

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 audio tape.

## DOLORES WATER CONSERVANCY DISTRICT WATER ACTIVITY ENTERPRISE

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### MINUTES

Regular Meeting  
December 8, 2016

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**CALL TO ORDER** Bruce Smart, President, called the meeting to order at 7:00 PM

**ROLL CALL** Bruce Smart, President  
Simon Martinez, Vice President  
Don Schwindt, Director  
Robert Vedsted, Director  
Godwin Oliver, Director  
David Frederick, Director  
Wes Wilson, Director  
Mike Preston, General Manager  
Ken Curtis, Engineer  
Gina Espeland, Accounting Clerk  
Vern Harrell, Bureau of Reclamation  
Barry Spear, Attorney  
Doug Pickering, CO Division of Water Resources

### INTRODUCTION OF GUESTS

Brandon Johnson, MVIC General Manager; Greg Black, Kelly McCabe

### MINUTES

### APPROVAL OF THE MINUTES

**MOTION: TO APPROVE THE MINUTES AS PRESENTED FOR THE NOVEMBER 10, 2016 ENTERPRISE MEETING.**

**MOTION: SIMON MARTINEZ**  
**SECOND: GODWIN OLIVER**  
**MOTION CARRIED UNANIMOUSLY**

### FINANCIAL STATEMENTS

Rob asked about Check #s 34316 and 34317 to San Juan RC&D and if it was for SNOTEL. He also asked about Check #34334 to Colorado Division of Water Resources (CDWR). Ken stated that the checks to San Juan RC&D are for cloud seeding and the check to CDWR is for the satellite monitoring gages. Simon asked about Check #34356 to Mountainland Supply. Lloyd stated that is for meter and PRV repair parts on the various laterals. Lloyd stated that they are on a rotation every 3 years, so it covers about 1/3 each year.

**MOTION: TO APPROVE THE OCTOBER '16 FINANCIAL STATEMENT AND APPROVE THE STATEMENT OF PAYABLES AS PRESENTED.**

**O&M: AP/CHECK #34286-34371 & PR/CHECK #121610-121658**  
**\$317,302.67**

**MOTION: SIMON MARTINEZ**  
**SECOND: GODWIN OLIVER**  
**MOTION CARRIED UNANIMOUSLY**

## **O&M REPORT – Status of System Operations/Current O&M Work –**

Lloyd handed out some pictures in the packet and stated that the first ones are on the repair project on Dove Creek Canal just upstream of Road 22. He stated that they encountered some setbacks because of the weather and hauled in about 28 loads of fill material. Just finished with the haul, cleaning and compaction and hope to be ready for tires next week.

The next set of pictures show the plant upgrade at Dove Creek. Some of the pictures are the old cabinets being removed. Crews also pulled out the variable pumps and shipped to All American.

### **Dove Creek Canal**

Repair work on the canal upstream of Road 22 is ongoing. Weather has caused several delays on the project.

### **Laterals**

The Field Techs are starting meter and PRV repairs.

### **Pump Plants**

The Plant upgrade at Dove Creek has started. The removal of the old VFD's is in progress. The two variable speed pumps were pulled out and shipped to All American for rebuild.

The Number two pump at Ruin Canyon was also removed and sent to All American for impeller replacements.

Sandblasting and painting on all eight pump intake pipes at Great Cut Pump Plant was completed.

### **Power Plants**

**McPhee Power Plant-**The Plant has been running steady at 25 cfs. Had a power outage around Thanksgiving due to a shorted insulator, but everything was repaired.

**Towaoc Power Plant-** The repair on the remaining five needles is scheduled to begin next week with completion expected in late February.

### **Towaoc Highline Canal**

The repair contract has been signed with Weeminuche Construction for the repair on Siphon seven. Repairs will start as soon as equipment can be mobilized to the site. The excavators are in Gunnison and they are held up there. Hope to get started next week.

### **Ute Farm and Ranch**

All four vertical turbine water screen spray pumps have been removed and disassembled. They are currently at Frontier Machine shop having new shaft sleeves, bushings and wear bands made. The motors are all at Great Cut Pumping Plant for teardown, inspection and bearing replacement.

Don asked about the expected timing of the pipe repair at Towaoc. Lloyd stated that they hoped to do it quickly, but not before excavation equipment can arrive. Ken stated that there is a week or two of digging and then the repair as long as we find what we were expecting to be repaired. Don stated that he would be interested in seeing what is there while it is open.

Lloyd stated that he was not at the last meeting and someone brought up questions about the vehicle usage. Lloyd stated that if there are questions about the vehicle usage then please call him and he can address. If anyone sees or hears something please contact Lloyd and he will check into it.

