**Minutes of the Meeting of the**

**Yellow Jacket Water Conservancy District**

**Thursday, April 19, 2012**

**Rio Blanco County**

**Commissioners’ Meeting Room**

**200 Main Street, Meeker, CO 81641**

Call to Order

The meeting was called to order at 12:10 p.m.

Roll Call

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| Directors Present:  Edward Coryell, President  David Smith, Jr., Vice-President  Mike Brennan  Kelly Sheridan  Gary Dunham  Benjamin Rogers  Walter Proctor | Others Present:  Scott Balcomb, General Counsel  Scott Grosscup, General Counsel  Kai Turner, County Commissioner |

Appointment of Secretary:

Director Coryell appointed Scott Grosscup as secretary of the proceedings.

Approval of Minutes:

Director Brennan moved approval of the minutes of the April 4, 2012 special meeting, director Smith second, all in favor.

Scott Grosscup notified the Directors that the minutes from the March 22, 2012 meeting had not yet been finalized by Trina Zagar-Brown, but that the minutes should be ready for the next meeting.

Approval of Accounts Payable:

Director Brennan indicated that the District had received several checks and that the District has a present account balance of roughly $11,355.88. He indicated that he had received an invoice from Colorado CPA for audit services and that the District carried a balance on the amount owed to the law firms of White & Jankowski and to Cooley Zagar-Brown. Discussion followed on how much, if any should be paid on these amounts. Director Brennan also discussed that it appeared that property tax revenues were down from prior years.

Director Proctor moved that the District approve payment to: Colorado CPA, $400; White & Jankowski $6,500; and Cooley Zagar-Brown $1,000. Director Smith second, all in favor.

Update on the Status of the YJWCD Feasibility Study

Scott Grosscup stated that he and Scott Balcomb met with Craig Ullman of Applegate Group, Ray Tenney from the Colorado River Water Conservation District, and Dave Meritt of URS to discuss the most recent draft of the Yellow Jacket water Conservancy District – Water Storage Feasibility Study. The Study looks at the District’s water storage rights to determine which water storage rights will be the best candidates to meet future water needs within the basin. The study identifies energy demands, municipal, agricultural and recreation needs providing the future demand for water. This draft was recently completed and the board requested additional time to review the new report.

Long Range Planning Discussion

From the description of the Study, Scott Balcomb began the discussion of the District’s Long Range Plan. He said that the District must identify what water supply needs it can satisfy and which uses are feasible to provide service. He questioned whether there was a need for the District to provide a water supply for the energy industry, specifically for the development of oil shale. As identified by Western Resource Advocates, more than 5,000 cfs and 1.1 million acre feet of water rights are decreed for use in oil shale development. Most of these rights are owned by the energy companies. Scott questioned whether these companies would partner with the District to build any storage structures when the companies can do so on their own terms and when the cost of the water development is a limited component of the overall cost of oil shale development.

Scott then discussed some of the history of the District and its water rights. These storage locations were identified by the federal government in the 1950’s when the federal government looked for water storage locations throughout the western United States. Some of the projects identified by the federal government were built in other areas of the state. A number of other projects would be extremely expensive to construct in order to meet the agricultural need. And the agricultural users would not have the means with which to cover the costs of the construction. Thus, a number of water conservancy districts, such as the Basalt Water Conservancy District and West Divide Water Conservancy District have changed their focus from building irrigation canals to developing water marketing plans to meet municipal and domestic needs using those rights. And these and other similar entities, have allowed these conditional water rights to be cancelled.

The discussion then turned to what needs the District could meet. Several directors questioned whether and why the District was portrayed as being tied to oil shale development. Director Smith indicated that he would like to see the feasibility Study consider agricultural releases and to make releases for environmental purposes and maintaining fish flows. The historical position was that industry could help the District pay or share in the cost of building a reservoir to meet those needs and also develop water for industry’s needs. However, present studies suggest that there is a present need for roughly 5,000 acre feet for other, non-industrial uses.

Director Proctor raised a concern that industry would dry-up large amounts of land and transfer water for oil shale reducing stream flows. Scott Balcomb described how such a change would only remove the consumptive use, and should not dry the stream. But such dry-up and removal of family ranches would change the demographics and communities within the District.

