

Upper Gunnison River Water Conservancy District

Special Meeting Minutes

June 1, 2009

The Board of Directors of the Upper Gunnison River Water Conservancy District conducted a special meeting on Monday, June 1, 2009 at 1:00 p.m. at the District's offices, 234 North Main Street, Suite 3B, Gunnison, Colorado.

Board members present: Steve Glazer, Gary Hausler, Bill Nesbitt, Brett Redden, Steve Schechter, George Sibley, Ken Spann and Dennis Steckel.

Board members not present: Ralph Grover, Rebie Hazard and Jim Pike.

Others Present:

Alexandra Davis, Colorado Department of Natural Resources
Evan Dawson, Crested Butte News
Frank Kugel, General Manager
John McCLOW, General Counsel
Harris Sherman, Colorado Department of Natural Resources
Will Shoemaker, Gunnison Country Times
Jill Steele, Office Manager

1. CALL TO ORDER

Board President Brett Redden called the meeting to order at 1:00 p.m.

Brett Redden introduced Alex Davis and Harris Sherman, both of the Colorado Department of Natural Resources. He asked that the board members introduce themselves.

Brett Redden said that, among others, one of the board's biggest concerns is the proposed Blue Mesa water service contract between the CWCB and the Bureau of Reclamation.

Harris Sherman said it is helpful to meet. He said John McCLOW's presence on the CWCB will bring a helpful perspective to that board.

He said that the state continues working to assess water options in Colorado. The IBCC and roundtable processes are making lots of

progress assessing different components. He said that he has to look at it from a statewide perspective. It is expected that the population of Colorado will increase by five 5 million in the next 40 years. Four million of those will be on the Front Range. The West Slope will experience significant growth in the headwaters counties including Gunnison County. Climate change will play a role in analyzing future water availability and needs. The CWCB completed phase one of a climate change analysis. CSU projects a 6-20% reduction in flows of the Colorado River with implications statewide. Hydrocarbon resources including oil shale could become a critical part of the picture. He said that production of 1 to 1.5 million barrels of oil shale a year would consume one million acre feet of water per year.

Mr. Sherman said that water conservation along the Front Range is improving, but it leads to less water being released downstream.

Other measures being studied include taking senior agricultural rights out of production, sharing water resources in rural areas with urban areas, fallowing, rotational crop issues, and solutions to transbasin diversion where basins of origin benefit as well as the receiving basin.

Mr. Sherman said he would like input from this board on the issue of Blue Mesa Reservoir and what part it could play for the benefit of this area and state as a whole.

Alex Davis said she appreciated the May 20, 2009 letter sent by Brett Redden. She said that most of the questions cannot yet be answered. It is important to ask how Blue Mesa can meet Colorado's needs. The DNR has no preconceived notions on that issue. She said that the August 29, 2008 letter from Harris Sherman to Carol DeAngelis of the Bureau of Reclamation was an attempt to explore how and if Blue Mesa can meet Colorado's needs. It was important to start the dialog with the Bureau before the Aspinall EIS was finalized so the Fish and Wildlife Service could be able to have that information to use in making their determinations. It may be that a state contract with the Bureau might not provide any benefit and therefore might not be a good idea. DNR does not want the answer to come out of a lack of action while all these other processes are going on. Mr. Sherman added that DNR needs the board's input to decide if this could be a workable solution.

Dennis Steckel asked if the idea is to rent water from the Aspinall unit, so Colorado can have priority over other states in the basin. Alex Davis said that is one idea. Items for consideration are whether or not it makes sense to tag 200,000 acre feet as Colorado's water, whether the water would be available for delivery in case of a curtailment, and what is the best way for Blue Mesa to benefit the state.

Harris Sherman asked Dennis what would be the best use of this water. Dennis Steckel said to safely augment our users.

Dennis sees the Front Range approving development with no concrete source of water available to support it.

Bill Nesbitt said the land-use planning piece seems to be missing. He would like to see that evolve.

Bill asked if oil shale has been a proven resource. He challenged the DNR to make that determination.

Harris Sherman agreed that land use is a very important part of the equation. He said that today, in Denver, the average residential-use person uses 160 gallons per day, half of which is for lawn watering.

