

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

MINUTES

Regular Meeting
November 10, 2016

CALL TO ORDER Bruce Smart, President, called the meeting to order at 7:44 PM

ROLL CALL Bruce Smart, President
Simon Martinez, Vice President
Walter Henes, Secretary-Treasurer
Don Schwindt, Director
Robert Vedsted, Director
Godwin Oliver, Director
David Frederick, Director
Mike Preston, General Manager
Ken Curtis, Engineer
Lisa Jordan, Office Administrator
Vern Harrell, Bureau of Reclamation
Barry Spear, Attorney
Doug Pickering, CO Division of Water Resources

INTRODUCTION OF GUESTS

Brandon Johnson, MVIC General; Jim Fisher, Greg Black, Wes Wilson; Eric Whyte

MINUTES

APPROVAL OF THE MINUTES

MOTION: TO APPROVE THE MINUTES AS PRESENTED FOR THE OCTOBER 13, 2016 ENTERPRISE MEETING.

MOTION: SIMON MARTINEZ

SECOND: WALTER HENES

MOTION CARRIED UNANIMOUSLY DAVID FREDERICK WAS NOT IN ATTENDANCE AT THE TIME OF THE VOTE.

FINANCIAL STATEMENTS

Rob asked about Exponential Engineering. This is engineering support for the Basin Fund Projects and has been split up between PV and RC pumping plants. Rob asked about payment made to Measurement Specialties it was stated that this is for PLC's and pressure transducers.

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

**O&M: AP/CHECK #34207-34285 & PR/CHECK #121556-121609
\$275,568.73**

MOTION: ROB VEDSTED

SECOND: SIMON MARTINEZ

MOTION CARRIED UNANIMOUSLY DAVID FREDERICK WAS NOT IN ATTENDANCE AT THE TIME OF THE VOTE.

**RECESS MEETING FOR THE BUDGET HEARING AT 7:50 PM
RECONVENE MEETING AT 8:29PM**

2017 BUDGET

Discussion: Godwin asked about the \$700K that is appropriated and unbudgeted. Mike explained that to use this money would take action from the Board but allows us to use the money without amending the Budget. Ken stated that he would like to increase this line item to help support extending FSA delinquent accounts.

Don asked Godwin if he wanted to take the answer to the wage question any further. Godwin stated that he doesn't have a problem discussing this further. Godwin stated that he had no disrespect to the employees and feels that there are some of the best employees DWCD has had in years. This is an agricultural based company and that doesn't mean that there wouldn't be wage increases in good years. Don stated that he would be interested to see what the comparison is between what his personal income is vs. what DWCD wage increases have been. Bruce stated that one concern with trying to adjust the wage rate based on the agricultural economy is you don't know when commodity prices will go up and down and this decision must be made in advance. Mike stated there are two dimensions to the wage discussion. Mike stated one is sensitivity to the irrigators. The other is competing in the labor market. DWCD needs highly skilled employees and needs to have a qualified labor force. Having untrained labor can be detrimental to the farmers also. We have already lost good employees to other agencies. Don stated that there always different viewpoints from people who work for a wage vs. those selling a product. Ken stated that Don's statement on viewpoints is right and for the employees with regard to wages the expectation is slow and steady. Ken stated that Mike is also right that we want to be competitive. Ken stated that there are performance evaluations given and the Board sets the matrix percentage increase. Ken stated that he doesn't know how to evaluate a bad agriculture market. Ken stated that one year there were limited raises with just a small amount given to newer employees. Ken stated that this should be looked at objectively. Walter Henes stated that he has a problem with wages being tied to commodities and that is that in a very good agricultural year an employee will likely not see the same increase. Don stated that the Board has almost moved to raising the budget to pay the employees. Mike stated that there are two different types of curve the agriculture revenue curve is very up and down the wage worker trajectory is a gradual increase. Mike stated that employees want to progress to some degree. There needs to be some type of trajectory in wages rather than a widely swinging agricultural market. Rob noted that if a person sticks with a job that has only given you a 1% increase over 10 years then you must be satisfied with that job. Godwin asked what the federal government raises were. David stated that he has not had any increase in 4 years. David stated that the matrix intrigued him that there will be no performance awards until the performance is met. Ken stated that the Board approves the Budget, the purpose of the matrix is to get the newer employees to midpoint then it levels off. If you are close to midpoint you will likely get to the 2.8%, if you are above the midpoint you will likely get less. This tends to be a little steeper on the front end and levels out on the top end of your career. Greg Black stated that the Board is getting bogged down in the employee aspect of this discussion. Greg stated that he has been in the corporate arena. Greg stated that he pays six times more for DWCD water than for his MVIC water. Greg stated that he doesn't want the Board to balance the Budget on the backs of DWCD employees. Wes Wilson stated that DWCD has a Cadillac system. Don stated that he could support dropping the percentage raise with the support of the commodity prices and the fact that the federal employees haven't had increases also with Wes Wilson stating that he has not had a raise with the school district. Mike stated that there could be some type of mixing and matching in the Budget. Simon stated that DWCD has a state of the art system and the employees are important to the project. Simon cautioned the Board on using this and putting the low commodity prices on the employees. Simon stated that he is fine with the wages where they are at and thinks that people need to be compensated. Rob stated that an amount that is less than 2.8% may alleviate a little pressure. Godwin stated that the wage increase total is \$49K. Godwin stated that if you look at delivery charges then the wages would be the equivalent to \$1 per acre foot. Godwin stated that \$1 per acre foot is not that much. Simon stated that he thinks it should be left where it is and look at other places to cut the budget. Mike stated that Godwin is on the right track in looking at what the desirability by savings versus the impact. Mike stated that the salary and benefits line item is \$2M but there is \$680K that is being reimbursed by the Towaoc Highline Canal, Power plants and Dove Creek L&G which is approximately 32% that does not come out of the full service water charges. Godwin stated that in looking closer at this he is not as concerned. He doesn't think he would change the wages. Simon, Walter, Don and Rob agree not to change the wages in the budget.

