

MEETING MINUTES
REGULAR MEETING
BOARD OF DIRECTORS
MIDDLE PARK WATER CONSERVANCY DISTRICT
Frisco – Summit County Community and Senior Center, Fremont Room

<https://us02web.zoom.us/j/86172780219?pwd=TjkyUkVvdzVrZHluYkNoTzVEcUZUdz09>

To Join by Phone, Dial (719) 359-4580, Enter Meeting ID 861 7278 0219

January 11, 2023, 1:00 p.m.

Directors:

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

Others present:

MPWCD Water Resources Consultant & Hydrologist Kristina Wynne
MPWCD Attorney Kent Whitmer
MPWCD Attorney Katie Randall
Troy Wineland, Division 5 Water Commissioner

Others present by Zoom:

Jason Turner, Colorado River Water Conservation District
Sue Avre, Division 5 Water Commissioner
Neal Misbach, Division 5 Water Commissioner
Timothy Ritschard, Division 5 Water 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 October 12, 2022 Minutes

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

2. BOARD ADMINISTRATION

A. Approval of 2023 Meeting Dates: January 11, March 1, April 12, May 31, July 12, September 13, and October 11

- **A motion was made by Stan Cazier and seconded by Sean Flanigan to approve the 2023 meeting dates as presented. Motion carried unanimously.**

B. 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 Stan Cazier and seconded by Sean Flanigan. Motion carried unanimously.**

C. Board Appointment

- Katie Randall explained that the current Board term for Mike Eytel will end on January 30th. Mike has indicated that he is willing to renew for another term. An Order appointing Mr. Eytel has been received from the District Judges in Grand and Summit Counties; accordingly, an Oath of Office will need to be taken and bond filed.

D. Resolution Regarding Electronic Signatures

- Included in the meeting materials is a Resolution Regarding Electronic Signatures. Kent Whitmer explained that it is common practice for contracts to be signed electronically, and under Colorado law electronic signatures carry the same force and effect as signatures in ink. MPWCD Staff would like the authority and ability to process water contract signatures electronically, and to use electronic signatures to conduct other business on behalf of the District. **Following Board discussion Mike Eytel made a motion to approve the Resolution Regarding Electronic Signatures, seconded by Jack Buchheister. Motion carries unanimously.**

3. REPORTS

A. Financial/Banking

- Included in the meeting materials were the following financial reports: Profit & Loss Budget vs. Actual (January 1, 2022 through December 31, 2022), Balance Sheet (December 31, 2022), Check Register (October 1, 2022 through December 31, 2022), Accounts Receivable Aging Summary (December 31, 2022), and CSAFE & CSAFE CORE Shareholder Statements (December 31, 2022). Stan Cazier provided a summary of the reports and invited questions from the other Directors. Water sales income is down a bit, primarily due to WPRA not purchasing short-term contracts for snowmaking water. Directors' expenses are high, though this was expected due to changes in Directors' salaries as approved by the Court but not reflected in the 2022 budgeted amount for that category. Engineering expenses have been previously noted but are high due to the accounting changes requested by the Division Engineer. The Board discussed the likelihood that WPRA will no longer need

to purchase any short-term contracts on a consistent basis, now that the pumpback and pipeline structure has been constructed and the associated decree has been issued. Kent Whitmer provided a report about the balances in the two CSAFE accounts. Jim Lenzotti asked about potential options to secure a higher interest rate on a short-term basis in the form of a CD or other investment option. Staff will report back to the Board about available options. **Following discussion, Stan Cazier moved to approve the financial reports including check register, seconded by Mike Eytel. Motion carried unanimously.**

