

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 December 14, 2017

---

**CALL TO ORDER** Bruce Smart, President, called the meeting to order at 7:02 PM

**ROLL CALL**  
Bruce Smart, President  
Don Schwindt, Secretary-Treasurer  
Godwin Oliver, Director  
Wes Wilson, Director  
Glen Fish, Director  
Mike Preston, General Manager  
Ken Curtis, Engineer  
Gina Espeland, Accounting Clerk  
Robert Stump, Bureau of Reclamation  
Barry Spear, Attorney  
Doug Pickering, CDWR

#### INTRODUCTION OF GUESTS

Brandon Johnson, MVIC General Manager; Greg Black, Director, MVIC; Diana and Bob Schuster, Jimmy and Dorothy Porter, Bernard and Nancy Karwick, McElmo Users; Brian Wilson, Full Service

#### MINUTES

#### APPROVAL OF THE MINUTES

**MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE NOVEMBER 9, 2017 ENTERPRISE MEETING, NOVEMBER 9, 2017 INCLUSION HEARING AND NOVEMBER 9, 2017 BUDGET HEARING.**

**MOTION: WES WILSON  
SECOND: GODWIN OLIVER  
MOTION CARRIED UNANIMOUSLY**

#### FINANCIAL STATEMENTS

Godwin asked about Check #35570 to Largo Tank for \$25K. Lloyd stated it was for the welding truck bed for the new welding truck purchased earlier.

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

**O&M: AP/CHECK #35471-35591 & PR/CHECK #122281-122355  
\$292,640.16**

**MOTION: GODWIN OLIVER  
SECOND: DON SCHWINDT  
MOTION CARRIED UNANIMOUSLY**

**AUDIENCE** – Bruce addressed the audience. Bernard Karwick stated that the McElmo users have talked to MVIC and they have set up a committee with a moderator. He is not sure if the shareholders support the effort. Naturally the shareholders want to protect their interest. One question asked was if the DWCD Board sees a possible ongoing dialogue with the McElmo users or are they left only working with MVIC. Bruce stated that a discussion could be had, but the DWCD Board has not pursued it because MVIC and McElmo users are the ones to be communicating since MVIC would be the one who would be able to supply water to McElmo. DWCD has Totten water, but could not supply any other water to the McElmo users so DWCD is limited on what we can do. Bruce asked the other Board members for their comments. Don stated it is better to look to the water supply and that Bruce framed it correctly. We are a broader group with some tax payer money and could be helpful in that area. Totten is a non project source as we hold it and we may have a role at some point and the discussion is going on among the right parties.

Bruce stated that he knows that MVIC is looking at ways to help the McElmo users. Bernard stated that if DWCD does transfer Totten to MVIC it could be a factor to the users. Bernard asked if it is possible that DWCD has unused Class B shares that could be used in McElmo. Bruce answered that is a point that has been raised that there is environmental water and that it would stay in the community. Bernard asked about the repayment contract and what it means to the McElmo users. Bernard stated that the McElmo users are looking for protection if DWCD transfers Totten to MVIC.

Bernard asked if they could have a copy of the Drought Plan that was sent to the Bureau of Reclamation. Bruce stated that Mike could get a copy. Mike stated that the Bureau has the draft plan and are working on it. There are some edits from the Bureau and we should have it back shortly with their comments and that would be a better copy to acquire in the near future. Bernard asked if they could attend the meetings at DWCD on a regular basis. Bruce stated that you are always welcome to the meeting and the Board would address any issues or comments.

Bernard asked about the properties being brought into the District. Barry stated that a petition would be filed and then there is a hearing and then the Board hears from staff as to the details of coming into the District and the Board votes on it.

**O&M REPORT** – Lloyd presented the following report:

Lloyd stated that he also had pictures on some of the work that has been on going.

#### **Pump Plants**

The excitation upgrade at Great Cut Pumping Plant is continuing. The old electrical equipment and cabinets have been removed. The new cabinets have been installed and the new electrical equipment is being installed. Should be completed within the next 6 weeks.

At Cahone Pump Plant, the new VFD upgrades are ongoing. All of the old equipment has been removed.

#### **Dove Creek Canal**

Several miles of canal have had silt removal completed. Silt removal will continue next spring as the frost leaves the ground. Tire mats have been placed in some of this section as well.

