

# HUERFANO COUNTY WATER CONSERVANCY DISTRICT

## Minutes of Board Meeting

March 27, 2023

The monthly meeting of the Huerfano County Water Conservancy District, which had been properly noticed and was available for public participation, was called to order by President Scott King in person at Walsenburg Housing Authority, 220 Russell St, Walsenburg on March 27, 2023 at 6:00 pm.

**Directors:** Scott King, Beaver Edmundson, Lonnie Brown, Kent Mace, Sandy White.

**Secretary:** Carol Dunn; **Attorney:** Steve Monson.

**Guests:** Rick Dunn, John Galusha, Steve Wardell, Doug Brgoch, Lenna Rauber, Kevin Rein, Rachel Zancanella, Amos Mace, Steve Wardell, Tor Tschanz, Bill Trujillo, Bror Hultgren, Dawn Tschanz, Corey Gomez, Dan Gomez, Fred Birner, Sonja Birner, Dick Keyes, Lonnie Spady, Jeff Montoya.

Agenda: Accepted on a White/Brown **motion**.

Minutes: The minutes for the February 27, 2022 board meeting were approved on a White/Brown **motion**.

Financial Reports: There was a White/Brown **motion** to accept the financial reports as presented. Board approved. Dunn will check again on having line numbers on the financials.

### OLD BUSINESS:

**Thorne Ranch:** Monson reported discussions continue on the compensation Huerfano County expects for the Thorne Ranch water. The County is trying to decide the value of the water rights, and they want to cover their costs. County Commissioner Galusha presented a list of potential uses to achieve the best use of the water in the county. Monson suggested there are a couple ways to determine the value of water. Ranch attributes – augmentation ponds and buried pipeline – will affect the value of the water. It may be time to develop an IGA. Monson will work on developing a “terms” sheet to delineate tasks, responsibilities and storage available. Galusha suggested ponds on Bear Bottom Ranch might be used for long range storage of Thorne Ranch water, as well as for fire suppression.

NEW BUSINESS: No new water cases.

**River Reports:** Lenna Rauber reported tributaries to the Huerfano River are not adding much to the river; most is from Pass Creek. The call is #21. The call on the Cucharas River is Coler, Read 62.

**Garcia Ditch Owners:** Tor Tschanz, farmer and landowner on Garcia Ditch, spoke to the board about the Robert Rice Ditch. It was on abandonment list, but the right was kept on the active rights list, even though the water hasn't been used for decades. The case is currently in water court. HCWCD was involved when there was a threat to move that right outside the county. Tschanz also mentioned the Montez Ditch. He did not present a suggested policy for HCWCD's involvement in private water rights disputes.

**Huerfano River Futile Call Model:** Rachel Zancanella and Kevin Rein spoke to the board about the recent change in futile call policy. Since this is not described in water law, it is at the

discretion of the State and Division Engineer. The written order provided in 2015 by Dick Wolfe was changed in 2023 to consider the aquifer underflow. White pointed out that, in not using the futile call, the alluvium is being converted to a “storage right” instead of a direct flow right. There was discussion about maximizing the beneficial use of the water, as this may be affecting all the irrigators in the Huerfano valley. There are implications for the multi-year project HCWCD sponsored for water infrastructure improvements funded primarily by CWCB. White suggested an “efficiency model” should be implemented going forward. He proposed that the final monitoring well under the infrastructure project should be drilled and inserted as a data source on the efficiency model spreadsheet; that spreadsheet should be allowable as “scientific evidence” when water users are applying for exceptions on futile call. (Prove that it’s nontributary.) There is a futile call statute on administering tributary water. Does this policy nullify the futile call statute, for which there is evolving interpretation. There was a **White/Mace motion** to drill the last monitoring well and incorporate the data into the “efficiency” model that was funded by the CWCB project. The model will be available for use by water users in Huerfano County and would be accepted as scientific evidence.

Break – King called a break at 8:00; meeting reconvened at 8:45.

