

**Upper Gunnison River Water Conservancy District
Meeting Minutes of the Board of Directors
Monday, February 26, 2024**

The Board of Directors of the Upper Gunnison River Water Conservancy District (UGRWCD) conducted a regular Board meeting on Monday, February 26, 2024 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 (via Zoom), John Perusek, Don Sabrowski, Mike Rogers and Andy Spann.

Board members absent: Bill Nesbitt and Michelle Pierce

Others present:

Gary Barber, Hydrosorce, Inc. (via Zoom)
Carl Bern, Research Soil Scientist, USGS Colorado Water Science Center (via Zoom)
Clark Burton, Director of North America Closure, Homestake Mining
Sonja Chavez, UGRWCD General Manager
Cheryl Cwelich, UGRWCD Water Resource Specialist
Rachel Gidley, Hydrologist, USGS Colorado Water Science Center (via Zoom)
Jesse Kruthaupt, Trout Unlimited (via Zoom)
Liza Marron, Saguache County Commissioner
John McClow, UGRWCD General Counsel
Luke Mecklenburg, Colorado Attorney General's Office (via Zoom)
Alana Nichols, UGRWCD Fellow (via Zoom)
Beverly Richards, UGRWCD Office/Senior Program Manager
Robert Sakata, Ag Water Policy Advisor, Colorado Department of Agriculture (via Zoom)
Sue Uerling, UGRWCD Admin. Asst/Communications Specialist
Cory Williams, USGS Western Colorado Studies Section Chief (via Zoom)
David Wycoff, Pitch Site Manager, Homestake Mining
Ari Yamaguchi, UGRWCD Water Resources Technician

2. CALL TO ORDER

Vice President Stacy McPhail called the meeting to order at 5:30 p.m.

3. AGENDA APPROVAL

Director Rebie Hazard moved and Director John Perusek seconded approval of the agenda as circulated. The motion carried.

4. CONSENT AGENDA ITEMS

Director Rosemary Carroll moved and Director Joellen Fonken seconded approval of the consent agenda. The motion carried.

5. TREASURER'S REPORT

Treasurer Bill Nesbitt was absent from the meeting but submitted his report in writing. General Manager Chavez noted that the Upper Gunnison River Water Activity Enterprise has purchased a Federal Home Loan bond in the amount of \$300,000 to improve interest returns.

6. LEGAL AND LEGISLATIVE MATTERS

General Counsel John McClow referred to his Legislative Activity Report included in the Board packet and noted that there are a few bills that the Legislative Committee is monitoring. He reported that SB24-127 sponsored by Senator Kirkmeyer was introduced by the State Affairs Committee and proposes the establishment of the stream and wetlands protection commission in the Department of Natural Resources and requires the commission to develop, adopt, and maintain a dredge-and-fill permit program for: (A) Regulating the discharge of dredged or fill material into certain state waters; and (B) Providing protections for state waters, which protections are no more restrictive than the protections provided under the federal "Clean Water Act" as it existed on May 24, 2023. Counselor McClow noted that there is a draft of a competing bill being circulated by House Speaker McCluskie that would also address dredge-and-fill permits but that under this draft the responsibility would fall to the CDPHE under the Water Quality Control Commission. General Manager Chavez drafted a memo to the Board outlining her concerns with the proposed legislation whether it be in DNR or CDPHE. General Manager Chavez also reported that her memo outlined concerns that no matter the department it gets housed in that the Western Slope should insist that at least 50 % of their stakeholder meetings and at least half of the commission (decision making body) meetings be held on the Western Slope. Director Julie Nania also has substantive recommendations on the exemptions section which she thinks need to be addressed with this bill and suggested these be discussed at the next Legislative Committee Meeting.

Counselor McClow also discussed SB24-148 which would allow certain facilities to use water detained in a storm water detention and infiltration facility for rainwater harvesting. Under current law, an entity that owns, operates, or has oversight over a storm water detention and infiltration facility is not allowed to divert, store, or otherwise use water detained in the facility. This bill proposed that the detained water could be used for irrigation purposes. There are concerns about whether this would injure downstream water users. This bill is also being monitored by the UGRWCD Legislative Committee.