David asked about the Harris Water Engineering (HWE) contract. Ken stated that it has been at least 4 years since HWE's last rate increase. There is no formal contract that can be located. Don stated that he didn't think there was ever a formal contract we just use them on projects that come up. Mike stated that at this time HWE has primarily been working on the drought plan that is funding through grants. HWE is also working on some legal water rights issues at this time. Ken stated that there is no anticipation to cut this line item.

Rob stated that the Farmer Advisory Committee (FAC) was in favor of adding the \$.35 to the Reserve Replacement and not to drop the interest rate. The FAC felt like the one item that would help the most is a temporary change in the shut-off policy to allow irrigators in arrears to continue to receive water for an extended period of time to sustain crop production and opportunities to generate income needed to pay water charges. Ken stated that relative to decisions, he would like direction on where the rates should be. Rob stated that Ken should put the 1% on the base fee. David asked if the Board had until the December meeting to make changes. Ken stated that if he makes changes they must be made prior to the December Board meeting as the resolutions need to be prepared for approval at that meeting. Lisa noted that the Mill Levy's must be certified by December 15. Ken stated that he can make changes and distribute a new budget prior to the December meeting. The Board can approved the Budget at the December 8 meeting or there could be a special meeting to approve the Budget and resolutions. Godwin suggest raising the Reserve Replacement charge the budgeted \$.35 and dropping the \$.41 altogether. Ken stated that the Budget still sits at 3% but after input he could drop rates to a 1% increase or he can make a flat rate. David asked if there was a pie chart that can be looked at to help where cuts could be made. Ken stated that in this type of operation you can note the largest expenses and cut items from there. Ken stated that with regard to the Administrative Budget we did get de-Bruiced but with the loss of revenue due to lower assessed valuations there is not much room to cut that budget. Ken stated that with regard to the O&M budget there are specific budgeted items for projects. Ken went through the revenue totals, explaining the each of the line items and did the same for the expenses. Ken stated that on the operations side, if there are too many cuts you begin affecting operations and deliveries. Ken stated that the areas of discretion are on the bulleted sheet in the packet which were discussed in the Budget Hearing. Ken stated that the bulk of the work is performed by DWCD staff. Bruce polled the Board and they were 4-2 in favor of 0% on the rate increase. Ken requested that if David wanted they could go over the budget by line item at a later time outside the Board meeting. Ken will finish the budget and then discussions regarding options that affect the FSA can be taken up and finished by March. Ken also noted that the bills could spread to something other than 5 payments which in itself is delaying the payment. Staff is looking for something explainable so you can tell the irrigators what is happening and also something that is administratively feasible. The Board discussion commenced with FSA irrigator rates remaining the same as last year with the exception of raising the Reserve Replacement charge to \$1.05. Any Board member can contact Ken, Lloyd, and Mike with any other discussion regarding budget adjustments.

