

**Upper Gunnison River Water Conservancy District
Regular Meeting Minutes of the Board of Directors
July 24, 2023 at 5:30 p.m.**

The Board of Directors of the Upper Gunnison River Water Conservancy District (UGRWCD) conducted a regular meeting on Monday, July 24, 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: Rosemary Carroll, Joellen Fonken, Rebie Hazard, Stacy McPhail, Julie Nania, Bill Nesbitt, John Perusek, Mike Rogers (via Zoom), Don Sabrowski (via Zoom) and Andy Spann.

Board members absent: Michelle Pierce

Others present:

John McClow, UGRWCD General Counsel

Luke Mecklenburg, Colorado Attorney General's Office (via Zoom)

Beverly Richards, Water Resource Specialist II

Jill Steele, Citizen (via Zoom)

Sue Uerling, UGRWCD Admin. Asst/Communications Support Specialist

1. Call to Order

Board Vice President Stacy McPhail called the meeting to order at 5:40 p.m.

2. Agenda Approval

Director Rebie Hazard moved and Director Bill Nesbitt seconded approval of the agenda. The motion carried.

3. Consent Agenda Items

Director Bill Nesbitt moved and Director Joellen Fonken seconded approval of the consent agenda items with the correction of the spelling of Eric Kowal's name on page 10 of the June 26, 2023 annual meeting minutes. The motion carried.

4. 2024 Budget – Budget Officer Appointment

Director Bill Nesbitt moved and Director Rosemary Carroll seconded the appointment of General Manager Sonja Chavez to serve as the 2024 Budget Officer for the District. The motion carried.

5. Legal and Legislative Matters

General Counsel John McCloy reported that the Colorado River Drought Task Force members have all been appointed, a chair has been appointed and a facilitator has been appointed. The task force is supposed to meet by July 31, 2023 but as of the meeting time, no one knows when or where that meeting will take place.

With respect to the Colorado River, John reported that on June 16th, the Bureau of Reclamation (BOR) published a Notice of Intent to prepare an Environmental Impact Statement for the development of post-2026 Colorado River reservoir operations. (Several important reservoir and water management documents/agreements governing the operation of Colorado River facilities and management of Colorado River water are currently scheduled to expire at the end of 2026.) The BOR invited all Colorado River Basin partners, stakeholders, and interested members of the public to provide comments regarding the future process by August 15, 2023. Details can be found on the BOR's website. John noted that he does not see the need for this District to submit a comment letter as it would be redundant of the state's comments and at this time, the District will just observe. John said that since the BOR withdrew the supplemental Environmental Impact Statement upon their receipt of the third alternative that they received from the lower basin states, he anticipates that they will reissue a new Environmental Impact Statement by October 2023 with the final Record of Decision due in January 2024. John reminded the Board that this will be an interim document with adjustments made to address the severe drought conditions last year until new governing documents are released for Post-2026.

Director Joellen Fonken asked John to further explain Principle #6 of the Post-2026 Management Principles dealing with water rights for tribal nations. John explained that there are 30 tribes with federal reserved water rights from the Colorado River and its tributaries. John said when reservations were established for the tribes, the government promised that there would be sufficient water for the reservations' needs. John noted that some tribes are using their full water rights, some have been adjudicated and partly used, some are not yet utilized, and some tribes have reached settlements. He said Colorado's two tribes entered into settlement agreements regarding their water rights in the mid 1980's. He said that Principle #6 is the BOR's commitment to including tribal interests in the Post-2026 Colorado River management conversations and process.

6. Basin Water Supply Update

Water Resource Specialist Beverly Richards referred to her update in the Board packet and said that the biggest change since it was written was that at the time of the report, there had been some precipitation in the past 30 days and temperatures had been cooler, which is no longer the case. In a recent webinar that

she attended, Beverly said it was noted that soil moisture content has gone down significantly recently, and it was noted that although currently the entire state of Colorado is showing no drought, this will likely change soon, especially with the hotter temperatures and wind conditions.

7. General Manager's, Committee and Staff Reports

Treasurer's Report – Treasurer Bill Nesbitt reported that there wasn't much to report this month. He noted that the federal reserve is still considering another interest rate hike. He said he does have concerns that there have been five additional foreclosures reported in Gunnison County. He is also concerned about the impact of a potential UPS strike, since their deliveries have increased over the span of just a few years from 17 million packages to 71 million packages. He also read that Fed Ex pilots are considering a strike and that the local post office is down to just three delivery people. On the flip side, he said he is glad that the District now has over \$5 million invested, considering that not long ago the District was struggling to get to \$3 million. And he noted that these investments are secure and earning decent interest.

