

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

## DOLORES WATER CONSERVANCY DISTRICT WATER ACTIVITY ENTERPRISE

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### MINUTES Regular Meeting September 14, 2017

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**CALL TO ORDER** Bruce Smart, President, called the meeting to order at 7:04 PM

**ROLL CALL** Bruce Smart, President  
Godwin Oliver, Director  
David Frederick, Director  
Wes Wilson, Director  
Glen Fish, Director  
Mike Preston, General Manager  
Ken Curtis, Engineer  
Lloyd Johnson, Maintenance Supervisor  
Lisa Jordan, Office Administrator  
Robert Stump, Bureau of Reclamation  
Marty Robbins, Colorado Division of Water Resources  
Doug Pickering, Colorado Division of Water Resources  
Barry Spear, Attorney

#### INTRODUCTION OF GUESTS

Brandon Johnson, MVIC General Manager; John Justus, MVIC Attorney; Greg Black, MVIC Director; Vern Harrell

#### MINUTES

#### APPROVAL OF THE MINUTES

**MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE  
AUGUST 10, 2017 ENTERPRISE MEETING.**

**MOTION: GLEN FISH  
SECOND: WES WILSON  
MOTION CARRIED. GODWIN OLIVER ABSTAINED AS HE WAS NOT AT  
THE AUGUST MEETING.**

#### FINANCIAL STATEMENTS

**MOTION: TO APPROVE THE JULY '17 FINANCIAL STATEMENT AND APPROVE  
THE STATEMENT OF PAYABLES AS PRESENTED.**

**O&M: AP/CHECK #35215-35303 & PR/CHECK #122121-122174  
\$296,964.61**

**MOTION: GLEN FISH  
SECOND: GODWIN OLIVER  
MOTION CARRIED UNANIMOUSLY**

**O&M REPORT** – Lloyd reported the following:

**Pump Plants** – Pump plants have gone down numerous times this past month, all due to power interruptions or lightening. Pump Plants are scheduled to be shut down for this season on October 10th.

**Laterals** – A broken water line on the 300 lateral in Dove Creek was repaired. Three boxes were shutoff for two days during repair. This was a PVC pipe not an AC pipe, the repair went quickly.

**Power Plants** – The Bureau of Reclamation Power Office completed the review and inspection of McPhee and Towaoc Power Plants. Overall the review was good. The evaluators stated that the operations and maintenance of both plants was very good. A full report will be sent in the next few months.

**South Canal** – Road base gravel is being added to two miles of canal road downstream of Road 13. This should be completed next week.

**Dove Creek Canal** – Fill dirt is being stockpiled near Fairview in preparation for canal profiling and tire mat placements. Approx. 1200 ft. of mats are scheduled for placement this off season.

**McPhee Dam/Great Cut Dike** – The Bureau of Reclamation performed an annual review of the Dam and Dike earlier this week.

