

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 February 13, 2020

CALL TO ORDER Bruce Smart, President, called the meeting to order at 7:00 PM

ROLL CALL Bruce Smart, President
Simon Martinez, Vice President
Don Schwindt, Secretary-Treasurer
Wes Wilson, Director
Godwin Oliver, Director
Sheldonna Z. Ives, Director
Ken Curtis, General Manager
Lloyd Johnson, Maintenance Supervisor
Robert Stump, Bureau of Reclamation
Gina Espeland, Accounting Clerk
Adam Reeves, Attorney
Dan McCarl, Attorney

INTRODUCTION OF GUESTS

Rob Walker, Engineering Tech, DWCD; Brandon Johnson, General Manager MVIC; Chad Hill, City of Cortez; Ed Millard, Montezuma County/IBCC/SWBRT, Dillon Oliver, Full Service Irrigator, Marty Robbins, DWR, Dorothy Porter, Jimmy Porter, McElmo Users, Brett Oliver, Full Service Irrigator/Petitioner, Jim Mimiaga, Cortez Journal

MINUTES

APPROVAL OF THE MINUTES

MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE JANUARY 9, 2020 ENTERPRISE MEETING.

**MOTION: GODWIN OLIVER
SECOND: SIMON MARTINEZ
MOTION CARRIED UNANIMOUSLY WITH WES WILSON ABSTAINING.**

FINANCIAL STATEMENTS

MOTION: TO APPROVE THE DECEMBER '19 FINANCIAL STATEMENT AND APPROVE THE STATEMENT OF PAYABLES AS PRESENTED.

**O&M: AP/CHECK #37941-38102 & PR/CHECK #123725-123797
\$788,636.52**

**MOTION: SIMON MARTINEZ
SECOND: SHELDONNA IVES
MOTION CARRIED UNANIMOUSLY.**

O&M REPORT – Lloyd reported the following:

Pump Plants - At Great Cut Pump Plant U-Lateral pump #4 has been removed and partially disassembled for inspection. Machine work will need to be done on the pump so it will be sent over to Brimhall for needed repairs. Lloyd provided pictures.

Lone Pine - The inspection of the outlet works piping and slide gates were completed. Seven days plus one 24-hour shift was needed to complete the pumping for the inspection. A total of five pumps were used to dewater. It is the second set of pictures, most of which Robert Stump had taken. It was the first time that it had been inspected. Robert will report on the findings in his report. Wes asked if the water that is standing in the picture was supposed to be there. Lloyd stated that they didn't get all water pumped out.

Eric Tanner Report, SCADA System Administrator

PMSC - The control room has mostly been helping out where needed this month. Some network switches have been giving us trouble lately, and tracking down the cause of the troubles has been a good learning opportunity. Training of new operators will include current operators, as annual refreshers are helpful. With the new season approaching, calibration of gates, water levels, and the corresponding meters will take up a good portion of the operator's time. Robert has been digitizing our library, building an electronic database of all our plans and prints. This will be extremely helpful in the future. Doug has been helping Josh with fiber issues on the Towaoc Canal and the Ute Farm, and is currently attending Rockwell training to learn basic PLC programming. Steve has been helping where needed. We are working on replacing the final PLCs in the system, including the Lone Pine gatehouse, and finalizing the programs for all pumping plants. The search for new operators has begun, and one candidate is scheduled for interview next week.

Power Plants

Winter maintenance continues at Towaoc Power Plant. McPhee Power Plant was shut down all of last week for scheduled winter maintenance. The plant is now back on line, continuing to run at 25 cfs.

WATER MANAGEMENT REPORT

Water Accounting – Ken stated he didn't bring a water report. We are having dry periods with the storms missing us. It doesn't change the full supply, but could affect carry over and how the season gets underway on early watering. Will have water reports next month.

Set Petition Hearing for Eric White in Ruin Canyon Block

Ken stated that the Petition Hearings would be handled in the regular meeting and just wanted to get it set early for attendees.

Eric White is just off of Road CC. He originally approached DWCD about receiving irrigation water on a 92-acre parcel. Neighboring irrigators and staff raised concerns about delivery capacity on the R-200 lateral during 2019 discussions. There were concerns about the available pressure, but all irrigators never ran concurrently during the 2019 season while we were monitoring. Eric is now working with his neighbor to finish a pivot layout full circle. Eric is now seeking new irrigation water for the approximately 40 acres that could be served by the existing pivot. This would leave RCPP and R-200 flows at existing rates from an existing pivot and should resolve the pressure concerns. All we have to do tonight is set the hearing. It is served by existing infrastructure.