7. GENERAL MANAGER'S REPORT

General Manager Chavez referred to her memo in the packet and noted that she had sent a letter of support to the Colorado Water Conservation Board for the \$20 million Shoshone water rights permanency. She also reported that the *Gunnison Country Times* covered this with an article in the newspaper.

General Manager Chavez requested that the Board consider a revision to the Grant Program timeline extension policy. She said the District revised its Grant Program Policies November 21, 2023 to allow for extensions primarily due to issues during the pandemic with finding available contractors in the valley to complete the construction. General Manager Chavez said that while she has approved requests to move

funds between identified tasks or budget line items, she is not comfortable with extending timelines for the purpose of using grant funds for activities not previously stated in the contract's scope of work because of the increased staff workload tracking the finances, modifying contracts as "new" work may require a contract with different language, insurance requirements or other assurances (e.g., inspections), which means it would have to go back to the Legal Department with yet more time spent on reviews and approvals. Most importantly, the Grant Committee would not have an opportunity to review and approve the "new" work. Director Rosemary Carroll asked for clarification that this revision was specific to extensions being requested for work to be done that was outside of the original scope of work. General Manager Chavez affirmed that Director Carroll's clarification was correct.

Director Rebie Hazard moved and Director Mike Rogers seconded revising District Grant Policy #11 to include the statement, "Requests for timeline extensions will not be accepted for projects proposing to utilize funding or balances of funding for activities not contemplated in the original scope of work." The motion carried.

8. BASIN WATER SUPPLY UPDATE

Senior Program Manager Beverly Richards referred to her report included in the packet and noted that she has attended two additional meetings since the report was prepared. At these meetings, it was noted that the current snowpack in the basin is at 105 percent of average; precipitation is at 108 percent of average and stream flow is at 92 percent of average. It was also reported that last year at this time, low elevation snowpack was at 140 percent whereas it is currently at 100 percent. Forecasters are also predicting that the current El Niño pattern is shifting to neutral and will rapidly shift to a La Niña pattern in May or June. Historically, this has not resulted in good moisture for this basin.

General Manager Chavez reported that Dave Gochis is now working for the Airborne Snow Observatories (ASO) and staff has been working with ASO to prepare scopes of work and contracts for services related to the Taylor Basin WRF Hydro modeling and annual ASO flights. She noted that the Colorado Water Conservation Board did approve additional funding beyond their previous commitment for ASO flights in the Upper Gunnison basin. Senior Program Manager Beverly Richards said she attended a Colorado Airborne Snow Measurement (CASM) meeting where the Colorado Water Conservation Board reported that \$2 million has been earmarked for future ASO flights during the 2025-26 water years.

9. PRESENTATION – HOMESTAKE MINING, PITCH RECLAMATION PROJECT UPDATE BY DAVE WYKOFF AND CLARK BURTON

Dave Wykoff, Pitch Mine Closure Manager, and Clark Burton, Director of Closure Operations, for Homestake Mining presented a Power Point to the Board to update their closure operations for the uranium mine located 6.5 miles east/northeast of Sargents. It was noted that the site is above 10,000 feet in elevation with no access to any power grid. They reported that Pinnacle Partners operated a uranium mine at the site from 1959 to 1972 and the Homestake Mining operated an open pit mine from 1979 to 1984. The Colorado Department of Public Health and Environment (CDPHE) and the Colorado Division of Reclamation, Mining and Safety have provided oversight of the reclamation and closure process. They reported that the physical reclamation process is basically completed with rock dumps and pit slopes being regraded and revegetated.

The underground mine portal has been plugged. A limestone quarry at the site has been reclaimed and revegetated and the north pit tension crack has been regraded and revegetated. They said that concentration discharge from the site has consistently met the aquatic life standard of 2,000 ug/L for uranium in their discharge permit.

In 2015, there was a proposed change in Pitch's permit limit taking them from 2,000 ug/L to a 30 ug/L drinking water supply uranium standard to align with the drinking water designation on Marshall Creek. At this time, Pitch has a temporary modification to the current condition through 2025 while they work with CDPHE.