## **ENGINEERING AND WATER MANAGEMENT REPORT**

**Water Accounting Information** – **1)** Ken presented Greg Smith's, Senior Hydrologist with the River Forecast Center, power point slides from the recent boater meeting. Ken explained the individual slides in relation to how the snow came down during the spring runoff. **2)** Ken presented the 2017 McPhee Controlled Release Summary. Ken explained that staff began to set up March 1<sup>st</sup> planning. Ken stated that with the high flows in 2017 there was a list of goals set by the M&R Team to achieve throughout the spill. **3)** Ken presented a summary of Reclamation's downstream ramping criteria, explaining that the final ramp down is a stair-step that effectively works out to 100 cfs per day. **4)** Ken presented the June daily average gage diversion numbers and an hourly graph of the reservoir elevation & diversions during the final bump up during the last week of downstream releases. Ken stated that staff will analyze the individual years and focus on the ramp down criteria and will make recommendations to Reclamation. **5)** Ken stated that there has been a question regarding MVIC's call water. Ken stated that he has been pulling together information from the DPR and the Contracts for reference. Ken stated that the THC Contract is where a lot of the call water criteria came from. Mike stated that he thinks engineers were looking at MVIC's usage pattern when this Contract was drafted. Ken stated that the basic argument is that spill ramp down is part of the "spill" or managed release, therefore call water is spilled first and DWCD is in substantial compliance with the contracts. Ken stated that is the current interpretation based on the information and the settlement agreement for all of its parties. Ken noted that MVIC will receive 2,554 AF of project water versus 3,642 AF of questioned call water, the difference is 1,088 AF. Ken stated that at this point the issue is a non-technical discussion as a decision of the Board. Greg Black stated that in his opinion, after the reservoir reaches 6,924' MVIC gets to store call water, but when the reservoir is full MVIC would be better off to leave the reservoir with a hole and lease water to the McElmo users. Ken stated that at the end of June MVIC had diverted 52,192 AF, which counts against their 72,000 AF diversion limit for April through June. If there had been space MVIC would have been allowed to store the difference, however, this year the hydrology did not work out like that. Bruce stated that in this case the ramp down criteria is part of the spill. Greg stated that in the perfect world MVIC would be allowed to store water as soon as the reservoir hits 6,924'. Bruce stated that he would argue that this water was still part of the release and part of the operating criteria set by the Bureau of Reclamation. Greg argued that this was MVIC's water. Ken stated that it is actually project water from McPhee storage. Ken recommends that there be no decisions on the point at this meeting. Greg stated that he is asking to have the water recalculated and granted back to MVIC. Ken stated that this is for discussion among the Boards. Barry stated that his suggestion is that the MVIC Board put together ideas of how the operating criteria should be changed. Greg stated that he wants the accounting to change. Barry stated that MVIC needs to give DWCD specifics of what they would like to see. **6)** Ken reviewed August Inflow/Outflow showing the reservoir elevation ended at 6,910.48' the recorded Dolores inflow was largely influenced by Groundhog releases. UF&RE diversions stayed steady for most of month until a dip near the end while they were haying towards the end of the month. MVIC showed lower diversions in August, below 300 CFS, due to haying but flows began to pick back up at the end of the month. Overall by the end of the month all irrigator diversions were more consistent. Ken stated that the Class B water is accounted for in the August Inflow/Outflow and mentioned that this will be a decision item later. **7)** September Inflow/Outflow reservoir elevation may end up around 6,900' which is common after a spill year. UF&RE is still irrigating, back up to 100 CFS. This may drop later as the corn is off but they still irrigate some new hay. MVIC has been over 300 CFS consistently since end of August and so far this month. Dove Creek Canal has been consistent near 250 CFS since end of August, but we expect diversions to trend down by the end of September.

**Class B** – Ken stated that he did not bring projections this month although he did note that MVIC should be utilizing all of their project water this season. If DWCD doesn't use the Class B water and returns it to MVIC this season this will extend MVIC's delivery period approximately another 9 days. Ken's recommendation is for DWCD to not divert the Class B water this season. Ken stated that if DWCD does not use the Class B water it will allow a little more call water & project water. Between project water and Class B this will allow MVIC an additional 20 days of water delivery. Ken noted that DWCD did not use Class B in 2016.

**MOTION: TO RETURN 3,000 AF OF CLASS B WATER TO MVIC FOR UTILIZATION ON THE MVIC SYSTEM IN 2017.**

**MOTION: DAVID FREDERICK  
SECOND: GODWIN OLIVER  
MOTION CARRIED UNANIMOUSLY.**

**UF&RE 2017 Lease** – In May the Board approved leasing up to 4,000 AF to UF&R. Current projections show that UF&RE could exceed the 4,000 AF lease while FSA use is well below their full allocation even with the increased 32 inch FSA cap.

Staff Recommendation: Approve a 1,000 AF increase to the UF&R lease to a maximum of 5,000 AF at the 2017 price of \$32.08/AF.

**Discussion:** Wes asked if the Utes weren't allowed the additional water at the August meeting. Ken stated that this item was only a discussion item in August as the lease approved up to 4,000 AF back in May. Now the Board is being asked for a formal decision to allow more use above the original leased 4,000 AF. Ken stated that he estimates FSA usage at 52,000-56,000, which leaves approximately 2,000 AF of project water available. Ken stated that in this instance he is not "coloring the water" as specifically as in the past. David asked when the pumps cavitate. Ken stated that the official elevation to stop irrigating is 6,855', while the pumps cavitate a few feet above near 6857' and the reservoir will not get close to that elevation this season. Ken noted that an average winter snowpack would result in a spill in 2018. David asked if the reservoir has ever been at 6,900' going into October. Ken stated that this is common in a spill year, and in 2016 we were slightly higher in October. The way it works out, if you end the spill sometime in June and consider all of the summer diversions from storage balanced against summer inflows, McPhee often ends up with approximately a 100K AF hole because of hot weather during the summer months. David suggested approving up to 2,000 AF to UF&RE to lease. Ken stated that historically water usage drops in mid-September. Godwin agreed that in the North system he thinks that usage will begin ramping down around equinox, Sept 21.

