

**Upper Gunnison River Water Conservancy District
Meeting Minutes of the Board of Directors
Monday, February 27, 2023**

The Board of Directors of the Upper Gunnison River Water Conservancy District (UGRWCD) conducted a regular Board meeting on Monday, February 27, 2023 at 5:30 p.m. in the District office, 210 West Spencer Avenue, Suite B, Gunnison, CO, 81230 and via Zoom video/teleconferencing.

Board members present: Sara Bergstrom, Rosemary Carroll (via Zoom), Rebie Hazard, Stacy McPhail, Bill Nesbitt, John Perusek, Michelle Pierce, Don Sabrowski and Andy Spann.

Board members absent: Joellen Fonken and Julie Nania

Others present:

Bella Biondini, Gunnison Country Times
Dan Brauch, Colorado Parks and Wildlife
Sonja Chavez, UGRWCD General Manager
Shane Cox, Gunnison County Stockgrowers Association
Kathleen Curry, Colorado River District Director (via Zoom)
Burt and Sandy Guerrieri, Mill Creek Ranch
Nancy Johnston, Colorado Trout Unlimited (via Zoom)
Zane Kessler, Colorado River District (via Zoom)
Jesse Kruthaupt, Trout Unlimited
Terri Lammers, Snyder Ranches (via Zoom)
John McClow, UGRWCD General Counsel
Luke Mecklenburg, Colorado Attorney General's Office (via Zoom)
Amy Moyer, Colorado River District
Andy Mueller, Colorado River District
Alana Nichols, UGRWCD Fellow
Beverly Richards, UGRWCD Water Resource Specialist
Bob Robbins, Robbins Ranch
Jill Steele, Concerned Citizen (via Zoom)
Bill Trampe, Trampe Ranches
Sue Uerling, UGRWCD Admin. Asst/Communications Specialist
Ryan Unterreiner, Colorado Parks and Wildlife (via Zoom)

1. CALL TO ORDER

Board President Michelle Pierce called the meeting to order at 5:30 p.m.

2. AGENDA APPROVAL

Director Don Sabrowski moved and Director Stacy McPhail seconded approval of the agenda as circulated.

3. CONSENT AGENDA ITEMS

Director Bill Nesbitt moved and Director Sara Bergstrom seconded approval of the consent agenda as circulated. The motion carried.

4. LEGAL AND LEGISLATIVE MATTERS

General Counsel John McClow briefly reviewed the Legislative Report included in the packet. John said as of the close of business last Friday, there were 389 proposed bills in consideration and the legislature is not even half-way through this session. He noted that of the proposed bills he reviewed at the last Board meeting, the bill about foreign ownership of real property died in committee discussions and the stream restoration draft language is being rewritten.

5. PRESENTATION ON CREEL SURVEY BY DAN BRAUCH, COLORADO PARKS AND WILDLIFE AND NANCY JOHNSTON, COLORADO TROUT UNLIMITED

Dan Brauch of Colorado Parks and Wildlife, Nancy Johnston of Colorado Trout Unlimited and Jesse Kruthaupt of Trout Unlimited conducted a creel and boater survey along the Taylor and Gunnison Rivers. This presentation is a deliverable required under a District Grant they received in 2021. Dan thanked the District for its support of the study.

Dan explained that for the survey, they collected data on the number of commercial boaters, private boaters, anglers and angling guests with a guide on the rivers. In addition, the survey tracked the number and type of fish caught by the anglers. Anglers were also asked if they felt crowded by other anglers or non-anglers while using the Taylor and Gunnison Rivers. The response to this question was very low with less than 12 percent of the folks surveyed indicating that they felt crowded. Dan said that they also used four field cameras to take 3.7 million time-lapsed photos since there are five exit points on the river and only one person collecting data.

Dan also reviewed some tables showing the number and quality of fish caught in the Taylor and Gunnison Rivers and explained the process of these rivers being awarded “Gold Medal Waters” status.

Director Bill Nesbitt asked Dan if the “crowded anglers” responses were weighted to particular sites or if this was an overall average of all sites. Dan replied that all sites were treated the same with no weighting and the final percentages are based on all responses equally.