O&M REPORT – Ken stated that Lloyd's report was in the packet for review and asked for any questions. Greg Black asked about the cleaning of the canal on County Road X. Ken stated the outside curve on the canal is a problem area. There will be tires mats placed in that location. Greg asked if DWCD needed a place to put silt. Ken stated that he will check with Johnny. Greg is offering to give a place for the spoil if necessary.

Cathodic Protection – GPS coordinates has been taken and recorded on all 206 test stations

Dove Creek Canal – A leaking section of canal, upstream of Cahone Pumping Plant was relined with clay. Approximately 200 yards of lining material was hauled from South Canal turnout. Work has been started on an 800 foot section of the Dove Creek Canal, just upstream of Road 22. This will include approximately 2000 yds. of hauled in material and 800 feet of tire mats.

McPhee Power Plant – The Power Plant was in its two week seasonal outage. All annual maintenance on electrical and mechanical equipment was completed and the plant was put back in service.

Laterals – Winterizing delivery boxes and laterals is nearing completion. Numerous upstream, downstream and drain valves have been repaired or replaced. Field Techs are starting meter removals.

Pump Plants – Winterizing plants is being completed this week. PRV's in all plants are being disassembled and rebuilt as needed. All post season work orders at all plants are also being completed by electricians and mechanics.

Towaoc Highline/Ute Farm & Ranch – Gate repair on check 528 is in progress. All four vertical turbine spray pumps and motors on Ute Farm & Ranch water screens are being removed for teardown and overhaul.

ENGINEERING AND WATER MANAGEMENT REPORT

Water Accounting Information – Ken stated that he didn't do any highlighting and he will have end of the year numbers closer to December. There was quite a bit of rain in 2016. The rains seemed sporadic most of the monthly diversions were below average. Godwin stated that he thinks there will be increase in usage as there is more alfalfa going into

production. Ken will be looking at the crop reports to see if there is an increase in alfalfa acres.

NEW IRRIGATION ALLOCATION PETITION – Ken stated that all petitions for new Dolores Project irrigation water allocations require a petition hearing, which requires legal notice. If the Board would like to consider the petition, the Board should set a hearing date and time.

Background: Brett Oliver approached DWCD about getting irrigation water on a 66.9 acre parcel on CR Y just west of CR 18 in Yellowjacket. Per the attached map, there are 42.3 Class 1 lands (green) and 7.0 acres of Class 2 available for a DP irrigation allocation. The red areas are Class 6, ineligible for DP irrigation water. The western half has 36.5 eligible acres, green & blue, and the eastern green area is 12.8 acres.

The Dolores Project construction plans show a tap to this parcel. Staff & landowner will confirm if the road crossing still exists like we found in the Ruin Canyon Block (Karl Loeff/Eric White) a few years ago. A two or four-inch meter should suffice based on a final irrigation plan. Although FVPP has the most acres, currently 1% above the original design, this small amount would represent 0.6% of the total and is close to FVPP with larger lateral capacity. Applicants bear the costs for new delivery installation.

Other than finding the road crossing for a delivery no other technical problems are currently foreseen. The applicant would have to file a formal petition prior to the hearing.

Ken stated that he asked Brett Oliver to defer coming to the meeting tonight. Brett and DWCD will work together on locating the road crossing. Ken stated that he does not see capacity as an issue. This will be back on the agenda in December to request a hearing for January.

ADJOURNMENT Dolores Water Conservancy District Water Activity Enterprise Board meeting adjourned at 9:50 PM

Simon Martinez, Vice President

Bruce Smart, President

DOLORES WATER CONSERVANCY DISTRICT

MINUTES Regular Meeting November 10, 2016

CALL TO ORDER Bruce Smart, President, called the meeting to order at 7:01 PM

Bruce Smart, President
Simon Martinez, Vice President
Walter Henes, Secretary-Treasurer
Don Schwindt, Director
Robert Vedsted, Director
Godwin Oliver, Director
David Frederick, Director
Mike Preston, General Manager
Ken Curtis, Engineer
Lisa Jordan, Office Administrator
Vern Harrell, Bureau of Reclamation
Barry Spear, Attorney
Doug Pickering, CO Division of Water Resources