#### **South Canal**

Next week WAPA is scheduled to reenergize the underground power line from Pleasant View Plant to Ruin Canyon Plant. They will then set the relay parameters on the newly installed Switch at Pleasant View Sub Station.

#### **Towaoc Power Plant**

The excitation equipment is being installed on the generator governor. The sleeve valve is being drained, pumped and inspected. All components looked good.

#### **Towaoc Highline Canal**

Nine canal slide gates and rails have been removed for structural repair and painting. The Hydraulic operating cylinders were also removed for rebuild. Ken stated that this periodic work translates to roughly \$5K a year to keep on top of the capital maintenance for the cylinders and slide gates. It is an example of our long term OM&R program. These repairs are being paid by the Towaoc Highline. Wes asked if there is technology that can help with our gates. Ken stated that we are introducing where we can, but the basic canal construction is too expensive to replace, at least until they wear out. This also works well with the crews we have assembled and allows us to self perform much work.

A sinkhole in and around the canal near check 523 (Reach 3) is currently being repaired. We found a sinkhole in the middle of the canal. We dug some test holes and have started to build it back up with some bigger rock in for a bridging on the bottom. Ken stated that our geotech contractor, Trautner, said we might have an underground water problem. Instead

we took it more as an emergency repair and will monitor to see how it performs. Since it is natural spring it may be stable and not cause problems. Ken stated that he advocated for a short term fix and monitoring since we fixed a nearby leak 4-5 years ago and it has been fine since. One long term concern may be that the soils are structurally worse as you go south on the Project.

## **ENGINEERING AND WATER MANAGEMENT REPORT**

**Project Updates** – Ken stated that he wanted to jump ahead to Project Updates because of some visitors in the audience. Ken handed out some maps showing land class and our lateral lines just south of PVPP. Ken stated that staff met with Brian Wilson, Greg Black and Jerry and Neta Mahaffey earlier today on this issue. Ken stated that the area is a natural drainage way that drains to the southwest. Greg indicated that he could tell a difference in the wet ground when DWCD lined a small canal area previously. Ken stated that we think that the drainage area will continue to receive irrigation water and remain wet due to poor drainage. This discussion is just informational and staff will explore ways to put in a French drain. We are getting into private property and the wet ground gets worse the farther you go downstream. Quite often we fix similar issues with a liner, however on this one probably lends itself to a french drain to be more effective and efficient. We will keep working on a plan for the Board to ultimately give direction and may want landowners to come up with a cost share. Lloyd and Ken are not aware of any similar sized problems anywhere else, though we do have a couple of canal locations that need a liner. In this case we would be getting off our right of way. For now it will be an exploratory project on the fall of the drainage and with the Kinder Morgan pipe in that area. Greg and Brian are here if the Board wants to ask any questions of them. As we find information we will update the Board. Members of the working group include Greg Black, Brian Wilson, Jerry and Neta Mahaffey, Morgan Oliver, Lloyd, Rob and Ken.