**MOTION: TO APPROVE UP TO 2,000 AF TO LEASE TO UF&RE IF AVAILABLE FROM DWCD AND NEEDED BY UF&RE**

**MOTION: WES WILSON  
SECOND: DAVID FREDERICK  
MOTION CARRIED**

**Set Hearing Delinquent Accounts** – Ken stated that there are four individuals currently delinquent beyond 12 months and per the FSA Payment Policy are the subject of an assessment hearing. Ken stated that there is a notification process and letters will be sent to the four individuals as well as a legal notice in the paper. Ken asked the Board for a motion for setting a hearing.

**MOTION: SET PROJECT IRRIGATION WATER ASSESSMENT HEARING FOR SEPTEMBER 27, 2017 AT 1:00 PM PER STAFF RECOMMENDATION.**

**MOTION: GODWIN OLIVER  
SECOND: DAVID FREDERICK  
MOTION CARRIED UNANIMOUSLY**

**ANS Update** – Ken stated that Green Mountain Reservoir has been reported as positive tests for mussel veligers in that reservoir. Ken stated that this happened previously at other locations around Colorado in 2008, but the adult mussels did not take hold at that time, so now we wait and see if the adults will prosper in Green Mountain. Ken stated that DWCD will stay active regarding mussels working with partners around the state for secure state funding for continued CPW inspections. Boater use of McPhee increased this season we believe due to the closure of other local reservoirs in the area. People were not happy regarding the closure at Sage Hen although they have honored the closure and that is appreciated.

**Draft 2018 Budget** – Ken presented a review of discretionary items for 2018 Budget. Ken stated that with regard to Capital Items he has listed several items that will be part of a budget discussion. These items include: **1) Pumping Plants** – The next major project to fix speed

pump re-builds, should start in October 2018. More detail will be included in the budget and budget workshop. **2) SCADA Upgrade** – costs for this project are mostly embedded in the labor costs. **3) Vehicles** – the purchase of 3 vehicles is slated for 2018's budget. **4) Equipment** – Most of the equipment budget will be directed at reserve replacement used to purchase a long stick track hoe. Also, a purchase of a UTV (sided by side) for off road access on certain laterals, other system pipes and dam power/fiber access via WAPA road to the dam. **5) Buildings** – The Cortez office has a backlog of approximately \$63K for exterior work, painting and carpet. Additionally, the parking lot needs maintenance that could be equally as expensive. Other Capital Items include several canal liner improvements or similar DWCD installed projects and ANS coordination & funding. Other Discretionary Items include the normal gages, cloud seeding and dues and subscriptions. The employee budget will be addressed in the first draft of the budget to be delivered in October. We have been following MSEC wage projections the last few years that have run approximately 3% in recent years except when DWCD reacted to the 2013 drought by eliminating most wage increases the following year.

Ken explained that the water sales should meet or exceed the budget and there will be additional revenue from excess water sales. The accounts receivable hasn't been noticeably different with the 30-day shut off extension we will have to see if people carry over more of a balance into 2018. Ken stated that Lloyd included a spreadsheet for equipment purchases.

Lloyd stated that an excavator will be purchased for \$220K the plan is to make the purchase this season and pay back the Replacement Reserve in 2018. Lloyd will also budget for a UTV which can be used to drive the back way to the dam also to get into a field without tearing up right of ways, roads and fields. Lloyd stated that a long stick track hoe (50') would be used to clean sediment from the canals. Lloyd stated that staff piles the sediment along the side of the canal which is in turn used to re-profile the canal with the placement of tire mats. Lloyd stated that he will also budget for one field vehicle with a bed and a crane and for two used ½ ton pickups. Ken noted that all of the items mentioned are up for discussion by the Board.