INTRODUCTION OF GUESTS

Brandon Johnson, MVIC General; MVIC General; Jim Kingery, Tyson Cox; Montezuma County Sheriff's Department; Jim Fisher, Greg Black Bernard Karwick, Linda Odell, Jodi Schwindt, James Porter, Dorothy Porter, Nancy Karwick, Wes Wilson

Board Member Conduct

Bruce stated that this item is about the DWCD's Board has decided to request of the Judge who does the appointing of our members, to recall Dave because of his conduct, particularly at the last Board meeting, October. In which, for those of us here, we had a very harsh discussion. Dave got an extreme attitude of anger and began, and did threaten, Vern, the Bureau representative and Ken. Beyond what can be expected of a Board member. Bruce stated that we are always open to discussion and disagreements, but when it becomes threats of violence cannot be condoned from this Board from any of our opinions and that's what we're here for. This is a request to the Judge and I talked to Dave about what we were proceeding to do a couple of weeks ago and he declined to talk with the Board in executive session on another night on this matter, he wanted to bring it directly to this Board and have it done at this meeting, and we complied with his request. At that time I did ask him if he would want to go through this or accept to resign and he said he would go through the Board and that process and that's why we're here. Any other Board member, any comments to add to that. Don stated that he would disagree with the opening sentence. Don stated that he didn't decide to do this and came to the meeting expecting to have a process and to make a decision in the Board meeting. He didn't think there could be a decision made outside the Board meeting. Bruce stated that the Board will have the opportunity to vote on whether to petition the judge. There will be no decision made until the Board has held a vote. It was a decided at David's request to bring the topic to the meeting, there will be a vote of those for and against proceeding to request a hearing with Judge Walker. Don stated that he was speechless when Bruce contacted him to tell him that he was going to ask David to resign. Don stated that it is quite troubling that this is characterized as a decision already made. Barry stated that Bruce had misspoken there has been no official decision made yet. There has to be a motion made and a vote taken. Bruce stated that as he understands the petition could come from individual members which does not take a motion of the Board or even a majority consensus to petition the Judge. So far, this is just a statement of where some of the Board members stand. Don stated that he would like to hear more explanation on the process to go to the Judge. Don stated that he would also like to hear from the other Board members on what they have to say as well. Barry stated that there is a law, there is a statute, CRS 37-45-114-1(e) which allows a petition to be made to the District Court. The petition would seek the removal of a director for malfeasance, misfeasance, willful neglect of duty, or any other cause which renders such director incapable or unfit to perform the duties of his office. Barry stated this petition can be filed by individuals or by motion of the Board. After the petition is filed with the court there is notice to the person affected, and there is a hearing held. At the hearing there would be evidence presented as to what supports the request; and at the hearing David would have an opportunity to present his own evidence to his defense as to why he should stay on the Board. Then the Judge makes a decision. Barry stated that filing a petition is not the only way to address this situation. The Board can 1) do nothing, 2) it can put together a censure whether it be verbally or in writing, 3) the person could resign or 4) the Board can vote to file the petition. The other option filing a petition with

District Court by Board motion, is for an individual Board member or a member of the public to file the petition.

David stated that he is sorry it has come to this and is disappointed in his own actions. He thought that the issue was solved. David stated that he was sorry the Board was having to make this decision. David stated that he has changed his heart and mind and if they want to petition to vote him off, he felt as if he was doing his job and is willing to go to the Judge if this is what the Board wants. Godwin stated that David didn't apologize at the last meeting. 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 if he felt the way he did right now, and went and talked to the Board on an individual basis, or however, would be a whole different story. Godwin stated that David could have handled the situation differently. David stated that he has taken anger management courses and has dealt with his anger for years. David stated that he wishes he could have gotten the content across better. The content was that if you have a problem with someone you need to go to them directly and you need to solve it directly. If you can't solve it directly then you need to take another Board member with you to try to solve a problem. Then, if you can't solve the problem you solve the problem in the Board Room. David stated that he has seen the Board interact and he was disappointed that tempers flew and things were said the way they were and wishes it could have been settled differently. He stated that he didn't mean to be bullying. He felt he was being attacked as this was the first time he had seen the information that Vern was presenting other than when David wrote a person at BOR, asking him not to disclose the information, so that the issue could be resolved. Simon stated that everyone's opinion on the Board is warranted and needed and if this had been the first time it might have been resolved. Simon stated that he has seen David slap the table, get up and walk out and make a hostile environment for the people in this room. Simon stated that he sat in this room and was voted down on a decision made by the Board and took it and left it behind. Simon stated that he has seen Don agree and disagree but goes about it in a respectful manner. Simon stated that he has never seen someone act like David acted.