**Water Accounting Information** – 1) Ken stated that he included a copy from the Resource Book of the Summary Guide to the Dolores Project's 1977 Definite Plan Report (DPR) – Appendix B. The Summary was prepared by Eric as he is learning Project sources mostly through his water accounting excel sheets. Ken stated that he will review the Summary by touching on highlights he added. The DPR Appendix B used water records from 1928 through 1973. Since that period we've had the 80's, the best hydrology on record and then a long term drought starting in 2001. As we lose the 80's in our averages they are starting to drop combined with the drier 2010's coming into the records. For April through July where we watch the spring runoff, the official 30 year average is still 295,000 AF though if you add the most recent years it is continues to drop. Then the MVIC numbers, 37,500 acres was the full irrigation area that was identified by Reclamation, 11,200 are class 6 and are not eligible for project water and in the end MVIC receives an average of 13,700 AF from the Project and that is what they pay for in all of their contracts. MVIC is diverting 130,500 AF based on our Project records. The MVIC Project user for more recent years is more of a yoyo using more in some years and then less in other years. Next is the FSA irrigated acres that went down after an old lawsuit, but have come back to the current numbers. MVIC acreage numbers remain the same. Next is the Crop distribution – Full Service area the DPR 55% alfalfa, 20% grains and 15% beans followed by consumptive use for the various irrigators. These were put together by Reclamation personnel and there is a lot of embedded history & calculations right or wrong. It goes through a lot of steps and come up with the total deliveries based on diversions from McPhee. The 55,282 AF does not meet all the FSA requirements that we need. Don stated that he has never seen a more thorough document than the DPR and there is not a replacement. There has been nothing this comprehensive done since. The DPR numbers are still useful and you can put vary your own crop mix and conveyance loss. Mike stated that they did a good job and pretty close on the hydrology. Back page shows how they rounded off to contract numbers. Ken stated that the allocation sheet tracks the 1600 AF of fish & wildlife mitigation water. Ken added that this was probably the environmental water raised in the McElmo water user discussion earlier in the meeting Don stated that he was talking about the saved water that is described as available for environmental use in the T/H when he talked about the environmental water in his education outreach sessions. Ken then said this document is the source for the 26,300 classified acres times the 4.01 AF/AC that shows up in Exhibit A. The downstream fishery received a flow, 20, 50 or 78 CFS based on conditions. This also includes the annual average evaporation which we have confirmed using a standard pan and actual measurements. We'll try to get a contract highlighted for the next meeting and Eric is doing the work on it for a learning tool as well. 2)The first color charts show the monthly forecast getting early snow then going through a dry period and dropping. 3) Annual low runoff combines the Lost Canyon gage and what we calculate from unmeasured creeks. We had a pretty good year in 2017 and the recorded high years are pulling the average up. 4) Annual 30 year Dolores River Flows showed 2017 as well above average. This makes close to 80% of annual McPhee inflow. 5) April through July averages also high, 6) April through October averages that can show the monsoons, but sometimes hard to separate out 7) Annual McPhee Reservoir inflow on a 30 year average and then April through July runoff and then April through October inflows for

McPhee. You can compare with DPR and see some downward trends. The next data shows weather history by month for the last seven years. We have records going back a lot further. You can season seasonal precipitation was below average the last sheet accounts for McPhee evaporation and shows 2017 as big year based on both weather and lake elevation. The average is for all the year in our record and then breaks it down in a summary table. Don asked about seepage. Ken verified that it remains a mystery as it is unmeasured and therefore unknown.

Next was an MVIC letter to change the timing of Narraguinnepp fill at MVICs request and they will be assessed calculated evaporation for the winter months. We are following a procedure that is appropriate and there will be an assessment working with Brandon and CDWR. This procedure better protects their storage rights and we are honoring that right. The evaporation will be negligible.

**ANS Update** – Ken stated that he had some handouts. 1) Average boat inspections for the two McPhee ramps. We have been working with the State and other partners and we will maintain the status quo next year. This makes it clear that the best time to visit is during the week. June, July and August are the busiest months for obvious reasons. Long term we may recommend they move the ANS inspection area to top of hill, but not next year. We are thinking about shifting some House Creek October hours over to the main ramp in April for next year. 2) A public meeting was held and Ken highlighted some comments and they are still asking for fees to gain access. The new Colorado Legislative funding bill is ready for January and the news is that the severance tax fees are lower than originally thought. The last time the ANS program ran short of funds the legislature stepped in. There have been private contributions that have helped fill in the funding gaps. 3) The charts show increasing interceptions of infested boats from multiple states though Powell remains our biggest concern. Most of our neighboring states have mussel infestations. Based on CPW sampling in October McPhee remains mussel free. Ken also included a sheet showing state wide funding partners that have thrown in a lot more money to keep the ANS inspections stable. We are lucky to have Reclamation support here hope they can step up bigger Statewide. Ken stated that he highlighted some points on the article on mussels expanding into the Santa Clara River from the upstream reservoir that shows problems we might expect. Next sheet is on CAP and their problems from a decade of infestation. They are showing up in the slower water and do cause increased maintenance costs. They are getting into smaller water systems in the pumping plants and Ken highlighted that because of similarities to our Project.