They presented their view that Perpetual Water Treatment is not the answer as it only treats the symptom but does not address the underlying cause or problem so they're focus is on what they can do to improve water-quality that is sustainable. They noted that during water treatment, the waste stream is concentrated with uranium and it has to be removed in some form or fashion; there are worker safety issues, especially during the winter at high altitude where they get significant snow amounts and access and safety are always a concern; and, treating the water with a resin that adheres to the uranium would require radioactive waste to be transported through Gunnison twice yearly down Highway 50 to be disposed of at a site in Utah or Texas, as Colorado does not have the appropriate radioactive materials disposal site. They said they have already taken a number of engineering steps to address some of the underlying issues, including regrading of waste rock to prevent ponding/infiltration; capping residual low-grade ore stockpiles still sitting at site; plugging the underground portal to address radium and reduce mobilization of uranium; doing a pilot phosphate injection process from 2017-2020 as part of a uranium passivation study for 3 years (currently at point of diminishing returns and concerned about a phosphate breakthrough); and implementing diversions or bypassing water around mineralized areas to keep water clean.

They currently have a discharge permit limit to Indian Creek at the SW-33 outfall of 2,000 ug/L which is being proposed to be reduced to 30 ug/L. Marshall Creek just below the confluence of Indian has a range of 17 to 170 ug/L and safe drinking water standard is 16.8 to 30 ug/L. Closer to Sargents the Creek has a uranium concentration of 9-57 ug/L and Wells show concentrations of 0.3 to 8 ug/L. Tomichi Creek has run between 4 and 15.9 ug/L. They reported they had discovered an internal memo from Pinnacle management dated 1970 that indicated uranium concentrations were elevated on Indian Creek prior to their open pit mining. They also obtained data from the Atomic Energy Commission (AEC) on Indian Creek showing that uranium concentrations were between 210 and 1,360 ug/L as U indicating this was their best indication of what concentrations were pre-mining. Director Nania reminded them that there was mining up there prior to 1970 and that measurement of concentrations of metals in the 1950s was significantly more difficult or inaccurate. They have researchers looking for more information and want to find out exactly what might be possible in this system.

They said a number of hydrologic studies indicate Marshall Creek has negligible influence on wells in Sargents and currently meets drinking water standards. Some additional measures have been enacted to protect municipal/domestic water uses including: Saguache County has adopted ordinances restricting drilling of alluvial wells within 200 feet of Marshall Creek; a conservation easement was established on the Irby Ranch to ensure that no future development and thus no new municipal wells could be drilled in the future; alluvial wells have been redrilled to extend into the bedrock aquifer; and the Saguache County

Commissioners have begun reviewing the feasibility of a community water and waste-water treatment systems. (The first meeting was on December 9, 2023.) In addition, there is ongoing well sampling in Sargents and ongoing in-stream water quality sampling in Marshall Creek, Indian Creek and Tomichi Creek.

Their next steps include completing a Discharger Specific Variance (DSV) process to provide a regulatory pathway if underlying water quality standards cannot be met. This process would be to determine an alternate effluent limit (AEL) and define discharge permit limits. They will also continue with their Alternatives Analysis (AA) to be developed in support of DSV, including evaluating alternatives for uranium load reduction. Their initial draft was submitted to the CDPHE/EPA in December of 2022. The remaining timeline includes meeting with stakeholders (completed Jan 2023 – Mar 2023) to discuss the Alternative Analysis and feasibility of alternatives; complete additional pilot studies/investigation (through September 2024); engage with stakeholders on AA to develop a DSV proposal and set proposed AELs (through June 2024); and finalize a DSV proposal by December 2024. Beginning in January 2025, they will commence the Rulemaking Hearing Process with the Water Quality Control Commission with a proposed completion date of June 2025.

Director Julie Nania asked if they could share a little about the water treatment plant that was used at the site back around 2009 and how that may have been helpful in informing future treatments at the site. Mr. Burton replied that the treatment plant that Julie was referring to was designed to remove radium from the site and was discontinued around 2009 and therefore, there was not much correlation between it and the uranium treatment. Mr. Wykoff said this plant did very little to remove uranium from the site and that radium is no longer an issue. Mr. Wykoff said the only active treatment at the site right now is the sediment pond where the uranium is contained primarily in solids.