Dillon Oliver stated that he had been working with Eric White and would be purchasing this acreage. Dillon stated that he had figured it real close to the covered acreage. Dillon stated that they were going to apply to 35 acres from Eric White. Adam stated that this is just date setting and it will have to be reflected the evidence of the owner of the land.

**MOTION: TO SET A PUBLIC PETITION HEARING FOR ERIC WHITE/DILLON OLIVER
PETITION FOR MARCH 12, 2020 AT 8:00 PM**

**MOTION: WES WILSON
SECOND: SIMON MARTINEZ
MOTION CARRIED UNANIMOUSLY.**

Set Petition Hearing for Brett Oliver In Fairview Block

Ken stated that Brett had an M&I installed last year and the property was originally part of the larger parcel surrounding it. Ken stated that he doesn't see any problems with setting a hearing.

MOTION: TO SET A PUBLIC PETITION HEARING FOR BRETT OLIVER PETITION FOR MARCH 12, 2020 AT 8:15 PM

**MOTION: SIMON MARTINEZ
SECOND: WES WILSON
MOTION CARRIED UNANIMOUSLY.**

Local Preference for Herbicide Purchases

Ken stated that historically we bid out chemicals for weed spraying. Most of the products are available locally. It was proposed by the Basin Coop to consider a local preference. Ken provided the policy from the City of Cortez as an example. Ken stated that a local preference might make a difference on a few products. It was a request, but don't have any history to base projections on. DWCD has reached out to larger national suppliers in recent years to bid on annual herbicide purchases. Some materials, particularly the aquatics are sole supplier products not offered locally and not included in our bids. Generally, the local supply outlets end up competing against their own suppliers on certain aquatic herbicides. Last year DWCD agreed to consider a local preference for herbicide bids. From the attached 2019 bids you can see that the savings are significant. DWCD will continue buying small amounts at local retail outlets and can split bids as appropriate. If the Board wishes to establish a local preference, they can set it at an appropriate percent. State agencies in some markets have used 5% on large construction & supply projects. Godwin asked what has been purchased locally. Lloyd stated that mostly small/specific items. Wes stated that he didn't have any problem on setting a 5% local preference. Godwin asked if it could be split between the three. Ken stated that it would be more of a line item from one place and separate lines of product from another.

Sheldonna asked if we should set a cap. Meaning that if we set a percentage and set a cap as per what the City had set. Ken stated that he didn't think that it would be necessary. Ken stated that we can take up the broader items down the road after we try it. Start with this step and we will see how this year goes and have something to review for next year.

Adam stated that the motion should be specific for the counties this includes.

MOTION: TO SET LOCAL PREFERENCE (MONTEZUMA COUNTY AND DOLORES COUNTY) AT 5% FOR CHEMICAL BID FOR 2020

**MOTION: WES WILSON
SECOND: SIMON MARTINEZ
MOTION CARRIED UNANIMOUSLY.**

State ANS Update

Ken stated that a handout was mailed to the Board. It shows the manifestation of the source of infested boats and the 2nd page shows that most are still coming out of Lake Powell. You can also see the states that are still without infestations. We still have a big Midwest source of infested boats too, with a few from all surrounding infested states. Next sheet is a quick background of where we have gone since the beginning of the program. Also attached are bullets on Senator Michael Bennett's bill to give Reclamation the authority to fund inspections. We have had some Reclamation funding for the DP powerplants. Ken stated that he would send a letter of support in the near future. We still are remaining active on ANS to protect McPhee. Funding appears to be stable across the state. There is a lot of data behind these summaries and McPhee boating remains steady requiring continued inspections. We will have a local 2020 planning meeting late in March. It remains a big risk, but is in a current manageable state. Simon asked where the crafts are taken. Ken stated that they are decontaminated on the spot, at the inspection stations, with a high-pressure washer. The last impounded boat was at Navajo. CPW usually takes the lead. It has been free boat cleaning up until now, but under the new legislation boat owners will have to start paying for the decontamination cleaning. We will also see upgrades to the decontamination equipment.

ADJOURNMENT Dolores Water Conservancy District Water Activity Enterprise Board meeting adjourned at 7:46 PM

DOLORES WATER CONSERVANCY DISTRICT

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APPROVAL OF THE MINUTES

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MOTION: SHELDONNA IVES

SECOND: SIMON MARTINEZ

MOTION CARRIED UNANIMOUSLY WITH WES WILSON ABSTAINING

FINANCIAL STATEMENTS

MOTION: TO APPROVE THE DECEMBER '19 FINANCIAL STATEMENTS AND APPROVE THE STATEMENT OF PAYABLES AS PRESENTED.

