

**DOLORES WATER CONSERVANCY DISTRICT
WATER ACTIVITY ENTERPRISE**

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 audiotape.

MINUTES
Regular Meeting
July 11, 2024

CALL TO ORDER

Godwin Oliver, President, called the meeting to order at 3:00 pm

ROLL CALL

Godwin Oliver, President
Glen Fish, Vice President
Don Schwindt, Secretary-Treasurer
Wes Wilson, Director
Jeremy Redshaw, Director
Landan Wilson, Director, Via Teleconference
Ryan Gray, Director
Ken Curtis, General Manager
Eric Sprague, Interim Water Manager
Lisa Jordan, Office Administrator
Robert Stump, Bureau of Reclamation
Adam Reeves, Attorney MBSS
Lindsey Ratcliff, Attorney MBSS

INTRODUCTION OF GUESTS

In-Person

None

Via Telephone/Teleconference

None

APPROVAL OF THE MINUTES

MOTION:

**TO APPROVE THE MINUTES AS SUBMITTED FOR THE JUNE 13, 2024,
ENTERPRISE MEETING.**

MOTION: JEREMY REDSHAW

SECOND: RYAN GRAY

**MOTION CARRIED UNANIMOUSLY. GLEN WAS ABSENT AT THE
TIME OF THE VOTE.**

FINANCIAL STATEMENTS

MOTION:

**TO APPROVE THE MAY '24 FINANCIAL STATEMENT AND APPROVE THE
STATEMENT OF PAYABLES AS PRESENTED. O&M: AP/CHECK
#42570-42668 & PR/CHECK #126126544-126597, \$403,483.88**

MOTION: JEREMY REDSHAW
SECOND: RYAN GRAY
MOTION CARRIED UNANIMOUSLY. GLEN WAS ABSENT AT THE TIME OF THE VOTE.

O&M REPORT

Ken reported the following:

Ken stated that Jed was let go, he was not the long term answer for the Maintenance Supervisor position. Eric Sprague and Keith Hindmarsh and other experienced hands are going to pick up the work at this time.

Pumping Plants & Canals

There was an outage at Great Cut Pumping Plant. Eric stated that there is a trench that takes the busing from the substation to the pumping plant and water had gotten inside the trench which is what caused the shortage at Great Cut Pumping Plant. Ken said that they believe that there was a big flood that came through the substation around 15 years ago but records are not available. Ken said that this will be included in the cycle of items to inspect. Ken said that if the same type of structure were being built in today's world, they would use a type of cable that is waterproof. Ken said that type of cable is too big to for us to match the ends to the transformer. After the water season this area will be de-energized and staff will clean the busing and will re-insulate what is already there. Ken stated that there is now a hatch installed on the access plates to perform inspections, and it is large enough for a pump if needed.

Staff noticed some wear and tear on the bearing's located on the shaft that rotates the screen on the trash rack by Ruin Canyon Pumping Plant, we have tried to pull the motor off the shaft to no avail. This will be monitored going forward until the off season when staff can pull it out and look at the problem further.

Staff has been replacing all the buoys that are missing or need to be replaced in the canals.

Frank and Josh have treated all of the THC pond weed and algae and will be moving to South Canal next. Ken noted that they finished up Dove Creek Canal on July 11. In August DWCD will apply magnicide to the canal. A notice will go out in the mail.

Power Plants

Towaoc Power Plant is getting some strange readings that will be looked into.

On June 29, 2024 McPhee Power Plant was shut down due to loss of megahertz. Upon inspection a large pocket of carbon dust behind the main busing on the rotor was found. Nick from Lane Electric was on sight to assist the electricians with the bushings at McPhee Power Plant. Nick took the brush casing with him to perform a thorough cleaning and to re-insulate the casing. Robert stated that they are looking at possibly rewinding the rotor. Ken said that we are likely looking at a one-page guidance from the electrical engineer. Operators are working on miscellaneous drainage items.

Employee Personnel

On call employees will begin documenting their call outs. Ken stated that Great Cut was the last big call out and there have been some minor call outs so far this summer. Ken said that with regard to the budget, we are on track with labor and material costs through May.