## **ENGINEERING AND WATER MANAGEMENT REPORT**

**Water Accounting Information** – Ken stated that the main thing that he put in is a summary of 2016 in review using provisional numbers. The District produces approximately 30 files with graphs on water for year end after we receive the final numbers later this month. He stated that he would bring in bits and pieces in the next couple of months. Ken stated that if anyone desires certain information, please let him know and he can bring it to the Board. The summary starts with the inflow forecast and how it played out. The year began with a wet winter both at lower elevations and in the mountains that resulted in a very solid snowpack. The snowpack grew each month until it was 150% of the median in February. After that, the snowpack grew little during the rest of the winter after going dry for March and April. The total annual inflows into McPhee were 315,174 AF, compared to 247,501 AF in 2014 and 295,385 AF in 2015. Ken stated that the most interesting number was the project was built around the DPR using information from 1928 -1972 which showed a thirty year average of 350,000 AF. Our current 30 year average is 326,925 AF. So the inflow was close to the long term average. Don asked about the inflow April through July. Ken stated

that he did not know the precise numbers, but would bring that data. Best inflow we have had in a number of years. We usually get monsoons more often than not. MVIC never got into their project water and their use was relatively low. Full Service annual use by irrigators was 50,809 AF or 97% of the 30 year average for the 2016 irrigation season. July diversions were off a little and the season ended early. UFR – The annual usage was 26,124 AF or 99% of the 30 year average. They managed to use their entire allocation and almost all the 2000 AF leased M&I. M&I – no significant use by the M&I users. Looking forward, we've had dry conditions and lack soil moisture going into winter. If we get average snow, the inflow will likely come in about 80 - 90% of average due to a dry fall. McPhee is still in pretty condition and recent snows are bringing us close to normal. We'll start watching closer in 2017.

**Website Update** – The website will go live at the end of January. All board members have a bio with at least one sentence long. Ken stated if anyone else that has more information to add, please let me know. Ken will call Wes.

**Projects Update** – Lloyd covered most of our projects unless anyone had specific questions. Vern may cover some projects that are in process in SLC. We do have the Great Cut excavation under contract with submittals under review and materials to be delivered in the spring. It is the power field that makes resistance for hydropower or drives the electric motor. Installation will start out next year and Lloyd will provide updates.

A contractor is scheduled to start work on the south canal power line, but we are waiting for the contractor to mobilize. They are going to try and work through January on the project.

A new switch will be installed at Pleasant View so it can be run independently from SSPP & RCPP. There are improvements to the Sandstone power supply. The wire is estimated to be in good shape. WAPA looked at going overhead, but guide wires leaving the right-of-way was a huge issue and they went back to going underground. The other problem were the splices that shorted. They initially tried to repair the splices, but could not precisely locate them. Now they plan to put in cabinets every half mile to allow quicker problem locating for repair. Empire is contracted to do the emergency repairs. The project is not a complete power line replacement.

**ADJOURNMENT** Dolores Water Conservancy District Water Activity Enterprise Board meeting adjourned at 7:30 PM

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Simon Martinez, Vice President

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Bruce Smart, President

# DOLORES WATER CONSERVANCY DISTRICT

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## MINUTES Regular Meeting December 8, 2016

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**CALL TO ORDER** Bruce Smart, President, called the meeting to order at 7:30 PM

Bruce Smart, President  
Simon Martinez, Vice President  
Don Schwindt, Director  
Robert Vedsted, Director  
Godwin Oliver, Director  
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Mike Preston, General Manager  
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### INTRODUCTION OF GUESTS

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### APPROVAL OF THE MINUTES

#### MINUTES

Don stated that he had several items that he would like to go through that he thought might need some work. First page under Board Member Conduct – reads Bruce stated that this item is in regard to DWCD's Board of Directors consideration to file a petition, with the judge. That is the sentence and Don stated that his memory was that Bruce stated that DWCD's Board has decided to file a petition asking the Judge to remove David from his board position. Don stated that if his memory is close to correct he would suggest that we change that first sentence.

Bruce asked Don what he suggested we change it to. Don stated that Bruce stated that DWCD's Board has decided to file a petition asking the Judge to remove David from his board position.

Bruce stated it was to review it, the board review it and decide.

Don stated that the words he quoted were what his memory says. Barry stated that is probably correct and he said that Bruce misspoke, in that it was in the Board Meeting that this would be decided. Don stated that is reflected in the minutes further on in the minutes when we get there. Barry stated if you want to change a sentence the way you want it that is fine and that the chronology should be the same too and as soon as you said that the correction was made by me (Barry) that it was misstatement by Bruce and that it was a meeting to hear comments from people and we went through the different options and then we went into it.

Don asked if Barry had read the minutes. Barry stated that he had not. Don stated that further on Bruce's words as he continued, I didn't challenge that as soon as he said it. I didn't interrupt to challenge, that decision, that sentence as he described it, so the minutes seemed to fairly follow except for the first sentence. Barry agreed that was right. Don stated that the minutes seem to reflect what followed for him after he brought up the concern. Barry stated that the minutes should reflect was how Bruce opened up the discussion.

Barry suggested that staff should go back to the transcript. Don agreed with that and stated that he had several other things that may require something similar and then bring them back next month for approval. Barry recommended to the Board to have staff look at the tape and transcribe exactly what was said, in the passages being questioned.

Don asked if they wanted him to continue with other places and that he didn't try to catch everything, but he caught things that he thought were significant.

