

**Animas – La Plata Water Conservancy District  
Board of Directors Special Meeting  
May 19, 2016  
Marvel Grange**

**Present:** Bob Wolff Ken Beegles Gene Bradley  
Tom Brossia Lee Campbell Joe Colgan  
Ron Gillen J. Pat Greer Tom Hartnett  
Dan Huntington Steve Krest Deems Taylor  
Ted Vickers

**Absent:** Matt Isgar Chuck Lawler

**Staff:** Bruce Whitehead, Executive Director  
Laura Spann, Office Manager  
Barry Spear, Maynes, Bradford, Shipp & Sheftel

**Guests:** Mardi Gebhardt, La Plata West Water Authority (LPWWA)  
Paul Gray, LPWWA  
Jim Greer, Public  
Russ Howard, ALPOM&R Association  
Charlie Smith, Lake Durango Water Authority (LDWA)

**Call to Order**

President Bob Wolff called the meeting to order at 7:00 p.m. The board recited the Pledge of Allegiance. Roll was taken and a quorum was present.

**Swearing in of Board Member**

*(time 00:01:00)*

Bob Wolff was reappointed by the judge for a four-year term through March 18, 2020, and was sworn in by Barry Spear.

**Approval of Minutes (February 16, 2016)**

*(time 00:02:15)*

Tom Brossia moved to approve the February 16, 2016 minutes as corrected. Steve Krest seconded. The motion passed.

**Approval of Treasurer's Report (April 2016)**

*(time 00:04:30)*

Gene Bradley presented the April 2016 Treasurer's Report, which included transaction detail from February through April. Two major expenditures this year were the proportional interest in the valve and infrastructure purchase from Colorado Water Resources and Power Development Authority (CWR&PDA) and water development aid to La Plata West Water Authority (LPWWA). The draft 2015 audit will be ready in early June. Tom Brossia moved to accept the Treasurer's Report. Lee Campbell seconded. The motion passed unanimously.

**Other Reports**

**Division of Water Resources (DWR)**

No representative was present; a report was not available.

**Bureau of Reclamation (BOR)**

No representative was present; a report was not available.

## **Animas-La Plata Operations, Maintenance & Replacement Association**

*(time 00:10:55)*

Russ Howard reported on the following topics:

- Lake Nighthorse's elevation is currently 6,880 feet, with storage at 113,000 af.
- Pumping to the reservoir will resume in 2017, after baseline reservoir sediment samples are taken and water quality impacts of the 2015 Gold King Mine incident can be determined.
- BOR has compensated the Association for the pump coating repair.
- Priscilla Blackhawk-Rentz, Ute Mountain Ute Tribe, is Association chair and Jim Dunlap, San Juan Water Commission, is Treasurer.
- FY2017 budget planning will begin shortly, with invoices out to entities in September. Staff will recommend quadrupling contributions to the major rehabilitation and repair reserves to adequately prepare the Association to cover future replacement costs.
- Completion of items on the maintenance punch list, including repair of the Obermyer gates, continues.
- Tim Feehan, Colorado Water Conservation Board (CWCB), is retiring. His replacement has not yet been identified.
- The Association has requested a change of water year from DWR to better suit the current pumping regime. All stakeholders were given an opportunity to comment. The State of New Mexico is requesting real time monitoring of future flow deliveries from Lake Nighthorse to be managed by DWR.

## **La Plata West Water Authority (LPWWA)**

*(time 00:41:45)*

Mardi Gebhardt thanked the board for the \$25,000 in water development aid for 2016, which has helped cover audit costs and legal expenses. She reported on the following items:

- LPWWA currently has 142 sign-ups for taps and \$1.2 million collected for Phase I. Only four people have not paid the second half of their commitment. The project cost may be \$4 million, or less depending on the final preliminary engineering report.
- The preliminary engineering report is almost final, and ready for inclusion in US Department of Agriculture (USDA) funding application to be submitted by May 31. The grant would provide a 50% match on revenues already collected. The board requested an update once the USDA grant decision is made.
- Funding for Phase O (raw water supply) has been secured.
- Pipeline construction bids will open June 16, after the first process did not result in a feasible bid.