Other

Godwin asked Ken if the leak on Road BB and Road 10 is DWCD or the irrigator? Ken said that he will have to look into that.

WATER MANAGEMENT REPORT

Water Accounting

Eric presented the Inflow/Outflow, summarizing the report.

June: The reservoir elevation started to drop in early June and we started spending storage. There was enough precipitation that there were some higher than expected flows, and this year, June was wetter than March and April combined, which is rare for what is usually our driest month. UF&RE used 10,394 AF by the end of June. MVIC hit their contractual limit of 72,000 AF then began spending stored call water. MVIC stored Narraguinnep fill in McPhee around 3,700 AF. Dove Creek Canal (DCC) is below average at about 80% of total use for the May-June period. There are some theories regarding the lower use that we will learn more about over time.

July: The reservoir was down to 6904.71' on July 10, 2024. MVIC began using call water July 3. Eric noted that MVIC has quite a bit of water stored in McPhee right now. July started out cooler, but that is about to change. There will be a high pressure system hitting on Friday, July 12 bringing in hot weather. Ken said that we made an official full supply at 22" per acre. Ken said that given the low use, staff suspects it's due to fallow fields.

Pool summary: Eric stated that there is one user who is creeping up on 22". Eric said that this individual has been alerted and knows there may be a penalty if he goes over the allocation. It was noted that this is a small irrigated parcel, only 12 acres.

2024 FSA Penalty for Overuse

Ken said there is a slightly modified version of the Irrigator Penalty for Overuse Policy that was handed out. There are a couple of questions from Eric. Lindsey said that she incorporated the discussion items from the June meeting. Lindsey stated that in paragraph IV. F they have outlined the full supply year to set a penalty at a rate double full cost of the base allocation. Jeremy questioned the wording "base allocation" the wording was changed to "...the total water cost per acre foot of overuse". Lindsey stated that they removed confusing language regarding repeat offenders. In subparagraph H there is also penalty language. It was asked if the \$500 dollars was a flat \$500 or is it \$500 per acre foot? Landan said he thought it is a flat \$500, not per acre foot. Wes said he was fine with that but thinks paragraph F ii should be changed to \$350 per acre foot. Eric asked what was the intention for the charge in relatively flush years to be double. Jeremy said that you already have your allotment, so if you have a full allotment you don't need as much of a penalty. Extra water isn't as valuable in a full supply year as it is in a water short year when it is more valuable. Landan said that those that use the full allocation and only get charged double would be taking out of carry over from the next year so he thinks the penalty should be a little higher than double in a full allocation year. Adam asked if it was worth it to pay double to put water on the ground for the next year's soil profile. Landan said yes it would be worth it, in his opinion. The Board agrees they want to discourage this practice. Don said that this encourages the larger pool holders to use the pool allocations. Adam said that in a full water supply year, do you still reduce acreage in a pool. Don said that some do. This is drought protection as opposed to drying acres in shortage years. Don said that we can choose here as we are making policy. Don considers this a full service decision. Landan asked for clarification, if they set the policy to incentivize FSA irrigators to pool then it would put less irrigated acres than were contemplated. Wes said that he agrees with Jeremy and doesn't think that it makes a difference. Don said that he wouldn't argue with groundwater storage but would say that it has more value stored in a reservoir like Sharp's Creek, and not in McPhee where it will be split between everyone the next year. Adam said that the other thing that happens is that you could throw yourself into the 2 out of every 4 years category as a repeat offender and this would help disincentivize overuse in those full years. Ryan asked if DWCD will shut the water off if someone is going over. Ken said that yes they will be notified and get shut off, but field techs don't prioritize policing farmers. Eric stated the penalty is intended to encourage farmers to track their own allocations. Ken said that this is a policy and the board will have to make a decision noting there will still be those who try to push the boundaries of the policy. Ken said that there is a Resolution that is available to sign and if the Board would like to adopt, they can do this later, during the Regular meeting.

2024 FSA Cap & Pricing

Ken said he would like to relay information to the irrigators, that we will not be increasing the cap this year.

