

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

Zoom Video Conference Only:

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To Join by Phone, Dial (719) 359-4580

Meeting ID 824 9545 2586, Passcode 232226

May 29, 2024, 1:00 p.m.

Directors:

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

Others Present:

MPWCD Water Resources Consultant & Hydrologist Kristina Wynne
MPWCD Attorney Kent Whitmer
MPWCD Attorney Clay Culbreath
Brendon Langenhuizen, Colorado River District
Lindsay Defrates, Colorado River District, Deputy Director of Public Relations

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:

1. CALL TO ORDER

2. CONSENT AGENDA

- A. Approval of April 10, 2024 Minutes
- B. Remaining 2024 Meeting Dates: July 10, September 11, and October 9
 - **Stan Cazier moved and Mike Eytel seconded that the consent agenda be approved as presented. Motion carried unanimously.**

3. SHOSHONE WATER RIGHTS PRESENTATION – Lindsay Defrates, Deputy Director of Public relations at the Colorado River Water Conservation District (“CRD”), made a presentation about Shoshone permanency. At the end of her presentation, Ms. Defrates requested that MPWCD consider contributing financially to the purchase of the Shoshone water rights. Brendon Langenhuizen was also present to answer questions. Board discussion followed.

- CRD requested a financial commitment from MPWCD prior to August 2024, so CRD can report this commitment on federal financial aid applications.
- At Jack Buchheister's direction, MPWCD will consider contributing financially at the July 2024 meeting.
- Stan Cazier requested a list of committing entities with commitment amounts from Mr. Langenhuizen by early July for MPWCD to consider.

4. BOARD ADMINISTRATION

A. Water Education Colorado Membership Renewal

- MPWCD received a request to renew Middle Park's membership with Water Education Colorado (WECO). The cost of renewal is \$300. **Stan Cazier moved to approve this renewal and Jim Lenzotti seconded this motion. Motion carried unanimously.**

5. REPORTS

A. Attorney

- The Attorney's Report and Action Items Status List were included in the Board packet materials. 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 questions from the Board. No questions were raised at this time.

B. Hydrologist: Kristina Wynne presented the following updates since the BBA report was provided:

- Basin Hydrology: Kristina reported that snowpack levels and forecasting information have more or less stayed the same since the memo was distributed. Reservoir operators are planning to implement the Coordinated River Operation System. This could result in another 1000 cfs in the Colorado mainstem. Denver is planning to shut down Moffat Tunnel for a period of time for maintenance. Board discussion followed.
- Learning by Doing will be submitting a WaterSMART grant application for river restoration. Tom Long moved to provide a letter of support for this grant application and Mike Eytel seconded. Jim Lenzotti suggested requiring Learning by Doing to support MPWCD's grant applications in return. Mr. Lenzotti voted no. Motion carried 4 to 1.

6. CONTRACTS/REQUESTS

A. Granby Development Co. Short-Term Supply Requests

- Kent Whitmer explained that Granby Development Co. is asking for water from both Sunset Ridge and Wolford. Because water from Sunset Ridge cannot be guaranteed throughout the year, Mr. Whitmer suggested approving this

contract request conditionally. The conditions would be that releases would be made from Wolford, instead of Sunset Ridge when possible, unless a call could not be satisfied by a Wolford release, and that in any event water releases from Sunset Ridge cannot be guaranteed year round, especially during winter conditions. Mr. Whitmer also suggested a 5% increase in the rate from last year.

- Kristina Wynne agreed with Mr. Whitmer's suggestion.
- Stan Cazier suggested that MPWCD may need to consider negotiation with Granby Development Co. and Grand County in future years. Mr. Cazier is in favor of the 5% rate increase.
- Jack Buchheister added that MPWCD may be able to negotiate with Grand County and modify the agreements for better utilization.
- Ms. Wynne pointed out that the applicants potentially have two more chances to request short-term supply. She agrees with Mr. Buchheister on the negotiation point.
- **Mike Eytel moved to approve the short-term supply request subject to the conditions that the Wolford water would be used to satisfy calls below Wolford and Sunset Ridge water would be used to satisfy calls above Wolford, and that there is no guarantee that Sunset Ridge water will be available year round, especially during winter months. This motion included a 5% rate increase over last year. Tom Long seconded. Motion carried unanimously.**

7. LONG TERM PLANNING

- A. Sunset Ridge Pond:** Kent Whitmer explained that Russ Knight is looking into funding for the Sunset Ridge Pond. Mr. Knight reached out to Clay Culbreath. Mr. Culbreath provided Mr. Knight with entities to contact and offered to help any way possible.
- B. Circle C:**
Kent Whitmer received a draft agreement from Circle C this morning. This topic was to be discussed further in executive session.
- C. Colorado River Compact Monitoring:** Kent Whitmer attended a webinar presented by Becky Mitchell about the Colorado River Compact. Mr. Whitmer noted that the Upper Basin signed an agreement with the Native American tribes and believes this to be a step in the right direction.
- D. Funding Sources for Water Rights Development:** Clay Culbreath provided an update on his recent efforts to secure funding. Mr. Culbreath was not able to submit MPWCD's completed WaterSMART application to the Bureau of Reclamation because MPWCD could not obtain a Unique Entity Identifier prior to the application deadline. Mr. Culbreath explained that MPWCD may have another opportunity to

apply for this grant in the near future. Mr. Culbreath also said the MPWCD will be applying for a Colorado Water Conservation Board Water Plan Grant in June.

