

fThese 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 September 8, 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
Walter Henes, Secretary-Treasurer
Don Schwindt, Director
Robert Vedsted, Director
Godwin Oliver, Director
Mike Preston, General Manager
Ken Curtis, Engineer
Lloyd Johnson, Maintenance Supervisor
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; Gary Conrad, Stetson Conrad, Full Service Irrigators

MINUTES

APPROVAL OF THE MINUTES

**MOTION: TO APPROVE THE MINUTES AS PRESENTED FOR THE
AUGUST 11, 2016 ENTERPRISE MEETING.**

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

Rob asked about check #34009 to Quill for PMSC. Ken explained that this is for the SCADA system. Rob asked about check #34050 to River Bend Machinery, Lloyd explained that this is a compactor wheel for the excavator. Walter asked if the, check #34007, to Norstar, which was charged to Weed Control was for weed product. Lloyd stated that this was is for equipment for parts for the weed/spray truck.

FINANCIAL STATEMENTS

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

**O&M: AP/CHECK #33972 – 34060 & PR/CHECK #121418-121472
\$322,160.17**

**MOTION: ROBERT VEDSTED
SECOND: SIMON MARTINEZ
MOTION CARRIED UNANIMOUSLY**

O&M REPORT – Lloyd reported the following:

Power Plants - Both power plants have been running continuously. McPhee Power Plant is currently at 50 cfs. Friday Sept. 9th the plant will be turned down to 25cfs for the season.

Pump Plants – All pump plants have been running steady with very few outages. The canal system had to be treated again this month for algae. The algae was plugging up the intake grates, water screens and M&I intakes.

Dove Creek Canal – Over 800 feet of tire mats have been made this summer. Staff should have another 800 feet made by mid-October. These mats are scheduled to be installed upstream of Fairview Pump Plant this fall, weather permitting. Simon asked if the tire mats were being made in-house, Lloyd stated that they are. Simon asked how they are working and Lloyd stated that so far the mats installed in the fall of 2015 are working well. Another section of rock gabions was completed at Dove Creek wasteway through Jerry Martin's property.

McPhee Dam – Concrete repair work on the spillway outlet has been in the works for the last couple of weeks and will be ongoing for several more weeks.

Laterals – A cathodic protection survey and evaluation by the Bureau of Reclamation office out of Denver was completed last week on all of the canal check structures, road crossings and lateral lines on our system. We are waiting for their report, which should include needed upgrade of equipment and what is needed to get a maintenance procedure in place for the upkeep of the system. All three reaches of the Towaoc canal system were also evaluated. Lloyd thanked Vern for getting Darrell Little here for a thorough evaluation.