Ken stated that there were canal liners purchased in the past for areas that had significant seepage. Ken stated that canal lining projects have been on hold while crews have been working on pumping plant overhauls. Ken stated that there is one outstanding seep. This area is approximately 1,500 feet long and the repair will cost roughly \$75K. Ken stated that there is another area where an individual is having some seepage problems but the problem in that area is not obvious. Ken stated that he will have to investigate this problem more thoroughly and may have to place piezometers. Ken presented an overhead view of the area in question. Ken stated that there is a drain at the end of South Canal and a draw which remains wet. Ken stated that this is a natural drainage although some of it could be from seepage and/or irrigation. Ken stated that Greg Black and Brian Wilson have both mentioned this area and questioned what to do to solve the issue. Ken stated that he doesn't believe that the funding will be there this year but there needs to be a plan in place to take care of this when the funding is available. David asked if DWCD has tried to place bentonite. Ken stated that bentonite has been placed however it does not seem to last and the cost is almost as much as a liner. David stated that there is a new material called Envi-road that is a spray on liner that won't let the water through along with being environmentally friendly. Ken will look into this product. Greg Black stated that in the past DWCD partnered with one landowner and placed a french drain. He stated that the French drain was not in a sleeve and has since been crushed. Greg would like to have DWCD put the drain in a sleeve. Greg stated that he has since sold this some property, however he noted that every fall when DWCD drained the lateral this field would flood. Ken stated that there could be help from the landowners and the Board will have to decide how much they want to spend. Depending on the cost we may take more time to decide before an expensive investment to solve the problem versus an inexpensive patch repair.

**Investment Update** – Ken presented an updated investment spreadsheet. Stating that an investment was purchase this week with the funds that were being held from re-investment while waiting to see if there would be a cash flow need for this money. Ken also noted that another investment will mature in October, 2017. Ken would like the Board to consider not re-investing these funds until we know what the spring cash flow looks like.

**Other** Official WAPA letter was included in the Board packet. WAPA's contractor plans to mobilize Monday October 16.

## **ADJOURNMENT**

Dolores Water Conservancy District Water Activity Enterprise Board meeting adjourned at 9:54 PM

# DOLORES WATER CONSERVANCY DISTRICT

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## MINUTES Regular Meeting September 14, 2017

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**CALL TO ORDER** Bruce Smart, President, called the meeting to order at 9:54 PM

Bruce Smart, President  
Godwin Oliver, Director  
David Frederick, Director  
Wes Wilson, Director  
Glen Fish, Director  
Mike Preston, General Manager  
Ken Curtis, Engineer  
Lloyd Johnson, Maintenance Supervisor  
Lisa Jordan, Office Administrator  
Robert Stump, Bureau of Reclamation  
Doug Pickering, Colorado Division of Water Resources  
Barry Spear, Attorney

### INTRODUCTION OF GUESTS

Brandon Johnson, MVIC General Manager; John Justus, MVIC Attorney; Greg Black, MVIC Director;

### APPROVAL OF THE MINUTES

#### MINUTES

**MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE AUGUST 10, 2017 MEETING.**

**MOTION: GLEN FISH  
SECOND: DAVID FREDERICK  
MOTION CARRIED. GODWIN OLIVER ABSTAINED AS HE WAS NOT AT THE AUGUST MEETING.**

### FINANCIAL STATEMENTS

David asked how long it had been since the director's stipend had been increased. Bruce stated that it has been the same for a very long time. David stated that he is grateful for the stipend, however he thinks they should be paid more than \$100.

**MOTION: TO APPROVE THE JULY '17 FINANCIAL STATEMENTS AND APPROVE THE STATEMENT OF PAYABLES AS PRESENTED.**

**ADMIN: AP/CHECK #11011-11023**

**\$4,365.74**

**MOTION: DAVID FREDERICK  
SECOND: GODWIN OLIVER  
MOTION CARRIED UNANIMOUSLY**

### AGENCY REPORTS

#### BOR Report

Robert stated that **1)** he didn't have significant updates. There is continued work on contracts for the Pump Plants and SCADA migration.

## **Division of Water Resources Report**

DWR did not have a report.