Director Nesbitt also asked if during their survey process they noted any less harvesting down river from Blue Mesa due to algae or anywhere else on the rivers. Dan replied that there were some pockets of algae spotted along the rivers but that since the creel survey included very few fish harvested from Blue Mesa and below, any algae pockets did not really affect their total harvest numbers.

Director Nesbitt also asked if all of the 3.7 million time-lapsed photos taken were proprietary or might be used by some other entity. Dan answered that the photos are all proprietary and were used only to count the number of people using the river within the photos.

Director Don Sabrowski asked, based on the outcomes of the creel survey, if Dan would consider making any changes to the flow recommendations made at the Taylor Local Users Group (TLUG) meetings for the health of the fishery. Dan replied that “no” he felt the releases were adequate for the fishery and he would not see making any changes to the flow recommendations. Overall, he said he saw no reason to make adjustments to the management of the Taylor River. Dan noted that they intend to repeat the creel survey in five years to monitor the fishery.

Dan then showed a slide with the latest information about the Spring Creek Dam outlet gate replacement project. He said the new outlet gate is installed and operating. Once Spring Creek Reservoir gauge measures 20 feet, Dan said the outlet gate will be opened for seven days and there will be two inspections that week. Likewise, when the reservoir gauge measures 30 feet, the outlet will be opened again for seven days and two more inspections will be conducted. Finally, when the reservoir gauge measures 36 feet, they will try to hold the reservoir at this elevation, which is four feet below the spillway. He said that hydrology may not allow for this but that whenever possible, they will try to reset the reservoir to this level. Dan said they will be monitoring the levels very closely to try to meet this rigorous inspection schedule. He also noted that the spillway needs some repairs, which they will try to address as allowed by the inspection schedule. Dan also noted that they will try to pay attention to conditions downstream as well when considering the outlet openings schedule.

Director Don Sabrowski noted that the reservoir was not filled during Fall and Winter, which was originally intended. Dan answered that they did not receive approval to fill the reservoir until winter and now the best opportunity to fill it will be during spring runoff.

Director Bill Nesbitt asked if CPW got any complaints while the outlet gate was being worked on and he said “no” that most folks were happy downstream with the flow. Director Sabrowski noted that most everyone downstream was really happy with the bypass during the work and that particularly the irrigators appreciated having the extra water.

DINNER BREAK

6. Board Review of history being System Conservation and Demand Management Programs:

Andy Mueller and Amy Moyer, from the Colorado River Water Conservation District (CRWCD), began their presentation with an historical overview titled “West Slope Water, the 1922 Compact and the Call for Conservation.” Andy presented a map showing the Colorado River District’s boundaries along with all of the western states and Mexico where water from the Colorado River is used. He also noted some gray areas marked on the map where other entities outside of the Colorado River Basin are using water from the Colorado River. This includes areas on the front range of Colorado where 500-600,000 acre feet of water from the western slope are diverted, as well as several areas in California. Andy explained that the CRWCD was created in 1937 in part to help protect from transmountain diversions of the Colorado River as well as to defend Colorado’s entitlement to the river under the 1922 compact, which was designed to provide “equitable apportionment” of the river to all water users. Andy also reviewed some of the history of the Glen Canyon Dam and explained the target elevations at Lake Powell needed to maintain operations at the dam. Andy then noted that in June 2022 the Bureau of Reclamation issued a requirement that the Colorado River states come up with a plan to reduce usage by up to 2-4 million acre feet of water. Along with this requirement, the Department of Interior issued a statement that the government would use unilateral power to bring the river back into balance if the states could not come to an agreement on how to reduce usage. After the first deadline for the states’ plan was missed, six of the states, (excluding California) came to a consensus on a water savings plan right on January 30. Andy said that California did not agree to that plan and will likely challenge any plan that is put forth as they feel their entitlement is senior to any other water rights.

Andy noted that the Upper Colorado River Commission (UCRC) developed a five-point plan to address the call for saving water which included (1) Reauthorizing the system conservation pilot program; (2) A drought response operations plan; (3) Continued analysis of the feasibility of an

Upper Basin Demand Management Program; (4) Funding for improved water management tools; and (5) Strict administration of water rights.