ADMIN: AP/CHECK #11436-11463

\$802,821.47

MOTION: SIMON MARTINEZ

SECOND: GODWIN OLIVER

MOTION CARRIED UNANIMOUSLY

AGENCY REPORTS

BOR Report

Robert reported that **1)** Brimhall is continuing to work on the fixed speed pumps, but it is taking longer than thought on acquiring the new impellers. Robert is continuing to work with them to make as little schedule impact as possible. **2)** There was an inspection at the Canal Outlet Works (COW) at Great Cut. It looked good overall. A little leakage at the guard gates and under Great Cut Dike. It shows wear under the gate seat where more wear is expected there. There is nothing that needs immediate repair. The interior coating wear is not significant and remains something to monitor. It is submerged all the time and corrosion usually does not advance quickly. There is a leakage at a butterfly valve and shows it coming back into the intake manifold and it is typically balanced unless it is open, so it is not a big concern. Bruce asked when can you forecast when something might need to be taken care of. Robert stated that it's been in several for decades before now without many repairs and should last a long time before having to be replaced. Robert thinks that the first issues will be starting at the gates.

Don asked when he plans on inspecting again. Robert stated 20-25 years. Lloyd stated that the area where the gates are located are usually inspected every 5 years.

Division of Water Resources Report

Marty didn't have anything to report.

T/H Committee Report

Godwin reported that the THC Committee had a meeting January 22, 2020. **1)** The Committee paid DWCD and MVIC.

The THC committee did agree for Montezuma County to take 10 AF of water for roads. Anything over 10 AF would be brought back to the committee. It will come out of DWCD's M&I supply.

Next T/H Meeting – The Committee will meet at the DWCD, Cortez Office February 19, 2020 at 2:00 p.m. at the Cortez Office.

MVIC Report

Brandon reported that **1)** they are finishing up maintenance and **2)** Crews finished a concrete pour on the Lone Pine structure.

GENERAL MANAGERS REPORT/DECISION ITEMS

Lease of Class A MVIC Shares: The Board will be asked to decide whether to lease 170 Class A MVIC Shares in 2020, and if yes how much to charge per share. In 2019 DWCD offered its 170 MVIC Class A Shares for lease at \$75 per share. Initially shares were offered in blocks of up to 10 shares. At the end of this initial offer, additional shares were leased to those requesting more than 10 shares to completely lease all 170 shares. DWCD's O&M and account charges in 2020, for the 170 Class A shares, are \$5,500 (170 x \$30.50 + \$310 account charge up from \$29.50 & 295). 2019 lease revenues totaled \$13,950 (170 x \$75 + \$1,200 in account fees) against \$5,310 in assessments. Past rates have been 2018 - \$75/share, 2017, 2016, 2015 - \$70/share, 2014 - \$65/share in adjusting to MVIC assessments. Raising the 2020 lease rate \$1.12/share would hold net revenue constant relative to MVIC's increase assessments. Our process is well known and we have already received inquiries. Recommend setting 2020 at \$77/share to be offered for lease on Tuesday February 25 at 8:30 AM after advertising in the newspaper.

MOTION: TO LEASE MVIC CLASS A SHARES AT \$77.00 PER SHARE AND KEEP THE DISTRIBUTION THE SAME AS THE PREVIOUS YEAR.

MOTION: SIMON MARTINEZ

SECOND: WES WILSON

MOTION CARRIED UNANIMOUSLY

Board to Board – February 25, 7:00PM, Possible Topic: Brandon and Ken have discussed it and the meeting will be held at MVIC. Totten Lease proposal and 87.3 are probable discussions.

2020 Brainstorm, February 27, 9:00AM-3:00PM – Reserve Fund Review, Colorado River Basin Issues, and other potential topics can be discussion items at the Brainstorm Session. Topics may include long term DWCD financial issues with focus on FSA viability. The Colorado River Basin DCP & DM exploration remain active and could impact DWCD. Infrastructure and capital costs remain constants. Forest health improvements above McPhee likewise are an active DWCD supported process for long term protection of the Dolores Project. Other items that may need more focus should be suggested by the Board. Any specific Board actions are generally scheduled for a subsequent regular Board meeting.

Ken will be working on presentation items, mostly reserve and financial type documents at this point. Ken stated that he has handed out a lot of Colorado River information.

