

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
October 13, 2016

CALL TO ORDER Bruce Smart, President, called the meeting to order at 7:03 PM

ROLL CALL Bruce Smart, President
Simon Martinez, Vice President
Don Schwindt, Director
Godwin Oliver, Director
Robert Vedsted, Director
David Frederick, Director
Mike Preston, General Manager
Ken Curtis, Engineer
Lloyd Johnson, Maintenance Supervisor
Gina Espeland, Accounting Clerk
Adam Reeves, Attorney
Doug Pickering, CO Division of Water Resources

INTRODUCTION OF GUESTS

Brandon Johnson, MVIC General Manager, Ed Warner, Bureau of Reclamation, Val Depey, Economist, SLC, Bureau of Reclamation, Jim Fisher, Karen Sheek, Cortez Mayor, Eric White, Ute Mountain Ranch Farm and Enterprise, Greg Black, MVIC Board Member

MINUTES

APPROVAL OF THE MINUTES

**MOTION: TO APPROVE THE MINUTES AS PRESENTED FOR THE
SEPTEMBER 8, 2016 ENTERPRISE MEETING AND SEPTEMBER 8, 2016
PUBLIC HEARING, JEREMY LOYD.**

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

FINANCIAL STATEMENTS

David asked if we had Harris Water Engineering on retainer or just monthly. Ken stated that they are paid monthly based on hours worked and have been the District's engineer for a long time the costs vary depending on what work/projects are currently going. At the current time they are working a lot on the Drought Contingency Plan. David asked if we ever renegotiated or when the contract is due. Ken stated that he would check on it.

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

**O&M: AP/CHECK #34061-34206 & PR/CHECK #121473-121555
\$381,918.30**

**MOTION: ROB VEDSTED
SECOND: SIMON MARTINEZ
MOTION CARRIED UNANIMOUSLY.**

Fiber Optic Ballot Issue

Karen Sheek stated that the county and Town of Dolores are trying to opt out of Senate Bill (SB) #152. SB 152 was passed in 2005 after extensive lobbying by large telecommunications companies wishing to keep local governments from investing in their own broadband system, deliver broadband services to homes and businesses or enter into public/private partnerships to provide citizens with better broadband service. The argument was that private enterprise would build the system and would provide better service than the government could. No government or municipal can participate in the infrastructure of broadband, but private enterprise has not provided broadband in rural areas. There is a requirement to provide minimum service to rural communities, but the required service to the smaller communities is really not enough. Cortez does not fall into this restriction because it developed fiber-optic internet infrastructure before the law was enacted. A number of communities in our area have all opted out by really high voting rates, some at 70-90%. By voting yes it will give the county and Town of Dolores the opportunity to explore options and see what options exist to supply better broadband to the community. Karen stated that it gives us the chance to come up with a plan in a most cost effective way and find a way to fund it. The internet is not going to go away and broadband is almost a fourth utility. It is depriving the citizens of this county by not having access to broadband. Voting yes to opt out of SB 152 will give us the opportunity in ways to get it here.

She also passed out a flyer on 3A which would allow the RE-1 School District to re-allocate 1.874 million that otherwise would sit unused until more funds became available to build a sports complex. The proposed is to use it to abate the asbestos and demolish the old high school building. Karen thanked the Board for the opportunity to present these items.

David stated that while we were entertaining announcements he handed out a flyer on the SW Ag Seminar on October 22, 2016 at the Dolores Community Center.

O&M REPORT – Lloyd reported the following:

Power Plants

Towaoc Power Plant has been shut down for the season due to low flows. Winter maintenance has begun at the plant. McPhee Power Plant was shut down Oct. 11th for annual maintenance. This will be a two week outage.

McPhee Dam

The spillway repair work was completed for this season. Further repairs are scheduled for next season.

Pump Plants

All Pump plants will be shut off by the end of this week. Winterizing and post season work orders will be getting started.

Dove Creek Lawn and Garden

A 10" water line was hit by a contractor installing fiber optic cable in Dove Creek on Oct. 4th. The line was repaired by DWCD crews on the 6th.

Dove Creek Canal

Work will begin on several areas when the canal bottom is dry enough for equipment.

Laterals

Field Techs have started winterizing boxes, draining air vacs, and draining some lateral lines. Working on Emergency Action Plan update for possible failure at Great Cut Dike or McPhee Dam and working with the county and setting up a scenario and a tour on the 19th of the dam and the Dike. There is a Table Top exercise scheduled at the Sheriff's office on the 15th. If you would like to be involved let Lloyd know.

Lloyd also included in his report work schedules. It is a time line for the season.

Greg asked about the south lateral coming out of the Pleasant View Pumping Plant. Greg stated that draining it the way they have been makes a mess of his property. Lloyd stated that he was not aware of the drainage. Ken stated that Lloyd and Vince could arrange to go out and take a look at it and see what can be done. Greg stated that there is a problem there and the lining has helped in the leakage.

ENGINEERING AND WATER MANAGEMENT REPORT

Water Accounting Information - Ken stated he handed out the inflow/outflow for September and October. The elevation was at 6903.6 a couple days ago. Brandon will talk about the MVIC shut down. UF&R diversions are down, but will continue towards October 31. Ken stated that McPhee should remain level for most of the winter and the fishery releases are down to the 25 CFS range. We are going into the winter with best carryover in a long time.

Instream Flow – Call on Lower Dolores River – Ken stated that CWCB placed a “Call” to administer the 78 cfs instream flow between McPhee Dam and the San Miguel Confluence.

CWCB put it on call October 4th and it caught many by surprise. We called DWR and CWCB. CWCB have not historically made many calls, but have started to place calls more often to demonstrate and record the ISF use. Last call was in 2006-07 for the Dolores by the ISF. They must have a gage and are trying to put out alerts as they expect calls to happen more often. McPhee releases are below 78 CFS and a couple of days later in Division 4 CWCB placed a call also. Adam stated that he did not know if anyone had been curtailed. Doug stated that the call does not provide any additional water to the ISF below McPhee. Occurring this late in the season it does not affect many users. Doug has curtailed 2 ditches that do not have measurement devices and has not shut them off per Rob's instructions and one other because they were diverting, but not irrigating. They were diverting out of Bear Creek and dumping back into the Dolores in another location. Rob is going to work on a study on how it will affect the future and we don't know if CWCB will continue the call. We have to look at all possibilities. Rob is looking at the implications and will get with the District and MVIC in person and discuss what it will do to everyone. There are other call issues including a paper fill, which possibly would affect Groundhog and McPhee. Doug gave an example that if the Beaver Creek is flowing water and the Beaver Ditch is not diverting and there is room in Groundhog, then it could be considered a paper fill. Rob has to figure out how it will affect the reservoirs. McPhee does have a second fill for 100,000 AF. This call may be recurring and we will learn how to deal with and account for the calls. Adam stated that in looking at the paper fill issue and how far back the paper fill will apply. It is a consideration for McPhee because the fish pool is not decreed, but is a contractual project obligation. It might be considered water that McPhee could have stored and did not and could be a possible impact under a paper fill. Other structures that do not have operating head gates may be affected as the call will allow Rob to place orders to those ditches under the Division's forceable authority. Rob stated that he is not going to be harsh all of the sudden and he will work with people. Greg asked where the meter is on the call. Ken stated the McPhee DWR gage. The call is placed to the San Miguel because it is the bottom terminus. The upper terminus is at McPhee. David asked why the 78 CFS is not being met and Ken stated that it is because of the fish pool release schedule formulated by the Biology committee and CPW. They want more flow in the summer and less in the winter when fish are less active. Don asked about the paper fill, so in order to have it be the 78 if it were in priority it would have to go in at the top and not at the bottom. It is a federal project operation restriction. It is a newer concept and people recognize it was an injury. The Colorado Supreme Court states that the law is always the same but is explained under new cases. McPhee has a fill and a refill and even it gets dinged for a paper fill for the fish pool. This problem exists all over the state. You can get a decree for the downstream releases for the environment, such as in Montrose.