Next place is the bottom paragraph on page 2 preceding the Motion. Walter stated that he was not at this meeting. But after reading the minutes, he agreed that there needed to be action and made a motion. Don stated that he did not remember the second sentence and that he listened less close to Walter than he did to Bruce. Don suggested that staff listen to the tape on this section. Don stated that what he did remember the words from Walter were he had been recruited to read the motion and then he read it. Someone later told him that he never made a motion, someone from the audience as they listened and Don stated that he didn't catch that. Don stated that once again listening to the tape is perfectly appropriate. Don stated that those were the two that were most important to him.

Don brought up that two things under the motion discussion before the vote. Talking about the things that he said. Trying to be specifically correct in what he said. Don stated with the minutes that the written minutes are to closely represent what was said and he respects that process. Don said earlier in the paragraph where he is, the time he says speechless, he used those words with Bruce in the phone call that he gave Don prior to visiting with David and asking him to resign. It was reflected in that place. Don said here again maybe he used the word speechless and Don read the sentence "Don stated that he does not agree with the way this has happened. He stated that he is speechless and did not think that this Board made decisions this way. So what Don made in his notes that it occurred in the telephone conversation and he was not sure that he used the word speechless. Don stated that maybe he used it here in response in having to vote on a motion that had already been decided and that was the point he was trying to make in his discussion. Don stated that he came to the meeting to have a full discussion of concerns he had on taking these kinds of actions on the issue and he was told that people's minds were already made up. Don stated that he felt a decision had been made that he had not been a part of the discussion. Bruce stated that the discussion on the phone was that we wanted to proceed with the process. Don did feel that he could have a discussion with the rest of the Board and felt that others minds were made up and the minutes should express that. Bruce stated that this discussion was what the November conduct issue agenda item was there for.

Don stated that Simon asked Don if he had ever felt threatened. Don stated he told a story about his Dad and none of that makes any sense and the point he was trying to make was we were misinterpreting David's intended communication and that was all he was trying to say. Don stated that he probably did not use those words, but that was the point he was trying to make. The last two items are less important than the first two and would like to see corrected minutes next month.

David stated the he had one issue with paragraph 2 on page 2 on the special meeting. He would like that whoever is transcribing to make sure that at that point it is corrected. David read that the minutes stated Godwin stated that the apology that was made was for his temper but not for the content of what he said to Vern and Ken. Godwin stated that after David was approached by Bruce about a special meeting with the Board, David stated that he did not know that a special meeting was ever mentioned in the conversation between Bruce and himself. Mainly there were two options 1) to resign or 2) come before the Board.

Bruce stated that he asked and would have like to have gotten David together the next week with the Board. That is what he was asking and had gone to say that there were several members had stated that they were uncomfortable with your attitude and emotions at these meetings and felt it was not acceptable conduct for board members. Bruce stated when he spoke with David, he asked David if you would be willing to offer up a resignation or talk with the Board and had the following Wednesday available and that is what he was trying to get David to do. Then David stated that he did not want to meet privately with the Board but wanted an agenda item at the regular Board meeting. Bruce stated that was David's preference and that the Board would go with that.

Barry stated that he did not think that they should be talking about conversations that they had outside the Board meeting. Barry stated that these minutes are only for the Board meeting and not discussions.

David stated that he just wanted to make sure that was said correctly and did not remember that being said. David asked Godwin if he had said special meeting? Godwin said that he didn't remember exactly.

**MOTION: TO APPROVE THE MINUTES FOR THE NOVEMBER 10, 2016, BUDGET HERAING AS PRESENTED.**

**MOTION: SIMON MARTINEZ  
SECOND: WES WILSON  
MOTION CARRIED UNANIMOUSLY**

## **FINANCIAL STATEMENTS**

**MOTION: TO APPROVE THE OCTOBER '16 FINANCIAL STATEMENTS AND APPROVE THE STATEMENT OF PAYABLES AS PRESENTED.**

**ADMIN: AP/CHECK #10865-10877**

**\$12,752.53**

**MOTION: SIMON MARTINEZ  
SECOND: GODWIN OLIVER  
MOTION CARRIED UNANIMOUSLY**

## **AGENCY REPORTS**

### **BOR Report**

Vern stated that he is working on getting a SCADA replacement equipment contract out and hopefully will go out next month. Plan is to get the equipment next summer with the install next fall. Vern stated that he has been working on the O&M Annual Report for Regional Director on the powerplants. The staff has done a good job and it makes everyone look good in the report. Vern stated that he would bring the report to the meeting upon completion. Vern stated that they are building and installing equipment at Navajo and buying a flow meter for the penstock.

### **Division of Water Resources Report**

Doug reported that there was a meeting 2 weeks ago with management and DWCD, MVIC and BOR about what the call on the Dolores might do and no decisions were made. Discussed the possibilities of what could happen, but kept it to an information exchange.

### **T/H Committee Report**

Rob Vedsted reported that the Committee met on November 16, 2016.

