

**Joint Meeting of the  
Center of Colorado Water Conservancy District  
Upper South Platte Water Conservancy District  
Headwater Authority of the South Platte  
May 8, 2024**

The quarterly joint meeting of the Upper South Platte Water Conservancy District, the Center of Colorado Water Conservancy District, and the Headwater Authority of the South Platte was held on Wednesday, May 8, 2024 at the water district offices at 548 Front Street, Fairplay, CO. Dave Wissel called the meeting to order at 2:14 PM.

The members present at the office from CCWCD were Lisa McVicker, Craig Steinmetz, and Chris Fuller. Members from the Upper South Platte Water Conservancy District at the office were Jon Rice, Dave Wissel, and Bob Slagle. Representing HASP at the office was Dave Wissel, Jon Rice, and Lisa McVicker. HASP Operations Manager John Matteson was present. Legal counsel Alison Gorsevski was present at the office and legal counsel David Shohet was present via teleconference. Also attending in person was Nola Knudsen, CCWCD Administrator and CCWCD Operations Manager, Lisa Barden Brown.

Also attending in the office were Water Commissioner Garver Brown, Dawn Jewell from Aurora and Patrons Elaine Campbell, and Dan Qualman from Indian Mountain. Representing Colorado Springs Utilities were Maria Pastore, Michael Gustafson, and Christopher Olney. Present via teleconference was Aly Scott with Aurora.

**APPROVAL OF THE AGENDA**

Lisa McVicker moved to amend the agenda to discuss the letter of intent with Colorado Springs Utilities and HASP as well as move up any questions and updates from Aurora to the top of the agenda. Jon Rice seconded and the motion carried unanimously. Additionally, Harris Park was removed from today's agenda.

**Montgomery Reservoir:** David Shohet provided some background on the Montgomery Reservoir. Approximately two years ago, David said Maria, Kim, and some other folks came and said we are seriously looking at expansion at Montgomery Reservoir and we wanted to let you know. David said we left the meeting wondering if there was some potential for a partnership or some benefit for Park County residents as part of that expansion. The folks from Colorado Springs Utilities have come to a couple of meetings. John Matteson and David Shohet have had several calls with Maria Pastore and Kim Quarts and other individuals in Colorado Springs. David said they have indicated that this is getting more serious and questioned if HASP interested in partnering or doing something with Colorado Springs. Last fall they wanted a letter from HASP expressing their interest in some sort of partnership. They wanted to know how much water we were interested in storing and what we thought that would look like perhaps in terms of a long term lease or buy-in. In October we sent out a letter to Colorado Springs Utilities indicating HASP would be interested in purchasing permanently up to 100af of storage space in Montgomery Reservoir. About six weeks ago, David received a letter of intent between Colorado Springs Utilities and HASP. A copy of the letter of intent was included in the Board packet for today's meeting. Basically it says the parties are interested in these discussions, we're interested

in negotiating a purchase contract in the future but in the meantime we will enter into this with both parties expressing desire and interest. At some point in the future, assuming all the permitting and other things get completed that the parties sit down and negotiate some sort of purchase contract. There are no commitments at this time. David said this is a long term project and there is still a lot of permitting, processing, perhaps some legal processing; this is a ten to twelve-year project.

Maria Pastore shared an update on the project. She said they have been in the pre-application phase for the last few years. They have informally consulting with the cooperating agencies. The Corp is the lead agency on the project, also the Forest Service, other state agencies and local government as well. We are in the process of finalizing our surface water modeling, and then we will look to the environmental analysis. In quarter one of next year we will be submitting our permit application to the Corp. At this point, Maria said they are on-track for an environmental assessment versus an environmental impact statement. That timing on decisions for the agencies is one year. We are hoping to secure all of our permits by 2026 or 2027. Construction would begin after that. We are hoping construction would be from 2028 through 2030.