Doug stated that DWR has not curtailed any users below McPhee. There are 2 decreed at Slick Rock and 4-5 down in Paradox, but are not currently diverting. Those are not being curtailed because they are senior to the ISF, but they are done taking water.

Doug stated that CWCB is not picking on the Dolores and have called other rivers around the state, but this is the first time a call was placed in quite awhile. There is a problem on the CDWR website that the call appears in Division 4 and not in Division 7. It is on for both divisions. David stated that he is confused if we do not have to release the water yet or maybe ever. CWCB wanted the call on the record that they have placed the call. Adam stated that Colorado has not allowed anyone other than CWCB to get ISF water rights. It is a relatively new problem in the state that has really emerged in the last 15 years. It was driven by junior water rights. Still premature to take any specific action at this point and we will see how it plays out.

Don stated that he thinks that we should be communicating with CWCB and asked what was the proper forum for that discussion? Adam stated that there will be discussions. CWCB called to let the District know that it was going to happen. Adam stated that a fair discussion is that we have a junior water right and was not intended for the senior rights and for the calling on the junior right and it could affect the paper fill and discuss the implications. Mike suggested taking into the LEMMing and bring it back to the Board.

Ed stated that CWCB did not contact Reclamation and they would like to participate in the discussion and wanted that on record.

Projects Update

Ken stated that Lloyd covered most of the projects and Vern has a one in process and one coming for bid. WAPA has a contractor for the South Canal power line improvements and has asked and expect a pre-construction meeting soon with improvements to start this fall. There will be a switch installed at Pleasant View and improvements to the line down to Ruin Canyon. We expect the line last another at least 25 years.

ADJOURNMENT Dolores Water Conservancy District Water Activity Enterprise Board meeting adjourned at 8:07 PM

Walter Henes, Secretary-Treasurer

Bruce Smart, President

DOLORES WATER CONSERVANCY DISTRICT

MINUTES

Regular Meeting
October 13, 2016

CALL TO ORDER Bruce Smart, President, called the meeting to order at 8:07 PM

Bruce Smart, President
Simon Martinez, Vice President
Don Schwindt, Director
Godwin Oliver, Director
Robert Vedsted, Director
David Frederick, Director
Mike Preston, General Manager
Ken Curtis, Engineer
Lloyd Johnson, Maintenance Supervisor
Gina Espeland, Accounting Clerk
Adam Reeves, Attorney
Vern Harrell, Bureau of Reclamation
Doug Pickering, CDWR

INTRODUCTION OF GUESTS

Brandon Johnson, MVIC General Manager, Greg Black MVIC Board Member Jim Fisher, Eric White, Ute Mountain Ute Farm and Ranch, Ed Warner, Area Manager, Bureau of Reclamation and Val Depe, Economist, SLC, Bureau of Reclamation

APPROVAL OF THE MINUTES

MINUTES

MOTION: TO APPROVE THE MINUTES FOR THE SEPTEMBER 8, 2016 REGULAR MEETING AS PRESENTED.

**MOTION: ROB VEDSTED
SECOND: SIMON MARTINEZ
MOTION CARRIED UNANIMOUSLY.**

FINANCIAL STATEMENTS

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

ADMIN: AP/CHECK #10829-10847

\$12,839.41

**MOTION: SIMON MARTINEZ
SECOND: ROB VEDSTED
MOTION CARRIED UNANIMOUSLY.**

David asked who Kogovsek and Associates, legislative consult was. Mike stated that it is Christine Arbogast and she handles all kinds of legislative issues for us and a lot of communication on other items.

AGENCY REPORTS

BOR Report

Vern stated I'm gonna pass this out first, everybody take one and then I'll come back to that ok? I'll give you a rundown on our MOA projects. We have a SCADA migration, that's to upgrade our SCADA system, and it's in the works it should be awarded probably within a month, I'm hoping. We have already awarded one for the Great Cut Dike Excitation. We are receiving submittals on it now, so it's moving along well. Pump rebuilds- they should be coming soon to replace the impellers in the pumps that we had to rebuild. Bulk equipment- is pretty much all done as far as supplying equipment, you still have them on contract for 2 years to complete commissioning and field service for when you test the VFD's for Cahone and Dove Creek. That's about it for the MOA contracts.

Mike stated I just wanted to say something at this point. Obviously, I've expressed my appreciation to Vern, Ken and Lloyd all the work that went into making these projects go, but I also wanted to thank Ed Warner. As you know we were up against some pretty tight timelines as far as the three pumping plant contracts last year. And between the Regional Director, Brent Rhees, Ed and Vern we were able to get everything ironed out and as you can see everything that was backed up last year, is flowing very smoothly. I really appreciate it, Ed. Ed said I appreciate you guys too.

Vern stated do you guys remember back last year, last spring, there was a big fish kill in those fishing ponds on the south side of Dolores. It was in the newspaper. There were some discussions on whose responsibility it was, and those discussions are still ongoing. But Reclamation went ahead and worked on getting these ponds fixed. So, anyway, we restored the water back to those ponds and that little project is done.

Vern stated then on this thing I just passed out, I wanted to go over that with you. I figured this was a really good teachable moment. David sent an email to Denver asking a bunch of information on the reservoir. I think it was all related to, and if you look on the second page there, related to a comment that Don made about storing above 6,924. I am assuming that's it, I just threw that in there. But anyway, I wanted to go through this and show you guys why we do what we do and what the elevations are. So if you go to the first 11x17 page, you see this arched gate here, that's a radial gate, we have two of those on the spillway. They are 28.0 feet wide, 28.0 feet tall, you'll see right in front of it it says "top of conservation" pool 6,924. Remember, in that previous discussion, we got to 6,923.95 was as far as we got this year and I'd asked Ken not to get above that 6,924. You'll see in the rest of the notes, why we don't do that. But you see the top of the gates, it's kind-of in the middle there, 6,924.63, that's when water starts going over the top you'll get wave action at a lower elevation that can happen going over the top but you know it starts going over the top at that. So you have that, then I went to the DPR and in that first paragraph, second to the last sentence, says the top of active conservation would be at elevation of 6,924, and the top of inactive will be at elevation 6,855. That's when we can't get any water out anymore through the Great Cut Dike. But anyway there is verification of those two of why we hold at 6,924, it is a real elevation that we abide by. Then if you go back to the last page it is the Design Operating Criteria on number nine right there where it's circled. Do not operate the radial gate with overtopping flow because forces resulting from this condition may over stress the gate members, causing vibration, and increase hoist loads. So it's telling us right there we're not supposed to go over that. That's not something that we made up. We don't store between 6,924 and 6,924.63. If there are times when we use that as a buffer we can't get it stopped, once the reservoir is coming up and you're starting to try and take it down sometimes you bump into that, we try not to get in there. That hasn't always been the practice but that's the way it's supposed to be and that's the way we're going to hold it to it. We had that, David also asked you can see here. Don said before you leave that last page. Vern said uh huh. Don stated number nine, to attain water levels above the 6,924.63, the radial gates must be raised. I don't understand what that's telling us.