The Committee discussed **1)** the shotcrete section across the highway from the fairgrounds. MVIC fixed with Sicaflex and there are other patches that are not doing as well. Brandon is going to do some work in the future to repair those. **2)** The leak at the siphon that Lloyd spoke about in his report. Expecting costs close to \$50,000 and someone from MVIC, DWCD or BOR would be in the area when they are doing the repairs to inspect work. **3)** The airvac's on Reach 3 have been taken care of and they had been overlooked for a period of time. One of the previous meetings, Eric was there for Simon and asked if DWCD would take over the maintenance on the air vac's. All entities reported on their completion of work on what they take care of on certain reaches.

**Next T/H Meeting** – The Committee will meet at the DWCD, Cortez Office December 21, 2016, at 2:00 p.m.

### **MVIC Report**

Brandon reported that December 6 Tim went to Groundhog and Beaver, the lake was frozen over and at that time was 2 feet of snow. CPW came in too low on the Narraguineep boat ramp costs and they are moving things around. Started filling Narraguineep on the Monday, December 5<sup>th</sup>. Cleaning at 501 and working on meters and valves.

Bruce asked Kelly McCabe if there was a specific item he was here for at this meeting. Kelly stated that he sent a letter to Barry and he was here representing David Frederick. He asked that the Board consider taking a look at this informally before we go into the litigation process. It is an effort to see if there is a way to resolve this matter. Barry thanked Kelly and said that they would discuss the matter in Executive Session. Kelly stated that sometimes he has found that things can be resolved by discussion rather than in the courts.

## 2017 Budget Adoption:

Ken stated that the 2017 budget continues programs that were initiated in 2016 supported by good carryover and expectations of another full water supply in 2017. Ken stated that the budget was changed to keep the water charges flat. The reserve was bumped up to 35 cents. Ken stated that when he sent this out he did not receive any responses or final input.

There is a budget message that is more formal for the State purposes. There have been a couple of minor changes. The old lease to the UFR was inflated to match full service increase of 3%, but it was not talked about and there were small dollar corrections. We received the valuation from the Counties and that is what drives the resolutions that have to be sent by the 15<sup>th</sup>. The budget this year is kind of a continuation year for a lot of major initiatives started in 2016. The EDS and Powerplant are still out there. Up and down years and have moved budgets around and finally had a full water supply, farmers were hit with a terrible commodity market. The financial recovery was not what we had hoped for. Listed what we did in the 2016 year and the can put Mike's initial 2016 goals side by side to see what was accomplished. We de-bruced and then the assessed valuation went down. We continued to lease water and raised the conservation pricing. We have not been able to move the EDS, but are still working on it. The reserves have been invested and are getting better returns. Ken stated that he will provide a report in January. Water supply protection efforts continue on. One example is the mussel inspections and we have budgeted for it and we are will on the way to achieving the goal. Emergency response plan for the river and McPhee have been put together by Montezuma County with active participation by DWCD. We are going after what was laid out and will keep going on those. Staffing has been a big deal. We have had some transitions in major positions.

We are continuing with capital investments in infrastructure, equipment and vehicles as listed.

New equipment purchase: the long stick track hoe to meet canal cleaning needs will be a new Cat 323F funded by \$138K from Reserve Replacement transfer and \$77K in current revenue. No equipment purchases are planned for 2018, and the funds borrowed from reserves will be replaced.

Two replacement vehicles: scheduled to replace a 2001 198K mileage welding truck at \$70K and a 2007 196K mileage operator's truck at \$56K for a total of \$126K.

Canal lining replacements – Continue lining replacement in Reach 1 by DWCD crews, mostly with tire mats. We also intend to try some articulated concrete blankets (ACB) pre-fab concrete mats & possibly a geo-membrane (PPE) at one small leak totaling \$85K.

Pumping plant improvements include 3 BFV operators at RC & PVPP \$10.5K, re-build spare motor SSPP \$2k, roof hatches & ductwork at CAHPP \$50K and 2 pneumatic tanks at \$3k totaling \$65.5K plus \$20K routine O&M. For GCPP this includes some exciter installation engineering support & routine O&M for \$20K total.

Lateral improvements include \$18K Cla-Valves, \$24.5K Cla-Valve repair parts, \$10K meter parts and \$11.5 routine O&M total \$64K.

Additional base haul for canal roads: Trucking for base course for a complete mile (up ½ mile) of replacement from stockpile, \$11K and miscellaneous fencing supplies plus 1.5K totaling \$12.5K.

Funds to replace the excitation and needle seals for Towaoc Powerplant is included in the powerplant budget.

Continue spillway repairs \$10K, fund DWCD portion of ANS inspections & gates 37.5K and routine O&M \$5k totaling \$52.5K for McPhee Dam

Agreed to come back with a FS payment policy/suspension and have to decide by March prior to the first bills going out. It is a status quo year and there are items on the side that we will be looking at. Going to come back to the Board and believe we can do some of the cathodic protection and at a cost savings. The spillway will come up next year. Ken stated to him it is business as usual and it will be up to the Board to decide and we are implementing what we have been told. The budget was put together per the Board direction.

Bruce asked if we got the cloud seeder that was discussed earlier. Ken stated that we did. Did some final calibration and it is up and running. Can access by snow shoe and did not want to have to use snowmobiles. It is up and running. Have an 8 hour minimum rule. David asked if it shoots something in the air. Ken stated that it does, silver iodide. There is a lot of distance between lab and real time. There is a big Wyoming study and the trick is to have good operation and moving closer to our target and our target is just inside of Lizard Head. Could not get permission on Beaver and South Mountain is too remote. Want to be in the right place at the right time.

