

These written minutes represent the general discussion of the DWCD Board of Directors, DWCD staff, and participants at the DWCD board meeting, and they include a record of any and all board actions taken at the meeting. The written minutes are not intended to provide a word-for-word account of the board meetings. Nor are they a direct quote of any statements offered at board meetings. All DWCD board meetings are recorded on audiotape.

DOLORES WATER CONSERVANCY DISTRICT WATER ACTIVITY ENTERPRISE

MINUTES

Regular Meeting
August 10, 2023

CALL TO ORDER Godwin Oliver, President, called the meeting to order at 2:00 pm

ROLL CALL
Godwin Oliver, President
Glen Fish, Vice President
Don Schwindt, Secretary-Treasurer
Wes Wilson, Director
Landan Wilson, Director
Jeremy Redshaw, Director
Ryan Gray, Director
Ken Curtis, General Manager
Eric Sprague, Interim Water Manager
Jed Martinez, Maintenance Supervisor
Gina Espeland, Admin Assistant Accounting
Robert Stump, Bureau of Reclamation
Adam Reeves, Attorney
Lindsey Ratcliff, MBSS

INTRODUCTION OF GUESTS

In-Person

Brandon Johnson, MVIC; Luke Baxstrom, DWCD Staff; Jeremy Matson, Mark Easy, Upstream

Audience

Jeremy Matson, an upstream augmentation applicant, stated that he has been talking with Ken and Eric. He is under contract for a piece of property located outside of Rico in the Sundial Subdivision. There is a moratorium that was put on in May by this Board. He has been going through due diligence with the current owner. He stated that he grew up in Minnesota, so this is the first foray in figuring out water in Colorado. Even though he didn't expect the board to make an exception, he felt like he needed to come address the Board and has done everything that he knows to try and proceed with securing water for the piece of property that he is trying to purchase. Ken provided history why there is a moratorium in this area where he is trying to secure water with an augmentation agreement. Hoping to get an augmentation agreement and feel comfortable in moving forward in purchasing this property and needed to come and meet people face to face. He wanted the Board to know that the moratorium is affecting him and he understands that we need to protect the water in the watershed. He is doing everything to cover all his bases and feel like there is meaning in a face to face meeting. Ken mentioned that he could ask the Board for an exception but he doesn't think that is realistic at this time. He is asking the Board for consideration in speeding up the process for review and seeing if getting water in Sundial is feasible or not. He stated that there are other lots in Sundial.

Ken stated that we did put on a moratorium on new augmentation plans on the upstream reach around Rico. Jeremy did capture the history and gave up most of the excess to the town of Rico who is on their 3rd manager since that happened. Had other communications with Rico last year on their water concerns. Sundial has 19 lots and back in the 90s they tried to make a subdivision deal with us and it fell apart. Homewoners wanted to abandon the global contract with us after trouble coordinating the payments with the HOA. Sundial is not all built out and it has been a slow development. Eric has started research on it about 2 months ago. The Bolson deal had been going on for about 2 years. Jeremy, like Bulson, is in the reach of concern and we need to look hard at it.

Ken did send to Jeremy a consumptive use form to complete and told him that we would put him first in line after the moratorium is lifted. Ken stated that we need to talk to the Town of Rico and sort out what is up there above the county line. Board may need to make some policy so you don't leave anyone out. Need to do some meetings. Appreciate Jeremy and the owners efforts for contacting DWCD and speaking with Ken and Eric. It would be up to the Board if they wanted to consider an exception and don't have any data until we get through the season. Jeremy thanked Ken for giving him information and taking the time to talk with him. Jeremy said that he was putting a lot of his investment in this property and felt that he needed to come.

Don commented that he has been on this Board a lot of years and in the 90s when they were actively trying to get water agreements in Rico. He was amazed that Jeremy is putting his life savings into this without learning about the water first. People need to know their water rights for stability. Don said he would have been more cautious and it may not unfold like Jeremy hopes. We all try to please and we put a ton of effort but it is going to be tighter supplies. Don's comment was cautionary.

MINUTES

APPROVAL OF THE MINUTES

MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE JULY 13, 2023, ENTERPRISE MEETING.