Vern stated what you're doing is, you're chasing the elevation up. You're never letting water get over the top. So if it's starting to come over the top. Don said so in other words, as you raise them up they're still staying sealed at the bottom? Vern replied No. you're letting it out at the bottom.

Don asked so then, that was the question I was asking: that as you raise the gate up it lets it go out the bottom. Vern replied yeah, you got it. David asked what are the flashboards? David stated I don't understand. Vern asked where are you at? Don said that is Number 10. Vern replied those would be like batter boards on top that hold more water on top to hold more water above the gates so you David said oh like they do in Lake Powell – oh.

Vern said so anyway I wanted to do that and one of the other questions you had David was you wanted the previous years dam recommendations or inspections and those are confidential they don't give those out so you won't be getting that. David replied "I got them". Vern stated you did?

David stated yeah, so anytime you got a problem with me you come to me first you got it. Vern replied uh-uh.

David stated me and you have had this discussion before and I don't appreciate the way you did it here. This is the first time I have seen this. Vern said you sent it.

David replied, I sent it but this is the first time I've seen it. You didn't give me the courtesy to come to me and you asked for that from us, you ask that courtesy from us and you didn't give it to me,

Vern asked did you come to me with this instead of going around me? Did you confuse Reclamation?. Yes. David said is it my job, what is my job Vern? Is my job to sit in here and listen to you and Mike and Ken tell me what I am supposed to think. Is that my job? David slammed his hand on the table. I told you that I thought we had a better relationship than that did I not?

Rob stated I don't think that this is the place. David shouted Bullshit. This is the place. Rob urged not to get attitudes. Can we have a private meeting sometime and visit about it David. David said I am open to that. I would be glad to have talked about this in private, that is my whole point. Rob said I am just trying to calm down the situation. David stated if it ever happens again it will be fist of cuffs, I guarandamtee it. Rob said I wouldn't go, I wouldn't say that. David stated I put my life on it. You too Ken. Ken replied DAVID. David said I am tired of this, I am sick and tired of this

Ken stated David, you are suspicious and you are accusing me again. I was open with you. I was unhappy with what Don did at an MVI meeting about our operation and I will let him know in here and I will let you know you don't have to agree with what I think, but believe it or not I do know what I am talking about on this. I wasn't trying to blow smoke and you can believe whatever you want but you just think there is a big conspiracy. I work every day on a spill with Vern, we go on inspections you bet I talk to him all the time because you know what because they own the dam and I can lose my job if I violate the kind of stuff their telling me to operate it to. And I am not going to do that and if you are going to go and tell me to mis-operate the dam you have that vote, but I am not doing it. OKAY because I have had it with you too; you keep thinking that I am in some conspiracy I haven't hidden anything from you I am up front with you.

David stated Oh you proved that, you proved that. Vern said Ken had nothing to do with this. Ken said Oh, this is the first time I have seen this. Vern stated this is all me, David

Ken said did I not tell you David in the last meeting that I was not supposed to go over 6924. You thought it was big secret conspiracy. I did not bring out all the details, I wasn't prepared for that. Vern took more time to work down to them and went through all the documentation that I have spent years to know and he's been educating and I didn't learn it in a night. So, I wasn't lying to you last time Vern just did a better job at documenting it. So, you got your answer. Sorry your obviously upset about how he did it, but you are the one who asked and I didn't go to the Bureau without going to Vern.

Don said this is a little bit still of the courtesy for the private conversation. I got reamed for going to a meeting instead of having a private conversation you and I, and I asked you for the private conversation on the Tuesday before I got reamed and that is still to me that is something that will take a little bit of work to get fixed out and obviously some different view points on this issue.

And tempers and it is not healthy to have tempers flare like they are in a public meeting. And we have had some of this before on other things and that is partially what is being discussed a little bit Some private conversations might be a useful way and really I felt like I really did get reamed when I came to a Board meeting because I did not ask and have the private conversation first and it is hard to know what to do as a Board member and I have tried to get ahold of you at times and often was busy and haven't had a private conversation with you on this yet.

Ken told Don you are sending emails out to both boards telling them we should do something. That is not a private conversation and you can't have it both ways. You say you want a private conversation, but not when its when I don't agree with you.

Don said, and all I am saying this is a turn about kind of thing and if you want to present it in that fashion then somewhere then we have to figure out how to have a private conversation to avoid the hostility in the public meetings. And all I am saying for both parties in terms of the boards and the staff that is a two way street.

Mike said well this was an issue David, did you talk to anybody before you sent this email. Who is Robert Pike? David said this was my first attempt to gather information.

David stated I didn't come to you, I didn't come to Vern. I didn't come to Ken and I didn't go to any of the other Directors. I wanted the information myself. I wanted to know and I didn't want nobody telling what to think and you ought to know that about me.

Mike said, so the information just got delivered.

David said I didn't ask you to do it in a public meeting. Vern stated this was a public deal you sent it to Reclamation and this is like a freedom of information request and I was told to present this. David said Ok, that's fine.

Ed stated like it or not, now I really don't appreciate it either cause if you threaten my employees I am going to report that to Federal Law Enforcement so I don't really care how big you think you are or whatever that's fine. If things weren't done the right way you are the one sitting here talking about how we do business, well so try and do it right yourself. Vern got what he was supposed to. It came into our Reclamation office they contacted us and said provide this information and he did what he was asked to do and if you don't like the forum that is your prerogative and that is fine too. David asked and your name is sir? Ed stated my name is Ed Warner and if you want to make some issue of that too then go call my boss too. David said I don't know who you are.

Ed said I really don't care, if you do or not, I am the Area Manager for the Bureau's Western Colorado and we're trying to provide you information that you asked for and you don't need to threaten Vern or anybody else. You ask for courtesy for how things are done and we ask the same thing just like anybody else would. So if you want it, you give it back, but don't threaten people.

Don said I was ready I was going to thank you for providing the information. Vern said I saw it as a teachable moment one of the things that came up for the rest of the people that haven't seen it. Don said I appreciate seeing it myself.