**Water Smart Grant – McPhee Wildfire Mitigation, Watershed Health, Timber Industry Capacity** - Ken handed out information to the Board on the Reclamation WaterSmart grant for Watersheds that would have to be applied by for January 31st. DWCD would submit it and be the fiscal agent. It has two major goals to set up water shed groups or planning and we are going to pursue the planning side. We will probably focus on the ponderosa areas and are looking at integrating biomass to use the smaller material. They are good grants from a staff work perspective and we are the logical partners to submit it. Ken stated that he would ask the Board for approval at the February meeting. Mike stated that to protect McPhee, our main interest, that we stimulated the formation of this group. The pine beetle has arrived and is actively killing trees and raising wildfire risk. These and other threats to our forest health problem are currently there. If you have poor forest health that results in a fire it costs significant money to clean out the reservoir. A healthier forest should produce more water of better quality along with better grazing. We are currently working with the Forest Service, Counties, City of Cortez and wood products industries to improve our forest health. The grant is for \$50,000 a year for two years for planning that should lead to long term improvements.

Don stated that he read it in the packet and what Ken just verbally articulated makes him skeptical without producing documentation that really supports the stated goals and then want an approval at the January meeting. Don stated that he would want to make sure that we are going to get out of this for what we are putting in. Ken stated that for the January meeting we should have more substance to be able to go forward with the grant. Bruce suggested backup history on the DWRF meetings. Bruce stated that there has been a lot of work on the Front Range. After the meeting next week we will start putting together the information. A market study might be one result from the grant.

**ADJOURNMENT** Dolores Water Conservancy District Water Activity Enterprise Board meeting adjourned at 9: 26 PM

# DOLORES WATER CONSERVANCY DISTRICT

---

## MINUTES Regular Meeting December 14, 2017

---

**CALL TO ORDER** Bruce Smart, President, called the meeting to order at 9:26 PM

Bruce Smart, President  
Don Schwindt, Secretary-Treasurer  
Godwin Oliver, Director  
Wes Wilson, Director  
Glen Fish, Director  
Mike Preston, General Manager  
Ken Curtis, Engineer  
Lloyd Johnson, Maintenance Supervisor  
Gina Espeland, Accounting Clerk  
Robert Stump, Bureau of Reclamation  
Barry Spear, Attorney  
Doug Pickering, CDWR

### INTRODUCTION OF GUESTS

Brandon Johnson, Manager General MVIC; Greg Black, Director MVIC; Jimmy and Dorothy Porter, Bernard and Nancy Karwick, McElmo Users

### APPROVAL OF THE MINUTES

#### MINUTES

**MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE NOVEMBER 9, 2017 REGULAR MEETING AND NOVEMBER 9, 2017 EXECUTIVE SESSION.**

**MOTION: GLEN FISH  
SECOND: GODWIN OLIVER  
MOTION CARRIED UNANIMOUSLY – WES WILSON ABSTAINED**

### FINANCIAL STATEMENTS

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

**ADMIN: AP/CHECK #11053-11064**

**\$12,099.68**

**MOTION: WES WILSON  
SECOND: GODWIN OLIVER  
MOTION CARRIED UNANIMOUSLY**

## **AGENCY REPORTS**

### **BOR Report**

Robert stated that **1)** the Memorandum of Agreement (MOA) for rebuilding Pleasant View Pumping Plant is under warranty and the three remaining pumps are for scheduled for winter of 2018. **2)** SCADA automation is in procurement and they are configuring for shipment and then will begin for SCADA migration at Great Cut. **3)** Fixed the vertical drive that was expected to go out soon. Lloyd covered the excitation. Have a couple of new people in Reclamation, Kathleen Ozga retired and Tom Folds has taken that position and has 35 years in the western Colorado area. He is a registered PE in CO and good to work with. Have a new geologist in Durango, Justin who will be good and will cover the dam safety and annual inspections.

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

DWR - Doug had nothing to report.

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

Godwin reported that the THC Committee is talking to the BOR about the leak at Siphon 7 at the Fairgrounds. Lloyd covered the gates and canal repair in his report. **1)** The Committee paid DWCD & MVIC. **2)** The Committee moved the January meeting to Jan 31<sup>st</sup> to schedule around Colorado Water Congress.

**Next T/H Meeting** – The Committee will meet at the DWCD, Cortez Office January 31, 2018 at 2:00 p.m. at the Cortez Office.

### **MVIC Report**

Brandon reported that **1)** he will be doing maintenance replacing old head gates and check structures. It is a good window of weather to do that.

### **Adoption of 2018 Budget Resolutions**

Ken stated that he had a memo and made the changes that the Board requested at the hearing. The Board has a series of Resolutions that need to be adopted.

