

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 May 14, 2020

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**CALL TO ORDER** Bruce Smart, President, called the meeting to order at 7:06 PM

**ROLL CALL** Bruce Smart, President-Via Teleconference  
Simon Martinez, Vice President  
Don Schwindt, Secretary-Treasurer-Via Teleconference  
Godwin Oliver, Director  
Wes Wilson, Director- Via Teleconference  
Sheldonna Z. Ives, Director-Via Teleconference  
Glen Fish, Director-Via Teleconference  
Ken Curtis, General Manager  
Lloyd Johnson, Maintenance Supervisor-Via Teleconference  
Rob Walker, Engineering Technician-Via Teleconference  
Robert Stump, Bureau of Reclamation- Via Teleconference  
Lisa Jordan, Office Administrator  
Adam Reeves, Attorney- Via Teleconference  
Dan McCarl, Attorney- Via Teleconference

### INTRODUCTION OF GUESTS

Eric Sprague, DWCD Engineering Tech, Brandon Johnson, General Manager MVIC, Ed Millard, Montezuma County/IBCC/SWBRT, Doug Pickering, Marty Robbins, DWR; Frank Kugel, Executive Director, SW Water Conservation District; Travis Daves, Rod Daves, Dillon Oliver, Eric Guynes, Ben Lanier, Scott Mahaffey, Tim Lanier, Full Service Irrigators; Cody and Mark (no last name or affiliation available), Rich Landreth, City of Cortez; Danny Wilkin, MVIC, Director all in attendance via teleconference

### MINUTES

#### APPROVAL OF THE MINUTES

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

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

#### FINANCIAL STATEMENTS

**MOTION: TO APPROVE THE MARCH '20 FINANCIAL STATEMENT AND APPROVE THE STATEMENT OF PAYABLES AS PRESENTED.**

**O&M: AP/CHECK #38273-38368 & PR/CHECK #123920-123976  
\$331,295.62**

**MOTION: SHELDONNA Z. IVES  
SECOND: WES WILSON  
MOTION CARRIED UNANIMOUSLY**

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

**Pump Plants** – All pumping plants were started and the laterals were charged up the week of April 27th. Some farmers began taking water that same week. A new weed conveyor was built over the winter and installed on the water screen at Ruin Canyon Pump Plant intake. The three rebuilt fixed speed pumps were delivered by Brimhall Industrial and we installed them April 30th. The two fixed speed pumps for Cahone Pump Plant are scheduled for delivery May 22nd. Brimhall worked overtime and one was installed May 14, 2020. Staff was able to remove a discharge head from one of the old pumps which were removed from Fairview Pump Plant in 2014 and install it on the Cahone spare pump. This should buy us some extra time.

**Canals** – Weeds have been a continuing problem, as is usually the case with windy spring times. The crane truck and weed clam have been running daily removing weeds. We have had consistent call outs at night and on weekends for weed blockages. The PERK machine was used for a week along the canal near Cahone Pump Plant.

**Laterals** – Due to the long delay in new valve deliveries (have been on order for 3 months) some of the delivery boxes with bad valves had to have spool pieces fabricated and installed in place of the valves for operation this season.

**SCADA** – Robert Sliwinski and Eric Tanner have been busy helping the new operators with their on-the-job training. Things are progressing well, and the operator's will soon be working independently on the night shift. Water levels at gate structures are being checked and calibrated during down time, which ensures accuracy on the SCADA system. Eric Tanner has also been trying to make improvements to the programming at pumping plants to help improve efficiency.