Bruce said Dave I would say that this sent to Pike with this attitude of you being lied to by the locals and you checking on them. I would say the proper way is to go to Vern and try to get it from him then if he is not satisfying you then going over his head would then be allowable or whatever. But when you jump over it with accusations then the whole Bureau of Reclamation gets involved.

David was speaking under Bruce and said something about his accusation.

Bruce stated that you think you are not being told the truth or something like that. You are making an accusation that I can make here and that raises flags to whoever you send it to and I don't know who this Pike is, but it made a point somewhere in the Bureau and that funneled down to Vern here, where as you could have asked for this same stuff through Vern or Ken or Mike or anyone else here. So you kind of took a big bite and it has repercussions as everyone sees tonight. Please try to go to whoever first before you go over them knowing that something is wrong. This is not good for any of us here. David stated I understand that.

Bruce asked can we continue here.

Division of Water Resources Report

Doug reported nothing further.

T/H Committee Report

Rob Vedsted reported that the Committee met on September 28, 2016, he did not attend, but the minutes are in the packet. Vern stated that he was at the meeting and the committee went over the budget and had a draft and decided to drop back to previous years funding. The prices were still poor and put everyone in a bind. The Budget dropped \$170,000 and it was discussed. The committee elected officers, Brandon was elected chairman. The committee went over completed work.

Next T/H Meeting – The Committee will meet at the DWCD, Cortez Office October 26, 2016, at 2:00 p.m.

MVIC Report

Brandon reported that MVIC is shutting off on Towaoc Highline, the U and Cortez tomorrow and the rest will be shut off on Saturday at midnight. Then we will begin winter maintenance. The bridge work on 184 crossing is scheduled for October 24-28. CPW is putting in a turning lane at Narraguinnep in a couple of weeks.

GENERAL MANAGERS REPORT/DECISION ITEMS

2017 Budget – The first draft was put together and addresses budget objectives for a full supply water year. Ken stated that he and Lisa worked on it and put together a list of bullets on key issues and options for discussion that will extend into the work session and the Budget Hearing for the November meeting, which will be set tonight and the Board will approve a Budget in December to meet state deadlines.

The bullets are where he sees the flexibility. The memo that was mailed out on the budget was that we had lots of water but the board and farmers are still recovering from the 2013 Drought. Water availability is looking good but commodity prices are in the tank. Rebuilding reserves and replacing equipment is a management priority, but we need some direction or ideas if we should be taking some other related measures. Some are policy and some might be budgetary. A Budget Workshop needs to be scheduled. Tentative dates for the budget workshop are October 25, 26 or 27, 7:00PM. Ken asked Bruce to see what date would work best for the Board. The workshops have been held at 7pm and that has been working best in the past. By Board consensus the Budget Workshop will be scheduled for October 26, 2016 at 7pm.

The financial recovery associated with a full water supply is complicated by poor commodity prices and soft demand. If the Board wants to consider measures to ease costs to irrigators, management has prepared "Considerations and Options for Formulating 2017 Budgets". Page 1 of the budgetary challenges are A) In 2016, DWCD moved decisively from managing from the lower portion of McPhee Reservoir to managing from the upper portion of McPhee Reservoir. Ken stated that the Board needed to set the Budget Hearing for the November meeting. Adam recommended a motion.

MOTION: SET BUDGET HEARING FOR NOVEMBER 10, 2016 AT 7:30 PM

MOTION: ROB VEDSTED

SECOND: GODWIN OLIVER

MOTION CARRIED UNANIMOUSLY

Mike asked if there were any discussions. Rob stated that he was interested in #3 and #4 and possibly #1. Don stated that #2 is better to him than #4 and may want to wrestle with the two. Godwin stated that he agreed with Rob #1, 3, and 4. Rob stated that in the past we have switched the charges around and he thinks if we work with some of the others then it would work. Godwin stated that he felt we will get input at the Farmer Advisory meeting. The Board will have had time to go through the budget and going through the adjustments and then bring the FAC in on the discussion then it gives time to make changes in the budget for the hearing. Godwin stated that Walt wanted to say that he wanted to strongly look at #4.

Options for Addressing 2017 Budgetary Challenges

1. Decrease 2017 proposed spending, slowing capital improvements or other maintenance expenses.
2. A temporary reduction in the interest rate on unpaid irrigation charges (currently 1% per month). Set above 0 to avoid all irrigators to delay payments for necessary District cashflow.
3. Defer the increase in the Reserve Replacement Charge (set to go from 70 cents to \$1.05 In 2017). A related option would be to temporarily suspend the Reserve Replacement Charge in 2017 completely.
4. 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. This option could have significant fiscal impacts and needs to be evaluated carefully if the Board wishes to consider it. This might only be a partial forbearance on payments could work in conjunction with reduced interest in item 1.
5. Temporarily reduce the base charge (currently about 70%) and increase the delivery charge proportionately. This option needs to be carefully evaluated because, as in 2013, it would likely create a draw on the Water Supply Reserve Account.
6. A draw on the Water Supply Reserve Account to constrain water charges while moving forward with "Full Water Supply Budget".

Ken stated that we would like to develop a short list of the above options in order to more fully evaluate the consequences of those options that remain under consideration and prepare selected options for presentation to the DWCD Board at the Budget Workshop.

Farmer Advisory Committee Meeting – Proposed dates include October 31 or November 1, after the Budget Workshop. The budget and any budget options under consideration will be covered, along with a season end discussion of the water year, and the efficiency assessments that Travis Custer has undertaken. The Board agreed that November 1st at 5:30 would be the best date for the Farmer Advisory Meeting.

Aquatic Nuisance Species (ANS) Mussel Inspection Program – The MOU among the four parties to share the responsibility for ANS inspections at McPhee was signed on September 22. Priorities for tightening the inspection program in 2017 were reviewed by a Technical Group lead by Ken Curtis. It will be shared 4 ways. Ken is leading a group that is looking at locations, gates and 100% inspection of all trailered boats when gates are open and close access when inspectors are not present. Need to have public outreach to explain the risks and damages that could occur from a mussel infection. Will make presentations to the Counties and other interested entities. Next month we will bring the communication plan. The FS was initially saying that it would require NEPA but it may not with strong public outreach. We need to be ready to go into the next boating season with a strong inspection program. Ken stated that the technical group met today and are working on revising the management plan. Will be hearing a lot more in the future and would like to start with Montezuma County in mid-November. The MOU and an article in the Cortez Journal about the MOU and 2017 Plan meeting by Jim Mimiaga are attached.

Wild and Scenic Suitability Segments in the Draft Uncompaghre BLM Resource Management Plan - Mike stated that attached is the draft letter from CWCB to BLM Acting Southwest District Manager, which will also include a cover letter by DNR. The sections on the Dolores River requested by DWCD were agreed by the Board. On the Gunnison and San Miguel Rivers Option B was selected. The strategy for DWCD protections involves the letter from BLM State Director Ruth Welch on January 6, 2015 to Colorado DNR Director Mike King, assuring DWCD that BLM authorities can't override Reclamation authorities with regard to Dolores Project allocations and operations. Regarding State decreed water rights the Stipulations agreed to by CWCB with regard to the Instream Flow from the San Miguel Confluence to Gateway are intended to ensure that the ISF below the San Miguel confluence will not reach up the Dolores River into McPhee and above; DWCD has the very same interest with regard to WSR Suitability not reaching up-river.

