

**MINUTES OF MEETING OF BOARD OF DIRECTORS
BASALT WATER CONSERVANCY DISTRICT
April 18, 2023**

CALL TO ORDER

The Board of Directors of the Basalt Water Conservancy District met on April 18, 2023 commencing at 7:00 p.m. in the Board Room at the Third Street Center, 520 South Third Street, Carbondale, Colorado. The meeting was also held via online and telephonically (Elevate).

The District's attorney Chris Geiger took the roll call. The following directors were present: Gary Knaus, Tim Nieslanik, Jim Nieslanik, Max Macdonell (via phone), Charles Bailey (via phone), Dean Seader, Mike Kennedy, and Charles Spickert. There was a quorum.

The District's attorneys Chris Geiger and Andie Hall of Balcomb & Green, the District's engineer Eric Mangeot of LRE Water ("LRE"), and Water Commissioner Bill Blakeslee also attended.

INITIAL BUSINESS

Director Jim Nieslanik moved to appoint Mike Kennedy as Secretary for the meeting. Director Tim Nieslanik seconded the motion, and it carried unanimously.

The minutes from the March 14, 2023 meeting were considered by the Board. Director Dean Seader moved to approve the March minutes, and Director Charles Spickert seconded the motion, which carried unanimously.

REPORT OF THE ENGINEER (ERIC MANGEOT, LRE WATER)

a. Snowpack Summary

Eric Mangeot reported that snowpack peaked in early April and is 147% of the median snowpack to date.

b. Gage Flows

Eric Mangeot reported that all stream flows are up from this time last year and that storage is up from this time last year, but down from one month ago.

c. Meter Overages – Water Year 2022 Update

LRE sent letters to eight individuals whose meter records indicated that they diverted more than allotted under their contracts. Reasons for overages included property sales, meter reading errors, and pipe breaks. Each owner responded and all issues have been addressed.

- d. Third Failure to Report / Suspension of Service Update
Eric Mangeot provided an updated list of contractees that have a third failure to report. Melody and Andie are sending out letters; one individual responded and is opting to read meters herself with an agreement that if she fails to report for any month for a year, she could be subject to termination. Letters have been sent via certified mail.

- e. BWCD Area A-5 Storage Exchange to Ivanhoe Reservoir Update
Eric met with Alan Ward (Pueblo) and Rick Kienitz (Aurora) to discuss moving water in the exchange from Ruedi to Ivanhoe. More updates later.

- f. Other
Melody sent out a billing update in April. Bills are sent in batches.

WATER ALLOTMENT CONTRACT ASSIGNMENTS, AMENDMENTS, INCLUSIONS AND CONTRACTS

- a. Contract No. 814 / Inclusion No. 252 – Stacy Walker Separate Property Trust and Timothy J. Harmon Separate Property Trust

Eric Mangeot presented this contract application for service under the District’s Case No. 02CW77 to cover depletions associated with two single-family dwellings, or a home and ADU, and 0.40 acres of lawn and landscape irrigation. Eric provided a revised table showing a corrected well type (A) for delayed return flows and monthly adjustments for monthly lagging factors. The Applicant is also requesting inclusion into the District’s boundaries. The property has an address of 102 N. Little Texas Lane, Woody Creek and is located in Pitkin County. The source of supply is from an existing well (Permit No. 115867). The contract amount is for 0.033 cfs and 0.9 AF. Chris Geiger reported that the petition was properly published and the Board has jurisdiction to consider the inclusion and contract. Director Tim Nieslanik made a motion to approve the contract and inclusion. Director Charles Spickert seconded the motion, which passed unanimously.

- b. Contract No. 816 – Spring Falls Ranch LLC

Eric Mangeot presented this contract application to cover depletions associated with a pending augmentation plan (22CW3077) for a commercial retreat and camp for up to 50 staff / adults and 150 children and evaporative depletions from Spring Falls Pond, Spring Falls Lower Pond and Spring Falls Augmentation Pond. The property has an address of 29570 Brush Creek Road, Meredith and is located in Pitkin and Eagle County. The sources of supply are the Big Spring and Spring Falls Ditch. The contract

amount is for 3.3 AF. Chris Geiger explained a location issue regarding service in Pitkin County that is not included in the contract and recommended tabling the contract until the applicant resolves the land description issue. The Board agreed.