Approval of the 2022 District Audit – Treasurer Nesbitt reported that the audit received in the Board Packet did not include the "management letter" and the "independent auditor's report," and that he is not comfortable moving forward with the approval process without this letter. General Counsel John McClow noted that he has seen the letter, so he knows it has been prepared, but that it must have been held up in transit in the General Manager's absence. John agreed with Bill that it would be best to wait on approving the audit until all have reviewed that letter and said that it can wait until next month. Vice President Stacy McPhail announced that this action item will be tabled until next month and will appear on the August Board agenda.

General Manager's Memorandum – Vice President McPhail referred to the General Manager's memorandum included in the packet and noted that under the Watershed Management Planning process, GEI Consultants have been hired and have begun their assessment. She also noted that the Drought Contingency Planning process is underway, and a meeting will be held in August. Water Resource Specialist I Cheryl Cwelich was scheduled to give an in-person update on the Wet Meadows Program and the Gunnison River Festival, but she was in the field today helping with the wetlands assessment and has been held up. Stacy said Cheryl could give her reports later in the meeting once she had arrived.

8. DINNER BREAK

Scientific Endeavors Update – Director Rosemary Carroll reported that a large proposal has now been submitted on behalf of the Watershed Function Science Focus Area for a Department of Energy grant with the research taking place over the next four years. Rosemary noted that the research will be focused on three main objectives, which will be: (1) Looking backwards in time to determine how disturbances such as drought and higher temperatures have impacted the hydrology and the resilience of the land; (2) Looking forward to determine how the landscape might adjust to changes in the environment; and (3) Press and pulse events – can the data obtained from the East and Taylor Rivers be used or not as a model

for other larger basins? Rosemary explained that this will be a huge effort over the next four years but that all of those involved in the research will be biting off a small chunk of the pie to study.

Director Bill Nesbitt asked for Rosemary's opinion on whether or not AI (artificial intelligence) would be used in this study. His question was, "Just because you can use AI, should you?" Rosemary replied that she is certainly not an expert on AI ethics but said one area within her studies where she has seen it used successfully is, instead of re-writing code into other languages, AI can do this more efficiently and she does not see this as an ethics issue.

Education and Outreach Update – Vice President McPhail noted several of the items listed in the General Manager's memorandum under Education and Outreach and said that there has been a lot of activity in this area. She made a special note to remind the Board that the District is a co-sponsor of the Crested Butte Public Policy Forum (PPF) featuring Sam Myers' presentation on "Planetary Health" on Tuesday, August 1st at 7 p.m. at the CB Center for the Arts. The Board and staff were also invited to a pre-event reception for Mr. Myers at the home of Chuck McGinnis, the PPF's Treasurer, 115 Pristine Point Drive at Meridian Lake Park at 5:30 p.m. on Monday, July 31st.

Gunnison Basin Roundtable (GBRT) Update – General Counsel John McClow reported that the GBRT met on July 17th. John noted that the PEPO Committee reported that it had completed the update of the website and electronic media and that there would be a newspaper campaign commencing that would include three articles on water. John said the state awarded the GBRT with funding in the amount of \$25,000 specifically earmarked for education and outreach.

John said that the GBRT approved two applications for funding from the Water Supply Reserve Fund.

He said that there will be a Roundtable Summit for all Roundtable groups across the state on November 14th in Denver. He noted that at the meeting there were also several presentations from the Colorado River District, including a presentation by Zane Kessler about three water bills that were enacted during the legislative session.

Director Nesbitt also attended the GBRT meeting and said it was one of the most informative meetings he's attended in a long time. Bill said one concern that he had from the meeting was that he is personally opposed to the legislative measure that would allow non-governmental organizations (NGO's) to try to buy water rights from the ranchers and that he expressed his concerns to Andy Mueller.

General Counsel John McClow stated that he wanted to set the record straight on this matter and make note that he worked on the draft measure dated November 28th that was leaked to State Affairs. He said that it would not allow for purchases by NGO's of agricultural water. John said the draft measure was intended to allow the state to get federal funding to purchase decommissioned power plant water rights for compact protection, not agricultural water. The draft was never proposed as a bill. Bill felt that this measure should have been brought before the Board for their knowledge.

Director Julie Nania said she wanted to clarify that the measure had been discussed at one of the Legislative Committee meetings after the draft came out but because it was not an active proposal at the time, there was no action taken to bring it before the Board. She noted, however, that the committee did discuss the concept and that there was agreement that it would be a good idea to try to purchase retired power plant water rights for the compact.

Director Nesbitt also noted that the City of Gunnison gave their presentation about the proposed Water Treatment plant for the City and noted that the water rights to be used for the new plant would be priority water rights from the late 1880's which would pre-date the Gunnison Tunnel and the 1922 compact and basically could not be curtailed.

TLUG Update – TLUG Chair Don Sabrowski said that the TLUG members were contacted by Eric Knight (BOR) via email last week and Erik reported that his latest models were showing decreased inflows into Taylor, so he was recommended reducing releases. None of the TLUG members disagreed so Erik did go forward with reducing the releases from 400 cfs to 375 cfs through the end of July and this will be revisited at the next TLUG meeting on August 10th. Director Andy Spann noted that at the July meeting there was a consensus to beef up the year-end storage level a little to 76,500 acre-feet as a buffer against a dry season next year. Andy said he would like to see more water in the river since there is actually water this year available to help the boaters and irrigators extend their seasons.