ENGINEERING AND WATER MANAGEMENT REPORT

Water Accounting Information the **August** Inflow/Outflow shows **1)** that the reservoir elevation started at 6915' and dropped to 6910'. The active storage was down 20,267 AF. The rain for the month correlates with the irrigators use. **2)** Groundhog releases started August high, but had dropped by the 3rd week down to the U/S Augmentation releases **3)** There was very little inflow other than the river. A couple of days of calculated inflow correlated with the rain show up for House, Beaver and Plateau Creeks that staff will look to confirm off the Plateau gage. **4)** UF&RE stayed pretty steady; there was a dip at the end of the first week when diversions dropped after the rains. UF&R have used just under 4,000 AF for the month, which is in the normal range, but they are well under their annual allocation at the end of August. **5)** MVIC use is down; they were diverting in the mid-300's early in August, but have now dropped into the 200's since late last month. Once low diversions became apparent, MVIC shut down Groundhog to the U/S Augmentation flows. They are still releasing from Narraguinnep. There is plenty of call water, at the end of August, 16,000 AF. **6)** Dove Creek Canal diversions are still up and down, following the August precipitation. We are still under delivering on water this season and the implications will be discussed during the Budget process. **7)** Below McPhee there was a change in the fish pool releases; CPW is dropping releases for the fish with the lower fall temperatures. There were some significant rains in the month of August. August was cool and wet; so far September is cool and dry. **8)** The **September** Inflow/Outflow shows that we are down about a foot in a week of diversions, thus the reservoir may be down approximately another six feet by the end of the season leaving McPhee over 6900' at the end of the season. **9)** Ken pointed out that DWCD records show the historic carryover storage, from 1986-2015, has averaged 110,000 AF. That goes back to 1986 and before all of the lands had come online and were irrigating. Ken noted that we didn't use much FSA water pre-2000. Since the drought started in 2000 and the whole project has been online, the 2000-2015 storage average has been around 81,000 AF. Ken stated that even without a projection we will end up above 6900', over 130,000 AF, which is the best in 5 years and possibly the best in a decade. **10)** Groundhog remains shut-off except for U/S exchange releases **11)** UF&RE is still running and have around 1500 AF in their pool and will then begin using the leased water. The 2,000 AF of leased water will likely carry them for the remainder of the season and they probably won't lease any additional water. Ken will discuss UF&RE projections with Simon. **12)** MVIC also has plenty of water this season, they are barley touching their call water, and there were a couple of days they didn't use as much as the river made. **13)** Dove Creek Canal is still up and down. Ken stated that the most recent down turn looks more like it was because of the long 3-day weekend more than weather. Walter asked if MVIC call water could be stored in Narraguinnep. Ken stated that there is nothing written about that topic. It was done last year and is up for discussion on a year-to-year basis. The implications of that are pretty simple. Their water right proceeds McPhee so in theory they will take all the water during the winter. So if you give them the water early, what is the downside? The answer is if there isn't enough runoff to fill Narraguinnep, this is rare but does happen. Ken stated it likely happened in 1977 and 2002. Also, 2013 barley missed filling Narraguinnep however there were other factors at play in 2013. So at best the risk is 2-3% (2-3 years out of 100). The risk is not big it is more of a convenience issue to get them over the west outlet grate before it freezes. The DPR assumed you would fill Narraguinnep in the fall and then fill McPhee in

the spring. Ken will be discussing this issue with Brandon in the near future. 14) Ken stated that the inches per acre chart shows one person who was missed on shut-off and there a four others that have also been shut-off because they have reached the 28" cap. Ken stated that September FSA diversions average around 8,000 AF that he doesn't see warmer weather moving in to increase water diversions.

Full Service Area Irrigator Payment Policy – Ken stated that early on the Board moved the cap around due to drought. This year the cap started at 22" and was raised to 28". We have known for a couple of months that we are under running and Ken had not felt the need to bring the cap discussion back to the Board. It was brought to his attention that raising the cap is something that the Board should consider. Ken stated that the people that are over the cap have recently been shut down. Gary Conrad asked Ken what the harm was in going up to 32". Ken stated to the Board that management-wise/reservoir-wise, there is no harm. Ken stated that projections based on looking at 86% completion for the season it looks that raising the cap to 32" would mean approximately 300 AF more diversions than at from 28". Ken stated that there are only going to be 5-8 people that want the extra water. There are a couple of small 10 acre places that would use the water and a couple of large users that would utilize the water, Gary Conrad being one of them. Ken stated that the Board could raise the cap without any measurable harm to supply; it has been a matter of principal to cap use at 28" per acre. It is the Board's prerogative to change the cap. Ken stated that a couple of years ago there would have been more people wanting to use additional water, but irrigators are figuring out how to better pool their water with leased lands for additional flexibility. If there is a strong opinion of the Board that they don't intend to raise the cap in the future, then this could be a discussion of the Farmer Advisory Committee (FAC) with education for the irrigators that the Board will not be raising the cap late in the season. Ken stated that there is only a handful of people that would use the additional water, we won't make substantial revenue but it could help out a few individuals. Longer term, if the Board wants to stay within the 28" cap, staff can work on education through postcards and discussions at the FAC. The alfalfa gap is likely playing into these individuals needing more water. Ken's recommendation is that the Board raise the cap to 32".