Lisa McVicker asked about the expansion capacity. Maria said they are proposing an 8100-acre foot expansion which is approximately a 50-foot dam raise. Lisa asked if they had the water. Maria said they actually have been selling water and so we are actually physically and legally able to capture that water but they have not had the infrastructure for it. We have a pinch point with our pipeline that delivers the water from Montgomery Reservoir to Colorado Springs. With additional storage, the timing disparity will be resolved and we will be able to collect that additional water.

David Wissel said the dam was originally built back in the 1950s and was the original water source for the Air Force Academy. This pipeline bisects Park County. It is one of three that are basically trans basin diversions. David is very familiar with the Blue River collection system and said it would be an interesting field trip to go and see how they collect water on the Blue River side, the various points of collection and funnel that underground into Montgomery. David stated this expansion was included in the original design.

David Shohet said he needs to get together with Michael Gustafson. There was a term used throughout the letter of intent, PSA, and it is not a defined term and it wants to clarify that with Michael. David also wondered with this letter of intent, how they would feel about filing water court applications to secure exchanges to fill our Montgomery space or do it under free river conditions. He said often times we will exchanges based on these letters of intent with the understanding that storage cannot occur until final contracts are entered into.

Lisa McVicker moved to approve the letter of intent with Colorado Springs Utilities subject to approval by legal counsel and to allow Dave Wissel, HASP Board President, to sign the letter of intent. The motion was seconded by Chris Fuller and passed unanimously.

**Wild Horse Reservoir and Johns Ranch:** April Dawn said Aurora has hired an information officer for Wild Horse. Her name is Amelia and she just started a week ago. Hopefully she will be able to get better and faster communication out. We are continuing with our process to get

permitting done. At Johns Ranch, we are trying to do a feasibility study for a storage bucket in order to do the winter return flows to satisfy the entry flow rights and some of the comments of the CWCB. We believe we will need a storage bucket bigger than a pond. Our planning engineering division is a little behind which means they will not be able to help me with that field work which means we won't be able to do field studies next year.

Dave Wissel said there is a 1% sales tax in the Land, Water, and Trust Fund that advises us on how to spent that. He thinks he would be great to have a public forum specific to Wild Horse. We could have the Land, Water, and Trust Fund people there. Then do another one in Hartsel. We appreciate getting this update on an annual basis.

Aly Scott – The update of the feasibility for storage won't be until the end of 2025.

**Water Commissioner Update:** Garver Brown said that storage on the Upper South Platte is looking good. Cheesman is full, Spinney is running ahead of schedule too with about 7 or 8,000 acre feet. The snowpack has been rebounding with the colder weather and precipitation. We are around 106% median at this time of year and locally even higher. Buckskin is at 117%. We did put a 2002 call on the South Platte river today at noon. We can probably expect a junior call this year. I don't think we are going to plunge into those senior calls until later this summer, if at all.

Lisa McVicker asked Garver if he has noticed any impact from the drone action. He said the ASO data came in and it falls in line with the survey sites around here. He hasn't had a chance to do a deep dive into it. Last year it was the projected runoff figures in thousand acre feet were within ten thousand of NRCS estimate as well. I didn't see how that played out over the course of the summer but it looks like they are coming up with similar data and probably with better resolutions since they are measuring with LiDAR. The whole entire snow pack surface as opposed to a few sample sites.

### **APPROVAL OF THE MINUTES**

Lisa McVicker moved to approve the minutes as presented. Chris Fuller seconded and the motion carried unanimously.

### **ADMINISTRATIVE MATTERS**

**Treasurer's Report:** John Matteson states he had emailed the Operations Report to the members. It included bank balances. The checking account balance is \$53,307.83. John transferred \$20,000 out of Colotrust to pay some bills which reduces the Colotrust account to \$1,998,105.93. The Deer Creek gage is still the same. We are collecting a contingency amount in our budget so we are not going to draw that to zero every year; it will continue building. Hopefully we will have some reserves should we need them. John is sending out invoices as they come in and we are getting things paid as they are received.