**MOTION: ADOPT RESOLUTION NO. 16-02 2017 ADMINISTRATIVE FUND BUDGET**

**MOTION: ROBERT VEDSTED**  
**SECOND: DAVID FREDERICK**  
**MOTION CARRIED UNANIMOUSLY**

**MOTION: ADOPT RESOLUTION NO. 16-03 RESOLUTION TO APPROPRIATE ADMINISTRATION FUND MONEY**

**MOTION: ROBERT VEDSTED**  
**SECOND: DON SCHWINDT**  
**MOTION CARRIED UNANIMOUSLY**

David asked about the mill levy of the admin of .483 vs the DWCD Water Repayment. Mike explained that the .483 levy is discretionary and was fixed at this levy by the tabor election. The other levies are pass through obligations primarily to Reclamation. Discretionary revenue that is not needed for legal and administrative costs is transferred to the O&M Budget as a revenue source that does not come from water charges.

**MOTION: RESOLUTION NO. 16-04 SETTING THE MILL LEVY**

**MOTION: ROBERT VEDSTED**  
**SECOND: DAVID FREDERICK**  
**MOTION CARRIED UNANIMOUSLY**

**MOTION: RESOLUTION NO. 16-01-E 2017 ENTERPRISE FUND BUDGET**

**MOTION: ROBERT VEDSTED**  
**SECOND: GODWIN OLIVER**  
**MOTION CARRIED UNANIMOUSLY**

**MOTION: RESOLUTION NO. 16-02-E APPROPRIATION OF ENTERPRISE FUND MONEY**

**MOTION: ROBERT VEDSTED**  
**SECOND: GODWIN OLIVER**  
**MOTION CARRIED UNANIMOUSLY**

Mike thanked Ken, Lloyd, Lisa and also the Board and FS irrigators for all the thought, input and work that went into the Budget.

#### **General Managers Report:**

**Meeting with Commissioner of Reclamation, November 14, NWRA** – Attached is the list of the four topics that were discussed with Commissioner and Regional Director Brent Rhees. Most of the discussion focused on Topic 1: “Interface of Reclamation and BLM Authorities regarding Wild and Scenic River Suitability and Flow Related ORVs (Outstandingly Remarkable Values) on the Lower Dolores River.” The Commissioner and RD, Brent Rhees were receptive to DWCDs desire to formally clarify the interface of these authorities in BLM RMPs so as to reduce a major risk for Reclamation Projects including the Dolores Project on rivers with Wild and Scenic Suitability status and flow related ORVs such as the native fish ORVs on the Dolores. Mike stated that the ORVs include native fish species that we cannot support. When the Tres Rios RMP went final, there was a ISF on the lower Dolores pending and DWCD went with DWCD to the CWCB meeting and asked for the

ISF to be put on hold for a year to negotiate specific protections for the ISF not reaching upstream and for help in negotiations with the BLM about concerns about ORVS and bypass flow standards involving the Dolores Project. There was a whole series of negotiations in Denver resulting in a letter from the BLM state director stating limits to BLM authorities to impact Reclamation projects.

The desired outcome is for the BLM to recognize directly in their Resource Management Plans that BLM authorities related to Wild and Scenic Suitability cannot override Reclamation operations and allocations. The Board President and GM shared the letters from Tres Rios Manager Connie Clementson and BLM State Director Ruth Welch acknowledging the limits to BLM authorities. These letters were shared with the DWCD Board in conjunction with the Uncompaghre BLM Draft RMP comment process. Now that the Tres Rios RMP is being opened to amendment for consideration of proposed ACECs (Areas of Critical Environmental Concern), DWCD can work to get the authorities acknowledgement directly into the Tres Rios RMP as discussed in Item 2 below.

Also discussed was the excellent progress being made on the MOU pumping plant overhauls with appreciation for the leadership provided by Regional Director Brent Rhees in keeping the Pleasant View and Ruin Canyon overhauls on schedule. We reported that future contracts are moving along nicely and expressed a strong interest in renewing the MOU Funds which will provide about \$7 million in funding for overhaul contracts that did not have to be borrowed by DWCD.

The authorities that the BLM and BOR operate under are separate involving different obligations. Colorado DNR Director, Mike King met with BLM State Director, Ruth Welch and Ruth put a cover letter on Connie's letter that they cannot override the BOR's operations. We are trying to get authorities language directly into the RMP. The answer to us in 2015 was that the plan was final and this would be too big of a change. We were able to get the stipulations in regard to the ISF protections. The Dolores River is chopped into 4 BLM Field Offices. All four different BLM offices do separate management plans, however they all have the same 3 native fish included as ORVs. The Uncompaghre Plan is in draft and we have a strong comment on clarifying these authorities from CWCB and DWCD. We ask for Reclamation's support to get the authorities clarification going. We have to get this written into their plan. BLM and USBR are both under the DOI and in addition to asking in helping we suggested that they might have the Secretary of Interior look at. If we can clarify these different authorities and we can protect ourselves from future BLM actions that exceed these authorities.

