

MEETING MINUTES  
REGULAR MEETING  
BOARD OF DIRECTORS  
MIDDLE PARK WATER CONSERVANCY DISTRICT  
**Frisco – Summit County Senior Center – Hoosier Room**

Zoom Video Conference Option:

<https://us02web.zoom.us/j/85481457824?pwd=eGFKUUMrSFY3R1Bib1hzb3lOMUIEZz09>

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

Meeting ID 854 8145 7824, Passcode 470871

July 10, 2024, 1:00 p.m.

Directors:

Jack Buchheister – President  
Sean Flanigan – Vice President  
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 Clayton Culbreath  
Kyle Whitaker, Northern Water  
Ed Moyer, Grand County  
Kayli Foulk, Grand County (via Zoom)  
Katherine Morris, Grand County (via Zoom)  
Neal Misbach, Colorado Division of Water Resources (via Zoom)

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:

- **CALL TO ORDER**
  
- **CONSENT AGENDA**
  - A. Approval of May 29, 2024 Minutes
  - B. Remaining 2024 Meeting Dates: September 11, and October 9
  - C. Financial/Banking Reports
    - **Tom Long moved and Stan Cazier seconded that the consent agenda be approved as presented. Motion carried unanimously.**
  
- **BUNTE HIGHLINE DISCUSSION WITH ED MOYER** – Ed Moyer, Grand County Manager, and Kyle Whitaker, Northern Water Rights Manager, gave a presentation

explaining the evolution of the Bunte Highline Ditch water rights from 2005 to the present. The Bunte Highline Ditch is located between Willow Creek and Windy Gap and historically carried 45 c.f.s. When Horns sold the ranch in 2005, they retained 5 c.f.s. Since that time, the remaining 40 c.f.s. has been diverted through the Colorado Big Thompson Project. Mr. Moyer and Mr. Whitaker explained the negotiation and agreement between Northern Water and Grand County, which would basically split the water rights between Northern Water and Grand County. The first 500 a.f. would go to Grand County. The next 1000 a.f. would also go to Grand County. The next 1,500 a.f. would go to Northern Water. Any additional water would be split between the two entities. The Compact and water levels in Horse Tooth, Carter Lake, and Lake Granby would trigger diversion through the Colorado Big Thompson Project. If these reservoirs are below 70% storage capacity, Northern Water takes their half. Otherwise, all the water stays on the west slope. Board discussion followed.

- **Kristina Wynne asked if water can be taken by Grand County as it accrues under the agreement. Mr. Whitaker responded that, yes, it can be taken as it accrues. Ms. Wynne also asked how the water will be shepherded on the west slope. Mr. Whitaker replied that the preference is for the water to go down the Colorado River but not out of the state, ideally to the Grand Valley. Ms. Wynne clarified that water cannot be carried over from year to year. Mr. Whitaker confirmed this. Kristina asked if there were any concerns of abandonment. Mr. Whitaker responded that they are not concerned about the water rights being abandoned.**
- **Jack Buchheister asked what the next step is. Mr. Whitaker replied that the next step is for Northern Water and Grand County to seek approval from the United States Bureau of Reclamation.**
- **Stan Cazier asked if this water is in addition to the 5412 Water. Mr. Whitaker said, yes, this will be added to Grand County's fish water. Stan mentioned that he also has a compact question. Mr. Whitaker said that he would be glad to talk about it.**
- **Jim Lenzotti asked what would happen if Sun Communities needed more water. Mr. Moyer responded that he believes Sun Communities already has all the water they need.**
  
- **CONTRACTS/REQUESTS**
  - A. Extension Request, Hill Industries (Pine Ridge Estates)
    - **Stan Cazier moved to approve this extension. Sean Flanagan seconded this motion. The motion passed unanimously.**
  
- **REPORTS**
  - A. Attorney (Attorney Report/Action Items Status List)
    - **Kent Whitmer stated that much of this information would be brought up later in the meeting. This report and list did not raise any comments at this time.**

B. Hydrologist (BBA Report and HUP Slot Group Update)

- **Kristina Wynne said there will not be any Windy Gap water available this winter.**
- **BBA is still working on Slot Group research.**
- **Ms. Wynne explained that Learning by Doing is thinking about cost sharing and how the cost sharing is assessed. Historically MPWCD has not paid any assessment. Ms. Wynne asked if MPWCD would consider contributing. Jack Buchheister said they would consider this in budgeting.**
- **Ms. Wynne stated that Denver Water is wrapping-up litigation related to Gross Reservoir.**

- **LONG TERM PLANNING**

A. Funding Sources for Water Rights Development – Clayton Culbreath explained that he has been actively seeking funding for water rights development. MPWCD is now eligible to receive federal grants. Mr. Culbreath also submitted an application for funding from the Colorado Water Conservation Board Water Plan Grant by the July 1, 2024 deadline.