Discussion: Gary Conrad stated that he realizes that diversifying crops would help, but his crop is all in alfalfa at this time. Godwin asked Ken if there would be a fall spill. Ken stated that we would not spill this fall. Ken stated that there would be around 140,000 AF of active storage, which leaves about 90,000 AF below full. Ken stated that we need runoff more than the few worst years to spill in the spring. We don't know what will happen next year, but we will discuss more as the winter progresses. We still have a fair amount of water if we have the same amount of inflow as 2016 and we would spill. Godwin asked Ken to verify that if the cap is raised to 32" there would only be about 300AF used. Ken stated that everyone else will likely stay under the 28" cap based on use to date other than a handful of users all ready near 28". Godwin asked if UF&RE has used the water they leased. Ken stated that they have not, but feels like they will get there by the end of the season. Bruce S. stated that there has never been a policy set that the cap must not exceed 28". Bruce stated that if there was less water this year they would definitely not want to raise the cap. The revenue would not be a lot, but would help and if there was some help to the irrigator then that is something to look at. Bruce stated that the drought plan guidelines have not been made. Godwin stated that 300AF was totally different than using 3000AF which would be measurable in 2017. Mike referred to the "bucket drawing" and stated that we are in the top half of the bucket and in decent (Hydrologic) shape at this time. Godwin stated that there are two people in attendance at the meeting asking for additional water, and wanted to know if the Board should only give those individuals in attendance 32". Ken stated that other irrigators may not have known that this was an agenda item, as it was a very last minute addition to the agenda. Ken stated that he has been watching other items and raising the cap has not been on his mind. Godwin stated that the irrigators need to be advised to monitor their water boxes and what their readings are. Ken stated that in 2013 the irrigator response to monitoring their boxes was good. Ken stated that we don't want to be the water police, but if looks like there is waste then we might hesitate on raising the cap. Ken reiterated that we would have had many more irrigators wanting additional water in the past, but many of the irrigators figured out how to lease lands for more pool flexibility. Ken stated that leasing property of someone who does not utilize their water is the way for an irrigator to make sure there is enough water to stay within the cap. Ken stated that he leans towards helping the irrigator this year and reinforcing the cap next year. Walter stated that we have been working toward getting late season water up to the same cost as the any other water and there would be no more "cheap" water. Walter is in favor of allowing 32" this season and does not think this will be an issue once water prices above 22" are increased to the same as the 22" cap. Godwin is also in favor of raising the cap to 32" because it only will use 300AF and will not make a huge impact on the reservoir this season. He thanked the Conrad's for coming in to request additional water. Irrigators will be notified by Vince or Justin. Godwin stated that irrigators are going to have to diversify their crops. Gary stated that he agrees but his operation is not conducive to diversity at this time. He also noted that he does not run water off his fields. Rob V. stated that he had a comment that a couple of the "zero" use

irrigators on the chart are corporations and it is not feasible to lease those properties as irrigation water would be charged at uneconomical Reclamation "full cost" rates per RRA.

MOTION: AUTHORIZE STAFF TO RAISE THE FULL SERVICE CAP TO 32 INCHES PER STAFF RECOMMENDATION.

**MOTION: ROBERT VEDSTED
SECOND: SIMON MARTINEZ
MOTION CARRIED UNANIMOUSLY**

PROJECTS UPDATE – Ken stated that a copy of the new logo is in the packet. Staff will use the logo with full color and wording on the website. If there are smaller publications, such as business cards, the wording around the edges gets too small to read and may be left off. There is also a black and white version to use in instances of banners or stickers or possibly when you would be charged for color but it is not necessary. The website work should begin accelerating at this time. Ken has a bio from one Board member and asked the rest of the Board to turn in their information. Staff has determined that there will be email address and phone numbers on the website for staff but no pictures. Reservoir elevations will also be available on DWR's web site, this was made possible with the help of the BOR. Mike stated that shared documents will be easier to post also.