**MOTION: JEREMY REDSHAW
SECOND: LANDAN WILSON
MOTION CARRIED UNANIMOUSLY.**

FINANCIAL STATEMENTS

MOTION: TO APPROVE THE JUNE '23 FINANCIAL STATEMENT AND APPROVE THE STATEMENT OF PAYABLES AS PRESENTED.

**O&M: AP/CHECK #41583-41656 & PR/CHECK #125962-126011
\$404,787.47**

**MOTION: JEREMY REDSHAW
SECOND: WES WILSON
MOTION CARRIED UNANIMOUSLY.**

O&M REPORT –

Ken stated that he would like Eric to speak to Sandstone. Ken stated that you heard Rob last month and he stuck it out until August 1st to transition. Eric, Rob and Ken have been doing all the interviews.

Finished off the spill and Josh Robson organized removing wood at the dam and spend a week down there. Pulled all we could and will have a big burn later this fall. Sandstone was its own little mini series. A record setting 7 hour pump change.

Weeds have become a huge deal and crew has been on it everyday. The forebay will need to be mucked out this fall, and we will have to shut off MWC and Cortez. We'll need to give them notice. Somewhere in Oct-Nov.

The control room has been in training/transition all season. Jed pulled his last SCADA duty Sunday and continues to train for maintenance supervisor, which he will dive into it deeper at the end of the season. Credit to all those involved. Meter readings and day to day jobs continued. It has been busy. Ken stated that he has spent every morning at the yard until last week. Eric and Jed have stepped in.

Eric reported on Sandstone. It flooded this winter off of snowmelt into the canals. Because it was put in after the project was built, it didn't have protections for the pumps that are set up underground. When the sump filled up, they were underwater, possibly during a freeze. The plant limped along on two working pumps until peak use proved we needed another in there. We were able to coordinate it with crew and farmers to minimize the down time. Tried to switch it out as quick as possible. It took seven hours, Luke was the project lead on it and did a good job. Ken said most plants we can change out while they run. Luke has experience with it and Brian has been around on the electrical side.

Don asked about last month on the flooding problem is that something we can prevent. We can sectionalize off the sump from the canal with a butterfly valve and keep the water from getting into the plant at all. Might look some day at elevating the pumps permanently, but it will require an

investigation. Don said we need to come up with a plan so we can capitalize on the funding available these days.

Eric said he have hired an equipment operator and a mechanic that will be starting on Monday.

Jed Martinez, Maintenance Supervisor, introduced himself to the Board. Jed has been with DWCD since Feb 1st and started out in the control room learning and operating the canal system. Seeing that aspect was bare minimum as to what he is looking at right now. He stated that he expects to learn it eventually and is glad to be here and a part of the project. If anyone needs his number, we can get it out to the Board. Ken said he is learning piece by piece. We welcome him to his new position.

WATER MANAGEMENT REPORT

Forecast and Water Accounting – Eric presented the inflow outflow sheet. 1) July stabilized and the spill is over. Looking at Ute Farm and Ranch, they have used 13,000 acre and are half way through. They are probably not going to use all of it. DCC FS are at 40-45% of allocation and not going to use through it. Their use peaked mid July. MVIC total is 64,500 at the end of July and use is on the way down. Used up all the Totten water and spending Project water at 250 cfs per day on average. Precip is below average and July came in at less than 70% of the monthly average. Got hot in July. 2) August showing similarly patterned afternoon storms and getting cooler with highs in low 80s and cloudy afternoons.

Ken said Brandon had sent an email that he wants to be at 78,000 and expect uses to drop off mid September even if we don't see the monsoon. The project water alone doesn't get MVIC to October 15 so it depends on how GH and Narraguinnep are utilized. We'll determine what MVIC wants to do and we will balance it out as best we can. Only variable is MVIC this year. July 25th started seeing the inflow dropping off. Brandon is doing a lot of juggling. Don asked if there was any concern about the 4 AF being too high. Don asked if the Board was comfortable, Brandon said he thought we should be okay through September and don't know about October.

Eric said he prepared volumetric calcs for MVIC and it looks like MVIC will need 7,000 AF from GH and with the 78 release it should be covered.

Eric presented Exhibit A. Noted first reconciliation at the bottom.