**Power Plants** – McPhee Power Plant is running steady at 50 cfs. Towaoc Power Plant has been averaging around 100 cfs.

## **WATER MANAGEMENT REPORT**

**Modification to FSA Payment Policy, 30 Day Extension to 60 Day Water Cutoff** – Ken stated that the Full Service Area Irrigator Administrative Payment Policy was mailed to the Board. The Board set FSA payment requirements and practices by individual Board actions through the 1990's and 2000's. In 2015 we had an irrigator who had been shut off and hadn't paid any charges for several years, the first ever to my knowledge. We hired an attorney to research our statutory lien rights and working with that individual irrigator's bank we collected the delinquent charges. Subsequently we codified the multiple separate Board actions and adopted the Full Service Area Irrigator Administrative Payment Policy (Policy) in 2015. Since that time several other irrigators have fallen delinquent and we have held annual required hearings prior to sending their outstanding bills to the County Treasurer for collection. Two individuals remain shut off, but we have belatedly collected all the outstanding balances every year since 2015, all tough years due to combinations of markets, water supply shortages and recovery from past shortages. The District interest payments have increased, but otherwise the additional 30 days has had no observed effect on the number of long term delinquent accounts based on our annual modification extending the 60-day cutoff to 90 days, Ken recommends that the Board formally adopted the proposed amendment on the Policy that was mailed to the Board with changes in track changes as follows:

Item 7 "If **60** days after an invoice is issued the account remains unpaid in full, the District will shut off water deliveries (example: invoice on April 1 due on April 30, unpaid amount on 5/1 is late and starts accruing interest, account is shut off on **5/31**" to "If **90** days after an invoice is issued the account remains unpaid in full, the District will shut off water deliveries (example: invoice on April 1 due on April 30, unpaid amount on 5/1 is late and starts accruing interest, account is shut off on **6/30**".

**MOTION: TO APPROVE THE RECOMMENDED MODIFICATION TO THE FULL SERVICE AREA IRRIGATOR ADMINISTRATIVE PAYMENT POLICY AS DESCRIBED ABOVE.**

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

**Water Accounting** – Ken stated that **1)** Ken stated that DWCD works with the Colorado Basin River Forecast Center (CBRFC) on supply information. Ken stated that there was good carry over from 2019 and staff have been planning on the 70-90% forecasted numbers. All indications of 90% meeting the full supply went away during April 2020. Ken and Eric Sprague have been working with the CBRFC to look at the clues to better evaluate their forecasts in the future. There was definitely 100% snowpack based on the SNOTELs on April 1 and the CBRFC was not counting on 100% normal runoff and neither was DWCD. Ken stated that staff is currently working off of the actual Dolores River inflows and have currently brought the 2020 water allocation down to a conservative 17 inches/acre for FSA (18.6" HOV). Final calculations will be done after June 30. Ken has not

added in the 1,000 AF of DWCD M&I yet and has been talking to Rich Landreth and Phil Johnson with the City of Cortez to see if they are willing to ask the City Council to lease DWCD 1,000 AF of M&I. Ken noted that in the future the lease with the Utes will not likely be executed in April.

**Discussion:** Wes Wilson asked if the predictions were from the forecast. Ken said yes, but the forecast was definitely off. At this point staff is working with the CBRFC to try to figure out where the snow went and other than the lack of low snow why we didn't see the loss. Don Schwindt stated that as he has watched this unfold, to him, the water that didn't come was snow that didn't make it to the river. Instead of running off, because of no monsoon or good fall storms, the snow melted into the dry landscape above the river. This is an area that with the gages that we have and implementing some wells would provide valuable information. Don stated that he doesn't blame Ken for how the predictions were made and the decision to allocate a full supply. Bruce Smart stated that it was quite a shock from where we were at the April Meeting.

**Public comments:** Ken stated that there was a write in comment from Eric Guynes: How could DWCD lease water to UF&RE when we don't have it in the bank. Ken stated that we always work off of projections and forecasts. Eric Sprague and Ken are doing their best to try to figure out where the water was lost. Ken stated that generally the lease with UF&RE is executed in April however it is unlikely that this will happen in the future unless runoff is a guarantee. Eric Sprague stated that DWCD was already being conservative with the forecasted numbers and noted that this April was the driest precipitation and runoff year on record.