**Operations Manager's Report:** John Matteson received an email forwarded from Lisa McVicker regarding the state is wanting to ensure websites are more accessible. John read through it and talked with David Shohet to told John he was pretty sure HASP would fall under the requirements. He looked back at his email file and found in 2019 the board had agreed to have HASP transferred to the Webmaster used by the USP and Center. Covid hit and nothing

happened. John thinks this is a good time to revisit this topic. Lisa McVicker said the woman managing Center's website is great and she is currently researching these new accessibility requirements. She has found the right product in order for our website to be accessible in every way required by state. It is approximately \$495 per year and Center has approved her efforts going forward. John wants to know if there is an agreement to transfer HASP to CCW's website person. Lisa motion to transfer HASP website upkeep to Daisy Design and we approve Leesa Bush to upgrade HASP website to be in compliance with all accessibility requirements per the state of Colorado. Jon Rice seconded the motion and it carried unanimously.

Dave Wissel said the accessibility requirement is legislation that started in 2019. The purpose is to require every local government unit to have accessibility websites and not what we would think of. There are requirements that all of these entities that are supported by tax dollars, be in compliance with state requirements. Dave said we asked for another year because this is not easy and not cheap. We asked for a year grace period and the state said no. They gave the county one-year moratorium without suing us. So the county has until next July to become compliant. David Shohet said he hasn't been following this requirement, but there may be accessibility requirements for zoom meetings like this for visual and hearing impaired to be enforced in 2025 or 2026. Dave Wissel said David Shohet was correct. There is a possible requirement for Zoom accessibility and capacity on every meeting regardless where we meet. Dawn Jewell said it is still up for consideration.

John Matteson said the remaining water in the two plans is 12.498af in the 02 plan, and 60.203af in the 12 plan. John provided an update on individual accounts. Two accounts are the remaining receivables. LeBarre was slow paying last year and finally paid by credit card last year. John sent a letter stating if he hasn't paid by April 25<sup>th</sup>, we will file a notice to remove. He hadn't yet so I sent him one final email today saying I noticed you paid by credit card last year and if you want to do that I will see you after the meeting. If not, I will send him a notice to remove. He owes \$5,160 plus late fees for the water for this year. Kokanee we put on a payment plan and they have paid on schedule, two of their four payments. Otherwise, all receivables have been collected.

John is waiting to hear from Tesla Doro-on. They said they were pending approval from their investment team. When we filed the original notice of application the State pointed out their plans had water recycling. Matt Loose looked at it and revisited the estimates and water required. They need to acquire an additional .9af. We are waiting for the customer's approval before we go through that notice process again.

The rest of these are pretty much individual applications in various stages. We had a Fitzpatrick of Indian Mountain who chose not to participate once he learned the cost. We had Moyer who is another Indian Mountain resident we closed on the water. Bralotta is a new application for a dwelling unit near Alma. Just recently, Zak Dirt contacted us about construction water for the work they are doing on the Tarryall dam rehabilitation. Dave Wissel said DOW is doing some backside work. The dam is structurally challenged and if there was a big event, it would not probably last. They have hired this company to reinforce the back side of the dam.

## OLD BUSINESS

**Will O' Wisp Ponds** – David Shohet said there is no real update. We have been in conversation to see if we can't get them some augmentation water. They have decided to file their own augmentation plan with Mountain Mutual where they are going to try to remove some of their excess Mountain Mutual shares and then augment their ponds using those. David said in our legal report, we did suggest and identified this as a potential statement of opposition for HASP. We would probably recommend the Board consider filing a statement of Opposition at a minimum to monitor the case and how they will remove their shares. He said remember Bar Star tried to do something similar and the state was not kind to them trying to remove water. David doesn't know if there is a large injury standard to HASP but we might want to monitor it. Dave Wissel agrees. He reminded the Board this was originally a three filing subdivision and it is now only one filing. When they had all the original infrastructure, they went quite a ways north of them. They abandoned a lot of that because the other two filings were never going to be serviced by the Metro District. They ended up with a lot of Mountain Mutual shares that were unused.

Jon Rice moved to file a statement of opposition to Will O Wisp. The motion was seconded by Lisa McVicker and it passed unanimously. This is case 24CW3036.