Linda Odell stated that David sits on the San Juan Basin Farm Bureau Board and she knows that he struggles with his temper, she believes that he has the best interest of the District at heart. Linda read a letter from the San Juan Basin Farm Bureau. The letter states that "We are concerned that this is an over reaction to a situation that was caused by a breakdown in appropriate communication". The letter stated that "... the Sand Juan Basin Farm Bureau recently wrote to the District expressing concerns about 2016 spill releases. These concerns helped motivate David's actions." Bruce stated that his one reply is that this discussion has nothing to do with policy issues or how any questions are brought to the Board. This issue is about a person's ability to talk and make a point without raising it to a threat of violence. Those in attendance saw and were surprised at how elevated things got that night. Linda Odell stated that she understands that, however she stated that it was SJBFB that had asked for information from DWCD and that is what led to the outburst. Bruce stated that whatever the issue regarding a request for information it does not excuse the level of aggression that resulted, which is the concern of the Board. Bruce stated that the questions from SJBFB are valid and if they would like to bring them directly to the Board they have every right to do so.

Bernard Karwick stated that he was not in attendance in October. He appreciates everyone's comments. Bernard read a Community Petition in Support of David Frederick. The Petition states "As members of the community and property owners in the DWCD and water users we do not believe David should be removed from the Board. We ask board members vote "no" on the question." The petition also states "We see his removal as retaliation for his efforts to act as an independent board member who questions, and seeks to discuss with the Board, DWCD management actions and decisions. Removal would set a dangerous precedent." The petition states that "This attempt to remove him from the Board followed his efforts to look into recent releases from McPhee Reservoir to determine whether the Board had full and accurate information..." The petition was signed by 43 people.

Eric Whyte stated that he was at the last meeting and sits on other Boards. He watched David's actions and the impact on this Board. Eric stated that the Ute Mountain Tribe is a water user. Eric stated that David was attacking individuals and stated that this was not the first time this has happened. Eric stated that the appropriate steps are being taken on working this through.

David stated that his job is to debunk anything that is false. David stated that one thing that was stated is in the San Juan Basin Farm Bureau's letter is that that he is an engineer. David stated that he is not an engineer, he is an engineering technician. David stated that he doesn't appreciate the mention of his back problems in the letter, that may have influence and would like to keep personal information out of this. David stated that he has gotten up and left the Board room but David stated that he never slapped the table before that night.

Walter stated I guess I'd like to say that this is pretty awkward Dave, I wasn't here for that meeting. I've got a lot of respect for ya. In answer to your question, Don, I was contacted and asked if I would read the motion and after reading the minutes, I agreed to do that. At this point I would read the motion David. I apologize, but I feel it's the right thing to do.

MOTION: THAT THE DWCD BOARD OF DIRECTORS AUTHORIZE ITS ATTORNEYS TO DRAFT AND FILE A PETITION WITH THE 22nd JUDICIAL DISTRICT COURT, PURSUANT TO CRS 37-45-114 (1)(e), ON BEHALF OF THE DWCD BOARD OF DIRECTORS, REQUESTING THAT THE COURT REMOVE DAVID FREDERICK AS A BOARD MEMBER OF THE DWCD BOARD OF DIRECTORS FOR CONDUCT THAT RENDERS HIM INCAPABLE OR UNFIT TO PERFORM THE DUTIES OF HIS OFFICE. THE CONDUCT GIVING RISE TO THIS REQUEST OCCURRED AT THE OCTOBER 13 MEETING OF THE DWCD BOARD OF DIRECTORS WHEN DAVID FREDERICK THREATENED AN EMPLOYEE OF THE U.S. BUREAU OF RECLAMATION AND AN EMPLOYEE OF THE DISTRICT WITH PHYSICAL VIOLENCE.