Ben Lanier: Stated that he is frustrated because irrigators have made investments but he does understand what is happening.

Eric Guynes: Stated that he is concerned about the water leased early on and wanted to know if there were legal ramifications. Ken stated that there was a contract approved and he did sign it. All Dolores Project allocations will be cut proportionally. Ken noted that there is additional M&I that will be utilized and Class B water will be delivered to the FSA Dove Creek Canal system. It was noted that the Ute's lease water comes out of the M&I pool, not the FSA allocation. Eric Guynes asked if the 17 inches per acre is anticipating runoff. Ken stated that it is anticipating runoff through June stating that peak inflows have probably happened. Ken stated that today's calculations actually yield 18.2 inches per acre but staff is being conservative at 17 inches per acre and will hopefully be able to add back in the 1.2 inches per acre after the final calculations.

Rod Daves: Stated that he was frustrated with the news that he received today. Rod stated that the Board leased the water to UF&RE early on and shouldn't have in his opinion. Rod stated that farmers base their decisions on what the Board tells them, he understands things change, but this changed very quickly. Rod stated that irrigators are making high priced decisions such as purchasing fertilizer that has to be put on and they can't ship it back. Rod anticipates he would need 10 inches per acre for the first cutting but only has 7 inches per acre of water. Rod stated that he doesn't understand how the canal can run dry or spill with people in the control room.

Travis Daves: Stated that he is concerned with late water because he has irrigated corn and is planning to plant beans and stated that those crops need water later in the season. Travis stated that in the past when the water has been cut then added back, a lot of people shut off to cut hay then the District allocated another inch. Travis stated that sometimes late allocations don't do a lot of good, DWCD needs to allocate water timely enough for irrigators to utilize it. Ken stated that DWCD will hold everyone's pools to secure late water. Ken stated that staff might reallocate June 1, however after June 30 there will be a better number with final calculations. Ken stated that the DWCD M&I supply is available now and hopefully the City of Cortez will consider our request to lease water.

**Board Comment:** Don stated that he would like to make a couple of comments from being in the same business. **1)** Don stated that Ken took responsibility for this and it is really the responsibility of the Board. **2)** Don stated that he feels bad for irrigators who have put money into product but mother nature is not predictable and each farmer needs to make their decisions of where to put their money based on their own needs and comfort level. **3)** DWCD signed a lease and hopes the audience heard Ken try to be fair to all of the users as summer unfolds. We have to work together as a team on this Project and we will have to plan together, struggle together and work together as partners.

Ken stated that he doesn't think the conversation is over and will follow up with improvements in the future with what we have learned so far.

**ADJOURNMENT** Dolores Water Conservancy District Water Activity Enterprise Board meeting adjourned at 7:56 PM

# DOLORES WATER CONSERVANCY DISTRICT

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## MINUTES Regular Meeting May 14, 2020

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**CALL TO ORDER** Bruce Smart, President, called the meeting to order at 7:56 PM

**ROLL CALL** Bruce Smart, President-Via Teleconference  
Simon Martinez, Vice President  
Don Schwindt, Secretary-Treasurer-Via Teleconference  
Godwin Oliver, Director  
Wes Wilson, Director- Via Teleconference  
Sheldonna Z. Ives, Director-Via Teleconference  
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### MINUTES

#### APPROVAL OF THE MINUTES

**MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE APRIL 9, 2020, REGULAR AND EXECUTIVE SESSION MEETINGS.**

**MOTION: GLEN FISH  
SECOND: SIMON MARTINEZ  
MOTION CARRIED UNANIMOUSLY**

**MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE APRIL 9, 2020, PUBLIC HEARING ON PETITION, ERIC WHITE.**

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

**MOTION: TO APPROVE THE MINUTES AS SUBMITTED FOR THE APRIL 9, 2020, EXECUTIVE SESSION MEETING.**

**MOTION: GODWIN OLIVER  
SECOND: SHELDONNA Z. IVES  
MOTION CARRIED UNANIMOUSLY**

### FINANCIAL STATEMENTS

Don stated that the billed amount in General Matters for legal was pretty large. Adam thinks that this was for work on the Totten Reservoir lease and they may need to make a new category.