ADJOURNMENT

Dolores Water Conservancy District Water Activity Enterprise Board meeting adjourned
at 4:07 pm

Donald W. Schwindt, Secretary-Treasurer

Godwin Oliver, President

DOLORES WATER CONSERVANCY DISTRICT

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MINUTES Regular Meeting July 11, 2024

CALL TO ORDER

Godwin Oliver, President, called the meeting to order at 4:07 pm

ROLL CALL

1. Godwin Oliver, President
2. Glen Fish, Vice President
3. Don Schwindt, Secretary-Treasurer
4. Wes Wilson, Director
5. Jeremy Redshaw, Director
6. Landan Wilson, Director, Via Teleconference
7. Ryan Gray, Director
8. Ken Curtis, General Manager
9. Eric Sprague, Interim Water Manager
10. Lisa Jordan, Office Administrator
11. Robert Stump, Bureau of Reclamation
12. Adam Reeves, Attorney MBSS
13. Lindsey Ratcliff, Attorney MBSS

INTRODUCTION OF GUESTS

In-Person

None

Via Telephone/Teleconference

None

APPROVAL OF THE MINUTES

MOTION:

TO APPROVE THE MINUTES AS SUBMITTED FOR THE JUNE 13, 2024 REGULAR MEETING.

**MOTION: JEREMY REDSHAW
SECOND: RYAN GRAY
MOTION CARRIED UNANIMOUSLY.**

MOTION:

TO APPROVE THE MINUTES AS SUBMITTED FOR THE JUNE 13, 2024 EXECUTIVE SESSION.

**MOTION: JEREMY REDSHAW
SECOND: RYAN GRAY
MOTION CARRIED UNANIMOUSLY.**

MOTION:
**TO APPROVE THE MINUTES AS SUBMITTED FOR THE JUNE 26, 2024
PERSONNEL COMMITTEE MEETING.**

MOTION: WES WILSON
SECOND: JEREMY REDSHAW
MOTION CARRIED UNANIMOUSLY.

FINANCIAL STATEMENTS

Wes stated that \$65K was paid to Weather Modification and he thought the cost was around \$45K. Ken said that DWCD runs the entire administrative program totaling around \$200K, this amount is in the budget and DWCD also charges a 5% administrative fee. DWCD only contributes about \$18K, rest by others. Ken said that he would like another entity to take over the administration of this program next year.

MOTION:
**TO APPROVE THE MAY '24 FINANCIAL STATEMENTS AND APPROVE THE
STATEMENT OF PAYABLES AS PRESENTED. ADMIN: AP/CHECK
#12541-12558, \$22,996.62**

MOTION: JEREMY REDSHAW
SECOND: RYAN GRAY
MOTION CARRIED UNANIMOUSLY.

RESOLUTION

Irrigator Penalty for Overuse Policy this policy was discussed in the Enterprise meeting. There were a few minor changes to the policy discussed at that time.

MOTION:
**TO ADOPT RESOLUTION 24-04 FULL SERVICE AREA IRRIGATOR PENALTY FOR
OVERUSE POLICY REFLECTING THE CHANGES MADE IN
TONIGHT'S ENTERPRISE MEETING.**

MOTION: JEREMY REDSHAW
SECOND: WES WILSON
MOTION CARRIED UNANIMOUSLY.

AGENCY REPORTS

1. **BOR Report** – Robert stated that
 - a. with regard to the valves and actuators the paperwork is done and the contractor can begin building them. Completion will be pushing the end of the BOR fiscal year, which is September 30, and may need to be extended.
 - b. With regard to power, the Bureau intends to award a sole source contract to the Dolores Water Conservancy District (DWCD) for the operation, maintenance, and replacement of the McPhee Dam Powerplant and Towaoc Powerplant for the Western Colorado Area Office (WACO), Robert is waiting for direction on next steps.
2. **Division of Water Resources Report** – Rusty was not in attendance, no report.