**Update on Harris Park** was removed from the agenda.

Chris Fuller left the meeting at 3:02 PM.

**Montgomery Reservoir:** The letter of intent was discussed with the representatives from Colorado Springs Utilities above.

**Pond Moratorium:** As stated on the agenda, we were to work on a draft for the June meeting. Dave Wissel said maybe we ought to be very restrictive on pond augmentation and do longer term leases as an alternative. That would be the only method to utilized pond augmentation and maybe on a ten-year basis. Trying to look at our resources and how our balances are and how we are commitment them, it was great to capitalize us at a time we needed it but from water resource management, it is a practical matter we look at it in a realistic view. Lisa McVicker said we could talk about a minimum such as a tiny pond. John Matteson said our guideline at one time was if the amount was under one acre it doesn't require board approval. If we just leave that, it applies to ponds as well. Alison Gorsevski sent out discussion points a while back. She said they will put together a draft that will be available for the June 14<sup>th</sup> meeting.

## NEW BUSINESS

**Water Court Applications:** Alison said this one was dealt with when we just approved filing the statement of opposition for Will O'Wisp.

**CPW's SWSP request:** David Shohet said CPW filed an SWSP for their Tarryall reservoir rehabilitation. We looked at it and Alison, Matt Loose, and I looked at it and spent two hours on the phone with Garver Brown, two hours with CPW and once we figured it out, it didn't seem there was any impact to HASP. We did end up filing a comment letter to the State Engineer on the SWSP request saying we don't object but we would like to receive an approval letter in case there is something or a determined condition that came out that some other entity requested or the state came up on its own.

**IMMD interest in water for 100 additional residences (2.7af):** Dan Qualman said they are trying to get ahead of the game and according to their contract with Bar Star, they can start to sell water or have people in the program as of Jan 2026. John Matteson sent Dan Qualman the rates to budget in 2025. He said he is assuming some of the expenditures will come out of 2025. The other thing we need is to know when to start to have paperwork done. John Matteson said we have continued to treat this as a non-commercial application. There is a 35-day comment period and then you have a couple of weeks on the front end to get everyone in agreement this is what we want the notice of application to look like. On the back side is just however much time it takes to get the money together and close on it. John said Dan should allow two months start to finish. Dan Qualman said we have 70 plus people that said they are interested. We think once we start to advertise, we can easily have 100 participants. Dave Wissel said this limits our cooperative agreements to January 2026. With interim timeframe, a three-year time out. Dave Wissel said he has heard some antidotal information that Bar Star was under taking some new communications to where they would require a five-year commitment in their service and their rates would increase. Dave said there are those Bar Star people that are diehards and think HASP is a poor decision. There is the other side. Dave said he didn't know how many customers Bar Star has continued to keep. He thinks Bar Star is producing more people interested in the HASP program. Jon Rice asked Dan Qualman to confirm he is looking at 100 people which comes out to 2.7af. Jon believes HASP could cover that. Dave said our IGA is at 15, we are at 13 and change.

David Shohet said we had approximately 20 or 30 ghost accounts. How many of those were actually opened? Jon Rice thinks about 5 were opened. John Matteson said 451 properties participating and have set aside 6 of them. Dan Qualman wants to know if they can reserve the 100 slots and if 85 fill the, have the other 15 for people that want to come into the program. Dave Wissel said in between water years they have been able to help with that. People come on October first. That well water cycle, in the water year is the time they have to have the augmentation guarantee to operate functionally and legally.

David Shohet said we've always wanted to get Indian Mountain back into the 12 plan, and out of the 02 plan. It required a storage vessel which we were requiring Indian Mountain to pay for. We originally were going to require those payments the beginning of 2020, we extended it out to 2025. In 2025 they are required to pay us the storage vessel requirements. We still have that requirement but it could be fixed in part with a pipeline off Michigan Creek. Dan Qualman said they put \$5K to the storage vessel. Dave explained the original plan, then other options came on line.