**MOTION: TO APPROVE THE MARCH '20 FINANCIAL STATEMENTS AND APPROVE THE STATEMENT OF PAYABLES AS PRESENTED.**

**ADMIN: AP/CHECK #11490-11503**

**\$14,304.60**

**MOTION: SHELDONNA Z. IVES**

**SECOND: WES WILSON  
MOTION CARRIED UNANIMOUSLY**

**AGENCY REPORTS**

**BOR Report**

Robert reported that **1)** the last two pumps from Brimhall have been pushed back to May 22<sup>nd</sup> and we are waiting on the last one. Robert has been working with the contracting officer to fund more money upfront so the contractor doesn't have to wait. They are working toward not having this delay happen in the future. **2)** There is an Annual Power Review coming up that will be performed; however, the Full Facility Review has been pushed to 2021 due to COVID-19.

**Division of Water Resources Report**

Marty stated that the Totten lease water was running smooth.

**T/H Committee Report**

Godwin reported that the THC Committee had a remote meeting via email on April 15, 2020. **1)** The Committee paid DWCD, MVIC and UF&RE bills.

**Next T/H Meeting** – The Committee will meet at the DWCD, Cortez Office May 20, 2020 at 2:00 p.m.

**MVIC Report**

Brandon reported that **1)** MVIC start-up was rough as there were a few leaks. The water demand is around 400 cfs. **2)** Groundhog was projected to fill this season but the reservoir is currently approximately 4-5 feet low it doesn't look it will fill this season.

**GENERAL MANAGERS REPORT**

**Operations during current Pandemic** – Although we all remain impacted by COVID-19 around us, the DWCD crews have otherwise had a fairly normal start-up, though early heat and lack of precipitation has put us into overdrive turning irrigators on.

**DWCD External Relations Report** – Mike's final report was mailed to the Board. The referenced Memo: Summary of Instream Flows, Related Designations and Dolores Project Protections within the Dolores and San Miguel Basins will be handed out when we meet in person at a later Board meeting.

**Totten Reservoir Lease to MVIC** – There was a President's meeting with Ken Curtis, Brandon Johnson, the attorneys for DWCD & MVIC, Bruce Smart, Don Schwindt, Gerald Koppenhafer and Greg Black. It was decided that DWCD will keep the Totten lease revenue for 2020. MVIC is training this year and will take over fully in 2021. The lease complies with what discussions have been over the last couple of months. Adam stated that it is a good lease and they have incorporated some good language which solves the issue that DWCD had, there are no criticisms of the lease. Don stated that MVIC has already voted to approve the lease. John Justus and Adam have finalized the lease. Ken will be in touch with Bruce for his signature and will coordinate with MVIC for their signatures.

**MOTION: TO APPROVE THE TOTTEN RESERVOIR LEASE WITH MVIC.**

**MOTION: DON SCHWINDT  
SECOND: GLEN FISH  
MOTION CARRIED UNANIMOUSLY**

**Impacts to Ag Markets from Corona Virus affecting FSA & DWCD** – By early April we had heard reports of raw milk being wasted due to lack of demand as the food service industry was shut down along with restaurants and large group entertainment. Since then additional impacts to the food supply continue to roll in and the impacts are rippling back to the producer. The restaurant shutdowns dropped demand immediately for cheese, butter, fresh produce, specific meat cuts and more. More recently meat packing plants have been hit with COVID 19 and closed or are operating at significantly reduced rates. Closures on pork & chicken processing on shorter timelines from producers has led to euthanized animals. Beef has been held on feed lots longer lowering profit margins and halting orders for future cattle with dropping prices to the ranchers. Likewise, with milk demand down, hay prices are dropping, possibly \$40 - \$50/ton from last year as dairies cut costs. Trucking remains a local concern as decreased oil related traffic may limit local available shipping options. Some federal relief has been released to some producers, but how that may ripple back to our local farmers is unclear. I appreciate information being shared by Simon and Godwin on these fast adjusting markets. Local sales markets may or may not be similarly affected as this continues to

unfold. Much like a drought, these market disruptions will financially impact our rate paying irrigators. This conversation will continue as the Board considers DWCD potential actions to support our financial partners.