3. **T/H Committee Report** – Wes stated that draft minutes were mailed to the Board. The Committee paid the bills.
 - a. **Next T/H Meeting** – The Committee will meet at the DWCD, Cortez Office July 17, 2024 at 2:00 p.m.
4. **MVIC Report** – Brandon was not in attendance. Brandon asked Ken to report that
 - a. the Groundhog guard gates were repaired by divers and are working, can now work on regulating gates.
 - b. Brandon is pursuing engineers with regard to repairing the dam at Narraguinnep.
 - c. MVIC has been working on the Garrett Ridge ditch.
 - d. Bill Connor is the new Board member on the MVIC Board.

GENERAL MANAGER REPORT

1. **Miscellaneous Updates** – July 25 SWBRT will meet at the Cortez Office. Amy Ost diek will be at the meeting. Ken’s term is up and he will run again. Ryan Gray is DWCD’s representative. There is another at large position open if the Board knows of anyone that would like to run for this position. Larry Dozier was also selected for an at large position last meeting. Ryan said that there is a new person from Norwood that was recently selected. Ken said that he may ask Steve Bowman from MWC if he is interested.

Ken said that DWCD gets the *Irrigation Leader* magazine. Ken said that it is a good trade magazine and they are considering a Colorado version, they are looking for advertisers they are asking for \$500 for a half page ad. Ken said he wouldn’t mind seeing a Colorado version of this magazine, he would like to do a half page ad. There was Board consensus for a half page ad.

Don said that Family Farm Alliance (FFA) has an annual trip to Washington D.C. in September. Eric Whyte with UF&RE is on the advisory committee for FFA, and is a wonderful spokesperson for UF&RE. Don stated that Eric would like to go on the annual trip and Don said that he would discuss sponsorship from DWCD with the Board.

Ken said that that if you are going to be in the federal water business you need to have some contacts. Ken said that we have a great relationship with the Bureau of Reclamation and don’t have the hand-to-hand level of going to Washington. Ken said it never hurts to have your name out there, and Eric has been around a long time and can speak to the Farm and the Project at large. Ken said that he would love to have Eric go and would be willing to help him with information to take with him. Don said there is real value in our efforts to team with UF&RE. Don said that he used to do a lot of this and knows how important it is. Adam said that they want to make sure to check and see if Eric needs to register as a lobbyist.

MOTION: TO SPONSOR ERIC WHYTE ON THE ANNUAL FAMILY FARM ALLIANCE TRIP TO WASHINGTON D.C.

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

2. **Legislation:** Ken said that there are a couple of legislation items. Prop DD, this is the one where gambling revenues fund water projects, but has an upper limit cap. It is bringing in more than the cap so there will be an amendment on the ballot. Ken said they will likely ask for our support. Ken will ask Board about supporting this later in the fall.

3. **August 8, 2024 Board Meeting:** Ken stated that he will be traveling Tuesday, August 6 through Friday, August 9 and will not be able to attend the August 8 Board meeting. The Board can stick to the regular Thursday, August 8 schedule or move as they would like. Ken will get the mail out packet ready on Friday, August 2. If the Board does reschedule, MVIC and MWC should be meeting on Tuesday August 13, but August 5, 12, 14 & 15 look open. Ken does not foresee additional agenda items beyond water related updates and more discussion on the CR issues. The next big item will be power plant operations contracting with Reclamation, but no timeline as of this moment. The Board decided to move the meeting to August 15, 2024 at 3:00 pm.
4. **Colorado River Basin Issues:** Seems like more of the same. Ken included articles in the mail out that have relevance to the CR, but are not definitive about any specific direction or future agreements. The Supreme Court has been releasing decisions that have certainly made headlines. The first that may be relevant is the rejection of TX v. NM & CO proposed settlement. One Ken is just starting to read about is the Court's rejection of Chevron deference. These are big decisions that will take some time to sort out, but our attorneys should be able to provide some better background. These important cases were pushed out of the headlines by more politically oriented cases of more general relevance than water and agency processes.

Ken summarized a group of articles covering the Rio Grande compact litigation, Gila River Tribe & IID, the latter two on compensated conservation lowering LB diversions. Ken said that if the Board has the time, there is some interesting reading in the handouts covering a UCRC study to ensure conserved water gets to Lake Powell with some credit for the UB. Ken said legislation extending SCPP was introduced by both Colorado Senator's so it may come back. SCPP and the Upper Colorado Recovery Program extension, Explore Act and the Dolores NCA are all in the legislative hopper. Ken suspects it will be all or nothing prior to the newly elected officials taking office in January 2025. Don said that Ken is not wrong there is a lot contingent on the election and lame duck session.