## **T/H Committee Report**

Godwin reported that the THC Committee had a meeting on August 23, 2017. The Committee discussed **1)** The leak at the siphon 7/Ute fairgrounds remains monitored and unchanged. The Committee is in the process of deciding how to seal the crack long term. **2)** The Committee paid DWCD & MVIC. **3)** The Committee discussed that Draft Budget. **4)** Robert Stump was named the BOR representative to the THC Committee.

**Next T/H Meeting** – The Committee will meet at the DWCD, Cortez Office September 27, 2017 at 2:00 p.m. at the Cortez Office.

## **MVIC Report**

Brandon reported that **1)** MVIC is working at Groundhog but should be finished before the water season is over. **2)** MVIC staff is performing maintenance on the Pine and THC.

## **GENERAL MANAGERS REPORT/DECISION ITEMS**

**Response to Conservation Colorado Report Card** – An overview was mailed to the Board of the “Report Card”, and their rationale for grading the Dolores a D-. Also mailed was the newspaper sequence covering the original headline article in the Cortez Journal announcing the grade on the Dolores. On the reverse side was an Editorial that ran originally in the Durango Herald and in the Cortez Journal on July 25. Fortunately, Mike had prepared a response letter to the report card that the Journal ran along with the Editorial on July 25 which prompted a response from Conservation Colorado which appeared in the Cortez Journal on July 28.

Mike stated that as Manager of DWCD, he could not let the D- from Conservation Colorado go unchallenged. We have gotten a wide range of positive news coverage for the well-planned and collaborative approach taken to the 2017 managed release and the intense ecological and recreational monitoring that was organized by the Lower Dolores Monitoring and Recommendation Team. We could not let these widely recognized accomplishments be clouded by a bogus “report card”, without pushing back.

In the era of web news all of the attached articles and letters to the editor floated around the state. The feedback that the Mike received from a wide range of interests has been supportive of the approach taken by DWCD. A letter is attached from Sandy Young, who is an outfitter and tireless advocate for public land grazing and multiple use, is typical of the feedback that Mike received. Sandy felt strongly enough that she wrote and mailed an old-fashioned letter.

Mike stands ready to defend the Dolores Project in the face of unfair and incorrect allegations, that appear in the media, which happens fairly frequently. The reason for vetting and discussing the “Report Card” episode is that it goes right to the heart of the importance of the reputation on DWCD and the Dolores Project as a well-managed project leading a well-structured collaborative effort to take care of the lower Dolores River, in general, and the 3 sensitive native fish species, in particular.

The reputation of DWCD and the collaborative efforts we have lead on the lower Dolores River is a very critical element in our long-term efforts to protect Dolores Project water supplies. The biggest threat to project water supplies would be to have one or more of the three native fish listed under the Endangered Species Act.

Once the Fish and Wildlife Service intervenes in a river, based on an ESA listing, water users lose control of the water protections we rely on. Should any of these species be listed, we want to be able to make a compelling case that DWCD, working with the Monitoring and Recommendation Team is doing a far better job of collaboratively managing for the native fish, thus providing a “reasonable and prudent alternative” to avoid direct Fish and Wildlife Service intervention.

Protecting and enhancing the reputation of DWCD and the M&R Team as responsible stewards of the Lower Dolores River is a vital legacy that DWCD Board and Management can secure to address these issues in the near term, and for the long-term well-being of our successors.

**Summer Water Congress Meeting** – Several DWCD priorities were advanced at Summer Water Congress in Steamboat Springs, August 22-24:

ANS Inspection Program Workshop – Mike moderated a workshop on sustainable funding for the ANS Inspection Program. Ken represented DWCD in this discussion. In addition to CPW and reservoir operators, legislators on the Water Resources Review Committee attended. Outcomes included: CPW presented State funding options for discussion and input. Water Congress Governmental Affairs Coordinator Emily Brumit will form a work group of reservoir owners/operators around the State to advise on funding options and take the discussion into the Water Congress State Affairs Committee. CPW leaders and DNR Legislative Liaison Doug Vilsack will work with Emily on supporting work group discussions. Congressional Staff were also present at the meeting and will help advance federal agency participation. There will also be an effort to educate the broad public in Colorado about the benefits of keeping Colorado ANS free. The Agenda for this workshop was mailed to the Board. Ken Curtis followed up with testimony before the Water Resources Review Committee.