FSA Cap Review – Eric stated that he provided a sheet on FS inches per acre and everyone is following a good curve. There was one exception, a small farmer at 32" – he is aware of the overage and aware of the penalty. He has not asked for more water. There is also a new irrigator pool acre proportion summary. The top 19 FS farmers controlled half of the allocated acres. There are some big ones and some small ones. Adam stated that proportion is spelled wrong. Adam asked if they were classified acres, Eric stated that they are allocated acres. Wes asked if the total boxes included M&Is. Eric said no that this is just FS irrigated acres. The chart shows Blue is % of total irrigators and Green is % of total irrigated. Just a representation. The Bars are percentages.

Next hand out is inches per acre list. Godwin asked how hard it is to do. Eric stated that he does them every month after the meter readings. Since we are talking about caps, this gives a better sense of how he is managing. Even if we use conservative numbers, FS is about 45% of the way through to October. It doesn't look like FS will need the 6000 Class B. Ken stated that Class B goes into the pool, but we can't lease them. The Board didn't lease Class A.

Ken stated that we sent out a post card to gauge interest in extra water and he had 2 people call. There is a second sheet in the billing shows info from last year's crop report that caused some confusion this year. The 2 that called are not near the cap and not sure that they will go over. The smaller acreages are the ones that push the limit and are not managed like the larger operation.

This year was not a good year to experiment with what to do with FS supply. Farmers are growing non-representative crops as a result of the last couple drought years. Less alfalfa means less irrigation demand. Ken has heard that some alfalfa will be planted late. Those years of drought wiped out some of the alfalfa fields.

Don asked if the postcard didn't limit irrigators to a certain date? It asked that they call by August 4th, but didn't say they wouldn't get any more. If they call now we would bring to the September meeting. Ken stated that not everyone reads the postcard or the bill. The smaller acreages are going to know that they have run out because Vince or Justin have told them. We have some extra water that somebody could make use of and we want to offer the opportunity early. Ken stated that the Board was trying to promote planning. Some one could pop up in September. Don said he is doing a good job on implementing the Board's wishes. Don asked if the the 2 no votes were okay with it. Godwin said that most of his water is off and trying to get some other crops planted. Some is how you advertise to the FAC and what the supply looks at next April. Still have some fallowed fields. Have seen a lot of changes in leasing. Jeremy said that there are 5 pivots of alfalfa going in at Dove Creek. It is 1/3 of the acres that are being planted and will see it next year. If they have a need they will show up in September.

ADJOURNMENT

Dolores Water Conservancy District Water Activity Enterprise Board meeting
adjourned at 3:01 pm


Donald W. Schwindt, Secretary-Treasurer


Godwin Oliver, President

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DOLORES WATER CONSERVANCY DISTRICT

MINUTES Regular Meeting August 10, 2023

CALL TO ORDER Godwin Oliver, President, called the meeting to order at 3:01 pm

ROLL CALL Godwin Oliver, President
Glen Fish, Vice President
Don Schwindt, Secretary-Treasurer
Wes Wilson, Director
Landan Wilson, Director
Jeremy Redshaw, Director
Ryan Gray, Director
Ken Curtis, General Manager
Eric Sprague, Interim Water Manager
Jed Martinez, Maintenance Supervisor
Gina Espeland, Admin Assistant Accounting
Robert Stump, Bureau of Reclamation
Adam Reeves, Attorney
Lindsey Ratcliff, MBSS

INTRODUCTION OF GUESTS

In-Person

Brandon Johnson, MVIC; Luke Baxstrom, DWCD Staff

Via Telephone/Teleconference

Ed Millard

MINUTES

APPROVAL OF THE MINUTES

MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE JULY 13, 2023 REGULAR MEETING.

**MOTION: JEREMY REDSHAW
SECOND: GLEN FISH
MOTION CARRIED UNANIMOUSLY.**

MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE JULY 13, 2023 EXECUTIVE SESSION.

**MOTION: JEREMY REDSHAW
SECOND: GLEN FISH
MOTION CARRIED UNANIMOUSLY.**

FINANCIAL STATEMENTS

MOTION: TO APPROVE THE JUNE '23 FINANCIAL STATEMENTS AND APPROVE THE STATEMENT OF PAYABLES AS PRESENTED.