The basin fund MOU and Brent was instrumental in getting those contracts going. We expressed our desire of the extension of the Basin MOU and comes out of the power funds. We advocated for that program and would like to see it continue.

Some things will require Reclamation approval and we will try to bring them as an orderly package. If, for example, storing water in McPhee that would normally require a carriage contract has project benefits that warrant reducing carriage that we will be bringing to Reclamation for approval. Mike stated that Ken will talk about the ANS. This is a national policy in the mussel programs in the form of an Executive Order.

Bruce stated that it is very good to meet with Reclamation and that we are here and appreciate what they can and have provided.

Bruce and the GM also talked about the Drought Contingency Plan and let Reclamation know that when the Plan was complete, any action items that would require Reclamation approval would be brought forward as a package of elements for Reclamation consideration. We also thanked Reclamation for the funding provided to the Mussel Inspection Program and encouraged Reclamation to be a partner in prevention efforts at Reclamation Reservoirs that are mussel free but at high risk.

**MOU BLM Tres Rios Field Office and DWCD Re:** Cooperating Agency Relationship on Amending the Tres Rios Resource Management Plan to address Areas of Critical Environmental Concern (ACECs). The original invitation (attached) was sent out March 16. On October 26, Connie Clementson sent the GM an email acknowledging that DWCD had not been on the mailing list and inviting DWCD to respond to the invitation to participate as a Cooperating Agency.

Tres Rios is opening up the plan back up and some of the values are flow related values. There is mention of the native fish in the ACECs. The rules for ACECs is if there are other tools to protect the species, an ACEC is not necessary. Tres Rios BLM opening the plan back up, is an opportunity to take the authorities language that we are seeking and get it in the Tres Rios Plan.

The BLM and most Federal agencies have a cooperating agency option. A cooperator has the right to look at all the documents as they are being formulated and the opportunity to raise issues that are concerns and means to resolve issues. If we agree to cooperative agency status and we don't have to endorse elements in the plan that we disagree with and can put our concerns into the record.

To keep DWCD options open, the GM responded with an email outlining DWCDs qualifications to serve as a cooperator (attached). In response, a draft agreement was sent to the GM. The draft agreement and the pros and cons of DWCD being a Cooperator will be discussed at the December 7 LEMing to bring options to be Board regarding levels of participation and a draft MOU should participation be agreed to.

Many of the terrestrial values being looked at in the ACECs are of no major concern to DWCD. What is of concern are the flow related ORVs that could reach up and impact Dolores Protect operations and allocations. One option would be to push for the clarification of authorities in the amended plan in the manner requested by DWCD and CWCB relative to the Uncompaghre RMP Wild and Scenic Suitability segments. If DWCD could get such water protections in the Amended Tres Rios RMP, it may not be necessary to spend a lot of time and resources engaged in non-flow related issues. If the LEMing ends up recommending a Cooperative Agency agreement, a draft MOU will be brought to the Board for consideration.

They came back with the MOU that was handed out tonight to make us a cooperator in this planning process and it is the formal mechanism in becoming a cooperator. The MOU addresses the purpose and what authorities involved in BLM plan. And what the responsibilities of the cooperating parties are in this. Page 3 of the MOU a list of B1- DWCD special expertise and jurisdiction by law. #2 that DWCD can provide comments and topics. ACECs may interact with several areas of interest to DWCD and we need to protect these interests.

Mike asked Barry to add and it is to look at the agreement. Barry referenced the pages that have the color table. It shows the process by the BLM and the different events that occur if DWCD is not a cooperating agency. DWCD would not be able to participate in these discussions. A number of things have already occurred and DWCD should have been involved last spring, but we did not know about it. It is always better to be at the table than to react with comments after the plan is final. Being in the process at this stage is very helpful and there can be some input given that could be persuasive and we can object and they have to respond to the basis of our disagreement. Adam looked at the MOU and tuned it up. It is our recommendation to become a cooperating agency.

Bruce stated having looked at this it is an opportunity to get involved early and to have more impact on the outcome. It is important in the lower reaches and we may be able to get water protection language in other plans that the BLM is working on.

Mike stated that we could explore something similar on the Uncompaghre with more of an effort to engage. There were have the strong CWCB comment letter on authorities. The Uncompaghre and Tres Rios BLM have been consolidated with the whole lower Dolores River in one District and the new District Manager. We will open communication with the District Manager. If we can get these authorities acknowledged and they can potentially benefit us in the separate BLM plans.

Bruce asked for Board comments. David stated that it would take a lot of time. Whatever information that they put in the plan is accurate and up to date. David asked when they meet. Mike stated that there is a schedule on the back and the process may or may not be on schedule. Mike stated that not all of these events would have to be attended. Simon asked who is the representative. Mike stated he is the representative and Bruce is the alternate.