Authorities Clarification – In addition to the endangered species act the other thing that could cause a problem would be for Wild and Scenic Suitability to impact Dolores Project water rights or allocations. Mike is working to get “authorities clarification” written into the RMP’s to protect project water in the place of Wild and Scenic and other BLM designations. Mike met with Carlee Brown who works on Federal issues for CWCB to initiate communication leading to a meeting of Reclamation Regional Director, BLM State Director, and State Officials to try and get authorities clarification into the Uncompaghre and Tres Rios BLM Resource Management Plans. Carlee will brief Becky Mitchell, the newly appointed Executive Director of CWCB, to advance this effort. A memo on this effort prepared for Christine Arbogast to line up support from Congressional staff was mailed. The memo lays out the Authorities Clarification strategy in brief. Mike wants high level BOR, and State officials involved in the process.

Forest Health – The Watershed into McPhee Reservoir poses hazardous risks that could cost millions to clean up in the event of a large wildfire. DWCD participates in DWaRF (Dolores Watershed and Resilient Forests) Collaborative. The hope is to perform forest treatment in areas of high risk. Mike was appointed by the State Legislature to serve on a Forest Health Advisory Council which is working on Forest Health issues statewide. Mike and Travis Smith of San Luis Valley Water Conservancy District testified before the Water Resources Review Committee on recommendations to support forest health efforts around the State, which is the mission of the Forest Health Advisory Council. Mike and Travis Smith were invited back October 5 for further testimony.

**Draft Drought Contingency Plan** – The DWCD and MVIC Board received all written comments on the drought plan in August. The staff team has been working on proposed changes in the drought plan to address comments that fall into two major areas: 1) Drought Vulnerability impacts of proposed efficiency projects on McElmo Creek return flows and 2) Drought Vulnerability impacts on the fishery below McPhee. The Boards will determine how the plan is modified to incorporate these comments. The focus of the staff team has been to organize information and options for Board consideration.

Mike stated that the Wilson Ditch area is within the District boundaries. The McElmo users are concerned about pipeline efficiencies and would like to be considered in this plan as vulnerable if efficiencies considered in this plan are implemented. Mike stated that these are a set of options and would have to be evaluated for projects utilizing federal money. Mike stated that the biggest ecological benefits are the managed releases. Mike stated that there has been extensive red-lining the Plan to give the Board options for addressing comments. Mike stated that staff has brought the document as far along as they can bring it and now need Board input. Mike stated that there could be a Board to Board discussion in October. Brandon stated that MVIC is working toward a work session to prepare the MVIC Board for a Board to Board meeting. Steve Harris’ recommendation is that the DWCD Board meet at 5:00 PM in October to discuss the Drought Plan to prepare for a discussion.

Ken stated that the State commented on hard drought triggers, which are not practical given the multiple interest that have a stake in McPhee operations. Ken noted that BOR wanted DWCD to have a Drought Contingency Plan, DWCD is in a unique setup with regard to MVIC having a senior water right where they utilize their water how they want. Ken stated that this is a planning document, not a decision document. When the drought comes the authorities will retain their individuality. There is not unilateral control over all the water.

The Board was asked if they would like to have a special meeting to discuss the Drought Plan prior to the next Board meeting. The Board decided to meet at 5:00 PM on October 12. Dinner will be provided.

The process going forward is as follows:

September Board Meetings - The Boards will begin to consider how comments should be addressed both within and outside of the Plan. Redlines prepared by the work team in response to stakeholder comments were mailed to the Board. Appendices were distributed at the Board meeting.

October Board Meetings – Plan revisions based on public and September Board input will be taken up with each Board. The Boards have agreed to work sessions of one to two hours at an MVIC special meeting and before the October DWCD meeting.

Board to Board Discussion – Board to Board discussion of the Drought Plan is set for October 17, 7:00PM DWCD.

November Board Meetings – Discuss any additional changes in the Drought Plan document before it is submitted to Reclamation for review.

January-February – Boards review comments provided by Reclamation

March 31 – Final Plan due to Reclamation

**Schedule Board to Board Meeting for October 17, 7:00PM, DWCD** – There is a Board to Board already scheduled for September 19. A topic will need to be set for September since the October meeting is going to focus on the Drought Plan.