Mr. Sherman said that oil shale is still in a research and development stage. It is extremely power-intensive and issues need to be resolved such as what fuel should be used to power the power plants.

Gary Hausler questioned whether there is real, wet water on the West Slope to take anywhere including for oil shale development. Some of the studies that have been done regarding reduction in the Colorado River flows would indicate that there probably is not sufficient water here for additional uses. He said it is important that the leaders in the state address that heads-up and straight-forward. There may be lots of water on paper but it is not there in the creek. It is an important issue he feels the state has not yet looked at. He said that thirty years ago, he was in the oil shale businesses and even then everyone knew there wasn't enough water. Questions that need to be resolved include whether the water is really there, and what to do if it is not.

Harris Sherman said that the CWCB has a fairly elaborate study in progress that hopefully will give a preliminary answer to some of these questions. Many demand side issues and climate change aspects are being factored in. Everyone needs to scrutinize this study carefully when it comes out.

Alex Davis added that if no water is available to develop, it does not mean that life as we know it continues to exist; it means the water there moves to those uses that will pay most for it. Is energy the highest value? Continued agriculture? Municipalities? Western Resource Advocates' study, "Water on the Rocks," reveals some startling factstatistics that many energy companies have already optioned much of the agricultural rights.

Ken Spann said that the August 29, 2008 letter from the Colorado Department of Natural Resources to the Bureau of Reclamation was not circulated in a timely manner. He said he hopes that next time the state decides to enter into a contract they will touch base much sooner. The questions raised by the letter do need answers. It is not possible to assess how to react to this proposal without further development of the answers to some of the questions.

Ken said that this District is a political subdivision of the state and is not able to buy water for less than \$70 per acre feet. If the state gets a better deal, the District will want to tag along.

Ken said he is concerned about the creation of an expectation along the Front Range of an additional benefit created by locking up 200,000 acre feet when the benefit is not already there. He said it is important to recognize that Blue Mesa is a CRSPA project and has been helping the state meet its compact obligations all along.

Alex Davis clarified that the possible price of \$1 per acre foot per year is for a stand-by contract. There would be an additional price for water that is actually used.

Ken Spann said that if the District could buy stand-by water for \$1 per acre foot, it would do so.

John McClow said the District has formally tried, without success, to enter into a stand-by contract with the Bureau.

Ken Spann said, regarding question #6 in Brett Redden's May 20, 2009 letter to Ms. Davis, that if Blue Mesa gets drawn down, it takes several years for it to refill. If there is a compact call, Blue Mesa would be out of priority and unable to store water and then it would not refill. This is a problem with creating the expectation of a benefit.

Ken Spann said that the elephant question is whether or not coloring the water will provide the benefit needed to trade off against the issue that would be created, or will it create the scenario wherein the individual states hoard their water.

Alex Davis said that New Mexico uses all of Navajo for this purpose. Utah is building a pipeline to take water out of Lake Powell . Other states are using CRSPA reservoirs to develop their entitlement, so why should Colorado not look to a CRSPA reservoir to develop its entitlements to meet its needs? If we do not do that are we simply supporting New Mexico and Utah?

Steve Glazer said this board is responsible for assisting its water users. When the board first discussed the state's letter to the Bureau, more than one member suggested it was premature. He said he understands the pressure from the Front Range to tap into this basin. It is very frustrating that the state has been shopping this concept around the past 11 months. It seems logical that this discussion about utilizing the CRSPA projects should have taken place with the upper basin states rather than the Bureau. There is an underlying frustration that it has taken this long. He said he is not sure the board is getting a straight conversation on this issue because there are other dynamics going on.

Steve said that he has offered the District's assistance to the CWCB. His advice at this point is to look for fatal flaws before continuing discussions with the Bureau. There are a plethora of potential poison pills here. He said that some false hopes may have been created on the Front Range of using water from this basin for its benefit and to solve its problems.

