

**Joint Meeting of the  
Center of Colorado Water Conservancy District  
Upper South Platte Water Conservancy District  
Headwater Authority of the South Platte  
November 13, 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, November 13, 2024 at the water district offices at 548 Front Street, Fairplay, CO. Lisa McVicker called the meeting to order at 2:01 PM.

The members present at the office from CCWCD were Lisa McVicker, Lynne Buchanan, Craig Steinmetz. Wallie Weld jointed by teleconference. Members from the Upper South Platte Water Conservancy District at the office were Dave Wissel, Jon Rice, Bob Slagle, and Glen Grothe. Lynda James was present via teleconference. Representing HASP at the office was Jon Rice, Lisa McVicker, Dave Wissel and Lynne Buchanan. HASP Operations Manager John Matteson was present. Legal counsel Alison Gorsevski was present in the office. Legal counsel Sedona Chavez was present by teleconference. Also attending was Nola Knudsen, CCWCD Administrator and CCWCD Operations Manager Lisa Barden Brown,

Also attending in person was Jara Johnson, Upper South Platte River Coordinator. Patron Dan Carlos Sr. attended via teleconference.

**APPROVAL OF THE AGENDA**

Lisa McVicker moved to amend the agenda so that Dan Carlos Sr. with Arrowhead Ranch Partners, LLC can be at the top of the agenda. The motion was seconded by Lynne Buchanan and carried unanimously.

Dan Carlos of Arrowhead Ranch introduced himself and said he was present today to seek an augmentation source for property he has that already has zoning and a plant so it can be developed. Mr. Carlos referred to a packet of information he dropped off at the offices to be presented to the Board members. Mr. Carlos said he is the manager and principle of Coronado Development. He is a developer and has been in the business for approximately 50-years. He has been a resident of Colorado full-time since 2002. He has been investing in the mid-front range area since the 1980's. One of the current projects we have, is a 3500 deeded acre ranch located at the corner of Highway 9 North and Highway 24 in Park County just west of the town of Hartsel. We have created five ranches within the main ranch boundary and branded it as Arrowhead Ranch. We discovered that part of the ranch of the 42-acre parcel that adjoins the town of Hartsel to the North, had an existing plat on it that was recorded many years ago when the town was established and built. We've branded those 42 acres as trails and ranch area. This is the subject Mr. Carlos wants to speak with the Board about today and for his request for water. He has maps in the packet showing where Arrowhead Ranch is and showing how the five ranches are made up and the trails of 42 acres, they need water for. Mr. Carlos said our plan is to create affordable housing on the 42 acres. He is using that term to represent an affordable price for a nice place to live; something that is new, high quality with pride of ownership and highly amenitized.

Mr. Carlos said he talked with Park County and that they were enthusiastic in supporting his project. He had discussions with them regarding the status of the plat on the property and they

verified the plan had been approved, is still active and the zoning is still in place. Mr. Carlos said we have talked to the Planning Director about our desire to create affordable housing and use that site. One drawback is the existing plat was designed decades ago and isn't relevant today. He said our land planner laid out a site plan and we have developed a concept to set up an affordable community. We went back to the county, presented our plan to them and they were very enthusiastic about it. In the packet, distributed to the Board members, is a letter from Park County acknowledging the status of the existing zoning and their support for the property. Mr. Carlos said we all know affordable housing is a challenge. One of the options for providing affordable housing is a trend developing across the United States. We have seen people buying nicer RV units and moving them into older RV and mobile home parks and creating a living unit for less than \$2,000 per month. This is the idea we are bringing to bear with this property with a nice, new, RV manufactured property. Everything we have been involved with has been of high quality. Mr. Carlos provided a reference for a property he completed in Phoenix, Arizona. He provided specifics about the local property as well. It is designed as a high-quality rental community of 100 spaces for recreational vehicles, tiny homes, manufactured homes, for affordable, non-transient year-round residents, which is consistent with the original plan. The plan density of 100 spaces, works out to about 2.4 homes per acre. The majority of residents will be year-round with a portion of the community being seasonal to allow housing for local contractors, lift operators, workers and employees of the State and retail establishments throughout Park County. A very small percentage of the non-occupied space may be used for recreation and short-term stays. In addition to that opportunity, one can bring their own RV or manufactured home or tiny home, and we will be bringing some of those elements ourselves, purchasing them and bringing them for people that don't have their own unit or have the ability to provide their own unit. Our goal is to provide affordable housing by having that turnkey available for them to rent. In the community, there is lots of open space, a very nice club house, recreational areas and other amenities.