**MOTION: WALTER HENES
SECOND: GODWIN OLIVER
MOTION CARRIED 5-2 BRUCE SMART, WALTER HENES, SIMON MARTINEZ, GODWIN OLIVER AND ROBERT VEDSTED VOTING YES. DON SCHWINDT AND DAVID FREDERICK VOTING NO.**

Discussion before the vote: Bruce stated, I have a motion. A second? Godwin said, I'll second. Bruce said, a motion and a second, we'll do a vote by hands. Those in favor. Don said, what about a little discussion. Bruce said that's what we're trying to do before this, go ahead, Don. Don said we didn't have a motion until now. Don stated that my discussion is simply I would probably have different input, I don't agree with where this is going. I could explain more fully why, I don't know that there is a need to. Your opening words were correct, when you said the decision has already been made, that's obvious. I was not a part of that decision, I don't think that's appropriate. As you talked to me on the phone, as I told you then, I was speechless. I'm still somewhat speechless. That's not the way I thought this Board was supposed to do business. Make decisions in open session, difficult though they may be, and have some significant discussion before the decisions are made. I am going to vote no to this. I have good reasons in my mind for that no vote. I consider it a shame that we aren't having that better, more full, discussion before we are asked to vote on the motion. Rob V. asked Don if it had been Don that was threatened would he feel differently. Don stated that he has felt threatened in the past. He has been on the Board for many many years. He feels that the discussions have become more personal in recent years. Simon asked Don if he has ever felt threatened to the degree of the last meeting. Don stated that often your public demeanor and how you are heard is quite different than you try to project as you do things. With good training you can maybe learn to overcome this. [After discussion at the December 8, 2016 Board meeting, the minutes were clarified]. Don was trying to make a point that the David's intended communication was being misinterpreted. Rob Vedsted stated that he feels for David and noted that David is not the only member of the Board that has anger issues and he stated that he himself has a temper. Rob stated that he knows he has made strong statements but has not gone as far as David did.

David stated that he is not going to leave tonight mad but he is going to leave because he doesn't want anyone to feel threatened. Bruce stated that David can stay, he is on the Board until the Judge says otherwise. David asked what the Board consensus was with regard to leaving. Godwin stated that he doesn't have a problem with him staying if he is productive, but cannot handle threats. Simon and Walter agreed.

Jodi Schwindt stated that she is stuck together with good intentions. She is a school teacher by trade and a farmer at heart and has worked with elementary kids and big kids and knows that when you are in a position of power you have to use the power wisely. You can use it to teach, to make them better, or you can annihilate them.

**RECESS MEETING TO ENTERPRISE MEETING AT 7:44 PM
RECONVENE MEETING AT 9:50PM**

GUESTS

Brandon Johnson, MVIC General; Jim Fisher, Greg Black, Wes Wilson; Eric Whyte

APPROVAL OF THE MINUTES

MINUTES

MOTION: TO APPROVE THE MINUTES FOR THE OCTOBER 13, 2016 REGULAR MEETING AS PRESENTED.

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

FINANCIAL STATEMENTS

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

ADMIN: AP/CHECK #10848-10864

\$11,610.53

**MOTION: WALTER HENES
SECOND: ROBERT VEDSTED
MOTION CARRIED UNANIMOUSLY**

AGENCY REPORTS

BOR Report

Vern stated that **1)** The SCADA contract will be completed soon. **2)** There is a meeting set up with Denver to come inspect the spillway to identify what kind of concrete problems there are.

Division of Water Resources Report

Doug did not have a report.

T/H Committee Report

Rob Vedsted reported that the Committee met on October 24, 2016.

The Committee discussed **1)** current worklist items. **2)** DWCD staff is monitoring a leak at Siphon 7 at the Ute Fairgrounds. Rob W., Vern Harrell and Brandon Johnson met with Larry Darling, of Weeminuche who is going to prepare a "not to exceed" estimate for the repair. **3)** The Committee approved the 2017 Budget. The budget was to decrease to previous years' spending and revenue was reduced for the 2017 Budget cycle. **4)** The Committee has been discussing the possibility of putting in extra fiber optics lines as they were approached to use the existing infrastructure for possible increased fiber optics activity. **5)** The Committee asked DWCD to take care of the maintenance on the air vac located on Reach 3.

Next T/H Meeting – The Committee will meet at the DWCD, Cortez Office November 16, 2016, at 2:00 p.m.