Don asked if Ken could walk through the changes that he made.

On Line 41 of the 200 Budget, staff corrected the incorrect dollar value for excess sales. Line 40 calculates all the revenue from the delivered irrigation water at the 2017 rate of \$13.10 per AF, including the excess sales. Line 41 should only include the revenue generated from the additional conservation pricing of \$18.98. The draft 2018 Budget included the \$13.10 redundantly on line 41. The actual delivered & excess volumes were adjusted based on final meter readings in lines 40 & 41. Line 40 includes 49,351 delivered AF at \$13.10/AF = \$646,498. Line 41 includes 3,968 AF excess at \$18.98/AF = \$75,313. The calculation for H41 (2018) uses the full price of Base + Delivery \$41.84/AF for excess deliveries. The Cap details will be established by the Board in May 2018.

The Administrative Budget has been updated to the latest Assessor's property values, which have unfortunately dropped a little. The assessed values dropped \$14.3M dropping multiple mill levy revenues that totaled \$13,543. No individual cost changes were made to the budget, the ending balance dropped accordingly.

On Line 81 the salary Line has been changed to the Board directed 2.5% matrix increase decreasing the 2018 budget by \$7,437 along with the other percentage driven costs below.

Line 223 shows the Board directed increased Replacement Reserve transfer up to \$75,000 from \$54,000. The difference will be covered by the user rates and other revenues.

Finally, the Backup shows the 2018 FSA farmer rates that reflect the Board directed 3% increase on the Base Charge. The 2017 Base charge of \$27.90 per allocated AF will rise to \$28.74/AF. The Delivery Charge will be left at \$13.10/AF delivered. Together the Base & Delivery, \$41.84/AF, rose 2%, which will also be the charge per AF for excess FSA water deliveries. FSA will also pay the repayment \$1.35/Allocated AF and the \$1.05/Allocated AF Water Supply Management Reserve replenishment totaling \$60,290 shown in lines H43 & H224.

Other minor budget adjustments represent the new FSA allocation installed in 2017 that brings the FSA to 57,419 AF, H38 & H43. We had an Inclusion Hearing for Brett Oliver and the allocated AF went up.

Ken stated those were the changes.

Mike stated that the Resolutions are stapled together with the 1<sup>st</sup> set of three being the Administrative which approves the budget, appropriates the funds and sets the mill levy. It is a mill levy driven budget. The 3rd one sets the mill levy. The O&M resolutions adopt the Enterprise Budget and appropriate revenues for the 200 budget, and for Dove Creek Lawn and Garden, Towaoc Highline Canal and Power Plants. All three enterprises are included in the Budget.

Godwin asked about the last paragraph on Resolution No. 17-01, it states that it is signed by Simon Martinez, Vice President and then on the signature line it lists Donald W. Schwindt's name as Secretary-Treasurer. This is the same on Resolution No. 17-01E and needs to be amended. Gina will fix the error and reprint the pages for signature.

**MOTION: ADOPT RESOLUTION NO. 17-01 2018 ADMINISTRATIVE FUND BUDGET WITH ADMENDMENT OF SIMON MARTINEZ, VICE PRESIDENT TO DONALD W. SCHWINDT, SECRETARY-TREASURER.**

**MOTION: WES WILSON**  
**SECOND: GODWIN OLIVER**  
**MOTION CARRIED UNANIMOULSLY**

**MOTION: ADOPT RESOLUTION NO. 17-02 RESOLUTION TO APPROPRIATE ADMINISTRATION FUND MONEY**

**MOTION: GODWIN OLIVER**  
**SECOND: WES WILSON**  
**MOTION CARRIED UNANIMOUSLY**

**MOTION: ADOPT RESOLUTION NO. 17-03 SETTING THE MILL LEVIES**

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

**MOTION: ADOPT RESOLUTION NO. 17-01-E 2018 ENTERPRISE FUND BUDGET WITH ADMENDMENT OF SIMON MARTINEZ, VICE PRESIDENT TO DONALD W. SCHWINDT, SECRETARY-TREASURER.**

**MOTION: WES WILSON**  
**SECOND: GODWIN OLIVER**  
**MOTION CARRIED UNANIMOUSLY**

**MOTION: ADOPT RESOLUTION NO. 17-02-E APPROPRIATION OF ENTERPRISE FUND MONEY**

**MOTION: GODWIN OLIVER**  
**SECOND: WES WILSON**  
**MOTION CARRIED UNANIMOUSLY**

## **SET LOCATION FOR POSTING MEETING NOTICES IN 2018**

### **DESIGNATION OF LOCATION FOR POSTING MEETING NOTICES**

Bruce stated that we need to designate a location for posting Meeting Notices for 2018. Barry explained that the open meetings law requires that the local governing body designate where a notice of the meetings will be posted. This must be done annually.