PUBLIC HEARINGS ON DELINQUENCY/ASSESSMENTS PURSUANT TO C.R.S. § 37-45-127(1) AND (2) – Barry stated that the Board passed a policy that consolidated all of the procedures for collections of delinquent accounts and the steps the District would take in the event that an account becomes 12 months delinquent. This year there are two properties that are delinquent. Barry stated that there will be two separate hearings, one for each of the delinquent accounts. Barry stated that once a property owner has failed to make payments and fallen 12 months delinquent, a hearing will take place. The Board will hear factual evidence regarding the delinquent account and can hear from the Full Service irrigator if they are in attendance and will pass an order that recognizes the delinquency and will be passed on to the assessor to become a lien on the property. This will also include a fee to cover County collection fees up to 2%. There will be a hearing for the Loyd's and a hearing for the Biard's. There are some issues regarding the Biards that will be discussed later in the meeting.

**RECESSED MEETING AT 7:44PM FOR THE PUBLIC HEARINGS.
RECONVENED MEETING AT 7:58 PM.**

Discussion regarding Biard Public Hearing – Barry stated that the statute requires that notice be published in the newspaper two times. Policy requires that notice be given to the owner of the property. The District met both of those requirements. In the meantime, it was discovered the Biard's are not the record owner of the property. Montezuma County has a Trust listed as the record owner of the property. Barry stated that there can be an argument that the notice does notify the owner of the property, but there can be a challenge that we did not give notice to the proper owner. Ken explained to Barry that the property was transferred in 2010 to the Trust from the Biard's without any notice to DWCD, so DWCD did not have record of this transaction. Barry recommended holding the Biard hearing over to next year. Don asked the process couldn't be sped up to have the delinquency processed in 2016. Barry stated that we could do the notice again and have another hearing with a special meeting. Don asked if the meeting could be held by phone. Barry stated that he believed this was possible, but he would verify although this has to be a public hearing. Ken stated that we may have trouble getting the notice in the newspaper twice. Ken stated that presumably you change the name on the account, although our records don't indicate a different name for the property. Barry stated that you would have to notify both names the Biard's and the Trust. Mike stated that the Biard's never formally made the transfer. Barry stated that if the Board wanted to have the hearing and process the order for a lien on October 1 then it would be up to the owner to come in and challenge whether or not we did it right, if this happened then it would go to court. The argument DWCD would have is that it is the owners obligation to come in and change the name of the property and should not be able to hide behind that. It was noted that there would be legal fees on both parties to go through that process. Barry stated that going forward with tonight's hearing is a risk the Board can take if they wish. Don would like to explore the logistics to getting a new hearing and staying on track for 2016. Ken stated that we would have to have the public hearing soon, such as the September 28th or 29th. Ken stated that the first newspaper publication could be as soon as Tuesday, September 13. Ken believes that we would comply with the statute. Ken stated that if the Board is willing to have a special meeting then it could be done. Ken stated that we have a new address for the Trust although we have never received mail back from the address that is on file for the Biard's either. Barry stated that all of these facts could be used if there was a challenge. Walter suggested taking the risk, having the hearing and withdrawing if there is a challenge. Barry stated that this is a notice issue and we would send notice to Biard's and to the Trust. Barry stated that he would be

surprised if there was a challenge. The notices were sent to the individuals by return receipt and we have been able to track that the notice has not been picked up at this time. Walter and Godwin agree that the scheduled hearing should continue. Don stated that he understands there is additional staff work and re-doing the notices would mean having another public hearing, but he feels like that would give us more security. He would prefer getting this done in 2016, Rob agreed. Don stated that he would look to Barry and staff for a recommendation. Barry stated that he feels that Don is right holding a new hearing would eliminate any grounds for a challenge. The worst case is that the bill accumulates and we have another hearing in 2017. If the hearing goes through, there would have to be approval of the order but with changes given to counsel. Barry stated that he would have to change the order quite a bit.