Harris Sherman asked for four potential pitfalls. The board responded with the following questions:

1. Gary Hausler: Is the water really present and available? It is there on paper, but is it ending up in Lake Powell?
2. Ken Spann: How would the water be used? If by exchange, there would be injury issues to be addressed on the mainstem. Can you get the appropriate authorizations from the Fish and Wildlife Service?
3. John McClow: A category of fatal flaw is limitations on the Bureau to enter into a contract. All the contracts he has seen have a drought escape clause stating that the Bureau does not need to deliver the water during a drought. What ability does the Bureau have to negotiate a contract that provides the benefit you are looking for?
4. John McClow: How can you build a future on the forty-year contracts offered by the Bureau of Reclamation?

Alex Davis said a consideration is if it would be helpful to have this water available to augment critical uses during a drought. Availability and provisions of a drought contract have to be resolved.

The Bureau has said the water would be available three years into a drought. Is the water available solely for compact obligations? Can pre-1922 rights be stored in Aspinall and exchanged up the Gunnison?

George Sibley said the state is dealing with the consequence of perception right now. The idea could have been brought before the people better, perhaps in the roundtable and IBCC processes. He asked what the DNR thinks of the water bank idea of pre-1922 water rights.

Harris Sherman said it is promising. There may be a way to proceed down three or four avenues at once, and this is one. He said he views the contract in Blue Mesa as a placeholder, subject to a full vetting.

Bill Nesbitt said the Gunnison City Manager went to Grand Junction when Alex Davis spoke there and was very concerned. Lack of communication creates worry. He asked for prioritization of oil shale development or land use.

Steve Schechter said there has been discussion on getting water from agriculture for use in oil shale development. Currently, it takes 1 calorie of fossil fuel to grow 1 calorie of agricultural crops. This will increase. At some point all the agricultural lands will be needed to grow food and grow it close by. It takes lots of fossil fuel to get food here from the central valley of California. If we have dried up all our agricultural land, how do we feed our population?

Harris Sherman said that is a point well taken. Besides food production, agriculture offers open space, wildlife habitat, and green corridors.

Gary Hausler said he has heard reference to the Western Slope and Blue Mesa reservoir in particular as having more water than we know what to do with. He said this is inappropriate and those statements need to be specifically restrained.

Dennis Steckel said that Lake Powell is not gaining storage, which shows there is no extra water. That goes along with Colorado over and over again overestimating water availability.

Steve Glazer asked that the question of whether Front Range agriculture is more valuable than the West Slope's be added to the deliberation. Is it appropriate to sacrifice one area's economy for another?

Brett Redden said that we all put the money into the same state treasury and it cannot be said that the Front Range economy is more important than the West Slope's.

Alex Davis asked for suggestions on how to help and protect agriculture.

Brett Redden said the water banking idea is a good one. There is a need to get a more constant supply of money coming into agricultural right

now, so there is less risk of those agricultural rights being sold to a non-agricultural use.

Gary Hausler said in 2002, many could have placed a call, but there was no water to call.

Ken Spann said in order to keep agriculture, it has to be profitable. There has to be enough economic incentive for future generations to be able to survive and not have to sell the land. Anything the state does, like raising license fees for all the cars and trucks, increases the cost of production and makes it less profitable.

Ken Spann showed the current model run projection on Taylor Reservoir operations for the summer. The peak inflows are three weeks early due to the impact of dust on the snowpack and temperature.

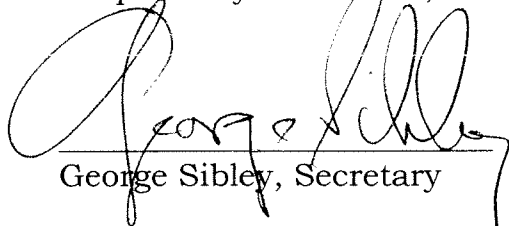
Steve Schechter said we are concerned about dust on snow, which is coming out of the Colorado plateau. He suggested that Harris Sherman talk to his colleague in Utah about why this is going on.

Board President Brett Redden thanked Alex Davis and Harris Sherman for coming.

4. ADJOURNMENT

Board President Brett Redden adjourned the June 1, 2009 special meeting at 3:00 p.m.

Respectfully Submitted,



George Sibley, Secretary

APPROVED:



Brett W. Redden, President