Mr. Carlos said what we need is the water. The water would be provided by wells from the central system. Additional usage and consumptive analysis for the clubhouse, community building, and the managers living quarters have been included in our estimate for total water demand. We are entertaining a new green technology onsite waste water treatment system. These have been used extensively over in Utah. Mr. Carlos has included information about this in the packet. Even with conventional septic systems, return flows from in house use will be around 95%. Even at 90% return flow rates, augmentation demand should be minimal at around 1.68af per year to 2.3af per year. Therefore, our request is to purchase 2.3af per year, a replacement supply from HASP. Having water rights is the determining factor of whether we are able to develop this project. Mr. Carlos thanked the Board for having the opportunity to present this information to them.

Craig Steinmetz asked if this would be all rental spaces or could there be any ownership. Mr. Carlos responded the spaces would be rented. It would not be subdivided or allowed for any ownership. Lynda James asked to clarify the anticipated gallon usage per lot per day. She felt the number specified was low. Mr. Carlos said the engineer and his water attorney were involved in developing the water use estimate and looked at other properties that would be similar to this and it probably wouldn't be large groups of people occupying this space but if it was, it would be in the lower amount we mentioned.

Dave Wissel said basically they will be quantified based on a standard and the standard has generally been 75 gallons per person per day.

Mr. Carlos said in the total of the 2.3af, we added in for exterior irrigation although that would be very minimal and that all of the demands from the clubhouse and manager's living quarters would be included as well. Lisa McVicker advised Lynda James that Dan Carlos dropped off packets that were illustrated with plat maps and explanations of the proposal and one of the elements is a sophisticated water purification reuse system. With the residential development and the waste water treatment development with a specific company indicated in the packet, this could have an impact on these numbers.

Dan Carlos said if we know we have water, the county is eager for this project. The county said they would, as they were able, put the project in the fast lane. The county said there would be no public hearings, no rezoning, and no anything. They would administratively process. Mr. Carlos said as soon as it has gone through the county, it could happen sooner than later. He said he hasn't formulated a time line yet until we know if we will have the water.

Dave Wissel asked about the circa of the plat. Dan Carlos said approximately 80 to 100 years ago. Dave said Hartsel is an unincorporated town based on an historic town site. Dave said the county may want to reconsider their advice to Mr. Carlos because an existing plat cannot just be overturned. An existing plat is a formal legal designation, that at a minimum, would require an amendment of that plat. There are other things to go along with the development process. Dave said Mr. Carlos would need to have an answer in the front end of the planning to tell the regulatory people that you have a bona fide water supply that is generally in the form of a will serve letter. HASP would provide it if we accept this application. Bob Slagle thinks the county can't move on without a public hearing. Alison Gorsevski said at the last joint meeting, the board was asked if they were just interested in the project. Based on this meeting, she suggested the board invite Dan Carlos to submit an application if they feel they could possibly look at this application favorably. Dave Wissel said if the Board approves the application and provides a will serve letter, it will ease the process with the county. Lisa McVicker said she felt this could be a beneficial project for the citizenry of Hartsel. Lynda James asked about the location of the project. Dave Wissel said it is 42 acres just north of Hartsel. It is not in any of the existing historic town.

Dave Wissel said a long time ago; they did some drilling of wells to find alternatives to the existence of lousy water quality. There are a series of geologic formations that come to a point right under the town of Hartsel. Your due diligence will be to do some preemptive exploration of potable water supplies. Areas within the existing environs of Hartsel vary. You could be standing in one place with a lousy well, go 15 feet and find a geothermal well, go 50 feet and find a perfectly good well. There are issues geologically in that area that should have due diligence and an investigation water levels and water quality issues.