MOTION: THAT STAFF PUBLISHES IN THE NEWSPAPER A NEW PUBLIC HEARING WITH BOTH THE BIARD'S NAME AND THE NAME OF THE TRUST ON THE NOTICE. THAT NEW NOTICES BE SENT TO THE ADDRESS FOR THE BIARD'S AND THE ADDRESS OF THE TRUST.

MOTION: DON SCHWINDT

Barry stated that there does not have to be any action taken, the Board just doesn't hold the hearing. There does need to be a motion to set a new hearing.

MOTION: THAT A PUBLIC HEARING BE HELD ON SEPTEMBER 28, 2016 AT 1:00PM FOR ERNEST L. AND SHELLY J. BIARD AND THE ARNOLD G. HAMPSON TRUST.

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

ADJOURNMENT Dolores Water Conservancy District Water Activity Enterprise Board meeting adjourned at 8:18 PM

Walter Henes, Secretary-Treasurer

Bruce Smart, President

DOLORES WATER CONSERVANCY DISTRICT

MINUTES Regular Meeting September 8, 2016

CALL TO ORDER Bruce Smart, President, called the meeting to order at 8:18 PM

Bruce Smart, President
Simon Martinez, Vice President
Walter Henes, Secretary-Treasurer
Don Schwindt, Director
Robert Vedsted, Director
Godwin Oliver, Director
Mike Preston, General Manager
Ken Curtis, Engineer
Lloyd Johnson, Maintenance Supervisor
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

APPROVAL OF THE MINUTES

MINUTES Rob stated that the under the Financial Statements, the sentence should read "Rob asked about Check #10815" instead of "and also Check #10815".

MOTION: TO APPROVE THE MINUTES FOR THE AUGUST 11, 2016 REGULAR MEETING AS CORRECTED AND TO APPROVE THE AUGUST 11, 2016 EXECUTIVE SESSION MINUTES AS PRESENTED.

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

FINANCIAL STATEMENTS

Rob asked about Check #10827 to Montezuma County, charged to Miscellaneous Expense. Mike explained that this is form repayment of the MOU with Montezuma County for the mill levy error in 2015.

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

ADMIN: AP/CHECK #10816-10828

\$353,537.67

**MOTION: ROBERT VEDSTED
SECOND: SIMON MARTINEZ
MOTION CARRIED UNANIMOUSLY**

AGENCY REPORTS

BOR Report

Vern stated that **1)** the SCADA migration contract to purchase SCADA equipment will start back up this month. This should allow for equipment to be purchased this winter. **2)** MOA contracts are going smoothly.

Division of Water Resources Report

Doug did not have a report but thanked BOR for their help in getting the McPhee elevation data linked to the DWR website.

T/H Committee Report

Rob Vedsted reported that the Committee met on August 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. has been checking it weekly. The Committee has budgeted \$50K for the repair in 2017. Rob W. is going to talk to Larry Darling, with Weeminuche regarding the repair. **3)** The Committee has been working on the 2017 Budget. **4)** Darrell Little, Ron Luna and Pricilla Luna were on site for a cathodic protection review. The rectifiers need to be replaced and the anode beds along the Penstock do not appear to be working. DWCD staff will receive training which will allow for in-house inspections on the cathodic protection.

Next T/H Meeting – The Committee will meet at the DWCD, Cortez Office September 28, 2016, at 2:00 p.m.

MVIC Report

Brandon reported that **1)** Groundhog was shut off on August 6, 2016. **2)** MVIC is planning for work on their system.

GENERAL MANAGERS REPORT/DECISION ITEMS

Aquatic Nuisance Species (ANS) Mussel Inspection Program – An agreement among DWCD, Reclamation, Forest Service and Colorado Parks and Wildlife (CPW) to equally share annual inspection costs is being developed. Implementation priorities will be coordinated based on a Management Plan that is also being drafted. The 4 parties will have their first annual meeting on September 22 at House Creek. The Agenda includes signing the Agreement and setting implementation priorities for 2017. The goal is 100% inspections of trailered boats when the gates are open. Swinging gates closed when inspectors are not present will require some level of NEPA. The four parties will work together to inform and educate flat water boaters as to why these measures are critical.

