy Gap Reservoir. The Board provided direction to Kent and Kristina to follow up and get more information.

## 6. STATUS OF DILIGENCE APPLICATIONS

- A. Middle Park Water Conservancy District Exchange – 20CW3071. Katie Randall provided an update earlier in the meeting.

## 7. OTHER BUSINESS

- A. Presentation by Jeff Clark, BBA – proposed partnership regarding Pole Creek Meadows reservoir.
  - Stan Cazier noted that he had a conflict of interest with respect to this conversation. Stan left the meeting at this point.
  - Jeff Clark made a presentation about the collaboration that is contemplated: he represents one of the owners/users of a smaller reservoir near Tabernash: Pole Creek Meadows Reservoir No. 1. The reservoir is located near the confluence of Pole Creek and the Fraser River. The four owners/users each have an augmentation plan for certain development areas. Details were provided and discussed. The existing reservoir is operational, has inflow/outflow/measuring devices, and may have some surplus storage in it. The owners/users may potentially be interested in partnering with another entity in the existing reservoir, or to potentially enlarge the reservoir. A spectrum of potential arrangements and collaborations was discussed. The Board agreed that there is interest in exploring these potential collaborations, but additional information is necessary at this time. The Board directed MPWCD staff to investigate further.
  - After this conversation, Stan Cazier re-joined the meeting.
- B. Ron Jones – Proposed Partnership:
  - Kent Whitmer provided an update on the conversations that have taken place between himself and Mike Repucci regarding the proposed terms and goals of a potential collaboration with Ron Jones. Details of a proposed arrangement were discussed. Again, the Board agreed that additional information is needed before MPWCD can make any decisions. The Board directed MPWCD staff to research and compile a list of due diligence items, research topics, and additional information that would be needed before the Board can move forward on any proposed collaboration.

C. Colorado River Water Users' Association – Annual Meeting in Las Vegas

- Stan Cazier and Mike Eytel attended the annual convention, and provided a report of themes and updates from the convention.

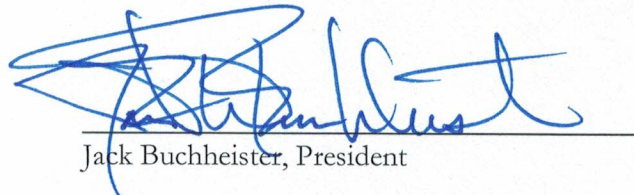
D. IBCC:

- Stan Cazier reported that the IBCC met in October, and plans to meet again in February. Demand Management issues continue to be unresolved, and are an ongoing topic of conversation.

E. Revisions to Bylaws

- Revisions to the MPWCD Bylaws were discussed at the July and October Board meetings. Those revisions have been incorporated into a redline that was included in the meeting packets. Of note, edits were made to clarify to future contractees that MPWCD water may not be available in certain areas due to over-appropriation, and that the onus is on the applicants and their engineers to ensure that enough water will be available for applicants' intended uses. Another notable change was made to incorporate the Board's direction that MPWCD attorneys shall file statements of opposition for all water court applications that claim to use MPWCD water before having a contract request approved. This is a more proactive stance than what MPWCD has done in the past. By incorporating this change, MPWCD hopes to avoid situations where an applicant proposes a certain use or contract amount in a Water Court application, requesting approval from MPWCD after the fact, only to be denied due to constraints on MPWCD as set forth in the Bylaws and Rules & Regulations. **Following additional discussion about the proposed changes, Gary Bumgarner made a motion to approve the Bylaws and Rules & Regulations as amended. Motion was seconded by Sean Flanigan, and carried unanimously.**

8. ADJOURNMENT The meeting adjourned at approximately 3:25 PM. The next meeting will take place on April 13<sup>th</sup>.



Jack Buchheister, President



NOTICE OF MEETING AND AGENDA  
REGULAR MEETING  
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January 12, 2022, 1:00 p.m.

1. CALL TO ORDER

- A. Approval of October 13, 2021 Minutes \*

2. BOARD ADMINISTRATION

- A. 2022 Meeting Dates (April 13<sup>th</sup>, July 13<sup>th</sup> and October 12<sup>th</sup>)
  - i. Discussion About Preferred Meeting Locations
  - ii. Discussion About Communication Preferences & Frequency of Updates
- B. Board Appointments \*
- C. Approval of Posting of Place of Meetings and Agenda \*

3. REPORTS

- A. Approval of Audit Engagement Letter – Fiscal Focus Partners \*
- B. Financial/Banking
  - i. Profit & Loss Budget vs. Actual (1/1/21 through 12/31/21)
  - ii. Balance Sheet (12/31/21)
  - iii. Check Register (10/1/21 through 12/31/21)
  - iv. Accounts Receivable Aging Summary (12/31/21)
  - v. Approve Financials \*

\* Denotes an action item.



C. Attorney

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

D. Engineer

- i. Engineer's Report
- ii. Learning by Doing: Grand County Stream Management Plan Update  
Funding Request \*
- iii. Discussion and Approval of Division Engineer's Proposed Revisions to  
MPWCD Accounting Beginning WY 2022 \*

4. CONTRACTS / REQUESTS

- A. Ratification and Approval of Van Stelle Short-Term Contract \*
- B. Arapaho Valley Ranch Contract Application \*
- C. Contract Extension Requests \*
  - i. Shald
  - ii. Mize
  - iii. White/James Peak Ranch
  - iv. Roper
  - v. Eldridge
- D. Boenish Contract Request Abandoned

5. LONG TERM PLANNING

- A. Purchase / Long-Term Lease of GCWSD#1 Augmentation Pond Water
- B. Grand County Mutual Reservoir and Ditch Company

\* Denotes an action item.



- C. Little King Reservoir
- D. Bunte Highline
- E. Funding Sources for Water Rights Development
- F. Open Discussion and Direction to Staff \*

6. STATUS OF DILIGENCE APPLICATIONS

- A. Middle Park Water Conservancy District Exchange – 20CW3071

7. OTHER BUSINESS

- A. Presentation by Jeff Clark, BBA – Proposed Partnership Pole Creek Meadows Reservoir
- B. Ron Jones – Proposed Partnership
- C. Colorado River Water Users’ Association – Discussion Following Annual Meeting in Las Vegas
- D. Revisions to Bylaws \*

8. ADJOURNMENT

\* Denotes an action item.