Totten Reservoir – Possible Lease to Purchase to MVIC: In December DWCD reiterated our willingness to sell Totten Reservoir to MVIC based on recovery of net costs to DWCD and foregone interest, last estimated at approximately \$61,000. MVIC has expressed an interest in leasing Totten

for about 3 years with payments going towards the purchase price. During that time MVIC could learn more about operations and the potential to repair Totten to regain full capacity. MVIC would honor any current leases and hope to put Totten to its best use in cooperation with McElmo irrigators. MVIC recognizes newly irrigated lands would be subject to inclusion in the District. DWCD staff would provide assistance to MVIC as appropriate.

Ken stated that he had received an information sheet from MVIC today with some updated information, which was handed out to the Board.

Ken stated that from the handout MVIC would like to lease for 3 years and utilize payments towards a purchase. Annual lease payment had not been discussed and suggested the MVIC attorney draft a lease and get legal review and come back to the Board. Execution of a lease agreement would cross over with the normal McElmo leases we do in March. The Board would need to decide how to deal with revenues from leases and salinity payments. MVIC has stated that they would honor the McElmo leases and administer them. MVIC would have to help with the accounting and coordination with DWR. This would give MVIC a chance to see how it runs and get a closer look at the process.

MVIC's proposal per Brandon was make the offer and have DWCD Board look at the proposal and work through the details. DWCD would have to work closely with MVIC on the inspections and reports. Ken stated that right now we get salinity payments. Brandon stated that Robert could explain the salinity better. Robert stated that the contract had a provision of ownership and doesn't have a provision for the next transfer of ownership. Under the lease it is something that Robert would have to look at and DWCD would still be able to get the payments and if MVIC purchases we would have to deal with the Regional Office to transfer the salinity. Ken stated some items are not clear and we are willing to work with this and will go into Executive Session to discuss the negotiations on the financial matters. Ken stated that he thinks that there is cost to us even if there is going to be a handoff. The McElmo leases would normally come in March and be ready to run and the hand off will take some time. There will be some administration on our part and in a bit of a scramble this year. Ken stated that there would also need to be a discussion on indemnity.

Ken stated that the Board should be prepared to discuss it at the Board to Board on the 25th. Once the Board hammers out the details, then the attorneys can work out the paperwork and managers can assist in the process.

Don asked if MVIC's attorney is drafting the initial lease. Adam stated from their conversation that he is supposed to.

Bruce stated that we will probably go into Executive Session for further discussion.

Ken stated that he didn't see any big problems and will be looking at the details and anything we don't have clarity on, might get it on the 25th.

Ed asked if the liability is considered in this proposal. Ken stated that we are the owner and have the insurance on it.

Don asked if at the Board to Board Meeting, DWCD wanted discussions with just their Board in Executive Session what are the procedures of that. Adam stated that he would advise Ken on those procedures prior to the Board to Board.

Brandon stated that the MVIC Board would like to have a legal lease agreement drawn up and negotiate at the board to board on the lease itself. Figure out what questions you want to ask and want something pretty close. MVIC wanted to be able to negotiate on a lease and come up with whatever questions DWCD Board might have in order to get that process going. All parties need to be prepared at that meeting just in case that happens.

Ken stated that we do post the Board to Board Meeting and advertise it appropriately. We could come to an agreement on the parameters and bullets and the attorneys are going to have to work out the details in any documents and/or agreements. Boards will have to talk about price and timing.

Brandon stated MVIC would like to go through a water season which is upon us. It would give MVIC a chance to be involved before and during the operation of the season.

Brandon stated that the reason that MVIC hurriedly brought forth the listed items is so that they could be involved the events of the water season as they unfold for the Totten water.

Ken asked Brandon if there is space at MVIC's office for separate meeting spaces in case DWCD feels the need for breakup to discuss items among the DWCD Board. DWCD will have the meeting posted accordingly in case there is an agreement that would require a decision.

Simon asked about the indemnity. Adam stated that it is when something goes wrong who pays for it and who reimburses the person who paid for it. The usual way is I am responsible for what I cause and you are responsible for what you cause and it can be as simple as that. Adam stated that he tries not to make it too complex.

Last week of March is when will be starting to set delivery for April 1st on McElmo leases per Board approval at the March Board meeting.

Ed asked if the water in Totten is for McElmo lease and who would be supplying the water in Totten at this point. Ken stated that we will be working through those issues as it progresses.

Jimmy stated that McElmo users are still interested in the water. Wes asked if they have worked anything out with MVIC. Jimmy stated no, but they have talked.