- B. **Attorney:** Kent Whitmer noted that many of the items in the attorney's report will be discussed under various agenda items later in the meeting, and invited any questions from the Board. Stan Cazier asked if the River District has been involved in recent conversations between MPWCD and the Division Engineer regarding the HUP and Slot Group. MPWCD Staff will follow up with Jason Turner to provide an update and see if there is any interest for the River District to participate in this endeavor.
- C. **BBA Report:** Kristina Wynne presented the following updates since the BBA Report was provided:
- Updated Basin Hydrology Numbers: no considerable change since the report. Snowpack is up slightly since the report. NOAA is indicating an above-average chance of higher-than-normal precipitation through January. Hopefully the good moisture continues. There are no changes with projected operations. Shoshone is the only call that is on right now. Kristina participated in the annual call with the Bureau of Reclamation regarding the C-BT Project. At this point, Northern Colorado Water Conservancy District intends to pump Windy Gap water in the spring, and does not anticipate that Granby Reservoir will spill.
 - Accounting: Last month the revised accounting was finalized and submitted to the Division Engineer. It took significant time and effort by BBA to incorporate the accounting changes requested by the Division Engineer. Troy Wineland expressed the appreciation of the Division for the changes incorporated into the accounting to clarify the source of augmentation water that is released on behalf of specific MPWCD contractees. This will make it much easier to administer and monitor MPWCD's operations. Kristina Wynne then provided a summary of the annual meeting between MPWCD Staff and the Division Engineers that took place in Glenwood Springs last December. John Shuler and Kristina Wynne attended from BBA Water, and Kent Whitmer and Katie Randall attended from the Whitmer Law Firm. John Shuler has done a lot of the work to revise the accounting; it is good to have him aware of the specifics of MPWCD accounting and operations. One of the main takeaways from the annual meeting with the Division is that current and future administration is going to be tighter, and the need for augmentation supplies on tributaries will only increase. MPWCD will need to keep this in mind as it evaluates long-term planning options, particularly on the Fraser

River. Another topic of discussion was the idea of a potential umbrella augmentation plan for MPWCD. Overall, the Division Engineers were receptive to the idea, but MPWCD will need to carefully consider the pros and cons to the District. BBA plans to reach out to other water conservancy districts who have gone through this process already to talk about the impacts of an augmentation plan and potential pitfalls to avoid. Board discussion ensued.

- HUP/Slot Group: at the December meeting, MPWCD Staff again discussed with the Division Engineers the status of the Slot Group analysis. Over 750 water rights have been identified by the Division Engineer as potential beneficiaries of Slot Group coverage. The Division Engineer was receptive to the idea of MPWCD assisting with the modeling and analysis that would be needed to understand the depletions associated with those water rights. Kristina Wynne estimates that it may cost between \$7,000 and \$10,000 for BBA Water to perform this analysis, which the Division Engineers would then review. This expense was not included in the 2023 budget. The actual costs for this work may be less than this estimate, but it is difficult to say with any certainty until the work is underway. The Board discussed the need for this analysis to be completed and the benefits that would be conferred to District constituents in Grand and Summit Counties, as well as pros and cons of MPWCD taking on this work. Following discussion, the Board decided to take no action until more is known about the potential costs involved, and whether there may be any other collaborators or partners who could help defray the costs to the District.
- Sunset Ridge: Kristina Wynne has not been able to connect with Julie Ash at Stillwater; MPWCD needs to get more information about the scope of their work and what the Homeowners' Association is looking to accomplish by the proposed work on the Pond. Kent Whitmer provided an update following a phone call with the Homeowners' Association representative last month regarding this project. The Board emphasized that its primary goal is to ensure that the proposed work to the Pond will not interfere with the HOA and MPWCD's respective rights and obligations under the Joint Use Agreement that is in place. Kristina will communicate to Stillwater that at a minimum, any work will need to continue to allow for releases out of the Pond, and to maintain the existing storage capacity of the Pond under the Joint Use Agreement. BBA will continue conversations with Stillwater regarding the feasibility of potential partnerships for other enhancements to the Pond.
- Fraser Valley Storage Options: Kristina Wynne then provided a summary of BBA's analysis of the decrees held by current MPWCD contractees in the Fraser Valley and the potential associated implications regarding upstream storage needs. Board discussion followed.
- Wild & Scenic: Kristina provided an update regarding ongoing conversations in the Cooperative Measures Committee to potentially acquire a pool of Green Mountain water to be used to help augment streamflows for environmental and recreational purposes, and to address high temperature

issues on the mainstem of the Colorado. The Board then discussed the current situation at Lake Powell and Lake Mead, and potential ramifications of a Compact Call and electricity generation problems given low levels at the reservoirs.