What Dave Wissel has been curious about is the more current technology on the waste water side. The biggest issues in Park County from a variety of angles is the lack of central water and sewer systems. We have four complete water turnkey treatment systems in the county; two municipalities, two Title 2 special districts and that is it. This is one of the biggest conundrums for any kind of a development, the infrastructure. Dave said the Upper South Platte Board looked at a central water system in Hartsel in the early 90's. It was cost prohibitive then; nothing has changed. The physical real estate in Hartsel is virtually the same. Lisa McVicker said that is what

makes it interesting. Dave Wissel said if this comes to fruition, it will answer a lot of issues in our county, and if we can assist with this on the water side, it is why we exist. Bob Slagle asked if Mr. Carlos was married to Aquatec or if he is open to another waste water treatment facility. Bob is very supportive of the waste water concept. Bob knows there are state funds not being used. Mr. Carlos is open to other waste water treatment options.

### **APPROVAL OF THE MINUTES**

Lisa McVicker moved to accept the minutes as presented. The motion was seconded by Craig Steinmetz and carried unanimously.

### **ADMINISTRATIVE MATTERS**

Treasurer's Report: John Matteson emailed the Operations Manager's report and the reconciled balances of the bank accounts through October 31<sup>st</sup>. The BMO checking account balance is \$88,061.62, the BMO checking account balance for the Deer Creek Gage is \$15,160.95, and the Colotrust balance is \$2,046,168.07. The last invoice to come in is from Wheeler and pending legal review, John will send it out for board approval.

John Matteson said the financial statements through September were put together by Linda and mailed to the Board. He also incorporated them into the budget review.

### **OPERATIONS MANAGER'S REPORT**

John Matteson said the water remaining in the 02 plan is 12.239af and in the 12 plan is 59.407af. There is some activity in the individual accounts since the last meeting. We did close with IGWT and they have added water for both additional ponds and rock washing. We have a new lease with them for five years. One of our older customers was Yang. The property was transferred to Chamberlain. The Indian Mountain dump site was permanently closed so we filed to remove that augmentation.

1. Update on Doro-on (Tesla) and other customers: John Matteson commented on Doro-on's on-going saga. He filed a revised notice for the additional water the state asked us to include on September 25, 2024. There is a pending notice of application and they have a 65-day comment period which comes to the end of this month. This is for 4.27af.

Dambrackas is an individual residence in Indian Mountain. We issued their augmentation certificate. The owner just got in contact with me and said she has contacted two drilling companies and there is no water on her site. John suggested she could be one of our first parties in the buy-back plan. Jon Rice moved to buy back the water. The motion was seconded by Bob Slagle and carried unanimously.

Dunlap is another Indian Mountain application we closed on and the Douglas County application for three residences for the Sheriff's office. John Matteson said we also closed on the Zigan 7 lot minor subdivision and the Banks 4 lot minor subdivision. We just recently closed on an application of an individual named Clark for in-house use near Florissant. The newest application is from the owner Genesys Leasing, a horse rescue facility north of Red Hill Pass. They will water 30 horses with the pond. John thinks this may need to be a commercial lease. Dave Wissel said since there is a significant herd on the property within the cystic draining

structure, he doesn't know of any impoundments on the property. They may have a physical supply problem.

2. Website updated and installed: John Matteson said at the last meeting, the Board approved the transition to Daisy design for Authority web-site. He said she was easy to work with and there are no complaints. We are on a maintenance mode with her for our website.
3. Move from checks to "BMO" Bill Pay: John Matteson said the Board approved at the last meeting to move to the BMO bill pay system and that seems to be working well.