- c. Assignment of Contract No. 33h – Marcy Roth and Anne Mullaney to Benjamin Stroud; Assignment of Contract No. 809a – Richard C. Blum Family Partnership, L.P. to Sanaproperty 9, LLC; Assignment of Contract No. 806a – Kris Cox to Anastasia Klupchak and Rachel Weitzenkorn

Chris Geiger advised the directors that these contracts were assigned over the past month.

REPORT OF THE ATTORNEY (CHRIS GEIGER, BALCOMB & GREEN, P.C.)

- a. Case No. 22CW3090 Update – Spring Valley Holdings
Applicant is seeking to reestablish conditional rights that were previously abandoned to serve the development. The development’s water supply involved BWCD contract water operated through two different augmentation plans, including the district owned 87CW155 plan, and another plan where the District and Development were co-applicants. Counsel has expressed concerns to Spring Valley that uses exceed volume of supply available under the contracts. Balcomb & Green and LRE will reply to Applicant’s response to the District in the next month.
- b. Case No. 20CW3107 Update – Basalt Water Conservancy District
Counsel submitted a proposed ruling to water court in December. The application requests a finding of diligence for the District’s Basalt Project rights, and to confirm portions of the Basalt Conduit absolute. Counsel has not received any updates from the water referee or the division engineer’s office. Counsel will wait another 20-30 days (120 day mark) and ask the court for an update.
- c. Case No. 19CW3159 Update – City of Aurora
This is Aurora’s case to move water into Ivanhoe that it bypasses at Twin Lakes. Aurora just settled a Statement of Opposition from the CWCB. Counsel will review that settlement. This activity indicates that case is close to resolved.
- d. Case No. 10CW305 Update – Pitkin County RICD Carve Out
This case involves boat park water for a Recreational In Channel Diversion near Basalt. Pitkin County agreed to subordinate up to 3,000 AF to allow upstream development of consumptive water rights, and files an annual report with all parties regarding the allocation of the 3,000 AF depletion volume. As of April 15, 2023, Pitkin County has allocated all but 59.55 AF of the 3,000 AF to water rights that have been decreed, but not necessarily perfected, above the RICD in Basalt. Accordingly, in the next 2-3 years,

subordination will likely be fully consumed. At that point, it will become more difficult to develop new private augmentation plans above the RICD, and may push more users into the District's A3 umbrella augmentation plan because the exchange is senior to RCID.

Eric Mangeot noted that Pitkin County is looking at the diversion rate instead of depletions, and not considering return flows, which could result in increased usages to carve out and a potential to get more AF back. Eric will evaluate and report back to the Board. Chris Geiger will confirm the deadline for a party to raise a challenge regarding a miscalculation and confer with Eric Mangeot.

Water Commissioner Bill Blakeslee noted that the river is constantly changing and it is difficult to maintain a gage in this area.

e. 2023 Colorado Legislative Update – Bills of Interest

This legislative session has been active and Balcomb & Green has been monitoring the water bills that have been introduced. No bills of significant interest to the District have been introduced, but the stream restoration bill, SB23-270 is likely of interest.

The Stream Restoration Bill exempts certain stream restoration projects from the 1969 Act. It creates a rebuttable presumption that a stream restoration project does not injure vested water rights. The bill has since been amended to limit the scope to smaller projects such as bank stabilization, stabilizing intermittent streams using porous structures, and reducing the surface area of a stream with diminished flow. Otherwise, affected water rights owners would have had no recourse if they anticipated injury from such a project. The bill was advanced by DNR.

f. Other

The Board scheduled its next meeting for May 16.

REPORT OF THE DIVISION OF WATER RESOURCES BILL

No Report.

BILLS, AUDIT REPORTS, FINANCIAL STATEMENTS

The Board reviewed the bills tendered in April for the month of March.

The Board requested a report from its accountant regarding practice improvements in the next few months. Chris Geiger will contact the accountant. Jim Nieslanik moved to approve bill payments. Dean Seader seconded the motion and it carried unanimously.

DIRECTOR REPORTS AND COMMENTS

Tim Nieslanik reported to the Board on the Robinson Ditch Company Annual Meeting. The Company is maintaining 2022 assessments this year to meet budget and develop a \$250,000 reserve fund.

Chris Geiger answered questions regarding the District's history of involvement with the Robinson Ditch, and explained that the District is the second largest owner of Robinson Ditch rights in connection with its water supply plan for the El Jebel/Blue creek area.

EXECUTIVE SESSION

None.

CONCLUSION

At 7:50, Director Charles Spickert moved to conclude the meeting. Director Gary Knaus seconded the motion, and it was approved unanimously.