ADMIN: AP/CHECK #12382-12394

\$5,820.95

**MOTION: LANDAN WILSON
SECOND: JEREMY REDSHAW
MOTION CARRIED UNANIMOUSLY.**

AGENCY REPORTS

BOR Report – Robert reported the valves and actuators project under the MOA 2 program put out a sources sought, also referred to as RFI (Request for Information), to find vendors that can meet the supply requirements. The motor assembly and gear box have critical operator timing requirements that makes it more technical, because it is not something that can be purchased off the shelf; the vendor has to match the correct parts and pieces. BOR will have the responses by the end of this week and use that to develop a solicitation and then issue a purchase order.

Division of Water Resources Report – DWR not in attendance.

T/H Committee Report – Godwin stated that the Committee met July 26, 2023 and had a mini tour on a couple problem areas and had discussions on them. The Committee paid DWCD and MVIC.

Next T/H Meeting – The Committee will meet at the DWCD, Cortez Office August 16, 2023 at 2:00 p.m.

MVIC Report – Brandon reported MVIC business as usual with multiple problems, short on help and having weed and moss problems.

GENERAL MANAGER REPORT

Administration (100) Budgeting of Appropriated Reserves: Ken reported that we had increased expenses due to mediation and extra work that we had the attorney complete. Therefore the Board needs to make a budget adjustment. We don't have to go through a hearing. During the 2023 budget process the DWCD Board appropriated \$150,000 from the Discretionary Reserve that was not budgeted, to cover unforeseen circumstances. A Board vote can move these funds into the budget as needed in lieu of a full budget hearing to amend the budget. In this case our 100 Admin budget was approved for routine operations. The Admin expenses for 2023 have increased based on the cost of mediators, \$12,322 for our portion, and the \$69,403 recalculated amount, totaling \$81,725. Additional legal hours were spent in preparation. Beyond the mediation, the attorneys have dedicated more hours to the directed Reclamation Law research. Historical legal costs have been \$90,000 per year or \$7,500/month. If we have average expenses for the next 6 months, we will exceed the legal budget by another \$30,000. The presented \$7,443.40 invoice from MVIC may also increase Admin costs. The Board can go up to the \$120,000 or can do the \$81,725 already paid and then come back again for another adjustment before the end of the year. We will have an extra bill on the upstream costs and we don't know where we are going to allocate or how we are going to recover it. We will be talking about them over the coming months. Can decide to do in 1 or more steps. If you don't adjust the Budget we either stop paying bills or get dinged in the audit. We are not allowed by law to go over our budget. We have traditionally transferred from Admin to O&M and it is usually budgeted at \$100,000. There is not a lot in Admin to cut otherwise.

MOTION: TO BUDGET \$120,000 FROM DISCRETIONARY RESERVES TO ADMINISTRATIVE BUDGET.

**MOTION: LANDAN WILSON
SECOND: WES WILSON
MOTION CARRIED UNANIMOUSLY.**

Ken stated that we will talk about discretionary items in September and there will be a draft budget distributed in October. A Workshop will be held between October/November, a November hearing and then adoption of the budget in December. Admin is supported by taxes and supports Board governmental operations.

Miscellaneous Updates

Division 7 Measurement Rules:

Ken stated that Division does have draft rule out and looks very much like Division 6 rules. The highlights Ken saw were making everyone get functional measurement devices up to standards within 2 years; if you are a bigger user over 5 cfs you will have only a year for compliance, otherwise pretty generic. DWR didn't directly address the sweeping question which will remain with the Division Engineer. Ken said he asked about it and DWR said it was implicit within the draft order that you efficiently had to take the water available to you. The determination will stay with Division Engineer discretion. This was an official stakeholder's meeting, the previous one was an unofficial stakeholder's meeting. DWR has this authority going back decades. When Division 6 hit calls on the river the first time and they didn't have a lot of measurement devices DWR and State Engineer decided that they needed to go through a formal rule making process to effectively get diversions up to compliance. We heard that Kevin Rein is going through the west slope, probably doing the San Miguel next and leaving Colorado River main stem for last. They want good measurement for good records. This can protect diverters from abandonment. Kevin Rein has been honest that each user should have good data should we get into interstate compliance issues.