OTHER

Ken stated that Paradox is going through a preliminary EIS or at least an EA. Don heard at SW that they are going to send comments and Ken stated that he would send comments. Ken stated his would support the evaporation ponds. They could do nothing or drill another well and are also looking at a zero discharge, a high energy user. The evaporation option uses desalinization ponds. The well option brings up the potential to cause earthquakes. Reclamation may ultimately do nothing.

DWCD provides 700 AF of water to keep them operating under the exchange and it is released as part of the fish pool. At this time, they don't see any changes and if they foresee changes, they would need to come back to this Board. They are aware that we are monitoring future actions as they may impact the exchange releases.

Bruce asked about the volume of water that would need to be treated in the desalting. Ken stated that it was an exchange agreement of 700 AF which was between 500-900 AF ranges of possible use. Final water needs would have to be determined after Reclamation makes a decision after the final NEPA process.

Don commented that we want to think about framing some additional comments that we may provide into the EIS or the EA. It is a Bureau driven environmental compliance process. As DWCD and Reclamation and community went down this salinity control path, a real constructive player was the Salinity Forum. They were a big participant on the education and impact on this project. The Forum is a constructive entity and come out actively engaged in the Colorado River salinity compliance process. We should consider some support for the Forum, moving Paradox into environmental compliance, and remain more actively engaged from our project since salinity is in our project. We want to be engaged in the salinity control process that is part of our project. DWCD support is something that can be done through SWCD.

Adam stated that he did attend the salinity – Bureau presentation at CRUA. Ken stated that he would add that we would like to stay involved in the Reclamation review and are in support of the CR Salinity Control Forum.

Ken stated that SW monitors the State Legislative Bills. SW does a good debriefing of all the bills.

Don stated that he appreciated Ken's involvement for his Montezuma County support.

Southwestern Water Conservation District will have their annual Seminar on April 3rd.

2020 CWC Board Observations / Colorado River Issues:

Ken stated that he put the State Engineer's slides in the packet. Compact Administration is complicated and it is not going to happen overnight. We are not anywhere near where the trigger is for compact compliance even under least release amount for Powell to release and this is not going to happen prior to 2026.

Don stated that nothing can be done until direction is given by Upper Colorado River Commission (UCRC), which is not going to be happening prior to 2026. Ken stated that State Engineer measurement rules could be coming out prior to further Compact Administration. The State Engineer cannot do a lot of things if they don't know what the historical & existing diversions are.

Don stated that we as a community have a place that the regulations and non-decreed use issue is real and we have to figure out. There is still room for the un-decreed uses to go back basin by basin. We need to think locally with the crystal ball. The 2 slides on the back page of the handout are the current activity of the State Engineer's Office and a Scenario of Compact Administration.

Ken stated that hopefully as a state we will chip away at this from our perspective and probably a future Board to Board discussion.

Godwin reflected on the presentation that he attended on rural farming. Bruce stated that his presentation was on the climate change.

Ken stated that when asked what are we going to do about it, it is part of why we are active in Forest Health. Ed stated that RMRI was a good session. Ed stated that they talked about water yield and where it will fall out.

Don invited Bruce to attend the Family Farm Alliance. There will be related discussions that has opened up to storage and ground water.

Ken stated that Tri-State has decided to get rid of the coal plants in Colorado and New Mexico and there is concern of a solar plant coming to our area, named Dolores Canyon, that might impact DWCD. They confirmed that they will not impact DP lands. Invenergy was another potential solar development in the Pleasant View area, that was not selected by Tri-State.

Included in the packet was the External Affairs update from Mike.

LEGAL REPORT

Adam stated that an Executive Session was needed for further Totten Discussion.

RECESSED FOR BREAK AT 9:31 PM

RECONVENED MEETING AT 9:36

MOTION: MOVE INTO EXECUTIVE SESSION PER CRS 24.6.402(b) TO OBTAIN ADVICE FROM COUNSEL AND CRS 24.6.402(e) MATTERS OF NEGOTIATION IN DISCUSSIONS ON TOTTON RESERVOIR

MOTION: WES WILSON

SECOND: SIMON MARTINEZ

MOTION CARRIED UNANIMOUSLY.

RECESSED REGULAR MEETING AT 9:37 PM

RECONVENED AT 10:38 PM

Report from Executive Session

Discussed potential lease and purchase of Totten and procedures on allocation hearings and no decisions were made.

NEXT DWCD BOARD MEETING – Thursday, March 12, 2020 - 7:00 P.M.

ADJOURNMENT Meeting adjourned at 10:38 P.M.

Donald W. Schwindt, Secretary-Treasurer

Bruce Smart, President