## **OLD BUSINESS**

1. Buy Back Policy – Alison Gorsevski said last year we went through a process with Matt Loose and Wheeler to identify accounts that were consistently not using the water allocated them. The Board was interested in buying back some of that water. Alison, David Shohet, and John Matteson got together to send out an email to some of the customers that had some of these excess numbers. The effort was for gathering information with some customers and to inform them about the buy back policy. There was a mixed bag of interest. While going through this process, a question came up about the policy. The policy says the buy back can be exercised at HASP discretion. If we have an entity that has a whole acre and hasn't used it for years, and there is no probability to grow into that, does the Board believe if the seller isn't interested in selling back, does the board have the right to force the buy back? Bob Slagle suggests it is the use it or lose it position of Colorado. Lisa McVicker suggests a time limit to the water that parallels the Colorado doctrine of use it or lose it. Abandonment is real both in real property and property rights. We could articulate it in our policy, in keeping with Colorado's water law abandonment policy. Alison said 10 years is the presumption in abandonment. But the owner may think he wants to keep it for whomever he might sell it to. Lisa thinks the time frame is the way to go about this. Alison will have further conversations with David Shohet, Sedona Chavez, and John Matteson about this and work to clarify how to work that process through. She wants to do more work behind the scene.
2. Pond Policy: Alison Gorsevski said the pond policy went into effect October 1<sup>st</sup>. She has sent it out to a few who have inquired about ponds. The policy has been added to the web-site.
3. Presentation from Arrowhead Ranch: Moved to top of agenda.
4. Soda Springs Update: Lisa Brown bought a generator to use on the property but she hasn't had a chance to get there yet.

## **NEW BUSINESS**

1. Water Court Applications: There are discussions to be had in executive session.
2. 2025 Budget proposal: A draft budget was distributed and the Board will review. If there are no changes, it will be voted upon in December. Dave Wissel said looking at the four years together is good information but the budget is all projections. As an Authority, we don't have a guaranteed income other than sales, leasing of water and our earnings income and our earnings income has become substantial. Dave referred to a belief some have that government should always spend their money and never put it aside. He said that's not our reality in the water world. In the Upper South Platte Water Conservancy District, the district

has close to a half a million dollars under their control because they have been frugal and they do not go out and spend money on things they don't need to. They are very judicious of those taxpayer dollars and we have purposely tried being frugal. HASP has been our beneficiary. We have benefited from HASP. The legal side of this, the biggest expense that we experience, has a district income of \$130,000 per year total income. This is year three coming up that we will be at \$130,000 per year and we are still able to put money aside into our project reserve account to buy water such as Chatfield water that we just closed on. In our world, that money is an expense that doesn't come along very often. We have to have the capital to exercise those opportunities that will appear. We have no idea and no ability to predict when those opportunities will appear. We were in the right place at the right time in the right situation to be able to pull the trigger on 2af of Guiraud 3T water which we just closed on in October. We need this money for replacement supply. Jon Rice expanded on what Dave Wissel said, stating we obtained 2af in Guiraud 3T, Buffalo Peaks water, 1863 for the benefit of our customers. Dave said looking at the budget with two million dollars, one might say we are sitting on easy street. We are not. That money is not ours; it's fungible to future replacement supply and that problem will become more difficult. The large blocks of water are gone. We will concentrate on small blocks of valuable water we can add over time. Jon Rice reminded the board we are looking at Montgomery Reservoir but they haven't come up with a price for storage yet. Dave Wissel discussed other options in the future that include some in-ground storage which has not yet been discussed. Glenn Grothe asked a budget question regarding the fund balance and whether that should be represented in the new 2025 year. John Matteson will get back to Glenn about that. Glenn also asked why there are no revenues shown from member districts, who are CCWCD and USPWCD. Dave explained when HASP was formed in 2007, the member districts were subsidizing the operation of HASP. Why was HASP created? Dave Wissel said CCWCD is de-Bruced, the USPWCD is not. The USPWCD still keeps its enterprise fund because should the two member districts separate, we can only operate water leasing and sales to an Enterprise Fund under Tabor. The Authority removes that restriction from us and Center doesn't have it. HASP operates as the business arm because it can as an Authority. Dave would like to approve the budget in December after we have the most current financials.