Scott Balcomb stated that with the large numbers of water rights decreed for industrial uses, it will be difficult to defend an on-going need for the water rights. While there are a number of ditches with junior enlargement rights that may be curtailed should some of the structures be developed, the Study references a limited efficiency. Thus, the study contemplates that physical improvements and changes in water management practices may reduce the need for additional water storage.

Discussion followed concerning whether the Study is considering the proper needs of the District and how to re-direct the efforts of the study to evaluate a need and then the proper mechanism to fill that need. Several asked whether the identified non-industrial need of 5,000 acre feet was a reasonable amount and queried the source for this amount and whether a larger storage volume was necessary. The Directors then discussed methods of obtaining the base data and where and how the Study determined needs within the District. The Directors discussed whether to stop work on the Study while they could better identify the need and demand that would be met with water storage.

Commissioner Turner spoke about activities at the Basin Round Table and tools that were being developed by the Colorado Water Conservation Board to better identify needs in the various basins. He also discussed needs within the community including wildlife habitat and the need to identify risks to the community in the water development process. And while there may be a need for water storage in some areas within the District, there must also be a reality check of whether such a project is economically feasible.

Director Proctor remarked that the majority of the discussion concerned water use in Rio Blanco County and questioned whether in the District’s long range planning it should also consider limiting the District’s boundaries to Rio Blanco County.

A brief recess was taken from 1:20 p.m. to 1:30 p.m.

Executive Session

At 1:30 p.m. Director Brennan moved that the Board go into Executive Session pursuant to C.R.S. §§ 24-6-402(4)(b) and (e) to confer with its attorney for the purpose of receiving legal advice on a specific legal question and determining positions relative to matters subject to negotiations, Director Proctor second, all in favor.

At 1:57 p.m. the Executive session concluded. The participants in the executive session included those directors present and above counsel. No party who participated in the Executive Session raised any objection to the matters discussed therein, or stated that any improper action occurred during the Executive Session in violation of the Open Meetings Law.

Return to Public Meeting

Director Proctor moved to authorize legal counsel to offer as a settlement of the District’s pending diligence cases and appeal before the Colorado Supreme Court in Cases No. 09CW48 and 09CW50 that the District would agree that none of these water rights would be used in or studied for providing water for oil shale development. Director Brennan second, all in favor.

Director Sheridan moved to authorize legal counsel to offer as a settlement of the District’s pending diligence cases and appeal before the Colorado Supreme Court in Cases No. 09CW48 and 09CW50 that the District would consider a smaller Sawmill Reservoir. Director Rogers second, motion carried with Director Smith opposing.

Director Dunham moved to appoint Scott Grosscup and Balcomb & Green, P.C., as project manager for purposes of overseeing the District’s project feasibility Study. Director Smith second, all in favor.

Director Proctor moved: 1) that the Directors be provided with a copy of the draft Study; 2) that action on the Study be suspended pending Director review; and 3) that Applegate Group and the other consultants, as necessary, be invited to the next District meeting to make a visual presentation of the Study. Director Rogers second, all in favor.

Organization Matters

Scott Grosscup asked about the Board’s past meeting practices, future place of business and need for additional signatures on checks from the District. Director Brennan indicated that he had been receiving bank statements at his personal P.O. Box.

Director Proctor moved that the District obtain its own P.O. Box for receiving District correspondence, Director Rogers second, all in favor.

The Directors then indicated that they have historically met on a quarterly basis, but the number of special meetings has increased due to present litigation. They also agreed that meeting at the County Commissioner chambers provided a good meeting place, provided that it is available. The Directors also approved posting of meeting notices at the Post Office, court house, and commissioners’ office.

The Directors discussed insurance for the Directors, which Scott Grosscup and Scott Balcomb will look into prior to the next meeting.

Director Proctor moved to table discussion of appoint of a secretary, Director Brennan second, all in favor.

New Business

Scott Grosscup discussed recent Colorado Supreme Court case that will allow the proponents of two initiatives to go and obtain signatures to place the initiatives on the ballot in November. These initiatives, if adopted, will greatly impact Colorado water law by eliminating the prior appropriation system in favor of the public trust doctrine. This would vest a state entity to determine the best use for water and also allow public access to streams. Scott will continue to monitor and update the Board.

Public Comment

Members of the public commented on the meeting. They discussed the desire for greater communication and requests for distribution of meeting materials.

The meeting adjourned at 2:39 p.m.

Read and approved this \_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2012

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attest: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_