**MOTION: DESIGNATING THE AREA OUTSIDE THE BOARD ROOM DOORS AS THE LOCATION FOR THE OFFICIAL POSTING OF MEETING NOTICES.**

**MOTION: DON SCHWINDT  
SECOND: WES WILSON  
MOTION CARRIED UNANIMOUSLY**

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

**Totten Reservoir Purchase Request from MVIC** – A letter from Bruce Smart to Gerald Koppenhafer, concerning Totten discussions, dated November 28, 2017 is attached. As recommended by Bruce, in the letter, each Board President has appointed three representatives: MVIC - Gerald Koppenhafer, Les Nun, Brandon Johnson; DWCD – Bruce Smart, Simon Martinez, Mike Preston.

Bruce's letter suggests beginning discussions in the next few weeks, and the first discussion was conducted on December 6, 2017. Bruce's letter also indicates key issues that will require the gathering and organizing of background information. During a meeting of Bruce Smart, Barry Spear, Ken Curtis, Steve Harris and the GM, an initial list of information to be gathered and shared to support the negotiation entitled "Totten Reservoir Negotiation, December 6, 2017: Key Background Information," was developed. Bruce stated that they did have the meeting and issues that the District has and it was about an hour and half discussion.

At the December 6 meeting, MVIC Negotiators confirmed their interest in purchasing Totten, and agreed that organizing the background information, and negotiating terms will take time, as will MVIC efforts to organize discussions with irrigators in McElmo about formal arrangements with MVIC. The list, as presented, was agreed to as a starting point. MVIC added information about current salinity arrangements and payments to the list. Some of the required information can be provided in short order, while other items such as the water rights information in item 1 and historic expenditures will take some time to put together. Dam inspection reports will be provided to MVIC.

Negotiators agreed to reconvene after the MVIC annual meeting, and when the background information has been gathered to outline steps to advance the negotiation.

Bruce stated he is concerned about timing relative to the interests of the McElmo users. There has been no discussion of sale price. It is not going to be a quick thing.

Barry reiterated November minutes that the board just needs to be conscious that Totten is a publicly owned asset of the District and the Board has the fiduciary duty that the asset is sold at a carefully evaluated price. The District is doing the due diligence, to determine a price that is in the best interest of the District as a whole.

**Colorado Water Congress** – Workshops January 24, Water Congress January 25-26. Let Gina know if you plan to go. Prompt registration and reservations insure lodging at the meeting Hotel.

Don and Glen stated that they plan on going. Wes said he would like to, but probably will not. Mike emphasized that the benefit of prompt registration is to get lodging at the hotel that the conference where all the happenings are.

**Federal Reserved Water Rights/Instream Flow Program** - A video conference was held connecting Denver and Durango on December 1 attended by: GM, Bruce, Ken, Barry and Steve.

Barry stated that it is the sort of matter to address in Executive Session, but he will address as much in open session as possible. The legal team addresses this in Barry's report and Mike's GM report also covers where we are. Mike stated that December 1<sup>st</sup> we had

discussions that we originally wanted to have with the Forest Service (FS) in mid summer. The issue in this case is trying to reach a settlement with the FS to resolve reserved rights on SJNF lands and the instream flow program. They had 5 pilot streams. The two involving standard ISF method were approved and are not in water court. Three used a take all unappropriated flows methodology that has been a primary concern of DWCD and this meeting was not a give and take discussion and we are not changing our position opposing these going forward. DWCD Board will have to decide by March 2018 if we want to oppose the proposed for instream flow on Himes Creek that they want to notice for intent to appropriate in March 2018 and it is over near Pagosa. The methodology they want to use could affect us and still in the same spot and if you do want to go into Executive Session for more specific detail. The other two segments in this category, Rio Lado and Upper Vallecito have been postponed until January 2019.