- **Jack Buchheister asked Mr. Culbreath to find someone to help MPWCD with the funding pursuits.**

B. TABOR and Water Activity Enterprises – Mr. Culbreath talked about the limitations that the Taxpayer’s Bill of Rights (TABOR) places on MPWCD receiving grants from the state or other local governmental entities. He explained that a water activity enterprise would enable MPWCD to receive some state grant funding, but not enough. The solution to this problem appears to be submitting a ballot question asking the voters to approve MPWCD receiving state and local government grant money without subjecting it to TABOR refunds. This is commonly called “debrucing.”

- **Jack Buchheister asked Mr. Culbreath to look for an expert to help MPWCD debruce. Mr. Buchheister said, “Let’s take a step back and get reorganized.” Mr. Buchheister instructed Mr. Culbreath to prioritize debrucing over seeking state and local government grant funding.**
- **Kent Whitmer instructed Mr. Culbreath to continue pursuing federal funding.**
- **Stan Cazier estimated that basically 25% of the MPWCD budget will be spent on the debrucing question. He further pointed out that it may be difficult for a debrucing question to pass in both counties.**
- **Tom Long asked if second homeowners are allowed to vote. He stated that now might be bad timing for a debrucing question. Mr. Long suggested a survey be taken in the counties first.**

- C. Website Accessibility – Clayton Culbreath gave an overview of the new technology accessibility law that came into effect July 1, 2024 and the requirements by July 1, 2025. He informed the Board that Streamline will assist MPWCD in becoming completely accessible by July 1, 2025. Streamline’s services will cost \$500 for initial setup and \$200 per month after that. Mr. Culbreath stated that MPWCD is presently acting in good faith towards becoming accessible and documenting its efforts on a quarterly basis. MPWCD has appointed Catherine Trotter as its accessibility officer. MPWCD has posted notice on all its webpages providing for alternative ways to access information provided on MPWCD’s website by those who cannot access that information because they suffer from a disability.
- **Kent Whitmer said that Katie Randall will assist with this when she gets back from maternity leave.**
- D. Ron Jones Request for Proposals (“RFP”) – Kristina Wynne stated that five proposals were submitted in response to MPWCD’s RFP. The RFP was successful overall. However, a few firms did not perfectly satisfy all the criteria and the range was larger than she expected. WaterVation did not provide a chart or detail for the project schedule. WaterVation’s bid was \$175,500. GEI had a detailed approach, even though their timeline was outside of request (April instead of January). Ms. Wynne does not consider this to be a problem. She just sees it as GEI being upfront about their projected timing. Ms. Wynne explained that the most expensive bid did not necessarily receive the lowest score. Ms. Wynne and BBA recommend awarding the contract to GEI. Roaring Fork was the low bidder, but their proposal lacked detail.
- **Jim Lenzotti suggested setting up the contract for task one first. Then, MPWCD can move to task two if the project appears to be feasible. Mr. Lenzotti suggested asking the proposers to leave their offer open until after MPWCD’s September meeting.**
  - **Ms. Wynne asked if MPWCD should consider leaving the ponds undisturbed, but still use them for augmentation.**
  - **Jack Buchheister instructed Clayton Culbreath to explain the situation to the proposers and ask if they will hold their proposals open. Mr. Buchheister said MPWCD will make the selection in September.**
- E. Purchase/Long-Term Lease of GCWSD#1 Augmentation Pond Water
- **Jack Buchheister asked if Middle Park Water Conservancy District (“MPWCD”) can increase water availability for year-round use under the lease. Ms. Wynne responded that she thinks that would be a good idea. Kent Whitmer suggested that Kristina reach out to LRE to inquire about doing another one-year lease with GCWSD#1 and whether that lease can make the water available for the entire year.**

- F. Open Discussion and Direction to Staff
- No discussion or direction were brought up at this time.
- **OPEN FORUM**
- Nothing was discussed in open forum.
- **OTHER BUSINESS**
- A. River District Request for Funding Commitment
- Jack Buchheister suggested that MPWCD commit \$100,000 to help the Colorado River District acquire the Shoshone Power Right.
  - Stan Cazier reminded the Board that MPWCD has already spent a lot of money on this.
  - Mr. Cazier moved to commit \$100,000 as suggested by Mr. Buchheister. Mike Eytel seconded this motion. The motion passed unanimously.
- B. Ron Jones – 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.
- **WATER RIGHTS**
- A. Troublesome Project – 23CW3176 – 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 Troublesome Project diligence application and statement of opposition filed in that case.
- With respect to both the Ron Jones and the Troublesome Project executive sessions, Tom Long moved to go into executive session pursuant to C.R.S. §§ 24-6-402(4)(b) and 24-6-402(4)(e)(I). Mike Eytel seconded this motion. The motion passed unanimously.
  - Jim Lenzotti moved to come out of executive session. Mike Eytel seconded this motion. The motion passed unanimously.
- **ADJOURNMENT** – There being no other business before the Board, the meeting was adjourned. The next meeting will take place September 11, 2024 at 1:00 pm.



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 sessions at the regular meeting of the Board of Directors on July 10, 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.



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Kent Whitmer