Was asked about the Division 7 exemption related to this rule making? Ken said nothing, Division 7 exemption relates to section 305 that if you as a water rights owner made a deal under a conservation plan to forego your diversion and leave it in the river, you don't have to count that year as historic consumptive use in water court. This rule is separate.

Don asked Brandon if MVIC and his Board were following the rule making? He asked about the McElmo users and if MVIC was talking to them? Brandon said they had their own issues with the Wilson Ditch. Previously Marty had answered about compliance in McElmo that 95% are not up to snuff. As Don visits with McElmo user it comes as a surprise to them. Brandon said that the ones that have been leasing from Totten are okay, but the others that are not leasing are not. Don said that there were quite a few of McElmo people at this last meeting, but they may not realize there are opportunities for funding to make diversion improvements. Don wanted to alert Brandon that MVIC should be thinking about this rule making and if this could be a tool to get the 2 Boards talking and working together again.

Glen said that after the meeting he asked about his pond situation and he was surprised about the response that they gave him, he had heard about the loss of dominion & control that reverts the water to the state. Don said McElmo use circles back to the risk study in this valley, how does the percentage of MVIC water and percentage of the other non MVIC use like McElmo, no one understands how they relate. We need to have our eyes on that and may learn from the Division data being generated. The 1911 flood changed the diversions that forced McElmo back into water court later.

BFAC _ Big Friendly Ag Celebration - STAR program that Greg Vlaming brought to us along with others are getting together August 25th, a flyer was included in the Board packet if you are able to attend.

Colorado River District – The Colorado River District will present its Annual Water Seminar on Friday, September 22, 2023 at Colorado Mesa University's Meyer Ballroom. A draft Agenda was included in the Board packet. Primary focus is Colorado River.

ANS Update – CPW inspections caught 25 local boats coming back from Powell that had to be decontaminated. CPW roadside inspections will be back at Cortez Port of Entry on September 22nd. Ryan asked what caught means? Ken answered that they left Powell with potential mussel or veliger contamination. Ryan asked what the rule is, if you leave with mussels you are responsible for decontaminate? Ryan asked if he leaves Halls Crossing and wants decontaminated at McPhee the next day is he okay? Ken said yes. Ryan asked then what does caught mean? If you arrive at McPhee from an infested water potentially with mussels or veliger contamination and you must decontaminate, but you are not fined. In the past we have only caught 1-2 boats per year so 25 is a lot. Ken said he would bring it up at the next McPhee Tech meeting and get more detailed information for November, noting that there are about 1.5 million visitors to Powell each year.

Luke said his boat was one of the 25. There is a self-serve decontamination getting out of Powell, but doesn't get you a tag, which has been a running problem. If you are fully encrusted, they can charge you and impound the boat if needed. Need to keep inspections going effectively forever.

Colorado River Issues: Adam has a draft letter to the Bureau on the 2026 Powell/Mead operation EIS and subsequent negotiations due by Tuesday. The Colorado River Drought Task Force group met today for the second meeting. The minutes were in the packet. First meeting was a meet and greet. Today they started to establish their schedule and leaning to all in person meetings. They settled on public comment at every meeting and settled on their meeting days, which will conflict with our Board meetings. There are 2 meetings each month with 3-minute comment limits for the first agenda item. They are through 2 meetings and they all most have some ground rules. Brandon said that Gerald brought up that there are 17 on the committee and only 4 represent agriculture.

Going through articles in the Board packet, there are 2 big packets. 1) Task force – meet and greet on zoom and Lee Miller had the best quotes. First quote is “don’t help the LB”. The other is his biggest hope “that this task force does no harm.” The Chair is quoted that we have to be aware of the LB and Becky Mitchell ends that we have to keep CO together since the current 07 Interim Guidelines are not working for us. 2) Article on Powell and Mead - It is a basic primer that contains a lot of basic data and facts that are good to know when talking about CR issues and how the pieces tie together. Next one is about Durango, because they are our neighbors. They did a water study on declining snow and water, anything you compare to the 1980s it is going to look bad which is what they did. We have had a rough drought and Durango is going to use the study to justify building some pipelines. On the front range the municipalities are similarly getting active and all municipalities should have a diverse set of supply lines to take care of the system during emergencies. Data becomes a limiting factor when looking earlier than the 1980’s and you should read past the headlines to the data. There is a bad trend in the last 20 years and if you compare it to the high 80s it will look worse. Another article on Denver Water and Jim Lockhead stepping down. He has similar thoughts on the task force to John McClow, but has not been overly vocal about them. Denver Water carries a lot of clout in Colorado water.