Mike reported the focus was a summary of the findings on a proposed instream flow on Himes Creek above Pagosa Springs. The Forest Service proposes to use the instream flow program to protect native trout pools on National Forest land above any diversions. The FS proposal involves taking "all unappropriated flows," which is also starting to crop up in conjunction with protecting "wetland complexes." The Himes Creek pools are in a remote part of the National Forest, with no water diversions. Using the ISF program, will have little or no impact on water rights. But allowing criteria to be established for this use of the instream flow program, that go beyond R2Cross and PHABSIM which are based on median flow calculations, raises the concern that applying these criteria, lower in the system, where there are diversions and storage, will be a source of conflict, risk and uncertainty for water users in the future.

These concerns were expressed by DWCD representatives. The response, so far, has been to delay the "notice of intent" to appropriate an instream flow on Himes Creek from the January to the March CWCB meeting. This is still not enough time to sort out the complexities involved in this issue. If we can get Himes delayed until 2019, there would be time to evaluate the Forest Service proposal, for a more acceptable outcome, and to consider a revised proposal in light of the opportunity to settle Federal Reserved Water Rights cases filed decades ago. Barry will provide the Board with legal context in this matter. Ken will address engineering related concerns with how the proposed right would be calculated. Barry determined that this discussion needs to be in executive session.

**Other Information Attached:**

- 2018 Budget Memo

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

- November 13: Meeting with Ellen Roberts, Aaron Kimple concerning power generation with bio-mass as part of economic expansion of local wood products industry to address Forest Health in the McPhee watershed – GM
- November 14: MVIC Board Meeting
- November 15: Towaoc-Highline Committee
- November 15: McPhee Public Meeting – Mussel Inspections, 2017 & 2018
- November 16: Meeting to prepare for discussion of Ramping Criteria with Ed Warner – Ken, Eric, Robert, GM
- November 17: Interview by CSU Graduate Student Tabatha Covey about effectiveness of CSU Experiment Station in supporting Dolores Project irrigators – GM, Ken
- November 21: Discussion of proposed Instream Flows in Dolores County, Dolores County Commissioners – GM, Celene Hawkins, CWCB Board representative
- November 27: Timber Industry Work Group, Building Industry Capacity to restore forest health in the McPhee Watershed
- November 28: Meeting with Ed Warner to organize evaluation and possible adjustments to Ramp Down Criteria
- November 28: Board to Board Meeting – Discuss role to Towaoc Highline Committee
- November 30: Meeting with DWR Forest Health Collaborative Facilitator Rebecca Samulski to discuss possible WaterSmart Grant to formulate strategies and plans for restoring forest health and timber industry viability – Ken, GM
- December 1: Pilot Use by FS of Colorado Instream Flows as a tool for settling Federal Reserved Water Rights case, Durango, CPW Video Conference Center
- December 5: Mussel Inspection Program, Statewide Phone Call – GM, Ken, Vern, Robert

- December 6: Totten Reservoir Purchase, Initial Meeting to Structure Negotiation – Bruce, Simon, GM, Gerald, Brandon, Les Nun
- December 6: DWRF Steering Committee – GM
- December 6: DWRF Collaborative Meeting – GM, Ken
- December 11: Forest Health Advisory Council, Golden - GM
- December 12: MVIC Board Meeting, 2:00PM

**Upcoming Meetings and Activities:**

- December 20: Towaoc-Highline Committee, 2:00PM, DWCD
- January 9: MVIC Board Meeting
- January 10: Basin Roundtable Water Project Funding Workshop, 1:00PM, DWCD
- January 10: Southwest Basin Roundtable, 3:00PM (2:30 Social Time), DWCD
- January 11: West Slope Caucus Phone Call, 2:00PM
- January 22-23: CWCB Board Meeting, Denver
- January 24: Water Congress Workshops
- January 25-26: Colorado Water Congress
- January 31: Towaoc-Highline Committee, 2:00PM

**LEGAL REPORT**

Barry stated that his water case memo is attached.