3. Engage Hoelting and Company for 2024 audit: John Matteson was seeking approval from the Board to contact Hoelting and Company and solicit an engagement letter. Once received he will bring it to the board for approval. The board agreed John should make contact with Hoelting and Company.
4. Deer Creek accounting: Alison Gorsevski said Matt Loose was going back and looking at last years water accounting. He learned there is a discrepancy between the accounting sheets and what is allowed under our decree. The spreadsheet allows HASP use of the Flume Ditch to the end of September. Our decree allows us to go through December 14<sup>th</sup>. Matt's question is should we go through the process of correcting this error in the decree? The finish date is in a table in one of our decrees and has been incorporated into our accounting that spilled over into the Deer Creek general operations accounting. The way it has been working so far, we have had no trouble taking up to our maximum credit based essentially on the wrong date. Even if we used October 14<sup>th</sup>, October 31<sup>st</sup>, it doesn't matter. Tim Buckley, the water

commissioner over on Deer Creek, has asked if we were interested in going ahead to correct the error. Tim didn't provide what he thinks needs to be done to fix it. Alison did look at the decree and because she thinks it is a term and condition in the decree, this could be more complicated process than just going in and asking the court to change the dates. We could try it, but Alison doesn't know where we would get. We, as HASP, don't benefit having the date of the 14<sup>th</sup> versus the 31<sup>st</sup>. She suggests we don't mess with it. If there is a real interest from this board, we can go ahead and try to get the end use date modified to where it should be. Bob Slagle asked if this is a discussion that will be furthered down the road. Alison said it will probably come up again. Alison said if Matt is comfortable, we can just use the end date on the decree and we are comfortable with that, she doesn't see any need to go further. Lisa McVicker thinks we should just leave it alone. The Board members agreed.

5. Contact Dan Henrichs/Div 2 status – John Matteson said we had an individual named Flores that wanted to get some augmentation water to water horses in the Currant Creek area which we can't currently accommodate. The individual contacted both John Matteson and Lisa Barden Brown. It was the first interest we have had for a while. Lisa Brown suggested contacting the water commissioner over there to see if there had been any other interest. John was not sure where to go and wanted Board direction. Dave Wissel met a man in Guffey that wanted to lease it, that is managing the old Harvey place. We don't have the ability to deliver anything to Division 2. We are relatively at the dead in for Division 2. Lisa McVicker said we could pump it into a truck and deliver it. Bob Slagle said this could be our first real customer. Lisa Brown said the question that arose was, are they any other potential customers; what is the status of Division 2, how hard are they cracking down on irrigation and does Dan Henrichs have any other people looking for irrigation water?

Bob Slagle said Dan Henrich has no plans he is aware of to crack down any further from what they already had done by sending cease and desist and not following up on the time line they created. It is asleep. Sooner or later, we will end up having to make Currant Creek functional. John Matteson said all we know is Flores is looking at purchasing 20 acres in Guffey. Lynne Buchanan said there was 20 acres for sale on Winter Mountain. Flores has not purchased property yet. Dave Wissel said Pike Trails has some potential for us to be able to service it if we can find a source. When we first started to go with this, the concern was pond breaching. That concern simmered down. Dave said we looked at the Harvey Ranch which was the only identified water right above us, that was senior, that we could identify but there was "no there-there". The same when we did due diligence. Under the appropriations doctrine, concept of futile call, they had been able to operate forever under the futile call. Division 2 did away with futile call and therefore no "there-there".

Dave Wissel said he has been contemplating something he didn't have the answer to. Are there any senior water rights in Fremont County, downstream in Currant Creek, that would be possible to acquire and exchange up to Soda Springs, lot 6. Bob Slagle said there has been a couple he has dealt with, a couple of farmers, but have sense sold and the new owner has actually improved the pasture tremendously. I don't know what he is doing for water. Bob said it would be a good thing for him to find out up 2A that would actually drain into Currant

Creek alive. Dave Wissel said that is the only option he can think of, that we find something further downstream that is already established, that we can exchange upstream.

6. Genesys Application – Pond and horses – lease? – This was discussed earlier.

Jara Johnson –Upper South Platte River Coordinator. Jara said the State has started to develop these new positions. Division 1 has four river coordinator positions. There is the Division Engineer, the river Coordinators and the Water Commissioners. I will be supervising Garver Brown, Tim Buckley and Paulo and his deputy down in District 8. I will be working with everything going through Chatfield. With the Deer Creek question, Jara will have questions to get with Tim Buckley over, specifically, maybe the original period of use for the Flume Ditch before the change cases. Alison Gorsevski said in other decrees, Matt Loose found the Flume went through the end of October, but looks like the HASP decree is the outlier, and it is only in one spot in the 12CW50 decree. Alison said she did go back and tried to figure out if someone had stipulated or asked for a different date. Dave Wissel thinks it is probably a typing error.