MVIC Report

Brandon reported that **1)** MVIC has been performing maintenance. **2)** Narraguinnep bridge should be open but was delayed with the rains. CDOT will put rip rap in on the Narraguinnep boat ramp and begin the turn lane in February 2017. **3)** MVIC staff began placing rip rap on THC and cleaning at Check 501 on the THC.

GENERAL MANAGERS REPORT/DECISION ITEMS

Wild and Scenic Suitability Segments in the Draft Uncompaghre BLM Resource Management Plan – In October, the Board reviewed the letter approved by CWCB on

proposed Wild and Scenic Suitability segments in the Uncompaghre BLM Resource Management Plan. Barry took the lead in drafting a comment letter from DWCD that is aligned with the CWCB letter especially in relation to: 1) Clarification of Reclamation and BLM Authorities that are protective of Dolores Project allocations and operations, and 2) Stipulations to the instream flow below the San Miguel confluence which protect from the Instream Flow (and by extension WSR Suitability Segments) reaching up the Dolores River into McPhee and above McPhee to impact State decreed water rights, and 3) Stipulation 5: It is the Board's intent [CWCB] that this ISF water right is adequate to meet all requirements as a stream flow standard or guideline in federal administrative or regulatory permitting processes", which ties together the allocation and water rights protections. The comment letter drafted by Barry with fact checking and input from Ken and Mike was mailed to the Board. Mike stated that the comment has been submitted and builds on and highlights the items that matter to DWCD. Mike stated that he and Bruce are going to the NWRA meeting and this is on the list of items they will be discussing with the Commissioner of Reclamation and may be something the Secretary of Interior needs to look at. Mike stated that they will thank Reclamation for the MOU projects and contracts and tell them how beneficial those programs are. They will also talk about the Drought Contingency Plan. We will work on a package of drought measures that would require BOR approval. Bruce and Mike will also discuss mussel prevention. The most important point however is the clarification of the authorities. Barry added that the suitability letter is the letter sent before the RMP is finalized. Barry stated that DWCD has until next spring before the plan goes out in final draft public comment, and DWCD can make comments on the final. David stated that he heard the County Commissioners backed out of the NCA and asked if there isn't an NCA then how can it be in the letter. Barry stated that it was couched as "if the NCA becomes a reality". Mike stated that even if there is an NCA it will only address McPhee to Bedrock and clarification on the authorities would help with the entire reach including segments below Bedrock. Mike stated that DWCD tried to get the authorities language in the body of the Tres Rios Plan and were not able to get the language added, but did get a letter from the BLM State Director. They are now going to amend the Tres Rios Plan. If we are successful in the Uncompaghre then this could be our opportunity to get the authorities language directly in the Tres Rios Plan.

Aquatic Nuisance Species (ANS) Mussel Inspection Program – "The Invasive Zebra and Quagga Mussel Management Plan for McPhee Reservoir" with 2017 Implementation; and an Internal Communication Plan to guide public education will be presented to the Executive Committee for acceptance. Outreach efforts will begin with the Montezuma County Commission on November 14, 1:30PM. Ken will lead the outreach presentations with participation as appropriate by the other three partners: Reclamation, Parks and Wildlife, San Juan Forest. Key message on mussel inspections: We need 100% inspection of all trailered boats. When inspectors are not present, boat ramps will be closed. Limited available funds are not adequate to support significant extensions in inspection hours; which makes gating of the boat ramps an essential tool in controlling infection risks without substantially increasing inspection costs. Ken noted the Prioritized Recommendations for Watercraft Inspection and Decontaminant (WID) Operations in 2016 and future years. Watercraft Inspection and Decontaminant (WID) is the inspection station. Ken stated that the detail is spelled out in the document. Ken stated that the goal is to have 100% inspection when the gates are open, DWCD has budgeted \$25,000 in 2017 for this effort. Ken stated that another \$41,000 would probably keep the gates open at both boat ramps during the daylight hours. Ken stated that statistics for 2016 inspections were kept and they are included in the packet. Ken noted that 103 boats came out of Lake Powell during the 2016 season. Ken stated that if McPhee were infested with quaaga mussels the intakes and powerplant piping are what would suffer the most damage. The farmers are most at risk with plugged pipes and nozzles and the Cities are going to have to increase funding to clean up water facilities. David asked if mussels lived at certain temperatures of water. Ken stated that McPhee is a concern and considered high risk. It is known that they need calcium to grow the shells. The chemicals are understood but temperature is still being evaluated. It was stated that the risk is real and our biggest risk is from Lake Powell. Mike stated that BOR, CPW and FS are in favor of the Plan at this time. Godwin asked if the mussels could come in from rafts above the Dolores. Ken stated that motorized boats/trailered boats are the primary risk. It is the enclosed water that needs time to dry. Mussels can live on a boat and hold water in their shells for at least a week.