Director Nania also asked if they were not intending to go forward with temporary modifications with the Water Quality Control Commission in 2025 and under what basis would they ask for temporary modifications if they do go that route? Mr. Wykoff replied that they will continue to work towards the alternative solutions presented earlier but that if they cannot meet the underlying water quality standards through the options presented here, or different regulatory pathways, then they will likely seek a temporary modification similar to the previous one they were granted and will continue to work on ways to improve water quality.

General Manager Chavez asked if they have determined through their studies how long it takes water to move through the system or in other words, how old is the water at Marshall Creek such that you can determine the time period between which you do remediation and see the results in the creek? Mr. Wykoff answered that this was a question that was beyond the areas of expertise of the presenters but that they have contracted with a company called Arcadis who have several geochemists and hydrologists that could likely answer these questions based on the studies they have conducted. He offered that Homestake could come back for a future meeting and bring some of these experts to address more of the technical questions or that they would also be willing to facilitate a site visit for the District Board members.

10. PRESENTATION – UPPER GUNNISON BASIN IRRIGATION RETURN FLOW STUDY BY CORY WILLIAMS, USGS WESTERN COLORADO STUDIES SECTION CHIEF

Cory Williams thanked the Board for cooperating with the USGS in conducting this important flow study as water quality and water quantity seems to be more important now than it has ever been. He said this study would help substantiate that agricultural irrigation using water diverted from creeks and rivers locally recharges aquifers where water percolates below the root zone and migrates back to the creek or river through the subsurface. This dynamic can affect water supply by extending streamflow outside the snowmelt runoff season and providing temporary storage of water. He noted that characterization of the groundwater/surface-water exchange in the headwaters of the upper Gunnison River Basin will improve the understanding of potential effects from future changes in water administration, climate change, and other hydrologic changes.

Mr. Williams introduced Rachel Gidley (Principal Investigator), a hydrologist with the USGS Colorado Water Science Center, who explained that her research will be on the Upper Gunnison River Basin with a higher-resolution focus on agricultural return flows in a stretch along the East River. She explained that this section was selected because there were already two stream-flow gauges in the area, there is a substantial amount of irrigated lands along this section of the East River, and there is a significant historical record of data (over 60 years). She and her colleagues will create a groundwater model to simulate recharge, discharge, and groundwater / surface water interactions. She reviewed the data collection process and how the data is used to create a groundwater model.

Ms. Gidley introduced Carl Bern, a Research Soil Scientists with the USGS Colorado Water Science Center, who explained how they would use endmember mixing analyses to estimate the volume of agricultural return flow in the East River study area. Mr. Bern said they were fortunate to have streamflow data from the area going back 60 years to help with comparisons. He noted that once the chemical/isotopic fingerprint of the study area has been completed, the application can be used in other more complex settings such as the Tomichi Creek or Ohio Creek sub-basins. Ms. Gidley then presented the proposed timeline and proposed budget as follows:

Proposed Timeline

Workplan Element	FY 2024				FY 2025				FY 2026				FY 2027				FY 2028			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Groundwater model tasks																				
Network design and data gap analysis		X	X	X																
Site installation								X												
Sample collection								X	X	X	X	X	X	X	X	X				
Data analysis and model development									X	X	X	X	X	X	X	X	X	X		
Model evaluation																X	X	X		
Publication																		X	X	X
Endmember mixing tasks																				
Preliminary analysis		X	X	X																
Site installation				X																
Sample collection				X	X	X	X	X	X	X	X	X								
Data analysis					X	X	X	X	X	X	X	X	X	X						
Publication														X	X	X				

Proposed Budget

	FY2024	FY2025	FY2026	FY2027	FY2028	Total
Funding Source	(all values in gross dollars)					
Upper Gunnison River Water Conservancy District	\$288,000	\$254,000 - 354,000	\$440,000 - 540,000	\$385,000 - 485,000	\$215,000	\$1,582,000 - 1,882,000
USGS Cooperative Matching Funds*	\$40,000	\$100,000	\$150,000	\$200,000	\$150,000	\$640,000
USGS Directed Cooperative Matching Funds*	\$0	\$0 - 100,000	\$0 - 100,000	\$0 - 100,000	\$0	\$0 - 300,000
Totals	\$328,000	\$454,000	\$690,000	\$685,000	\$365,000	\$ 2,522,000
*Pending available funds.						