7. Water Policy Discussions with Andy Mueller and Amy Moyer, CRWCD

System Conservation Program: Andy Mueller noted that the UCRC's System Conservation Pilot Program (SCPP) is NOT a Colorado River District program but that the CRWCD will be evaluating applications submitted under the program and assessing guidelines. Under CRWCD guidelines, not more than 30 percent of the irrigated land in any one sub-basin can be put in the SCPP program. He explained that there had been a change made to the program where applicants must be a ranch/farm operator, not just a landowner. And the entire payment must go to the ranch/farm operator, which is an increase from the 40 percent originally proposed by the UCRC. This payment to the operator is intended to prevent a tenant rancher/farmer from losing their livelihood when the land they care for is fallowed under the program. Andy noted that the SCPP is funded with \$125 million of federal funding from the Inflation Reduction Act and proposed to pay water users at a starting price of \$150 per acre-foot of saved water. The application deadline was extended until March 1, 2023.

Demand Management Program: Andy said the CRWCD will be reaching out to west slope stakeholders to design two demand management test project locations to discern where and how federal funds for demand management might achieve better outcomes such as: (1) benefits farmers and ranchers; (2) achieves water reduction targets; (3) minimizes and/or prevents community impacts and (4) identifies critical infrastructure improvements necessary to run the program. Like the SCPP, the program will pay ag producers to fallow a portion of their irrigated land. Andy noted that the goal is to get these test project locations determined as soon as possible.

Andy did concede that the CRWCD has concerns about SCPP and is not endorsing it. He said this is primarily due to the fact that there is no mechanism to "shepherd" any conserved water past downstream water users and that evaporation will still have a huge impact on any conserved water. He also fears that any water saved by western slope water users will likely end up being used by California and other Lower Basin states instead of bolstering Lake Powell. He also has serious concerns about what happens to downstream water rights holders when those upstream choose to fallow and not irrigate. Andy noted that the last thing they want is for CRWCD's demand management pilot to end up hurting the ag industry or pitting neighbor against neighbor. In addition, he also has concerns that speculative outside investors could buy water rights and seek to profit from SCPP as there is a lot of federal monies being thrown at them.

Following the presentation, UGRWCD Board members and the ag producers in the audience were asked for their input.

Director Andy Spann said he is not in favor of either of these programs and thinks they are extremely dangerous to the area economy and ag producers livelihood.

Director Bill Nesbitt said he doesn't see either of these programs keeping more of our water here on the western slope to bolster our reservoirs and rivers.

From the other ag producers attending in person or on Zoom, the consensus was that they were not in favor of either program with the major concerns being that: (1) the deadline is too soon and does not give producers time to plan for their cropping sequence; (2) fallowing will have longer term impacts to their land than just one season, (3) they will not be able to find and afford hay to feed their livestock; (4) you can't put cattle on fallowed land in the fall/winter so what will they eat, and (5) they are dubious that water saved will actually end up in Lake Powell.

Andy Mueller concluded by saying that he understands and appreciates everyone's concerns and that there is a lot of pressure from the federal government to come up with solutions. He noted that it may come down to interstate compact litigation and that Colorado water rights holders may do better in front of the Supreme Court if we had data to support our lived experiences on the importance of irrigation return flows and long-term impacts to communities and producers when you fallow your agricultural lands.

8. BASIN WATER SUPPLY REPORT

Water Resource Specialist Beverly Richards referenced her report included in the Board packet and asked if there were any questions. None were raised.

9. TREASURER'S REPORT:

Treasurer Bill Nesbitt reported interest rates are very competitive right now for CDs and Bonds. As he pointed out in last month's Treasurer's report, the industries making up the Dow Jones Industrial Average are totally different than they were 20 years ago which he believes makes it much more challenging to predict how and when the economy might bounce back from this downturn. He wonders if the District should invest cash into any bonds right now given that our Colorado Trust Plus money market is earning 4.5%. Bill did say that the District has plenty of money right now – over \$4 million invested in a variety of securities – which would easily pay all operating costs for two to three years without any money coming in. He indicated that he hadn't had a chance to catch up with Sonja to understand the increase in end of year expenditures. General Manager Sonja Chavez said that even though the District is to ensure that grant project get constructed in the year of the application, sometimes applicants request extensions which means that expenditures can rollover into the next budget year. Sonja said she