MOTION: TO ACCEPT THE MANAGEMENT PLAN FOR THE INVASIVE ZEBRA QUAAGA MUSSELS.

**MOTION: WALTER HENES
SECOND: SIMON MARTINEZ
MOTION CARRIED UNANIMOUSLY**

Proposed NCA Legislation – The NCA Drafting Committee continues to meet and consider input from the David Robbins meetings on October 4 and subsequent input. Bruce Smart has been invited to join the drafting team so that DWCD is actively involved in refining and finalizing the legislative proposal. The Drafting Committee has been notified of the concerns

expressed in the October 13 DWCD Board Motion: 1) State sponsorship of the Monitoring and Recommendation Team as opposed to a Federally sponsored FACA Advisory Committee, and 2) No Federal Reserved Water Rights on La Salle Creek. The Drafting Committee met with the farmers and ranchers at La Salle. Montrose County says that if there are any Federal Reserved Water Rights they are out. Montezuma County Commissioners voted not to support the NCA. Godwin asked if this was a unanimous vote. Mike stated that it was. David stated that it was his understanding that if the County didn't approve it the NCA it would die. Bruce stated that that is not necessarily true, the Drafting Committee will be trying to work to see what can be done to get the monitoring and recommendation team chartered under state law.

MVIC-DWCD Board to Board meeting on November 16, DWCD, 7:00PM. Bruce and Mike will be at NWRA November 14 and 15, hence the suggestion of November 16 if a suitable topic can be identified by Ken and Brandon working with the Board Presidents.

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.

Activities and Meetings since Last Board Meeting:

- October 13: Mussel Inspection Technical Group – Ken, Vern
- October 18: Meeting with Ann Bond of SJNF to work on Communication Plan for Mussel Inspection Outreach and Education – GM
- October 19: McPhee Dam, Great Cut Dike Tour – MC Emergency Coordinator Paul Hollar, Ken, Lloyd, Vern
- October 24: Effort to discuss Instream Flow administrative call on the Lower Dolores 78cfs Instream Flow with Montezuma County Commission – Ken, Vern, Marty Robbins
- October 25: MVIC-DWCD Board Meeting – NCA Discussion
- October 26: Towaoc-Highline Committee
- October 26: 2017 Budget Workshop
- November 1: Mussel Inspection Technical Group – Ken, Vern
- November 1: Farmer Advisory Committee
- November 2: NCA Drafting Committee – Bruce Smart
- November 2: Meeting - Instream Flow Pilots to Resolve Federal Reserved Water Rights Claims filed by the San Juan Forest – Barry, GM and Ken by telephone with CWCB Staff, Colorado Attorney General Staff, US Department of Justice Staff, USFS Managers
- November 2: DWaRF Collaborative, DWCD
- November 4: Ute Mountain Tribe – Swearing in of Chairman Herold Cuthair and newly elected Tribal Council Members
- November 8: MVIC Board Meeting

Upcoming Meetings and Activities:

- November 14: Mussel Inspection Outreach to Montezuma County Commission, 1:30
- November 14-15: NWRA, Meeting with Commissioner of Reclamation, San Diego - Bruce Smart, GM
- November 15: McPhee Dam/Great Cut Dike, Table Top Exercise – Ken, Lloyd
- November 16: Towaoc-Highline Committee, 2:00PM
- November 16: MVIC-DWCD Board to Board Meeting, 7:00 DWCD (Tentative, Topic to be determined)
- December 5: Drought Plan, 2:00PM

LEGAL REPORT

New Groundhog Water Right, 12 CW 20 – MBSS is awaiting a revised decree. MVIC & DWR are talking about different matters with regard to that decree and they have not resolved their issues. There is a mid-December status conference scheduled.

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 505 cfs 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 letter of support and a report from Applegate. MBSS reviewed 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.

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, December 8, 2016 - 7:00 P.M.

ADJOURNMENT Meeting adjourned at 10:44 P.M.

Simon Martinez, Vice President

Bruce Smart, President