Mike stated that the Tres Rios RMP letter in 2014 resulted in some changes, changes were limited because the plan was final. The BLM agreed to make changes to language in the RMP in accordance with the Governor's Consistency Review. Those changes are reflected in the Record of Decision (ROD) and final plan. These changes include converting the aquatic habitat language from a standard to a guideline and a commitment to working with stakeholder groups who are addressing "outstanding remarkable values" (ORV). The BLM is convinced that cooperation and collaboration is essential for addressing issues related to native fish management in the Dolores River. For that reason, the BLM has been and will continue to be committed to being involved in the Dolores River Dialogue. The Tres Rios boundary on the map is the white blank and the newly proposed suitability is included as part of the Uncompaghre Plan to the north.

Mike stated that our concern with ORVs being the 3 native fish is that we can only support one (the Roundtail Chub) and the other 2 sucker species we cannot support because they require a lot more water. We want to protect the Dolores Project allocations and Dolores River water rights. The way we get CWCB's help in getting the BLM/USBR authorities letter from the BLM State Director to Mike King, DNR Director when we were appealing the Tres Rios. We held up the ISF on the Dolores for a year and were helped by DNR and CWCB Directors in the negotiations. We continued to press the issues and did not want any of this activity or the ORVs to affect the project. Ed Warner was involved and insisted that the BLM does not have the authority to impose suitability requirements on the Dolores Project. That was confirmed in the letters from BLM Area and State Director. The Uncompaghre RMMP is still in draft and we are pressing items from the letter to Mike King and the GM that BLM cannot affect the operations and water rights of the Dolores Project. The ISF stipulations are designed to protect the upstream flow and suitability from reaching up the river into and above McPhee. Stipulation 5 states that "the CWCB Boards' intent that this ISF water right is adequate to meet all requirements as a stream flow standard or guideline in federal administrative or regulator permitting contexts". The ISF is adequate to meet streamflow needs and the state is saying that should take care of the flow related needs. Mike stated that in the body of the letter on page 2 is a list of items that that they want the BLM to consider. The CWCB recommends that the BLM consider the following new information that has come out to update the BLM's original suitability analysis: 1) Colorado's Water Plan

(CWP), 2) Southwest (SW) Basin Roundtable's Basin Implementation Plan (BIP), including an updated Identified Projects and Processes (IPP) list, 3) Dolores Water Conservancy District (DWCD) 2014 Water Management and Conservation Plan 4) Stipulation between the CWCB Staff and the DWCD, In the Matter of the CWCB Staff's Recommendation for an Instream Flow Appropriation on the Dolores River, dated August 31, 2105 (Dolores ISF Stipulation)/ Letter from Ruth Welch, BLM Acting State Director, to Mike King, Executive Director, Colorado Department of Natural Resources, January 6, 2015 (Tres Rios RMP Letter). DWCD Drought Contingency Plan, anticipated April 2017. Mike stated that they have called out a series of documents that need to be considered. The concern on top of page 3 indicates that any water projects with a federal nexus that exist in, above or below a designated Wild and Scenic reach could be prohibited or restricted through the consultation process if they would "invade the area or unreasonable diminish the ORV." Mike stated that is what we are trying to protect from. Page 3 deals more with San Miguel River. They mention on page 4 DWCD's Water Management Plan and IPPs in the Basin Plan. The items need to be part of the record. Looking at the map there are ISF segments. By providing the ISF and the state wants to avoid a federal reserved water right. The comment summarizes the key statements. It calls out assurances that the operations and project allocations are not going to be impacted. Ed has pointed out over the years that is how it is. We want this stated in the Plan. The other item is on page 5 – Three of the four segments considered for suitability (Dolores River, Segment 1a and La Sal Creek, Segments 2 & 3) on the Upper Dolores River are in the area currently being considered for a National Conservation Area (NCA). The CWCB anticipates that, if an NCA is established on these segments, Congress will determine that none of these segments are suitable.

If we succeed at legislation there are other parties that would be interested in doing similar processes. On page 6 it states that among other things, this stipulation states that "it is the Board's intent that this ISF water right is adequate to meet all requirements as a streamflow guideline in federal administrative or regulatory permitting contexts."

This letter has been approved and going to be signed by James Eklund with a cover letter from DNR. There is a lot to be said for CWCB using some of what we gained in the Tres Rios plan to address our concerns in Uncompaghre Plan. Our comment is due on or above November 1st. Barry is working on a comment letter that will align with the CWCB comments and enhance the things that matter most to us. Bruce stated that this is a different BLM office that we need to guide to protect our rights just through the process. All the negotiations that we did in 2014 are still helping this process. The Dolores River is chopped up between 4 BLM offices we need to focus on the Roundtail Chub to the Bedrock area and focus below the San Miguel Confluence for the presence of the 2 sucker species to address the needs of each species by looking at the river as a whole.

Both the "Authorities Letter" and the "Stipulations" were products of holding up the lower Dolores Instream flow for a year to negotiate with the BLM around problems with the Tres Rios BLM Plan with the support of CWCB and DNR Directors. The Tres Rios Plan was already at "Final" in 2014, which limited changes that could be made to the Plan without amending it. Since the Uncompaghre BLM Plan is in Draft, the gains DWCD made last round, in letters and side agreements, can be incorporated directly into the body of the Uncompaghre Plan. The CWCB/DNR comment proposes very specific language drawn from these documents for incorporation in the Plan. The DWCD comment on the Uncompaghre Plan will align with the State comment to maximize leverage on influencing Plan content and calling in State protection if Plan provisions are not complied with by BLM.

Letter of Recommendation, Steve Harris for CWCB Board – A draft letter is attached. Given all of the business we have in front of CWCB, it would be great to have Steve sitting on that Board. This Board has a wide range of issues that we work directly with CWCB.

MOTION: TO SUPPORT STEVE HARRIS FOR CWCB BOARD.

MOTION: ROB VESTED

SECOND: SIMON MARTINEZ

MOTION CARRIED UNANIMOUSLY.