is talking with Tom Stoeber about how we can better manage our program expenditures year to year (e.g., tracking and rolling over funds from year to year). Tom is looking into this but wants to talk to our auditor first before making changes to the budget. Sonja also noted that the Wet Meadows Program has traditionally sought reimbursement from partnering agencies for expenditures at the end of the calendar year and that we often don't get that reimbursement until the next calendar. She is working with Cheryl to change this practice and to implement a minimum of quarterly billing. In addition, she said that the monies we receive from Gunnison, Hinsdale and Saguache counties through the tax assessment, doesn't come to us at the beginning of the year as a lump sum and that it comes in slowly over time. So, she wants to visit with Bill about trying to keep a cushion of about \$400,000 in cash to be able to meet demands as bills come in instead of having to close CD's or bonds prematurely.

Bill noted that the Wall Street Journal published prime rate is 7.75 percent and they are predicting that there will be three more interest rate increases of 25 basis points each on March 22nd, in May and in July 2023. Bill feels the District is in good shape with its laddered investments and wondered if Sonja would like to see some of our cash invested now at some of these higher rates. Sonja replied that she thinks having the liquidity is really important, the Colotrust Prime account is earning a healthy interest rate comparable to some of the bonds so there is no urgency and that she and Bill can look at the finances more closely before making any decisions.

10. GENERAL MANAGER AND COMMITTEE REPORTS

General Manager's Report: General Manager Sonja Chavez reported that Sara Bergstrom is resigning from the Board of Directors as she will be moving to Colorado Springs. Sonja recommended that Sara's seat be filled on the same schedule as the other Board members whose terms are expiring in June of 2023. The District will advertise for any open seats and renewal of terms in early April and the judge will make his appointments in May. President Michelle Pierce thanked Sara for her service and the Board agreed that Sara will be missed.

Wet Meadows Program Update: Water Resource Specialist Cheryl Cwelich included an update in the Board packet.

Watershed Management Program:

Sonja referred to the memorandum in the Board packet and asked if there were questions. None were raised.

Grant Program Update:

Sonja reviewed the memorandum included in the Board packet and said that the committee is scheduled to review grant applications on March 3, 2023 at 3 p.m. The staff has completed their preliminary review. No additional questions were raised.

Gunnison River Festival (GRF) Update:

In her absence, GRF Director Cheryl Cwelich included a preliminary schedule of events for 2023 in the Board packet. No additional questions were raised.

Scientific Endeavors:

Director Rosemary Carroll stated that she did not have any update on Scientific Endeavors for the meeting but wondered if the Board could hold a special meeting to address the SCP and Demand Management programs further. Rebie Hazard wondered if this meeting could be held in Executive Session so that Directors could ask General Counsel for legal advice. General Counsel John McClow said he would review the statutes and get back with Sonja.

11. MISCELLANEOUS MATTERS

Director Bill Nesbitt passed around a booklet that he got at the Colorado Water Congress meeting in January entitled “Rising River Stewards Activity Book” which was published by the Southwestern Water Conservation District. He wondered if we could use this book as a template for developing our own version.

General Counsel John McClow noted that a bill proposed to help protect the rights of private property owners when recreationist cut utilize their land is going to the Senate Judiciary Committee tomorrow. He said the latest version does provide greater protections for the land owner.

12. CITIZENS COMMENTS

None of the citizens still present at this time elected to make any comments.

13. FUTURE MEETINGS

Information on future meetings was included in the Board packet.

14. SUMMARY OF MEETING ACTION ITEMS

General Manager Sonja Chavez and Legal Counsel John McClow will make plans for a special Board meeting to further discuss the SCPP and Demand Management Pilot Program. The Board will be notified via email.

15. ADJOURNMENT


Board President Michelle Pierce adjourned the February 27, 2023 Board meeting at 9:04 p.m.

APPROVED:



John Perusek, Secretary

APPROVED



Michelle Pierce, President