Another article on Utah’s golf courses, is golf the new alfalfa? Where ever you are this is an intrastate issue. Another article on over development and cities raising rates for a new water supply like Gross Reservoir expansion. Municipalities haven’t controlled growth so what should we expect from them? The health and safety concern will come back during shortages. The next article talks about urban/rural conflict over water. A Colorado farmer talking about CO intrastate issues that may threaten his water. He hopes that western slope ag is not sacrificed.

Recently the River District brought up LB water managers to show them how water works in Colorado. Commissioner Becky Mitchell is trying to explain to other LB Commissioners as part of the UB educating the LB water folks. Dave Kanzer, River District, recently shared the Phase 4 Risk Study results. With a lowering average CR flow, we run into problems delivering 8.23 MAF at 11 MAF average. At 9 MAF we have problems meeting 75 MAF in 10 years. Those averages would cause constant drought and will be having our own local conversations. One constant refrain is should the UB carry the risk of climate change? They link back together under our basic strategy. We make our comment letter like any other public, but the states will sort it out with Reclamation, Mexico and the tribes. There is foreshadowing from the State Engineer that Colorado won’t know what or how a curtailment may work until the UCRC decides on several issues. How is CO going to meet the commitments? Too early to know. One question for us, what do we expect from the front range transmountain diverters?

MVIC Letter on Groundhog O & M: DWCD paid 10% of the attached costs. We were later informed via email that the \$7,443.40 was 10% of the total GH O&M costs. I received more detail in a spread sheet that is included in the mail out. Ken stated that he is kicking this issue down the road since he was finally able to start talking with Brandon. Too many commitments during the irrigation season. We agree that we had some obligation. The \$7,443.40 was the 10% from last year and going to push it off until there is time to review with Brandon. Presumably we will pay the other 90%, but just trying to understand the details.

LEGAL REPORT

MVIC 87.3 CFS Water Rights Filing – Adam stated there is nothing new from John and hopeful that the change at the Attorney General's office will get it resolved.

MBSS Memo on RRA and Related Reclamation Law – Have a lengthy memo for the Board and this is confidential and should and would like to discuss in Executive Session and CO River EIS scoping letter. Ken said he would touch on water protection in relation to CO River issues.

Adam requested an Executive Session to discuss the following: Water Rights Protection, Water Supply and Project Land Use Discussion and Colorado River Issues. Upstream moratorium and legal requirements, water supply negotiations related to NCA and National Monument and Groundhog Bill.

MOTION: MOVE INTO EXECUTIVE SESSION PER CRS 24.6.402(b) TO OBTAIN ADVICE FROM COUNSEL AND CRS 24.6.402(e) MATTERS OF NEGOTIATION FOR DISCUSSIONS ON WATER RIGHTS PROTECTION, WATER SUPPLY AND COLORADO RIVER ISSUES, UPSTREAM MORATORIUM AND GROUNDHOG BILLING.

**MOTION: JEREMY REDSHAW
SECOND: LANDAN WILSON
MOTION CARRIED UNANIMOUSLY.**

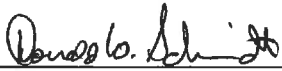
**RECESSED FOR EXECUTIVE SESSION AT 3:52 P.M.
RECONVENED REGULAR MEETING AT 5:06 P.M.**

REPORT OUT OF EXECUTIVE SESSION

Adam reported that in Executive Session the Board discussed CO River issues, the upstream moratorium, legal requirements associated with the allocation of project water supplies and negotiations related to the NCA and/or national monument and the MVIC Groundhog bill. Legal advice was received and instructions to negotiators were provided. No decisions were made.

NEXT DWCD BOARD MEETING – Thursday, September 14, 2023 - 2:00 P.M.

ADJOURNMENT Meeting adjourned at 5:07 P.M.



Donald W. Schwindt, Secretary-Treasurer



Godwin Oliver, President