9. Miscellaneous Matters

Electronic Participation in Board Meetings Policy – General Counsel John McClow reported that he and the General Manager discussed that the current policy on Electronic Participation in Board Meetings does not match the current practice, so he has drafted an amended version for the Board's consideration. Director Rebie Hazard noted that while she understands that there are benefits of participating electronically, she wanted to strongly encourage members to be present in person for the meetings as it makes them much more worthwhile in her opinion. John McClow did note that the current policy does state that Board members may participate in the meetings electronically under certain circumstances, but that that they are not allowed to vote. Since Covid 19, Board members participating online have been allowed to vote. Vice President Stacy McPhail agreed with Rebie that every effort should be made to be present in person for the meetings, but she also liked the balanced approach of the new policy as she appreciates the value of still being able to attend and participate in the meetings when work or family circumstances prevent in-person attendance. Director Rosemary Carroll pointed out that also for committee meetings that take place during the workday, she especially appreciates the ability to participate electronically, otherwise her work schedule would prevent her from being able to attend the meetings at all. Director Julie Nania agreed with Rebie and suggested that the word "strongly" be inserted prior to "encouraged to attend in person" but she does like that there are exceptions allowed when work or other situations prevent in-person attendance. She also noted that the policy mentions inclement weather and she feels this is important so that Board members' safety is not put into jeopardy in trying to get into

the meetings. Julie also said that she, personally, would rather a Board member attend remotely than not attend at all and that the amended policy can allow the Board to meet a quorum as well. Director Rosemary Carroll also noted that it has been especially nice to allow presenters to make their presentations remotely as the audio/visual capabilities of the system are very effective for these presentations.

After further discussion, the consensus was to leave the amended policy as John has presented but include the word “strongly” prior to “encouraged to attend in person.” It was also recommended he leave in the conditions where the chair would ultimately make the decision whether or not a Board member can attend and participate remotely.

Director Bill Nesbitt moved and Director Rebie Hazard seconded the motion to approve the amended Electronic Participation by Board Member policy with the addition of the word “strongly” added as noted above. The motion carried.

It was announced at this point that Water Resource Specialist Cheryl Cwelich was detoured by the same accident that prevented President Michelle Pierce from getting to Gunnison, so Cheryl will not make it in time to give updates on the Wet Meadows program or the Gunnison River Festival. President Stacy McPhail noted that Cheryl can send an email with any important updates that the Board may need to be aware of prior to the next Board meeting.

Director Bill Nesbitt commended Cheryl and other staff who have reached out to include the tribal leaders in the District’s operations and outreach.

Water Resource Specialist II Beverly Richards announced that the District was invited back to continue with the BOR Snow Measuring grant process. Beverly said there were a number of applications submitted from Colorado and that only the District and two other organizations in the state had received an invitation to continue.

Director Bill Nesbitt reported that he was approached about whether or not the District was concerned about downstream water rights from the impact of beaver dams that the forest service is currently promoting. Director Julie Nania responded that this is a long, complex discussion item that has come up both at the Legislative Committee meetings and the WMP meetings and that the District has further avenues to explore before coming to any decisions about the program or legislation around such beaver programs. It was noted that there is a lot of scientific research going on in the west right now about the impacts and/or benefits of such programs and that the District will continue to monitor the issue.

10. Citizens Comments

Vice President Stacy McPhail reported that there had been a question in the chat box and an email received from a citizen with respect to the 2022 UGRWCD Audit. Stacy noted that as discussed earlier in

the meeting, the audit has not been finalized and the Board is expecting the addition of the analysis. She said when this is received, it will be a public document and the audit will be added to next month's agenda.

11. **Future Meetings** – Vice President McPhail highlighted some of the upcoming meetings and activities as listed in the Board Packet. Director Bill Nesbitt noted that at the Gunnison Basin Roundtable meeting it was discussed that the group might want to consider going back to monthly meetings. This will be addressed at the September GBRT meeting.

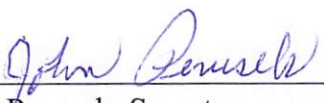
12. **Summary of Meeting Action Items**

The 2022 UGRWCD Audit will be updated to include the management letter and will be presented for approval at the August Board meeting.

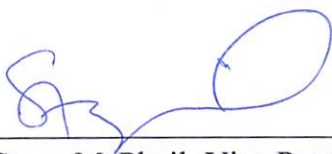
13. **Adjournment**

Board Vice President Stacy McPhail adjourned the regular Board meeting on July 24, 2023, at 6:56 p.m.

Respectfully submitted,



John Perusek, Secretary



Stacy McPhail, Vice President