Proposed NCA Legislation – Six DWCD Board members attended one or both of the meetings with David Robbins on October 4. Mike stated that he put the clean copy of the draft legislation in the Board's packet. Bruce will start the discussion and Adam can provide some legal review. We will start in open session and see how it goes. Bruce stated that the drafting committee has worked to bring out the NCA draft legislation for the water users that is acceptable to other interests and it took many months and working to try to get something and it was a consensus compromise. There is an opportunity for minor changes. Bruce stated that he knows that there are several issues still. The Robbins meetings centered on three major issues involving: LaSalle Creek; Residency Requirements for the Monitoring

and Recommendation Team (MRT); and whether the MRT should be chartered as a Federal Advisory Committee (FACA) or chartered by State Legislation. Bruce stated that he attended MVIC's meeting and Gerald was not there and MVIC did not discuss it much at their Board meeting. Bruce stated that he would like to see a motion of support by this Board. He said he would like to see if the La Salle issue could be worked out. There is an issue on changing the representation on the M & R Team to remove La Plata County which would eliminate the conservation representatives that we have been working with on the NCA. The comments stem from Larry Don. Bruce stated having representatives from La Plata County does not bother him because we have a history of working with them. Bruce stated that his just some of his thoughts. Bruce asked Dons thoughts. Simon stated that he would like to hear from Adam and Don. Adam stated that there was a robust discussion and they did not have any role in the legislation and don't have a good sense of where all the parties may be. Don't know if it is as good as could be. Considering La Salle Creek for Federal Reserved Water Rights for wilderness faced strong opposition from water users. The other issue is whether the M&R Team should be formatted by a state or federal charter. Adam stated that he does not have a strong opinion on that. Adam stated that he would have drafted the water protections more robustly but they adequately protect the water rights and the Wild and Scenic designation can come with a federal reserved water right and the Feds can take the position that the Federal Reserved are needed to protect ORVs not protected to decreed rights. Removing Wild and Scenic Suitability is important to the Dolores Project and a real benefit to this District. There is a prohibition on upstream large projects unless they have conditional decrees which legislation is protected by this. Adam has indicated that changes to existing rights are important and they are already in there. Adam stated that he does not have a problem supporting it and does not see a reason to oppose it at this juncture, but it is not in final form. Adam stated he would like to hear from Don.

Don stated that his thoughts that they have patiently provided comments that were based on the water project group and he disagrees that there was a robust discussion. He stated that the document came through too late and he is disappointed that David did not go through it better and that the document was not more improved. He feels that we are worse off than the previous red-line. Don stated that he would make a strong argument that the status quo on the land management plan is preferable and the legislation is opening up to a legal challenge in terms of water rights and the risk of being blackmailed, in spite of BLM and Reclamation, to give up water. He feels that it points down that path and he would not support it in this form as it is right now. Don stated that it puts him in a difficult position in this community.

Bruce thanked Don for his thoughts. Bruce stated that a National Monument is a possibility at some point and of instigating the ORVS would be even more detrimental if written into a monument proclamation. Bruce felt the draft shows good progress and he is supportive of statements of David Robbins and respects them. Don stated that he would appreciate a dialogue with David Robbins and was not available, just open private conversations with payers. He made it clear that he was working for the legislative Subcommittee and Don does not feel that he has worked for the water users and what this community needs to have addressed. Don said he is willing to take David Robbins on head to head on this.

Mike stated that he is providing a management prospective. The Tres Rios Plan in 2013 added 2 native fish ORVs and a by-pass flow standard to meet the needs of natives and are now amending the plan to add Areas of Critical Environmental Concern (ACECs). Mike feels that the only thing left is a monument and the whereas proclamation clauses are going to start with suitability, native fish and it will have all the environmental protections with few of the water protections included in the legislation. The land management agencies would manage a monument on this basis. Mike stated that he trusts the protections that are in the legislation and this left a lot of potential difficulties for Dolores Project operations and rights going forward. If we are able to get legislation passed then there will be congressional oversight and if the agency gets out of line with the NCA law. We have recourse to Congress. Mike stated that we are living under all these layers already and an NCA would be the capstone. Bruce asked if there could be lessening of the pressures we have seen.

Mike stated that the agencies know we are serious by the fact of DWCD holding up the ISF for a year. There is a lot of interest in the M&R Team being a state sponsored entity to make the monitoring and evaluation team work effectively. The endangered species act is what we have no control over. The four interests have been actively participating and trying to move forward and coordinate the actions. If we build on this collaboration with the water protections in the legislation, we will be in the best possible position to deal with an ESA listing.

Rob asked Don if there is anything that could be done that he would back at all. Don stated that yes if it is done right. Don felt that it is one sided. Rob commented that David Robbins is doing what we paid him to do. Don stated that he is doing a road map that tells the enviros how to get the water. Don stated that we need to know what is going on at the negotiating table. Adam stated that in negotiations when you are on the inside, you know why things are the way they are. When on the outside you don't like it and don't understand why. Adam stated that he thinks that the NCA helps put a little weight on the scale concerning issues that have been around as long as he has been around.

Simon stated that his opinion is that we are just considering the general support and we are not asked to vote on a final and still have time to change specifics in the future if we allow this to continue to move forward in listening to all. He felt that there has been a lot of effort put into it.

Godwin stated that he would say a lot what Simon stated. He felt that we need to do something. Godwin stated that he agrees with Don that it may not be the perfect bill and probably not, but we have a long way to go on this if we are going to go down this path. Godwin stated that he would support it tonight.

David stated that he would like to see the Board to Board discussion with MVIC that is key. David would like to move forward and doesn't think we have a drafted document saying that we are moving forward.

Bruce stated that he would entertain a motion in the support of the NCA and to continue working through it.

David stated that he was at the meeting and thought the NCA had to be completed sometime in December. Bruce clarified that it has to be submitted to the State for a State Bill to charter the MRT. Bruce stated that we have a long way to go on the Federal legislation. David stated that there was a lot of opposition especially from the County Commissioners on the MRT. Don stated that it is not enough specificity about individual water rights in the legislation.

Public Comments:

Jim Fisher stated that the community should be concerned with a monument under the antiquities act. He stated that DRIP was the original group that started part of this process, and that was 17 years ago when he was first on the board. He felt that the hammer could drop quickly if DWCD and other don't support the NCA.

Greg Black stated that they did discuss it some at the MVIC meeting. MVIC has some concerns about the appointments that the County Commissioners could appoint one of the representatives and as one of the water representatives. He also stated that he would echo what Adam stated that the language of protecting the water rights. Have some concerns of David Robbins passing it on to the legislative drafting writers and concerns about the downfalls of the one on the Rio Grande and once it is locked in it cannot be adjusted for future developments of water supplies. MVIC has concerns about it.

Eric White stated that there are valid concerns, but thinks we need to get ahead of it. We don't want to leave it to a Federal monument.

MOTION: DWCD CONTINUES TO BE IN GENERAL SUPPORT OF NCA LEGISLATIVE PROPOSAL DEVELOPED BY THE NCA DRAFTING GROUP, WORKING WITH DAVID ROBBINS. DWCD SEEKS RESOLUTION OF TWO KEY ISSUES IN THE DRAFT NCA LEGISLATION (1) SPONSORSHIP OF THE MONITORING NAD RECOMMENDATION TEAM (MRT) – DWCD STRONGLY PREFERS STATE SPONSORSHIP OF THE MRT OVER FEDERAL SPONSORSHIP UNDER FACA; (2) LA SALLE CREEK – DWCD STRONGLY OPPOSES ANY FEDERAL RESERVED WATER RIGHTS ON LA SALLE CREEK.

MOTION: ROB VEDSTED

SECOND: SIMON MARTINEZ

MOTION CARRIED 4-2, Don and David against.