- East Troublesome SWSP: At the December meeting, the Division Engineers confirmed that they are not aware of any well owners who asked to participate in the SWSP. The time is approaching where MPWCD will need to decide if it is worthwhile to seek renewal of the SWSP given that there has been no interest in participating within the narrowed scope of the plan as approved. Because there have been no depletions associated with this SWSP, a letter can be submitted to the Division Engineer reporting that no one has participated in the plan, and the SWSP will therefore not be renewed. MPWCD is the applicant for the SWSP, and the River District agreed to pay the associated costs. Kristina Wynne will contact the River District to see how they wish to proceed. An update will be provided at the March meeting, at which point a decision will need to be made by the Board.

4. CONTRACTS / REQUESTS

A. Spurlin Contract Request

- Kristina Wynne provided a summary of the contract request submitted by Bill Spurlin. Mr. Spurlin intends to subdivide his property into two lots so his son can purchase the other lot and continue Mr. Spurlin's business as an electrical contractor in Grand County. The contract request is for 0.2 acre-foot total, to be provided from either Windy Gap or Wolford supplies, for household use, irrigation of landscaping, hot tubs and stock watering. Kristina Wynne disclosed that Mr. Spurlin previously owned two shares in the Vail Ditch and had irrigated the property with those shares, but the shares had been sold approximately 15 years ago. When Mr. Spurlin transferred those shares, he did not contemplate the fact that he may need an augmentation plan down the road, and that the transfer may impact his ability to get a Middle Park contract. Kent Whitmer explained that MPWCD's Bylaws include a general rule that no water will be provided to water users who have conveyed their water rights off the property and which water historically has been used on that property. The Bylaws also provide that in unique and compelling circumstances and upon a finding that it will not adversely impact the District, the Board may grant a variance from the Bylaws. The Board discussed the specific details of this contract request. Stan Cazier provided the context behind the specific provision in the Bylaws; the purpose was to prevent a situation where people sell their water rights at a premium and then turn around and immediately secure a MPWCD contract at a much lower cost. The Board discussed its impression that even if Mr. Spurlin had kept his shares, it is unlikely that the Grand County Irrigated Land Company would have permitted a change in the use of that water to allow for the uses proposed by this contract request. Board discussion followed. **Following this discussion,**

Stan Cazier made a motion to approve this contract request, giving the following unique and compelling reasons for granting a variance to the District's Bylaws: the amount of time that has passed between the transfer of Mr. Spurlin's Vail Ditch Shares and the current contract request, the likelihood that the GCILC would not have granted any request for a change in use had Mr. Spurlin retained those shares; the relatively small contract amount requested; and that the District will not be adversely impacted by granting this request. Stan Cazier also specifically provided that as a condition of approval, the Board will require Mr. Spurlin's contract to include a provision that clarifies that no precedent will be created by this approval. Motion was seconded by Sean Flanigan, and carried unanimously.

- B. Update on Exercise of Summit County Option for 300 acre-feet
- Kent Whitmer provided a history of the 2003 Option Agreement with Summit County, which had been included in the meeting materials. MPWCD had made a commitment to provide up to 300 acre-feet of Wolford Water to Summit County; over the years, Summit County has exercised its right to 226 acre-feet of the 300 acre-feet initially contemplated. Counsel for Summit County recently contacted MPWCD's counsel to exercise its option to the remaining 74 acre-feet. **Following Board discussion, Mike Eytel made a motion to authorize MPWCD Staff to issue a draft contract to Summit County for the remaining 74 acre-feet of Wolford Water, consistent with the terms set forth in the 2003 Option Agreement. Motion was seconded by Stan Cazier and carried unanimously.**

5. LONG TERM PLANNING:

- A. Sunset Ridge Pond: This item has already been discussed; MPWCD Staff has direction.
- B. Global Augmentation Plan: This item as already been discussed, MPWCD Staff has direction.
- C. Purchase / Long-Term Lease of GCWSD#1 Augmentation Pond Water: Kent Whitmer again disclosed that his firm represents GCWSD#1, and explained that the GCWSD#1 Board is aware of MPWCD's interest in a potential partnership. GCWSD#1 is currently evaluating the feasibility of a potential collaboration, and is in discussions with independent counsel and its engineers in this regard. At this point Kent recommends that MPWCD not attempt to push this forward, and to wait for GCWSD#1 to approach MPWCD if and when they are ready to discuss.
- D. Expansion and Participation in GCWSD Reservoir: See discussion above.