**MVIC/DWCD, Groundhog, 505cfs, Change in Use of MVIC 87.3 Conditional Water Right** - The issues we have been negotiating involve the pursuit of a decree to expand the storage capacity of Groundhog and think we are at a point of agreement with MVIC. There is the direct flow right on the 505cfs due diligence and that MVIC has agreed to both decrees should be signed by both parties in time for the January 19 status conference. Barry stated that the 2016 direction by this Board authorized Barry to sign if we agreed on the height of the dam and the irrigable acres, which have been resolved.

We are working on the application for due diligence that is due at the end of the month and how to pursue them from conditional to absolute.

**CWCB Dolores River Instream Flow** - The case is moving along the trial path and has been referred to the water judge. CWCB, River District and Southwestern (SW) are still the players. It has been filed by the CWCB. Water judge said he would have a decision by February, including DWCD stipulations that will be put into the decree. The River District and SW issue is their assertion that CWCB has flexibility to have a small carve out in the Instream Flow for other uses.

**Beaver Reservoir, Bear Creek Reservoir, Dawson Reservoir** – Application will be filed by the end of the month. Barry asked the Board to move into Executive Session to discuss Federal Reserved Water Rights/Instream Flow Program and MVIC/Groundhog.

Glen asked if during Executive Session if Barry could answer a question in the inquiry about Totten.

**MOTION: TO MOVE INTO EXECUTIVE SESSION PURSUANT TO CRS 24-6-402-4(b) TO RECEIVE LEGAL ADVICE FROM THE ATTORNEY AND CRS 24-6-402-4(e) TO GIVE DIRECTION TO NEGOTIATORS WITH THE AMENDMENT OF RESPONDING TO GLEN FISH'S QUESTION ABOUT TOTTEN.**

**MOTION: DON SCHWINDT**

**SECOND: GODWIN OLIVER**

**MOTION CARRIED UNANIMOUSLY**

**RECESSED FOR BREAK AT 10:30 PM**

**RECESSED FOR EXECUTIVE SESSION AT 10:40 PM.**

**RECONVENED REGULAR MEETING At 11:15 PM.**

**REPORT OUT OF EXECUTIVE SESSION** – The Board discussed questions regarding the possible sale of Totten and received more detail on Federal Reserve Water Rights. Barry clarified issues regarding the Groundhog application by MVIC and no action taken in or out of Executive Session.

Barry stated that he planned to give a report on the Water Quality Hearing which was Monday and he can talk about it for 10 minutes or send it out in a memo tomorrow. Board agreed for Barry to discuss it.

**Water Quality** – Colorado water quality control commission on impairment waters which included the Dolores River. The commission looks at water and staff recommendations and should bodies of water be put on impairment lists. They are monitoring and are under review and data is being collected. The next list is the 303d list which is more of a red flag list and from that list the Division

staff would do more data for TMDL, i.e. how much you can pollute the river over a 24 hour period and if the levels get over that level then a plan is put into place and it could be planting vegetation along the river or could be additional water and could have an effect on McPhee Reservoir. It was a good decision on the Board's behalf. WQCC staff looked at the Dolores River and put into 4 segments and recommended in prehearing statement that these segments should be put on the monitoring and evaluation list. CPW claiming support from Trout Unlimited (TU) asked that the segments should be put on both the 303d list and the M&E list. The WQCC stood behind their staff and DWCD, stating that the data was insufficient for 303d listing and if there is uncertainty that the segments should be put on the monitoring list. The staff reviewed the DWCD prehearing statement and agreed with us. Dan McKarl drafted a good prehearing statement. Division has considered our statement and put it on the M&E list. Mike added that it was a good decision by the Board to engage this proceeding, and a good decision by our legal team to attend the hearing, given the unexpected demand by DPW.

The CPW claimed support from Trout Unlimited (TU) in pushing 303d listing. TU had not been a party to the hearing and Barry was quite concerned about CPW voicing TUs concerns, asking is the Dolores River still being targeted by TU. Mike stated that we should let TU speak for themselves, saying that TU has been a good partner in recent years, and DWCD should not make assumptions based on statements by a representative of CPW, who may lack familiarity with all of the cooperation that has developed by DWCD and CPW through joint participation on the monitoring and recommendation team. We have two years know before it comes up again.

## **OTHER**

Godwin wanted to thank the DWCD staff for all the hard work this past year.

**NEXT DWCD BOARD MEETING** – Thursday, January 11, 2018 - 7:00 P.M.

**ADJOURNMENT** Meeting adjourned at 11:30 P.M.