LEGAL REPORT

1. **MVIC 87.3 Change Case** – Adam said that he talked to John Justus who thinks there is a path forward with regard to MVIC 87.3 change case with the SWCD Board.
2. **Main Canal 1&2 Due Diligence** – Adam stated that due diligence on the Main Canal 1 & 2 has been pushed out six months to get information to people with requests.
3. **2000 Operating Agreement Contract No. 99-WC-40R-6100** – Adam will draft a letter to begin the process of renewal.
4. **AZ/Navajo/Hopi/Southern Paiute settlement** – Adam stated that they were asked to look at the Arizona Navajo settlement particularly given some very strange language with some of the popular press reporting suggesting Navajo now have the most senior water right in the Upper Basin. When you dig into the settlement, it is clear that it comes out of Arizona's allocation and doesn't have any impact on any other states. Adam said that it is his understanding that it has been introduced but hasn't been passed.
5. **Montezuma Water Company Diligence** – Montezuma Water Company did file on diligence on their water right. Adam stated that it is probably worth being part of the case, Adam doesn't think this will be a big deal as DWCD has had a

cooperative relationship with them on our main canal case. Adam will look at this more closely since it was just filed.

6. **Cortez 4.2 CFS** – Ken stated that he has been watching Cortez and their 4.2 CFS. He stated that he doesn't have any specific strategy. MVIC continues discussing this in their executive session and Ken plans to ask Cortez what they are doing about their 4.2 CFS since we don't have a direct answer.
7. **Lower Dolores** – Ken said Lower Dolores came up at MVIC's meeting and a lot of people keep talking about the Lower Dolores National Monument. This could very likely be a pressure point in a few months. Ken noted that you see the articles about restrictions, one of the confusing things is it is kind of related to the NCA, these are the counties that didn't participate, the national monument is hanging over, Ken believes that it was Senator Bennet that suggested that we allow existing uses except the NCA has that written in and the National Monument is not written yet, so Ken's not sure how a senator can predict the details. The President's executive order will write the national monument language. Ken said that one thing that he wants Adam to address is if it may come with a federal reserve water right. Adam said that they don't always include federal reserve water rights. Adam said that there is, or was, a MOU between the feds and the state of Colorado which essentially said that the feds aren't going to pursue the federal reserve water rights in cases where the state's ISF program is adequate to address the needs of what would be the federal reserve water right and we already have a large one on the Dolores, which is why Adam is not overly concerned about a federal reserved water right on a Dolores National Monument. Adam stated that the only difference there is a federal reserve water right would be junior to an existing ISF stacking on top. The federal government takes the position that reserved water rights are not subject to existing conditional water rights. They assert that they are entitled to existing stream conditions at the time of the reservation and are not subject to states conditional water rights. Adam thinks the existing interests are adequately protected and doesn't see that there is anything to gain going against the conditionals.
8. Adam requested an executive session to discuss the following: 87.3 CFS case, and Pending Water Rights and Water Rights Protection.

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 FOR 87.3 CFS, PENDING WATER RIGHTS AND WATER RIGHTS PROTECTION.

**MOTION: JEREMY REDSHAW
SECOND: RYAN GRAY
MOTION CARRIED UNANIMOUSLY.**

**RECESSED FOR EXECUTIVE SESSION AT 5:05 P.M.
RECONVENED REGULAR MEETING AT 5:38 P.M.**

REPORT OUT OF EXECUTIVE SESSION

Adam reported that in executive session the Board discussed matters related to MVIC 87.3 CFS change case and water supply and protection matters. No decisions were made.

NEXT DWCD BOARD MEETING

Tuesday, August 15, 2024 – 3:00 P.M.

ADJOURNMENT

Meeting adjourned at 5:39 P.M.

Donald W. Schwindt, Secretary-Treasurer

Godwin Oliver, President