## **Lake Durango Water Authority (LDWA)**

*(time 00:55:40)*

Charlie Smith added that after the initial bidding, several improvements have been made to the bid proposal and process. Lake Durango will be full as of May 20. LDWA submitted a proposal to ALPWCD regarding the draft water purchase contract, which will be discussed in executive session. LDWA's intention is to enter into a contract for the full 200 af, with incremental purchases over seven years, contingent on the commencement of Phase I construction.

## **Southwest Basin Roundtable**

*(time 01:05:35)*

The Colorado Supreme Court ruled that BP and other oil and gas companies could deduct the cost of capital from revenue generated by natural gas extraction and subject to the tax. Ultimately, the estimated impact on state coffers could reach \$115 million as other companies also seek severance tax refunds in light of the court's ruling. CWCB does not anticipate any severance tax revenues for FY2017 to fund the Basin and Statewide Water Supply Reserve Accounts (WSRAs), compared to the annual maximum of \$10 million. Entities seeking funding for water projects from the Southwest Basin Roundtable may encounter stricter criteria. The CWCB is reviewing options to backfill the WSRAs to supplement implementation of the water plan.

## **Office Report**

*(time 01:19:50)*

Bruce reported on the following topics:

- A memorial service was held for Fred Kroeger on Saturday, May 14.
- The Dolores Project anticipates a full supply for project users and a short recreational release in early June.

- Proposed ballot initiative 40 is focused on local sovereignty, and initiative 63 is similar to past attempts at an “Environmental Rights Measure,” but has had the public trust doctrine removed from the language. These proposed measures could have impacts to water rights and water providers in the state. There have also been a number of measures that would increase the requirements for ballot initiatives in Colorado.
- Lee Campbell recommended Perry Pepper’s thesis “The La Plata Compact: A Bridge over the Troubled Waters of Western Water Law” to the board.

## Questions/Comments from Audience

There were none.

## Old Business

### Durango Pumping Plant Annexation

*(time 01:31:00)*

Barry Spear again emailed Craig Roser requesting an update on the Durango Pumping Plant Annexation, and again did not receive a response from the City of Durango.

## New Business

### Resolution 16-02 Honoring the Service of J Pat Greer

*(time 01:33:15)*

Bruce directed board members to a resignation letter from Pat Greer. The board vacancy was noticed, and applications were submitted by Jim Greer and Jerry Schmitt to Judge Lyman. No appointment has been made yet. Bob read the Resolution 16-02 honoring Pat Greer’s 31 years of service. There was consensus to adopt Resolution 16-02 honoring Pat Greer.

## Old Business (cont.)

### Durango Pumping Plant Final Easement Discussions

*(time 01:46:30)*

Bruce talked with Maggie Love (Love Appraisals) the first part of April about the Durango Pumping Plant (DPP) property, and the remaining parcel that the Bureau of Reclamation did not identify as necessary for the operation and maintenance of the Animas-La Plata Project. Bruce informed her about the meetings with the City of Durango Planning Department, and the conceptual site design done by Rick Feeney on behalf of the District. There has been no further correspondence with the Bureau of Reclamation or the CWCB regarding the DPP parcel. As of May 18, Tim Feehan (CWCB) had not yet seen the final appraisal. ALPWCD maintains that the appraisal is not necessary for finalizing the perpetual easement. At this point, SWCD is not interested in joint construction of a building at the DPP property.

### Valve and Pipeline below Ridges Basin Dam

*(time 01:48:00)*

Bruce reported that ALPWCD now maintains 7/26 of 1/3 ownership in the 36-inch valve below Ridges Basin after completing the purchase of CWR&PDA’s remaining portion of the valve. The valve is owned by the Ute Mountain Ute Tribe (1/3), Southern Ute Indian Tribe (1/3), ALPWCD (7/26 of 1/3) and City of Durango (19/26 of 1/3). Portions of the ALPWCD incremental purchase of water from the CWRPD&A have included partial repayment of the specific costs for the 36 inch valve. The La Plata-Archuleta Water District would like to begin negotiations with the owners to secure carrying capacity in the 36-inch valve and extend the pipeline below the valve to a joint treatment plant with the City of Durango. Barry recommended the board discuss this agenda item further in executive session.