### **Huerfano Regional Augmentation Plan**

#### **Applegate Group report:**

**Aspen River Ranch** Tier 2 augmentation application – Comment period ends June 9.

**Bear Bottom Ranch** Tier 1 aug application – Waiting for their engineering report and for the applicant to decide how much aug water they want.

**Mace** Tier 2 aug application – Will be ready to discuss engineering report at the April meeting.

**SCG Over Pumping** – To be discussed in executive session.

**Diversion and Recharge Pond** – Mace reported he visited the recharge pond at the Wm Craig Ranch this week. He contacted Al Garcia about the dimensions and details of the recharge pond. It has 18” of sediment in it, and the contractor who looked at it believes the pipes can be cleaned for a few thousand dollars. On a **White/Edmundson motion**, the board allocated a budget of up to \$5,000 for Mace to try a less expensive way to get the recharge pond back to being functional.

**SMAF** – Mace reported we will need to mud-jack the pad around the pumphouse. More details coming. Amos Mace completed a couple releases; the release rate is about 180-320 gpm.

**SCF Flood Mitigation Project** – Dunn reported the Core Group met on March 3 in La Veta. Future projects were discussed, and the group will meet again on April 14 to work on priorities for using the remaining funding. The agreement with David Steffan was discussed. Dunn will work with Monson’s office on a scope of duties.

**New meeting dates** – On a **White/Mace motion**, meeting dates were changed to April 17 and July 17.

**Arkansas Basin Roundtable** report – White reported on the ABRT meeting. There is a new DWR statute on stream improvement projects on private lands that will cause no injury to water rights holders. ABRT is hoping to have input into the pending Senate bill to “restore environmental health” of streams.

**Bills** – On a Edmundson/White **motion**, board authorized the transfer of up to \$67,000 to ColoTrust savings and approved paying the following bills, which total \$16,334.79:

Mountain States Financial group: bookkeeping	\$318.30
Monson, Cummins, Shohet & Farr: bd mtg, aug plan, GPIC, aug app, reservoirs	\$3,669.75
Dunn Write: contract, mileage, internet, phone, meeting & office supplies	\$2,001.33
Admin SCF Flood Mitigation grant	\$2,046.61
La Veta Carpentry: monthly website admin + monthly water analyst duties	\$350.00
Pinnacol Assurance: Workers Comp, additional premium	\$5.00
Applegate Group: water acctg, diligence engineering, aug plan participants	\$5,652.50
Johnson Properties, LLC: 8.1 shares Twin Lakes water lease	\$1,235.70
Walmart Check Printing	\$56.00
Stephen Wardell: Wm Craig Ditch cleaning, blading, hauling; set recorders & main	\$705.00
San Isabel Electric: Monthly usage at SMAF	\$229.60
Spanish Peaks Library: February rent	\$65.00

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At 9:47, there was a **motion** by White, seconded by Edmundson and approved by the board to go into executive session to discuss agreements with Doug Brgoch and with Stephen Wardell. On a White/Mace **motion**, the executive session was closed at 9:57 pm, and the regular session was reconvened.

There was a White/Edmundson **motion** to approve two professional services contracts, one for Doug Brgoch and the other for Stephen Wardell. Board approved.

At 9:59 pm, there was a motion by White, seconded by Brown and approved by the board to go into executive session, joined by the District's consultant, to discuss: Thorne Ranch; overpumping by SCG under its augmentation agreement; potential water rights acquisition; Bear Bottom ponds; futile call legal advice; participation in abandonment disputes. Discussion in the two executive sessions included purchase, acquisition, lease or sale of real, personal or other property interest as in CRS 24-6-402(4)(a); conference with an attorney representing the District for the purposes of receiving legal advice on specific legal questions pursuant to CRS 24-6-402(4)(b); and determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators pursuant to CRS 24-6-402(4)(e).

On a White/Mace **motion**, the second executive session was closed at 11:18 pm, and the regular session was reconvened.

There being no further business, meeting adjourned at 11:20 pm.

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Scott King, President

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Carol Dunn, Secretary