	FY2024	FY2025	FY2026	FY2027	FY2028	Total
Upper Gunnison River Water Conservancy District – Personnel hours	150	800	800	230	0	1,980

Ms. Ridley pointed out that the personnel hours estimated for a staff member of the District will be to assist with checking sensors and data collection. General Manager Chavez explained that Ari Yamaguchi was hired with this study specifically in mind.

Director Stacy McPhail asked if by using the rapid reporting option for publishing the results of the study, would this mean that a report would be released this year? Mr. Williams explained that the general turnaround time under the rapid reporting system is six to eight weeks, but that all results will be presented as “preliminary” until the final publication is approved, which can be a much slower process. He did offer that the USGS can provide regular updates and specific presentations to stakeholders with proper meeting notification and that presentations could be made available to the public or recorded talks could be placed on the District’s website throughout the study time-frame.

Director Don Sabrowski asked two questions: (1) How involved will irrigators be in the study; and (2) Does Cory foresee, as a result of the study, any modifications to irrigation practices being requested of producers? Mr. Williams replied that yes, the irrigators will be very involved during the data collection process as it will be important for USGS to have a clear understanding of how water is applied and how water flows through the system during irrigation. He said that the USGS will enter into agreements with the private landowners for access to private lands and to establish the parameters of the data collection. Diversion records are already publicly available via CDSS the District could also be the steward of data collection and could choose to only provide the data (e.g., well data) as summarized results which would provide an extra layer of confidentiality for individual landowners if desired.

With respect to Director Sabrowski’s second question, Mr. Williams confirmed that they would not be asking irrigators to do anything different than what they have always done in the past. Director Stacy

McPhail noted that it would be important for irrigators to keep their practices the same so as not to skew the results of the data. She said that the study purpose is to understand just how quickly the irrigation water moves through the system based upon actual data from the individual irrigators as to what date they start irrigating, how much water is applied, when they stop and other typical irrigation regime information. In other words, she noted that the study is focused on the hydrology of the system and not on production information, for example. She and General Manager Chavez emphasized that there will be ranges of anonymity possible throughout the process. Director McPhail said that she and Ms. Chavez discussed that the study could be presented to the Gunnison Stockgrowers Association as a whole to help explain to irrigators how the study will work and determine producers' comfort level with the process before it is dialed down to individual irrigators.

Director Sabrowski asked when negotiations with individual irrigators would begin. Mr. Williams answered that first their team will be looking at previous studies done in the area to determine the best sampling locations more precisely. Following that, the District would assist USGS in reaching out to landowners, to sit down and negotiate the terms of the study agreement so that there are no surprises to either party once the data collection begins. It was explained that depending on how quickly they are able to move through the design and planning process, it is possible that there could be some installation and data collection in 2025. General Manager Chavez said that she had reached out to the Stockgrowers Association about the District and the USGS coming to a meeting in March to introduce the study idea to the membership and was awaiting a response.

Director Joellen Fonken asked for clarification about the 800 hours of time commitment on behalf of the District and it was explained that this is 800 hours per year, which is about a 1/3-time position for the District and that Ari Yamaguchi will primarily fill this role along with some support from Fellow Alana Nichols and occasionally General Manager Chavez or Water Resource Specialist Cheryl Cwelich. (Water resource sampling is always done in pairs for safety reasons.)

Director Sabrowski asked since this is the very beginning of the project, how high is the confidence that the study will be a success? Mr. Williams said that the best design for success is an informed design and since they have the results of a similar study done upstream of the proposed stretch of the East River, as well as a long history of data from the region, he feels that from a sensitivity standpoint, they will be able to get a good, calibrated model. Mr. Bern noted that since they will be gathering two separate lines of data for the model that they will then bring together, this also provides a higher level of confidence.