One fiscal problem that needs to be solved is funding for CPW participation. The severance tax revenues that have funded that State inspection program to date were taken away in a State Supreme Court decision, and proposals will be in front of the Legislature to find another funding source. Efforts are also being made to shore up Federal participation around the State. One such effort is to amend the Water Resources Development Act (WRDA) which would authorize the Corps of Engineers to fund mussel inspections at Corps reservoirs on the front range such as Chatfield and Cherry Creek Reservoirs. A DWCD letter of support for the WRDA amendment was mailed to the Board. Mike stated that education will continue in the media and the Forest Service will coordinate a communication plan for outreach as to why this matters. Reclamation has recently put money into inspections at Navajo Reservoir and Elephant Butte in New Mexico. Mike stated that he was invited into the Federal Affairs Committee last year and there was an expert intern on Senator Bennet's staff from the Lake Tahoe area who was able to provide good information to congressional staff. Mike referred to a press release in the packet where Senator Bennet is working on amending the Water Resources Development Act (WRDA) to get the Corp of Engineers involved and possibly get federal money contributed to the highly used reservoirs on the Platte and Arkansas Rivers. Part of the reason for the press release is to provide encouragement for the agencies to provide funding. Mike has received a lot of positive feedback noting that people are realizing that this is a long term commitment.

Wild and Scenic Suitability Segments, Uncompaghre BLM Resource Management Plan (RMP) – The Uncompaghre BLM DRAFT RMP is out for comment with comments due early November. A map and table were in the packet depicting the segments proposed for WSR Suitability accompanied by Table 1 summarizing segments in the Dolores Watershed. All of these proposed Suitability segments have existing or pending Instream Flows. They all list fish as ORVs (the 3 native fish species), and all the segments on the Dolores list boating as an ORV. Mike stated that we are focused primarily on the segment from McPhee to Bedrock on the, Tres Rios. The Dolores River travels through three more BLM field offices. We have had suitability on the Tres Rios section since the 1970's and we contested the added native fish ORV's in the 2013 Tres Rios Plan. The Grand Junction BLM office has already adopted

their RMP, what the Board is looking at is the Uncompaghre BLM Draft RMP. There are substantial WSR segments that were added to the plan on the Dolores River. On the Dolores below the San Miguel confluence the suckers stand a better chance because they need higher flow. The roundtail chub seems to be fairly stable above the San Miguel confluence, because they like the pools. The sections added are the Slickrock Canyon section for suitability, the Paradox area is left out due to private property but then there is an added section which picks up the Uncompaghre portion of the Dolores River. Adding Suitability where a large instream flow is pending raises ISF Stipulation 5 and the stipulated protections from the ISF reaching upstream into and above McPhee.

Suzanne Sellers of the Interstate and Federal Section, Linda Bassi of the Instream Flow Program and April Montgomery Board Member for CWCB are working on a draft comment for the CWCB Board that will go to James Eklund and John McClow to finalize for review at the CWCB Board meeting on September 20-21. Mike was contacted to see if DWCD had comments on the proposed Suitability. Mike prepared a draft comment on the RMP opposing suitability, the reasons for opposing and the constructive efforts the DWCD is involved in that will accomplish far more than a Suitability determination which could actually hamper taking care of the native fish and cloud the flexible use of DWCD water rights for fish and drought mitigation. The draft letter was reviewed by the legal team and it was agreed that sharing the draft comment with the CWCB team is the best way to insert DWCD's interests and see how far the State is willing to go in protecting these interests.