- E. **Open Discussion and Direction to Staff:** Kent Whitmer explained that the Bunte Highline water right for about 45 cfs was purchased by Northern Water Conservation District. This water was previously used to irrigate the Horn Ranch, which is now developed. This water has not been used for irrigation for around 20 years. The county reached an agreement with Northern to divide the water between Grand County and Northern. This could equate to as much as 7000 af/yr. Ed Moyer and possibly Kyle Whitaker (Northern engineer) are willing to attend next month's meeting to give more detail on the agreement between Northern and Grand County. There are still questions about what happens to the water right and the effect on the Colorado River and West Slope water users as a result of this development. Jack Buchheister would like some background on this included in the packet for next meeting. Ms. Wynne will help with this.

8. HISTORIC USERS POOL SLOT GROUP ANALYSIS

- A. Update from BBA Water
BBA is evaluating the entire Historic User Pool. Most of BBA's time has been directed to the Jones Pond and Troublesome Diligence lately.

9. OPEN FORUM

- A. Stan Cazier pointed out that Becky Mitchell is now the director of the Interbasin Compact Committee. Mr. Cazier attended the state of the river presentation. Mr. Cazier suggested looking for large replacement to backstop Windy Gap and Wolford. According to Mr. Cazier, MPWCD needs to make sure that everyone understands that MPWCD owns water.

10. OTHER BUSINESS:

- A. **Document Retention:** To make sure a complete set of images for all the documents sitting in storage gets to State Archives will mean someone has to go through all 160 banker boxes of files and compare the files in those boxes to the images on Laserfiche. Mr. Whitmer proposed that his granddaughter perform this task this summer. The Whitmer Law Firm would pay her and would bill the District \$15/hr. for her time only if the District agrees to this arrangement. The estimated cost to the District will be approximately \$2,000.
- Stan Cazier thought this expense was reasonable.
 - **Jim Lenzotti moved that MPWCD pay this expense. Mike Eytel seconded. Motion carried unanimously.**
- B. Ron Jones
- This topic was to be discussed in executive session.

Executive Session: Ron Jones Pond and Troublesome Project Diligence Application

There being no further items to discuss in an open forum, the Board announced its intent to enter into executive session pursuant to C.R.S. §§ 24-6-402(4)(b) and 24-6-402(4)(e)(I) to discuss legal questions and negotiations related to the Ron Jones Ponds draft agreement, and the Troublesome Project diligence application and statement of opposition filed in that case. All attendees other than MPWCD Board members and Staff left the meeting at this time. **Stan Cazier made a motion to enter into executive session pursuant to C.R.S. §§ 24-6-402(4)(b) and 24-6-402(4)(e)(I) to discuss legal questions and negotiations related to the Ron Jones Ponds draft agreement and the Troublesome Project diligence application and statement of opposition filed in that case. Motion was seconded by Jim Lenzotti and carried unanimously.** Kent Whitmer is the attorney providing legal advice, and stated his opinion that the entire discussion of this executive session is subject to the attorney-client privilege. As such, no electronic recording will be taken during this executive session.

Following discussion, Mike Eytel moved to come out of executive session. This motion was seconded by Tom Long and carried unanimously.

11. After executive session, Tom Long moved to submit the most recent version of the draft Ron Jones Agreement to Ron Jones after Kent Whitmer considers Jim Lenzotti’s comments. Mr. Lenzotti seconded. Stan Cazier abstained. The other four board members voted in favor.

12. ADJOURNMENT: There being no other business before the Board, the meeting was adjourned. The next meeting will take place on July 10, 2024 at the Summit County Senior Center and via Zoom..

DocuSigned by:
MPWCD - Jack Buchheister, President
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Jack W. Buchheister, President

Attorney’s Opinion Required by C.R.S. § 24-6-402(2)(d.5)(II)(B): I, Kent Whitmer, as attorney for Middle Park Water Conservancy District, am of the opinion that the entire discussion in the executive session at the regular meeting of the Board of Directors on May 29, 2024, constituted a privileged attorney-client communication. As such, the executive session was not electronically recorded. The executive session was convened pursuant to C.R.S. §§ 24-6-402(4)(b) and 24-6-402(4)(e)(I) to discuss legal questions and negotiations related to the Ron Jones Ponds draft agreement and the Troublesome Project diligence application and the statement of opposition filed in that case.

Kent Whitmer