**CORA policy:** Alison said both Center and the Upper South Platte received a letter regarding Colorado's Open Records Act in conjunction with the Lost Park issue. Under the Colorado Open Records Act (CORA) there are certain disclosure requirements. We are looking to enact a policy for HASP that lays out the framework and how someone making a CORA request would be responded to. This policy is the same policy adopted by Center. Last week the USP considered the nearly identical policy. For purposes of continuity, Alison is proposing HASP also adopt the identical policy. Lisa McVicker asked who would be the primary administrator. Lisa McVicker

moves to adopt the policy for HASP and that Nola Knudsen be designated as the Open Records Administrator. The motion was seconded by Jon Rice and approved unanimously.

### **Public Legal Issues Update**

David Shohet advised the board members he had surgery last week and Alison was gracious enough to draft the report. Alison said there is quite a bit of activity in the Rosalie case. We are currently stipulated with 4 of 6 of the opposers. We are talking with Aurora, we have also had a positive conversation with the state and think the state will be the next to reach agreement with. We will then continue talking with Aurora.

This last month Alison worked on Upper's and Center's application for diligence and to make absolute a portion of the Lone Rock exchanges. One opposer filed a statement of opposition which is the State Land Board. She has not had direct communication with them but their concern seems to be what is HASP doing in Spinney Reservoir. Alison put together a proposed ruling and sent them some of the documents to explain what we're doing. She is waiting for comments back.

David Shohet said Center had conditional water right for Chatfield Reservoir. We were able to fill under free river last year and we made a good amount of that water right absolute. That was decreed last month. Now 45af of that is now absolute, and we have another 85af out that that is conditional. That case is complete.

David Shohet said we had Adjudicated a County Road 59 pump. The impetus behind that was to try and have a pump site in the South Platte where we could truck water to Division two. It was a conditional water right and diligence was due to be filed in March. Statements of Oppositions expire in May.

David Shohet said we filed a diligence case for the Smelter Pipeline Reservoir. We have a junior water right to fill the SPR. We have made a portion absolute partial, but have not made the remaining portion absolute. We are just requesting diligence for the remaining amount.

David Shohet said we have a similar application that will be filed in June for the James Tingle Reservoir. We have a conditional water right in conjunction with Centennial. We also have made a good portion absolute over the years. He doesn't know if we will be able to make any additional amounts absolute. We will be filing the diligence application with Centennial this June.

Alison reviewed the opposition cases. She has been working on the Johns Ranch case and has recently provided comments in April. Ally said they are continuing to do work on the Johns Ranch component. The work has slowed down and we will have to wait and see what the results show.

Alison said HASP has also filed a statement of opposition for the Girl Scouts. They have a case on Trout Creek and total appropriation is 12af plus or minus. We will be providing comments in August.

It is a similar case with Dennis and Judy Briton, a Division 2 case. They are claiming storage rights on Tallahassee Creek. Alison appeared at the status conference on this. She said the Referee straight up said what are you doing in this case. Alison had to provide information and context.

David Shohet said we stipulated out of the McGowan case earlier this year. They stipulated out of the Rosalie case and we stipulated out of theirs.

David Shohet said in the CPW case has a case management plan. Our comments are due this summer.

The Central case is a change of water rights in Chatfield. There are about 30 or 40 parts in that case. There was a status conference was scheduled in April but there were technical issues because too many people on the call. It has been rescheduled for May. He is assuming we will have comments for a proposed decree from Central late summer.

Alison said in terms of others Matters there are no further updates.

## **DIRECTOR'S ISSUES**

Jon Rice asked when do we need to make reservations for the best deal for the South Park Forum in Greeley. Jon said the date is November 21<sup>st</sup>. Jon said he forwarded on the information to those he thought was interested. Jon asked Dawn why the BLM is taking the lead on this when it doesn't affect them much. The redirection of the access road is on BLM land.

Lisa McVicker said we are going to do the open house again on the Saturday of Burro Days. There is a signup sheet to indicate who will be here at different time slots.

Jon Rice moved to adjourn. Lisa McVicker seconded. The meeting adjourned at 3:37 PM.