### ALPOM&R Association Lobbying Costs

*(time 01:50:20)*

SWCD and La Plata County presented to the Interim Water Resources Review Committee (WRRC) meeting in July 2015 regarding possible legislation excluding out of state entities (NM) from Colorado water court cases. At the October WRRC meeting, the ALPOM&R Association presented against any such proposed legislation. As a result of the July meeting and discussions, the ALPOM&R Association formed a 501(h) to hire a lobbyist paid by non-federal dollars. ALPWCD is paying lobbying costs at around \$500 of the total \$30,000 lobbyist retainer for 2016-

2017. An additional \$10,000 in legal and accountant fees associated with formation of the 501 (h) were incurred. ALPWCD's share of those costs will be \$45; therefore, ALPWCD's total lobbying costs via the Association are \$545 for 2016-17. CWCB is supporting the lobbying efforts through the Association in the amount of \$11,000. Russ Howard expressed frustration with a lack of communication among southwestern Colorado water managers, resulting in the Association's need to hire a lobbyist to monitor legislative efforts. Barry and Bruce noted that the Association is a Colorado entity, and would have standing in Colorado water court under the proposed legislation.

### **Update: Lake Nighthorse Recreation**

*(time 02:00:00)*

Weeminuche Construction has begun construction of the boat entrance station in spring 2016. La Plata County budgeted funds to add turnout lanes on County Road 210 this year. The lease, annexation, and planning agreements have undergone legal review by the ALPOM&R Association members, and the Bureau of Reclamation now considers them final. In order for the documents to be signed, the Environmental Assessment (EA) and the Cultural Resources Management Plan must be finalized. The public comment deadline on the EA was extended to May 25. The Cultural Resources Management Plan is currently being revised by BOR to be ready for consultation with 25 different tribes that claim heritage in Ridges Basin. The process may be lengthy; BOR hopes that recreation could begin in 2017.

### **Water Purchase Contract for Lake Durango Water Authority**

This item was addressed as part of the LDWA report, and Barry recommended the board discuss this topic further in executive session.

### **New Business (cont.)**

#### **Designate Representatives to Sign and Submit 2015 Audit Report**

*(time 02:05:00)*

Bruce reported that Haynie and Associates conducted the 2015 audit in April. Steve Krest moved to designate Bruce Whitehead and Gene Bradley as representatives to submit the 2015 Audit Report to the state before the July 31 deadline. Tom Brossia seconded. The motion passed unanimously. The 2015 audit will be reviewed for acceptance by the board at the August meeting.

#### **2016 Water Purchase from CWR&PDA**

*(time 02:05:45)*

Bruce provided background on the District's water purchase agreement with CWR&PDA. There was consensus to purchase 35-37 af as budgeted and outlined in the agreement with CWR&PDA.

### **Legal Report**

*(time 02:07:30)*

Barry is on a retirement path. He is currently working part-time, and will be available to the firm on an as-needed basis in 2017. Adam Reeves and Jeff Kane will likely attend meetings toward the end of the year, in anticipation of succeeding Barry as general counsel for ALPWCD. Bob Wolff sent an email to Adam Reeves expressing the board's hope that Maynes Bradford Shipp and Sheftel would continue as general counsel.

### **Executive Session**

*(time 02:18:20)*

Barry recommended that the board go into executive session in order to discuss 1) the 36 inch valve and pipeline below Ridges Basin Dam and 2) the proposed water sale contract with LDWA. The statutes covering this session were § 24-6-402(4)(a), C.R.S., "the executive session concerned the purchase, acquisition, lease, transfer or sale of any property interest," § 24-6-402(4)(b), C.R.S., "conferences with an attorney for the district for the purpose of receiving legal advice on specific legal questions;" and § 24-6-402(4)(e), C.R.S., "determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators." As a LDWA board member, Tom Brossia recused himself from the executive session related to the proposed water sale contract with LDWA. Steve Krest moved to go into executive session. Pat Greer seconded. The motion passed unanimously.

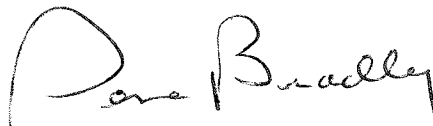
Barry announced the board was out of executive session, during which no action was taken. The board discussed 1) the 36-inch valve and pipeline below Ridges Basin Dam and 2) the proposed water sale contract with LDWA. Direction was provided to negotiators.

### Upcoming Meetings

Thursday, August 18	7:00 pm	Marvel	Regular Board Meeting
Thursday, November 17	5:00 pm	Durango	Regular Board Meeting

### Adjournment

President Bob Wolff adjourned the meeting at 10:30 p.m.



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Gene Bradley, Secretary-Treasurer