- E. Ron Jones: The Board discussed the proposed deal points that were previously submitted by Mr. Jones regarding a potential collaboration in the ponds located on his property. The Board decided that at this point, it would be premature to come to an agreement about the specifics of a potential deal; first it must be determined that the proposed project would be feasible. The Board directed MPWCD Staff to reply to Mr. Jones and let him know that MPWCD would be willing to split the costs of a feasibility analysis for the proposed project. Discussion of the specific terms of a potential deal will need to be tabled for now. The Board indicated that it is important for the District to investigate all potential storage options on the Fraser.
- F. Pole Creek Meadows: Nothing new to report. The entities that are invested in Pole Creek Meadows Reservoir are still getting their own house in order. This work is ongoing and will need to be completed before they can entertain a discussion about potential partnerships.
- G. Grand County Mutual Ditch and Reservoir Company: Mike Eytel reported that he has not been directly involved with this group since his departure from the River District. Mike provided an update as of his last involvement, and said that the group is still working on the proposed pilot project. Mike recommended that MPWCD Staff keep their ear to the ground about potential developments with this group, but that it is probably not necessary for MPWCD staff to request to attend future meetings of GCMDC.
- H. Little King Reservoir: Nothing to report.
- I. Bunte Highline: Kristina Wynne continues to monitor; nothing new to report.
- J. Funding Sources for Water Rights Development: MPWCD Staff continues to investigate potential funding sources for water rights development.
- K. Open Discussion and Direction to Staff: None.

6. DILIGENCE APPLICATIONS

- A. Troublesome Project – 17CW3136 Due November 2023
 - Kent Whitmer has reached out to the owner of the land where these water rights are located to gauge whether there is a potential interest in collaboration or partnership with MPWCD going forward. Kent hopes to set up a meeting in the coming weeks to discuss in more detail. At the next meeting, the Board directed MPWCD Staff to provide an update and additional information regarding the demands analysis that had previously been completed by BBA for these water rights.

7. OTHER BUSINESS

A. Colorado River Water Users Association – 2022 Conference in Las Vegas

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

B. Colorado Water Congress – 2023 Annual Convention January 25-27:

- Katie Randall noted that she will be attending on behalf of MPWCD, and has been approved by Stan to bill her time for attending. A report will be provided to the Board after the meeting.
- Kent Whitmer requested more concrete feedback about how the Board would like for MPWCD Staff to approach the decision of whether it's appropriate to bill the District for the cost to attend these types of meetings. The Board indicated that the costs and benefits will need to be evaluated on a case-by-case basis, depending on how pertinent the meetings are for MPWCD affairs. If there is a question, MPWCD Staff should ask the Board for approval to bill the time and costs of attendance at these meetings if it is unclear. If there is not time to ask the Board at a regular meeting, Staff should ask Jack Buchheister for approval.

8. ADJOURNMENT The meeting adjourned at approximately 3:35 PM. The next meeting will take place on March 1 by Zoom.

A handwritten signature in black ink, appearing to read "Jack Buchheister", written over a horizontal line.

Jack Buchheister, President

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- C. Board Appointment *
- D. Resolution Regarding Electronic Signatures *

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 - iv. Accounts Receivable Aging Summary (12/31/22)
 - v. CSAFE & CSAFE CORE Shareholder Statements (12/31/22)
 - vi. Approve Financials *

* Denotes an action item.

- B. Attorney
 - i. Attorney's Report
 - ii. Action Items Status List
 - iii. Additions since Attorney's Report or Action Items Status List
- C. BBA Report
 - i. Water Resources Consultant & Hydrologist Report
 - ii. Additions since BBA Report

4. CONTRACTS / REQUESTS

- A. Spurlin *
- B. Update on Exercise of Summit County Option for 300 acre-feet *

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