MVIC-DWCD Board to Board meeting on October 18, DWCD, 7:00PM (Tentative) - Mike asked Greg what MVIC thought of a Board to Board. Greg stated that MVIC would like to get with DWCD to have a Board to Board to discuss any issue even if it is team building. Mike stated that in reference to NCA, he would like to see MVIC confirm that they are willing to go forward with working on the legislation and what their specific concerns are. Greg stated that he would have to echo Don that it is a bad plan. Bruce stated that he would go the other way and that we should not leave a gap, for the agencies and outside interests to fill.

Greg stated that they would like to have a Board to Board and not be so formalized. Let the conversations drift and just open dialogue. Bruce stated that not having an agenda makes it difficult to having everyone involved and relying on a select few. Greg stated that the more that we get together the more comfortable it gets. Godwin asked if it needs to be just the Boards and not involve staff or managers. Greg stated that he did not think that necessarily.

Simon asked if the Board to Board Meeting could be scheduled for October 25, 2016 at 7 pm to discuss the NCA. It was agreed that there would be a Board to Board on October 25, 2016 at 7 pm at the DWCD office.

Legal Discussions MVIC-DWCD – Groundhog, POD, 505cfs, Change in Use of MVIC 87.3 conditional water right – Mike stated that Adam 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:

- September 12: Drought Plan Meeting
- September 12: CWCB Instream Flow Presentation to Montezuma County Commission by Jeff Baessler – GM, Ken
- September 13: MVIC Board Meeting – Don
- September 15: Joint SWCD-Colorado River District Joint Board Meeting, – Ken
- September 16: Colorado River District Seminar – Ken, Don
- September 20: Emergency Response Planning, McPhee, Great Cut - Ken
- September 20: MVIC-DWCD Board to Board Meeting
- September 21: CWCB Board Meeting, Edwards – GM to Testify on Uncompahgre BLM Draft RMP, CWCB Comment Letter
- September 22: McPhee ANS Prevention Partners, CPW, Reclamation, SJNF, DWCD – GM, Ken
- September 26: Video Conference, CPW, Durango, Statewide ANS Inspection Funding- GM
- September 27: Water Information Program, Durango - GM
- September 28: Towaoc-Highline Committee Meeting
- September 29: Meeting County Assessor Scott Davis, discuss methods of calculating water costs for ag valuation – GM
- October 3: Roundtable Chairs Phone Meeting – GM
- October 3: Drought Plan Meeting
- October 4: David Robbins Review NCA Draft with Payor Group and Legislative Subcommittee – Board, GM, Ken
- October 7: LEMing, Durango – GM, Ken, Bruce Smart
- October 11: MVIC Board Meeting
- October 12: Southwest Basin Roundtable, Durango Public Library, 3:00 (2:30 Social Time)

Upcoming Meetings and Activities:

- October 18: MVIC-DWCD Board to Board Meeting, 7:00 DWCD, Topic to be determined.
- October 26: Budget Workshop
- October 26: Towaoc-Highline Committee, 2:00PM
- November 1: Farmer Advisory Committee
- November 2: DWaRF Collaborative, 1:30, DWCD
- November 7: Drought Plan, 2:00PM
- November 8: MVIC Board Meeting, 2:00PM

LEGAL REPORT

Adam stated that in open session that the Loyd matter has been resolved and there will be a tax lien on the property. Adam reported that on the EDS they are not as far as long as we thought and there is concern on the 0% rate. Adam stated that still looking at the DWR lease on the building.

505 CFS – Main Canal#1 and #2, 15 CW3035 – MVIC filed a Statement of Opposition (SOO) to DWCD's application where it seeks a finding of diligence and a decree giving DWCD another six

years to continue its efforts to make the conditional water right absolute. We circulated a proposed decree earlier this year. We are currently engaged in discussions with the Division Engineer's office regarding the scope of uses. The Division Engineer maintains the uses have been limited to irrigation in the two most recent diligence decrees. MVIC also has requested language that if DWCD fails to be decreed a change in the POD in 16 CW 3016 that it be required to file a separate action for a change in POD. We are still hoping that a stipulated decree will be presented to Judge Lyman for consideration by the status conference scheduled for November 10.

MVIC Change in Use – In addition to the change in PODs, MVIC has indicated a desire to include a change of use to storage for its 87.3 cfs direct flow water right. In 2015, MVIC provided a letter to DWCD explaining its position for seeking a change in its 87.3 direct flow water right to storage. While DWCD has expressed support of the efforts of MVIC, DWCD has also maintained that the change cannot affect operations of McPhee Reservoir, cannot expand MVIC's rights as set forth in contracts with DWCD and the United States, or in any way injure DWCD. MVIC's 2015 explanation letter raises a number of questions regarding the proposed scope of the change in use. In August 2015, DWCD suggested to MVIC the best way to ensure both sides understand what the scope of the change in use will be is to review actual language MVIC proposes to include in a decree for the change. MVIC was receptive to providing such language, but said it would not be available for review until early this year. By six-page letter dated July 19, 2016, MVIC again provides further explanation why it desires to change its conditional 87.3 cfs direct flow right to a storage right and includes a draft decree setting forth language it desires. The attorneys and staff are in the process of reviewing the letter and proposed decree. We plan on presenting our findings at the November Board meeting for the Board to discuss and prepare for discussions with MVIC.

Adam stated that everything else is in the legal report. Simon asked that Adam go through the other items.

Plateau Creek Reservoir 15CW3036. DWCD holds a conditional water right for Plateau Creek Reservoir for storage up to 21,000 acre feet with one refill, for recreation, domestic, municipal, industrial and piscatorial. This right is separate from the Plateau Creek Dam-Afterbay which has uses for pump back storage, irrigation, stock, domestic, municipal, industrial, recreation, fish and wildlife, flood control and other beneficial uses with a 14,900 AF fill and refill right. As required for this conditional water right, DWCD filed an application to show that it has made diligent effort over the last six years to proceed with making the water right absolute, i.e. progress in building the reservoir. Two statements of opposition were filed to DWCD's application seeking a Water Court finding of diligence and decree giving DWCD another six years to continue its efforts to make its conditional water right absolute. Colorado Parks and Wildlife filed a Statement of Opposition because the proposed reservoir site is within Lone Mesa State Park and DWCD has not received permission to locate it

there. The State Board of Land Commissioners also filed a Statement of Opposition asserting DWCD has not received permission to locate the reservoir on "school lands." The Division Engineer filed his Consultation Report and indicated that his office supported granting diligence. Discussions continue with the two opposers in regard to language in a proposed decree. We hope to have agreement on language and a stipulated decree for the Water Court to consider by the next status conference on November 10.