General Manager Chavez noted that this is the perfect time to conduct this study as the NWGOS research group is also working on similar data from some of the same areas, so she feels the studies will complement each other. While she wishes that she could have convinced NWGOS to take on this study, she is committed to it and will work hard to fundraise, with the help of the USGS, to entities like the Colorado River District and Colorado Water Conservation Board, to be sure it is fully funded.

Director Andy Spann asked if at this time anyone can think of any unforeseen consequences of the results of the study? Mr. Williams and Mr. Bern concurred that because there is good data from families who have

been irrigating this basin in the same method for generations, the model is already there and is based on good observations, which gives this modeling process a stronger start than many. Director Rosemary Carroll pointed out that the USGS will be leading the study with a totally unbiased point of view and that they have no objective to obtain any particular result, so she feels this makes the study unlikely to produce any “gotcha” results.

Director Don Sabrowski directed his observation to General Counsel John McClow saying that personally, he feels the objective of the study is to help protect historical irrigation practices. He asked if John feels the District is on the right track to protect basin water by utilizing the results of this study? Counselor McClow answered, “Yes, I do, Don.” Mr. McClow said in the future, whether there is demand management or involuntary curtailment of water uses, this study can provide valuable actual data to be used both internally and externally to support the water uses of the basin. Director McPhail agreed saying that she feels this study will be much more valuable to defending water uses in the basin versus participating in some broader study conducted by an entity in the state or federal government. Counselor McClow pointed out that there are also internal competing uses for water within the basin and that understanding the complete system can help the District make better decisions when competing uses collide.

11. MISCELLANEOUS MATTERS

Rocky Mountain Biological Laboratory is looking for a new director.

Ken Williams is headed to Washington DC to drum up more support for the forest management and watershed health project he is leading here in the basin.

Eric Kowal and his crew started renovations on the building a couple of weeks ago. They have framed out the new entrance to the Board conference room and are working on the expansion of Sonja’s office and the new bathroom. They are estimating a completion date of June 1st.

Director Don Sabrowski asked about the Colorado Water Congress Convention and those who attended reported that the break-out sessions were well done and kept them busy.

Director Rebie Hazard asked if there were any concerns in the basin about ice jams on the rivers and streams. General Manager Chavez noted that she had seen CDOT removing ice on Quartz Creek. Director Hazard noted it can also be a problem on Cochetopa but that hopefully warmer weather will help clear any jams.

Director Stacy McPhail congratulated John McClow on being appointed to the Colorado Water Conservation Board and expressed her appreciation for his time and efforts on behalf of the District.

12. CITIZEN COMMENTS

Robert Sakata introduced himself as the new Ag Water Policy Advisor with the Colorado Department of Agriculture and expressed his appreciation for the District's efforts on conducting the irrigation return flow

study. He noted that in addition to the Shoshone funding being approved by the Colorado Water Conservation Board (CWCB), he also appreciated the CWCB meeting jointly with the Water Quality Control Commission and that this meeting was also very impactful. He looks forward to visiting the Roundtables. General Manager Chavez invited him to come visit the District along with Kate Greenberg, Colorado's Commissioner of Agriculture, when she makes her rounds this summer. Mr. Sakata said he would try to do so. Director McPhail congratulated him on his appointment and said she feels his appointment is a "big win for the Department of Agriculture."

13. FUTURE MEETINGS

A listing of meetings was included in the Board packet.

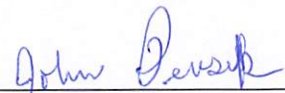
14. SUMMARY OF MEETING ACTION ITEMS

General Manager Sonja Chavez will determine the timing for when the Board might invite Homestake Mining to come back to another Board meeting for further follow-up.

15. ADJOURNMENT


Vice President Stacy McPhail adjourned the February 26, 2024 Board meeting at 7:47 p.m.

Respectfully Submitted,



John Perusek, Secretary

APPROVED:



Stacy McPhail, Vice President