**MOTION: ENTER INTO THE MEMORANDUM OF UNDERSTANDING WITH MIKE AND BRUCE BEING THE REPRESENTATIVES OF DWCD.**

**MOTION: SIMON MARTINEZ**

**SECOND: WES WILSON**

**MOTION CARRIED UNANIMOUSLY**

David stated that he had a concern of the financial obligations on page 4 and asked Barry to explain. Barry stated that if either the BLM or DWCD has budgeted a certain amount and the expenditures go beyond that that the BLM or DWCD is not obligated to pay beyond, but only what is budgeted. Mike stated that there is not going to be any money changing hands. It is at our expense and nothing above and beyond what we want to do. There are not any fiscal commitments.

David asked about the designated ACEC and the nomination. Mike stated that he had brought the map to previous board briefings. They made the nominations in the 2013 plan and didn't act on them. They are reopening the nominations that appeared in the 2013 plan. The process is going through the nominations to determine if they really need to make such designations. Mike stated that we are dealing with the layering on of all these designations and trying to keep them from inuring the project.

**Aquatic Nuisance Species (ANS) Mussel Inspection Program** – Ken stated that he wanted the Board to have what is going out publicly. There is the plan. The four parties are going to pony up the same money in 17 as in 16 and reup the contractor and will get similar inspections in 2017. Roughly May through October approximately 7 days a week. At House Creek it will only be 4 days and it is a concern to one commercial boat renter that the House Creek ramp will be closed when there are no inspectors. If we do get more money Ken hopes to expand the inspections. Ken reviewed the types of boats and where they are coming from on McPhee Reservoir and the watercraft risk is each type of boat. It lists the vectors that they are worried about.

Potentials for Mussels to survive and McPhee is on here on the 10/11<sup>th</sup> line. The habitat has 2 critical details. Calcium levels determine if they can grow a shell and survive and whether they will thrive. The other detail is temperature. We are high risk for mussels survive and thrive. In 2016 there were 120 boats with attached mussels that are intercepted coming into CO and Blue Mesa, Grandby, Jackson and Navajo and Ridgeway and Vallecito and they are coming on these boats and have been prevented at McPhee. There is very strict protocol. 2016 ANS fact sheet that was just received, has a list of infected states on the upper right. There are infected states all around us. We think NM WY and CO are free. The battle is being lost in Arizona, Utah and Kansas. McPhee's biggest risk is boats from Lake Powell which is badly infected. Trying to keep everything at bay. Ken will keep communicating and trying to cover the 3 day holiday weekends. And we will see gates and closures. The risk is real and we cannot afford it. If we do get mussels it is going to add to our O&M dramatically. The inlets are the first risks and then the cooling water. The municipalities will have to add treatments on the back in as well. Ken stated that he would be taking the issue to the MVIC Board Meeting.

David stated that he would like to see average lake temperatures. Ken stated that we do not have a lot. Ken stated that he would send the extended report and a query that some of the sampling CPW data that could be pulled out.

“The Invasive Zebra and Quagga Mussel Management Plan for McPhee Reservoir” with 2017 Implementation; and an Internal Communication Plan to guide public education have been accepted by the Executive Committee: DWCD, Reclamation, Parks and Wildlife, San Juan Forest. Ken has begun education and outreach efforts with assistance from Technical Group appointees by the four partners. The initial presentation was to the Montezuma County Commission on November 14 followed by Dolores County on December 5 with the Dolores Town Board scheduled for December 12. Ken will give an update on the meetings with Montezuma and Dolores Counties. The presentation to Montezuma County prompted an article by Jim Mimiaga in the Cortez Journal (attached)

Mike asked the Board if they feel like people understand the need for us doing this. Ken stated that chlorination, UV and some of the concentrations and what happens if there is a static system and flush. Ken stated that he is going to reach out to Stan and the Cortez Bass masters and was going to wait until January.

**Colorado Water Congress – January 25 Workshops, January 26-27 Convention.** An “early bird” price list for events is attached. If you Plan to go, reservations made by December 31, DWCD will save money. Please select the events you are interested in and let Gina know. When we start getting more information on the Workshop and Convention Agendas, we will keep the Board informed.

**MVIC-DWCD Board to Board meeting on January 17, DWCD, 7:00PM** (Tentative, Topic to be Determined) – Ken and Brandon will work with the Board Presidents to select a topic and confirm the meeting date.

**Legal Discussions MVIC-DWCD – Groundhog, POD, 505cfs, Change in Use of MVIC 87.3 conditional water right** – Barry will update the Board, as appropriate in open session, and identify any points of discussion that need to be taken up in executive session.

Barry stated in open session he would like to state that the POD case DWCD has been working on with MVIC and the attorneys have agreed on a proposed decree to submit to the court and the only opposer was the Division Engineers office. We have addressed all the concerns. Hopefully they will give the okay and the decree will be filed in Water Court.

After that case is done we will proceed on the diligence on the 505 on Main Canal 1 and 2 water right.