MVIC and DWCD change of Point of Diversion, 16 CW 3016. After more than a year of discussions, MVIC and DWCD jointly filed an application seeking a change of point of diversion for DWCD and MVIC water rights for the 585 cfs referenced above from Main Canal No. 1 and 2 to Dolores Tunnel and Great Cut Dike. The parties have agreed that the action would be filed seeking a declarative ruling that HB-14-1005, now CRS 37-86-111, which allows a point of diversion to be relocated in the event the original point of diversion cannot provide the proper inflow, will be declared by the Court as the proper way to change the PODs. With court approval, we believe we can defeat possible challenges from objectors who may claim they did not receive notice if only the process set forth in the statute was used. Water Division 7 Engineer Rob Genualdi indicated that DWR "would not get in the way" of such a plan. The deadline for filing a statement of opposition to the application filed in May was July 31. The only "statement of opposition" filed was by the State and Division Engineer. That SOO tracks what the engineers' office normally requires for change cases, i.e. that current gages be used and meters be installed upon request by the Division Engineer. This position is consistent with Mr. Genualdi's position above in that the Engineers' office did not challenge the parties' right to move the POD. DWCD will work with MVIC to develop a proposed decree that will incorporate the requests by the engineers. A status conference has been scheduled for October 7. Adam stated he was really pleased with MVIC-DWCD cooperation on the POD.

MVIC – New Groundhog Water Right, 12CW20. In 2012, MVIC's original application sought a new water right for an increase in the capacity of Groundhog Reservoir of up to 4,000 AF, following a survey prepared by the USGS showing the reservoir's capacity at 25,700 AF rather than the decreed 21,710 AF. MVIC filed three amendments to its original application. The first one dropped claims for a scrivener's error and adverse possession. The second amendment sought to increase the 21,700 AF, not to only 25,700 AF, but to 26,640 AF, which would be for a new storage right for 4,569 AF, with an appropriation date of 1978 and a priority date of 2012. The third amendment seeks an absolute right for a collection ditch on Beaver Creek, has specific reference to a spillway height of 72.3 feet, an appropriation date of June 30, 1983, a use to irrigate up to 43,344 acres (rather than 37,500 acres) and an additional 4,410 AF of storage. DWCD is an objector. More than 18 parties, including the U.S. Forest Service, have been listed as owners of property which may be affected by the new water right. MVIC provided a proposed decree for the Third Amended Application earlier this spring. The Division Engineer provided a consultation report that challenged many terms of the proposed decree. MVIC responded with a lengthy packet supporting its position and told the Water Judge in April that it would be circulating another decree. At a status conference June 24, MVIC and the Division Engineer indicated they were still in negotiations. MBSS has a number of concerns with terms in the proposed decree and intends to discuss those with MVIC and the Division Engineer after they have reached resolution. MBSS provided the Board with a detailed memorandum regarding the case in April. A status conference has been scheduled for October 28.

Koenig Pits, 12CW36. Application filed by Mountain Investments, Inc. to make absolute water rights for Keonig Pit No. 3 and Koenig Pit No. 4, a right to fill and continuously refill the Koenig Pits to maintain water levels for recreational and piscatorial uses, wildlife watering and fire control from the Burch and Longwill Ditch, and approval of an augmentation plan. DWCD filed a statement of opposition to ensure changed uses and amounts are not expanded from historical uses. In April, and again in June, the Applicant asked the Water Court for additional time to receive a consultation report from the Division Engineer, to discuss it with objectors and draft a proposed decree. The Court ordered a status report to be filed by October 17.

Forest Service Reserved Water Rights Case, Case No. 1605-76B. Earlier this year we provided the Board a comprehensive background memo regarding the federal reserved water right cases filed in the 1970s. The U.S. Forest Service filed claims in the Division 7 Water Court to confirm reserved water rights for instream flows and other consumptive use water rights on the San Juan National Forest with a priority date of 1905. Those applications did not include specific claims for amounts, locations, and uses, but rather applied generally for all “surface, ground and underground waters, both tributary and non-tributary” located on the Forest for nearly every conceivable use within the Forest. In 1989, DWCD, Southwestern Water Conservation District and several other water user interests, including the State of Colorado, entered the case as opposers. Between 1996 and 2003 the opposers and the Forest Service negotiated to resolve the claims. A 2000 Memorandum of Understanding, approved by the Court, set out the process for the negotiations (the “MOU”). Various positions were exchanged over the years with the water users extending a counter-proposal in April of 2003 to which the Forest Service never responded. In 2015, the USFS suggested a possible settlement of the case by determining if the CWCB Instream Flow program may be a viable way to appropriate streams the USFS desired to adjudicate as federal reserved water rights under its case. DWCD supported using the ISF program but only after all the necessary scientific data had been gathered. The USFS and CWCB proceeded with listing four “test cases” for 2016 review (including Rio Lado in the Dolores River drainage) acknowledging that DWCD could object after the data was gathered. DWCD is monitoring the data collection by the USFS and CWCB. DWCD was notified by CWCB that it was presenting the data analysis to the Montezuma County Board of Commissioners on September 12. DWCD sent a letter to the USFS and CWCB requesting a meeting, as promised by the USFS and CWCB, before its meeting with the County. No reply has been provided to DWCD. No analytical data has been presented to DWCD either and the September 12 meeting with the Montezuma County Commissioners generally covered what the ISF program was rather than specifics about the proposed Rio Lado ISF. Currently the USFS and CWCB have requested a meeting November 2 to discuss settlement of the case. Don asked about the FS and information not made available to commissioners and how they will get the information after and when will we hear those answers. They have pushed the intent to appropriate to March. The concern is that they would produce a new methodology to calculate ISF flow needs and we would not have time to respond.

CWCB Dolores River ISF, Case 15CW3111. In 2015, the Colorado Water Conservation Board passed an intent to appropriate up to 900 cfs of water in the Dolores River for an instream flow water right in a reach from the confluence of the Dolores and San Miguel River 34 miles downstream to above Gateway. The CWCB and DWCD reached a stipulation that included terms to protect the Dolores Project from impacts of the ISF. At its September 2015 hearing on the matter, the CWCB rejected requests from the Southwestern Water Conservation District and the Colorado River Water Conservation District to include a carve out for future uses. The CWCB unanimously approved the intent to appropriate the proposed ISF water right and instructed CWCB staff to proceed with filing an application in Water Division 4 seeking to have the Dolores ISF water right adjudicated. The CWCB filed the application in December 2015. In February, DWCD filed a Statement of Opposition to monitor the case and ensure that its stipulation is recognized in the decree. SWCD and the River District also filed separate Statements of Opposition stating that the CWCB had the discretion to include a future use allocation in its ISF water right. The Conservation Colorado Education Fund, San Juan Citizens Alliance and Western Resource Advocates filed a joint Statement of Opposition asserting that the application is consistent with preserving the natural environment to a reasonable degree. In the CWCB Status Report filed September 28, the CWCB indicated it had entered into discussions with DWCD to include language in the decree recognizing its stipulation with CWCB. A status report or stipulated proposed ruling is due with the Court on January 4. Don stated that he did not see how conditionals are protected. Adam stated that he would talk to Don independently.

David apologized for losing his temper earlier in the meeting saying that he apologized for losing his temper, but not for the content of his remarks.

NEXT DWCD BOARD MEETING – Thursday, November 10, 2016 - 7:00 P.M.

ADJOURNMENT Meeting adjourned at 10:45 P.M.

Walter Henes, Secretary-Treasurer

Bruce Smart, President