**Board Comments: Hay:** Simon stated that UF&RE started their first cutting of hay today. The market is indicating \$130-135 per ton but they are going to stand firm at \$160 per ton. The hay looks good. They will begin bailing Sunday and into Monday, they won't budge on the market and will hold firm with their price. **Corn:** Simon stated that he hopes Bow and Arrow can break even on corn this season. **Oats:** Simon stated that UF&RE had planned to go in after the oat harvest with alfalfa but may not go forward with the fall planting schedule.

Ken stated that the Board has flexibility with the FSA rates and have already extended the shut-off date. Ken will look at the cattle market closer. There are about 4 large controlling companies that set the prices on cattle noting that it would be nice if smaller local processors could get into the game to make the local markets more competitive. Sheldonna stated that she has talked to her calf buyer who said and there are a million cattle with nowhere to go and doesn't know why the market hasn't crashed.

**Colorado River Issues: Colorado River Compact Issues, Drought Contingency Planning, Demand Management – Ongoing Work on Policy/Strategy Framework – 1)** The CWCB work groups continue to meet leading up to a CWCB discussion in July that will probably direct future DM work. Current COVID-19 budget impacts have started cutting into planned CWCB activities along with other DNR divisions and all state agencies. The anticipated legal sports gambling revenues are non-existent as there are no sports. Ken asked for the Reclamation 7-D review of the 2007 Interim Guidelines to include a comparison to operations under the former criteria, Long Range Operating Criteria, LROC. At the SW Basin Roundtable work group, John Currier showed some modeled results showing that Lake Powell would have been kept higher, but the 10-year running average would be lower than today. This better position for the Upper Basin than how the 2007 Interim Guidelines played out is done in hindsight and does not reflect all past impacts. Other factors like past Lower Basin shortages and how they might have played out are much less straight forward to determine. IBCC and Roundtables are not meeting in person, but had some web-based meetings. There are activities going on but it is not clear where CWCB DCP/DM policy is headed.

Frank Kugel stated that the State Engineer talked about the rule making and measurement devices and how they vary from Division to Division so it is hard to tell how much water is being diverted. A very small number of users have proper measuring devices. Adam asked Frank how the soil moisture plays into forecasting as we have had such as struggle particularly in this season. Frank stated that he has worked very closely with Colorado Basin River Forecast Center in SLC in the past. Frank stated that he is an advocate for more data and would advocate for more SNOTEL sites in the Dolores Basin. Don stated that as he was listening to Brandon discuss the snow levels at MVIC's meeting, he noted that there is old wisdom of where the storms were in particular years and this information should be written down. Don stated that the old farmers spent all winter and spring in the mountains predicting the river as the water was their livelihood. Don stated that we could extrapolate known data from the people out there that have this historical knowledge.

Ed Millard stated that with regard to the "disappearing snow pack", people underestimate the damage the wind does to the snow pack. Ed stated that as far as DM process, he has been attending all the CWCB Workgroup meetings. Ed stated that currently staff will have their last meeting by June and then begin working on reports to present to CWCB in July. The state budget has nearly collapsed and now there isn't money for DM and noted that if the federal government doesn't give the states money there will be nothing for DM. Ed stated that that CWCB, CSU, TU and TNC are performing high meadow deficit irrigation research over the next two years in Grand County. IBCC has decided they will meet in June and will make sure they weigh in on DM from a grassroots level.