Getting CWCB to overtly oppose these suitability designations is uphill, given the fact that the proposed Suitability segments came out of community meetings conducted by a RAC (Resource Advisory Council) Subcommittee, giving the designations a collaborative stamp. If the CWCB Board is unwilling to oppose Suitability designations, DWCD's next line of defense is to gain any protections possible that Suitability will not reach up the Dolores to McPhee and above. Mike stated that reference is made to Stipulation 5 in our agreement with CWCB signed by the Mike and James Eklund. "5. It is the Board's (CWCB's) intent that this ISF water right is adequate to meet all requirements as a streamflow guideline in federal administrative or regulatory permitting contexts." We are about to learn what Stipulation 5 means. We have argued that we should be relieved from the other pressures such as bypass flow standards, ACEC's etc. Mike is trying to press what Stipulation 5 means and how it will protect us. We don't want the suitability to reach up river. Mike stated that this deals with our water right and we need to be able to protect our project allocations. Mike stated that the ORV's should in no way affect the operations of McPhee. Mike King received a letter from the State Director of the BLM stating that BLM can't override Bureau of Reclamation contracts, but this letter was not made part of the planning record. DWCD will attempt to solidify the assertion that BLM can't override Reclamation. The protective intent of the other ISF stipulations can be applicable to Suitability with the strong support of the State.

Barry asked if Mike received a draft comment from Linda Bassi. Mike stated that he wrote the DWCD draft comment letter to let them know where DWCD is coming from. Mike stated that if the CWCB staff tries to water down the draft comment then Mike can refer to our letter that discusses our position. Mike stated that it would be worth it to read through the letter. Mike stated that there are key arguments. We are in our drought planning and if they continue to lean on our water rights it could potentially hinder our operations. The other issue is the native fish that could be potentially listed under the Endangered Species Act, in working with the Monitoring and Recommendation Team, DWCD has done its part to see how native species are doing above the San Miguel. The entire river needs to be looked into as far as finding a place for each of the species that meet their needs. Barry stated that section 5 in the Stipulations is hitting at this exact issue. Barry stated that what Mike is proposing is important, this is an agreement with DWCD and the State and what the State has agreed to is that the ISF is adequate to support what it needs to without additional stipulations. Barry stated that the State should side with the District and advocate to the BLM that suitability is not necessary. Barry has had discussions with Susan Schneider, she has agreed to add language to the decree that recognizes the DWCD's Stipulation with CWCB which will become part of the decree.

Proposed NCA Legislation – The NCA drafting team is continuing to meet and make progress. David Robbins and the Drafting Team will present and discuss proposed legislation to the Legislative Subcommittee at 1:30 PM on October 4. There will be presentation and discussion of the proposal to the payer group at 11:00 AM on October 4. Forthcoming details will be circulated to the Board. Proposed legislation will be taken up by DWCD at the October 13 Board meeting.

MVIC-DWCD Board to Board meeting on September 20, DWCD, 7:00PM - Topics will include the use of Class B stock to help MVIC when call water spills, and to help DWCD during shortage periods. There will also be discussion of creating a drought reserve in Groundhog Reservoir. Ken stated that there may be other water accounting topics addressed.

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:

- August 18: Call with Suzanne Sellers and Linda Bassi – To structure DWCD engagement the Wild and Scenic Suitability comment process for new Dolores watershed suitability proposals in the Uncompaghre BLM Field Office RMP - GM
- August 22: Video Conference on CPW Options to Replace Mussel Inspection Funding by other Revenue Sources – CPW District Office, Durango – GM, Ken
- August 24: Towaoc-Highline Committee Meeting
- August 24-25: Colorado Water Congress, Steamboat Springs, Ken, GM (primarily to engage several side meetings with legislators and staff on mussel inspections and other DWCD Federal and State issues)
- August 29: Phone meeting with Kara Chadwick, Derek Padilla, Mark Lambert and Anthony Madrid to solidify Forest Service participation in McPhee Mussel Inspection Program – GM
- August 29: Installation of New Cloud Seeding Unit – Ken, Eric Tanner, Eric Sprague, Vern, Jim Fisher, Western Weather Consultants: Larry, Mike & Eric Hjermstad, Joe Busto CWCB, and Idaho Power Engineers, Brandal Glenn and Al Pitman
- August 30: Jim Mimiaga Interview on Cloud Seeding Installation, Ponderosa – Ken, GM, Joe Busto, Brandal Glenn, and Al Pitman
- August 30: Meeting with Eric Kuhn and Consultant John Carron of Hydros to Review Phase 1 of Multi-Roundtable Risk Assessment of shortages, power pool elevations, and a Lower Basin call in the Colorado River Basin related to a range of climate and water demand scenarios, Durango, SWCD - GM
- August 31: Debrief, Daryl Little, Reclamation Expert on Cathodic Protection – Ken, Lloyd, Rob, Vern, GM
- September 6: Drought Decision Support for Climate Adaptation in the Upper Colorado River Basin being conducted by USGS – GM Interviewed by Amanda Cravens USGS Service Center Fort Collins
- September 7: DWaRF (Dolores Watershed and Resilient Forests) Collaborative

Upcoming Meetings and Activities:

- September 12: Drought Planning Work Session, DWCD, 10:00AM
- September 12: CWCB Presentation to Montezuma County Commission on the Instream Flow Program and the Rio Lado ISF
- September 13: MVIC Board Meeting, 2:00PM
- September 15: Joint SWCD, Colorado River District Board Meeting
- September 16: Colorado River District Annual Seminar, Two Rivers Convention Center, Grand Junction, 9:00AM-3:30PM
- September 20: MVIC-DWCD Board to Board Meeting – 7:00PM, DWCD
- September 22: DWCD, USBR, CPW, SJNF meeting to sign Cost Share Agreement and set Inspection Plan Implementation Priorities for 2017
- September 28: Towaoc-Highline Committee, 2:00PM, DWCD
- October 4: David Robbins and Drafting Team Meet with Payer Group at 11:00 AM and Legislative Subcommittee at 1:30PM to Present and Discuss NCA Legislative Proposal
- October 11: MVIC Board Meeting, 2:00PM
- October 12: Southwest Basin Roundtable, Durango Public Library, 3:00PM, 2:30 Social Time

LEGAL REPORT

New Groundhog Water Right, 12 CW 20 – MVIC & CDWR discussion are continuing and it is thought there would be a new decree to circulate. A status conference is set for October 28, 2016.

POD – The application was filed the end of May. Response time for the statements of opposition has expired. The response to the notice that was published in the newspaper does not expire until October 3. MBSS does not foresee anyone responding to that notice. If no one does respond Barry can see that DWCD can work with MVIC and DWR quickly to get a new decree in this case.

505 CFS Due Diligence – MBSS is working with MVIC to get the final language competed. Hopefully this can be done quickly and a decree can be given to the court.

Dolores Instream Flow from San Miguel Confluence to Gateway – Barry stated that he mentioned previously that the BLM has agreed to add language to the decree that recognizes the DWCD's Stipulation with CWCB which will become part of the decree. The issue that will prolong this has to do with the River District and SWCD for language to add a "carve out" for future use. Barry does not know how long it will take to work through that detail.

Joint DWCD UMUT EDS Hydropower Unit–Barry has tried to contact the attorney for UMUT regarding the EDS project. Barry has not received a response.

CPO Lease with DWR – MBSS is working with state officials on the lease of the back portion of the Cortez Office building to DWR. This should be completed in the near future.

87.3 Conditional Water Right – MVIC has provided MBSS with a proposed decree, and letter of support and a report from Applegate. MBSS will review in with DWCD staff in the LEMing and have Steve Harris look at the Applegate Engineering report. Barry would like to bring this back and begin discussions in October. There are several issues to work through before discussing with MVIC.

NEXT DWCD BOARD MEETING – Thursday, October 13, 2016 - 7:00 P.M.

ADJOURNMENT Meeting adjourned at 9:21 P.M.

Walter Henes, Secretary-Treasurer

Bruce Smart, President