Jara said if the Board has any questions in Districts 80, 9, and 8 to let her know. Dave Wissel had a question about an application from someone in Jeffco who wanted to get service from us but who wasn't sure if they were in our district. We had an issue in 2019, where we discovered seven hundred properties in Jefferson County that were never put in the system in the Assessor's office to be a part of our district and a part of our certification of values. That was because of an application that was brought in and they weren't listed currently in our District but was not listed on the tax roll that way. Jefferson County went back to the original decree in 1955 and added all those seven hundred properties. Dave Wissel said we are whole from 2019 onward. If they don't have the Upper South Platte in their tax roll, they are not in our district. Alison, said we had an individual came to us who was told he was not in our boundary, the individual did some additional work and said the boundary is across the street. Alison thinks we will pass on this one. It is not economically feasible. Jara said the Upper South Platte is on the watershed boundary. Dave said we are, it is what was established in 1955.

John Matteson pulled up an email from the individual desiring service and discussed a map showing the man's house, where there's another house in the service area, the ridge line etc. John said we are telling him no. John is asking if the board wants his response to be we just aren't going to provide you service. Lisa McVicker thinks an explanation of what has been historical in 1955 and that it hasn't been rectified and it is up to Jefferson to make the changes. Lisa McVicker thinks this is what needs to be said and suggests Alison Gorsevski could draft a letter for John Matteson. Bob Slagle said in the process of rectification, if he is justified for obtaining water from us, we need to be moving forward as a unit and hold Jefferson County responsible for making this guy's water available to him. Lisa McVicker said she doesn't think that is up to HASP, it is up to Jefferson County. Bob Slagle agreed. It is up to us to at least open the door and to spend the money to say if you are there, you are entitled and we will go forward. Alison Gorsevski said she spoke with Madoline Wallace Gross about what happened with Jefferson County before. Alison is asking the Board, if they would like her to do a process similar to 2019, looking back to 1955 formation documents and see if his property falls within the legal description. If it does, then we push it to Jeffco and say fix this property too and if not, we're

sorry. Lisa McVicker thinks the individual is owed due diligence and she thinks we have the wherewithal to do it. The board is authorizing Alison Gorsevski to perform due diligence and write a letter to the individual who inquired about obtaining the water.

Jara continued her report stating we are at 135% snow pack. She said it doesn't mean much this time of year as it can change a lot yet. Most of the reservoirs are in their upper 80's-100%. River coordinators are striving to do a little more consistency across the division so we understand the water commissioners in each different district have been playing it a different way depending on their geographics so we're trying to see what works and give some sort of standardization.

## **LEGAL ISSUES**

### **ADJOURN TO EXECUTIVE SESSION FOR LEGAL ADVICE**

Lisa McVicker moved to go into executive session pursuant to Section 24-6-402(4)(b) C.R.S. for the purpose of receiving legal advice on (1) the application of Dennis and Judy Brighton application, case 23CW3054 (2) the application of Park County, case 24CW3143 and (3) for the Schattinger Ranch, case 24CW3047.

Bob Slagle seconded and the Board entered executive session at 3:30PM. The Board returned to regular session at 3:52PM.

Lisa McVicker moved to authorize counsel to execute a stipulation in 23CW3054 Water Division 2. Lynne Buchanan seconded and the motion carried unanimously.

Lisa McVicker moved to authorize counsel to execute a stipulation subject to final approval of the proposed decree on the Schattinger Ranch, 24CW3047, Water Division one. Lynne Buchanan seconded and the motion carried unanimously.

Lisa McVicker moves to authorize counsel to file a statement of opposition in the Park County application, case 24CW3134. Bob Slagle seconded and the motion carried unanimously.

## **DIRECTORS ISSUES**

None

Dave Wissel moved to adjourn. The motion was seconded by Lisa McVicker and the Board adjourned at 3:55 PM.