**Authorization to Obtain Party Status for WQCC Regulation 99-303d List Hearing in December** – Party status will give our legal team a chance to review documents that will reveal the focus of the hearing. Once party status is obtained, and hearing documents accessed, the Board can direct any additional level of engagement in the December hearing, after considering the advice of the legal team. Barry stated that the notice for the meeting is 166 pages long and notices all of the stream segments in the state. On the list are Dolores River below the Dam, Hartman Draw, Ritter Draw, Totten and Narraguinnep. The Commission has to provide the pre-hearing statement by September 29. After that time the attorneys will decide if there should be action taken or if the hearing should just be monitored. At this time Barry is asking to be authorized to obtain party status on this issue, explaining that by being a party we will have access to information to determine what level of participation is warranted in the hearing process.

**MOTION: TO AUTHORIZE STAFF TO OBTAIN PARTY STATUS FOR WQCC REGULATION 99-303D LISTING HEARING.**

**MOTION: WES WILSON  
SECOND: DAVID FREDERICK  
MOTION CARRIED UNANIMOUSLY.**

#### **Activities and Meetings since Last Board Meeting:**

August 15: Phone meeting GM, CPW, Water Congress to Plan August 22 ANS Workshop at Water Congress  
August 16: Meeting to Discuss 2017 Managed Release, Boating Focus  
August 17: Meeting of GM with Scott Tipton Field Representative Darlene Marcus to update progress on ANS, Authorities Clarification, Forest Health and the Water Rights Protection Act.  
August 17: Drought Plan Staff Level Meeting  
August 18: DWaRF Subgroup on Timber Industry Viability and Forest Health Work – GM  
August 22-24: Colorado Water Congress Summer Meeting, Steamboat Springs (Outcomes summarized in Item 2 above).  
August 23: Towaoc-Highline Committee  
August 28: Drought Plan Meeting  
September 6: DWaRF Collaborative Meeting, 2:00PM  
September 11: LEMing, Durango  
September 12: MVIC Board Meeting

#### **Upcoming Meetings and Activities:**

September 19: MVIC-DWCD Board to Board Meeting, 7:00PM, DWCD  
September 27: Towaoc-Highline Committee, DWCD, 2:00PM  
October 4: DWaRF, DWCD, 1:30PM  
October 10: MVIC Board Meeting, 2:00PM  
October 11: Southwest Basin Roundtable, Durango Public Library, 3:00PM (2:30 Social Time)  
October 17: MVIC-DWCD Board to Board Meeting, 7:00PM, DWCD



## LEGAL REPORT

**MVIC Issues** – Barry stated that Bruce Smart, Gerald Koppenhafer, John Justus & Adam Reeves will meet to start discussions that have been on hold. The group plans to discuss the pending Groundhog reservoir case, the pending case DWCD has seeking a decree for a conditional water right for the 505 cfs direct flow right, and to discuss the intent of MVIC to change 87.3 cfs conditional direct flow right to a storage right with the idea that it can be stored in McPhee. It is hoped that all of the parties can work together and make sure there are benefits for both sides.

**FS Reserve Water Rights Case** – Barry stated that the settlement discussions centered on the Federal Government using the State's ISF program to achieve its ISF reserve rights. Rio Lado is the stream that has been targeted in the Dolores drainage. Barry stated that the Forest Service promised to provide information by May, which has not been received, regarding the Rio Lado and consumptive water uses they want decreed. Barry stated that it is getting to a time that if they want to present proposed instream flows to the CWCB in January, there will not have been time to review the promised information and DWCD will oppose that filing with the CWCB. Mike stated that Barry has been asking for the information, in writing, regularly. Barry stated that unfortunately if the Forest Service is getting cold feet the Water Rights case from the 1970's will continue on.

**Dolores River ISF** – Barry stated that DWCD reached a settlement with CWCB during the ISF review process. When CWCB filed with the water court to get the ISF decreed, they agreed to attach the settlement to the decree. The case continues because SWCD and Colorado River District are seeking small carve outs for future domestic use. The Colorado River District may lose at the trial court level but will continue to the Supreme Court if necessary. Barry feels that the settlement that was agreed to by DWCD and CWCB protects the District. Mike stated that in the stipulations agreement is a provision which should help take care of the permitting and regulatory needs on the river.

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

**ADJOURNMENT** Meeting adjourned at 11:04 P.M.

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Don Schwindt, Secretary-Treasurer

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Bruce Smart, President