**DWCD Policy for Colorado River related matters: DCP/DM:** Ken emailed a rough draft policy prior to the Board meeting. Back in February 2019 DWCD made the recently released DCP and CWCB Policy the focal point of the DWCD Board Brainstorm workshop. Ken attached the final draft policy from that meeting as a reminder of past Board discussions about the potential for Colorado River curtailment. The policy Ken is seeking from the DWCD Board will focus more on current State efforts around Demand Management and related Colorado River issues.

Don stated that Kevin Rein was genuine in wanting to hear from water users in our basin and Yampa basin to learn the value and unique history. Don stated that there are unique pieces of this story that need to be presented to Kevin to see if we can incorporate them back into Colorado Water Law. The history was always based on due diligence and the history of why the Dolores Project only had three adjudication dates needs to be laid out better to get them to figure out what is better for our community not what works for Divisions 1 and 2.

Glen Fish stated that he would like to have a better understanding of Division 7 having an exemption. Ed Millard explained the exemption is a protection from water speculators coming in and selling the water. Montezuma County Commissioners want the exemption in place whereas other counties want it taken out. This is slated to go to the SWCD meeting in June. Frank Kugel stated that he agrees that Division 7 was the only exception to the statute to protect the historic consumptive use analysis, but only in the change case. SWCD wants to have a good discussion on this issue to obtain input. It was stated that exemption will not go to the legislation until 2021. Don stated that there may be more pieces of legislation with additional history that would be useful. There are some complexities that both DWCD and MVIC need look into. Ken and Adam need to see what type of historical records are available to bring answers back to the Board to be more educated. Adam asked if Don was talking about a type of timeline. Adam stated that no one knows why the Division 7 exemption is in there. Don stated that when he really began to see how these things work was when he started to simplify his reading of history. The circumvention of prior appropriation began in 1937 and Northern wanted a federal project and then there was no longer a pure prior appropriation as there was division throughout the state.

## **LEGAL REPORT**

Adam stated that 1) MVIC is working on its change case they still have other opposers and DWCD will need to re-evaluate that case once it is close to being complete. 2) Himes Creek is complete.

Don asked if there could be another item added for executive session. He would like to discuss the MVIC 87.3 change case.

The items for Executive Session are the Tabor Reserve Requirement, DWCD Policy Development on DCP/DM and the MVIC 87.3 change case.

**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 TO DISCUSS TABOR RESERVE REQUIRMENT, POLICY DEVELOPMENT TO SECURE DCP AND DM AND MVIC 87.3 CFS CHANGE CASE.**

**MOTION: SHELDONNA Z. IVES**

**SECOND: SIMON MARTINEZ**

**MOTION CARRIED UNANIMOUSLY.**

**RECESSED FOR EXECUTIVE SESSION AT 9:05 P.M.**

**RECONVENED REGULAR MEETING AT 10:20 P.M.**

## **REPORT OUT OF EXECUTIVE SESSION**

Adam reported that in Executive Session the Board discussed the MVIC 87.3 cfs Change Case, TABOR Reserve Requirement and DWCD Policy Development on DCP/DM. Direction to negotiators was provided and no decisions were made.

### **Other:**

Glen Fish stated that he thinks the Board was too soft tonight as there is no way to know how much water will come out of the mountains. Glen stated that he doesn't feel like the water allocation is a blatant mistake by DWCD. Don stated that McPhee is huge compared to other reservoirs in the southwest and very difficult to predict annual inflow. Bruce stated that things happen and this is the trial that we need to get through now.

Wes Wilson asked how Ken was coming along with hiring and engineer. Ken stated that he hired Patrick McKeever who started work for DWCD on Monday, May 11, 2020 and will attend the next Board meeting.

**NEXT DWCD BOARD MEETING – Thursday, June 11, 2020 - 7:00 P.M.**

**ADJOURNMENT** Meeting adjourned at 10:27 P.M.