## **LEGAL REPORT**

**POD & 505 CFS Due Diligence** – Most of the preliminary work regarding notice has been done. Now efforts will be put forward in drafting a decree. The State Engineer filed a Statement of Opposition (SOO) and has informed the attorney's what language they would like to see in the decree, this language and should be straight forward. MBSS hopes to get the POD finalized within the month. They told the Court at the 505 cfs Due Diligence status conference that they are waiting to provide the final 505 CFS decree until the POD has been issued. All of the concerns in the POD application have been addressed. One of the concerns was presented by MVIC who said was if the POD wasn't successful the POD for MVIC would be addressed in the MVIC 87.3 conditional right filing and DWCD would have to file separately on its 505 cfs conditional right. John Justice is in agreement to get the POD settled and then move on to the 505 decree.

**87.3 Conditional Water Right** – MVIC has provided MBSS with a proposed decree, and an engineering report from Applegate. MBSS reviewed legal information with DWCD staff in the LEMing and had Steve Harris reviewed the Applegate Engineering report. Ken and Steve Harris met with the Applegate Group and they discussed DWCD issues, Applegate will consider the discussion and get back with DWCD.

**Plateau** – Barry stated that there was a status conference November 10, 2016. Plateau is the conditional water right in which DWCD is trying to get diligence approved by the court. They have narrowed the decree to two opposers which are CPW and the State Land Board. The attorneys are going back and forth over a statute that MBSS found that gives the District great latitude in using the property for a reservoir. The opposers are stating that the statute doesn't apply, but a different statute applies. There is a status conference scheduled in a month. Attorney's are hoping to have the decree finalized next month.

**The Matter of the Petition for Removal of David Frederick.** Barry reported that after this Board made the motion to file a petition it was filed on November 21, 2016 and the judge to order the hearing to take place. David has 21 days to respond from the date of notice and it was provided on November 22 and response should be received by December 14. Judge Walker would enter an order and if responded to and challenged then Judge Walker would set a hearing and evidence presented and then rule. A letter was presented by Kelly McCabe tonight, so in executive session the Board can consider the letter. Barry stated that he has told Kelly and it is an interesting situation and David is still on the Board and has all the rights of a Board member and Barry asked Kelly if perhaps if David would consider leaving for that discussion in the executive session. In executive session we will need to discuss a couple of water cases that the board may want to take action on and David should and would want to remain for those discussion. We could discuss water cases and then David could leave the executive session when the conduct issue is discussed. That is Barry's suggestion to the Board.

Barry suggested a break and then proceed after David has had a chance to consult with his attorney, Kelly.

**RECESSED MEETING FOR BREAK AT 9:47 PM**

**RECONVENED MEETING AT 9:55 PM**

Barry stated that the cases are in the report and the cases that we will be primarily discussing include the 12CW20 Groundhog and MVIC change in use and the FS 16 76B page 4, then the case on bottom 08CW29 and other cases will be touched on briefly.

Don asked if there is nothing much on ISF.

Barry stated the other topic will be the removal of director. A letter was presented to the Board earlier in the meeting by Kelly McCabe who is representing David Frederick and it is

understood that David will leave the executive session for that discussion. Bruce stated that we could break out the executive session and have two.

Barry stated that it should be noted that this is a choice by David on his own and not required of him, but for consideration by him and his attorney so the Board could more freely discuss the topic.

Barry stated that the statutes that allow the Board to discuss these matters in Executive Session are CRS 24-6-.402.4b receiving legal advice from the attorney and CRS 24-6-402-4e to give direction to negotiators.

**MOTION: TO MOVE INTO EXECUTIVE SESSION PURSUANT TO CRS 24-6-402-4(b) TO RECEIVE LEGAL ADVICE FROM THE ATTORNEY AND CRS 24-6-402-4(e) TO GIVE DIRECTION TO NEGOTIATORS.**

**MOTION: ROB VEDSTED  
SECOND: DAVID FREDERICK  
MOTION CARRIED UNANIMOUSLY**

**RECESSED MEETING FOR EXECUTIVE SESSION AT 10:00 PM  
RECONVENED MEETING AT 11:40 PM**

## REPORT OUT OF EXECUTIVE SESSION

Barry reported out of Execution Session that the Board heard legal advice on water cases and also discussed the petition to remove David Frederick from the Board. The only action that will be taken outside Executive Session concerns Case 12CW20 MVIC – New Groundhog Water Right and MVIC as applicant.

**MOTION: THE BOARD WOULD LIKE TO ENTER INTO A STIPULATION TO APPROVE THE PROPOSED DECREE THAT HAS BEEN PRESENTED BY MVIC WITH 2 CHANGES WITH THE REMOVAL OF 43,344 ACRES THAT CAN BE IRRIGATED ON THE CLASS A AND B AND CORRECTION OF THE CAPATICY IN PARAGRAPH 17 OF PROCPOSED DECREE**

**MOTION: ROB VEDSTED**

**SECOND: SIMON MARTINEZ**

**MOTION CARRIED UNANIMOUSLY**

Barry stated that the proof of the 43,344 irrigated acres can be communicated to MVIC counsel and can be in the minutes.

**Other** – It was stated that Walter Henes did not reapply to the Board and Wes Wilson has been appointed to that seat.

**NEXT DWCD BOARD MEETING** – Thursday, January 12, 2017 - 7:00 P.M.

**ADJOURNMENT** Meeting adjourned at 11:45 P.M.

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Simon Martinez, Vice President

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Bruce Smart, President