

September 18, 2008
Meeting Minutes of the Board of Directors

Directors Present: Alan Berryman, Dennis Bode, Lisa Darling, Dennis Harmon,
Kevin Urie and John Kolanz

Directors Absent: Greg Dewey, Randy Rhodes and Kim Elkins

1. CALL TO ORDER / INTRODUCTIONS

Lisa Darling called the SPWRAP Meeting to order at 10:00 am at the headquarters of Northern Water. There was a quorum of Directors.

2. ADDITIONS/CHANGES TO THE AGENDA

There was a suggestion to add an update by Deb Freeman on the proposed regulatory changes to the Endangered Species Act (ESA) consultation process. Additionally, the assessment rate for 2009 was added to the agenda for discussion and resolution by the Board. It was requested that an update on the Tamarack Water Rights Settlement be added to the agenda. The revised agenda was approved by consensus.

3. REPORT ON THE JULY 17, 2008 FIELD TRIP

Jon Altenhofen reported on the July field trip and it was agreed that the field trip was a success and helped those that attended to better understand how the Tamarack Project operates. It was suggested that we offer an annual or semi-annual tour of the recharge facilities and operations.

4. MINUTES FROM THE MAY 15, 2008 BOARD MEETING

Minutes of the May 15, 2008 Board Meeting were approved by consensus.

5. FINANCIAL REPORT

Dennis Harmon presented the SPWRAP financial report, including a financial statement through September 17, 2008. Dennis Harmon also said the following bill needed to be paid:

- Trout, Raley, Freeman, et al. for legal services (May/June/July) – \$2,836.75
- Monthly bookkeeping - \$95.00

MOTION: Dennis Harmon moved that the board approve payment of the bills listed in the financial report. Alan Berryman seconded the motion and it was approved unanimously by the directors present.

Dennis Harmon handed out copies of the final Independent Auditor's Report for December 31, 2007, 2006 and 2005 as submitted by Mr. David J. Dunn, p.c.

It was agreed that annual audits would be completed by the SPWRAP Board.

6. FINANCE COMMITTEE UPDATE

The finance and operating committees recommended to the board that the 2009 assessment rate be adjusted down to 0.25 cents per unit for 2009 from the current rate of 0.30 cents per unit.

Discussion about the 2009 assessment rate ensued.

Ted Kowalski indicated that the State of Colorado already has \$16 million in the bank to be provided to the Program through the Nebraska Community Foundation and that the State has earmarked an additional \$4 million for the Species Conservation Trust Fund (SCTF) in 2009-2010. \$6 million are slated for the SCTF in 2010-2011 to round out Colorado's cash obligation to the Platte River Program.

It was discussed that SPWRAP had previously anticipated it would need to provide approximately \$1 million annually to develop the water components of Colorado's obligations to the Program. This would include operations & maintenance as well as paying for leased recharge credits from private landowners.

Some of the Board members expressed that based on the information provided with regard to the State funding that they believed the assessment rate for 2009 should be reduced to 0.20 cents per unit.

MOTION: John Kolanz motioned to reduce the 2009 assessment rate to 0.20 cents per unit. Dennis Bode seconded the motion and it was approved unanimously by the directors present.

Jon Altenhofen discussed the need for the board to approve costs to pump Tamarack wells from November 2008 through January 2009. Jon indicated that if excess water is available at Grand Island, NE are available this fall that 14 wells could currently be pumped and the anticipated cost to do so would be approximately \$74,000. Credits from this pumping would start to accrue back to the river in Feb/Mar of 2009. Jon requested the board approve \$175,000 to pump public/private wells in the fall of 2008 and January 2009.

MOTION: Alan Berryman made a motion to approve \$175,000 for pumping wells this fall into January 2009. John Kolanz seconded the motion and it was approved unanimously by the directors present.

7. UPDATE ON PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM (PRRIP) ACTIVITIES

Alan Berryman and Kevin Urie provided brief updates on the various committees of the Program.

The board discussed the pros and cons of contracting with Alan Freemyer to lobby for the PRRIP. Mr. Freemyer has requested a contract for \$4,500/mo. There was discussion about a possible split of costs between SPRWAP and the State.

Federal Depletions in Colorado were discussed. Under the Program, the 3-States each agreed to work cooperatively with the federal entities in their State to provide federal

depletions coverage for up to 350 acre-feet. The federal entities have requested that the 350 acre-feet in Colorado be split into two separate blocks of 175 acre-feet each instead of paying for the entire 350 af upfront. SPWRAP agreed that the combined federal entities will pay \$5,000 for each 175 acre-foot block.

The State has been working with the Program participants to get agreement that new depletions in the North Platte basin be covered by re-timing water in the South Platte basin. Wyoming does not like this and has suggested that Colorado consider addressing new depletion in North Park by including it under the remaining North Platte baseline. North Park water users are generally accepting of this approach. If this approach is taken it would require an amendment to Colorado's depletions plan and approval by the Governance Committee. The State agreed to come back to SPWRAP with a proposal in the next month or two.

8. SPWRAP ADMINISTRATIVE & CORPORATE ISSUES

No discussion.

9. PROPOSED REGULATORY CHANGES TO ESA CONSULTATION

Deb Freeman indicated that the proposed changes to ESA were short and very good. Comments are due on the proposed changes, under extension, by October 14, 2008. Deb's supporting comments include: 1). Streamlines the consultation process. No Biological Assessment (BA) submittal is required if an Environmental Assessment (EA) or Environmental Impact Statement (EIS) is already being prepared; 2). If the lead federal action agency doesn't receive a "not likely to adversely affect" determination from the USFWS within 60 days then the action agency can proceed; 3). "Causation" associated with the project – if it is determined that your project does not cause negative affects then project can proceed. Deb stated that the proposed changes may not be helpful for the Platte River Program.

It was agreed that Deb Freeman would provide a summary letter of comments on the proposed changes to SPWRAP Board members.

10. APPROVAL OF AGREEMENT FOR LEGAL SERVICES FROM AUSTIN HAMRE

Due to time constraints this was not discussed.

11. TAMARACK WATER RIGHTS SETTLEMENT UPDATE

Mary Halstead and Steve Simms provided a handout that summarized the Tamarack negotiations with Boulder/Centennial. Steve Simms believes that the case could be settled if the State would agree to the 2.6 feet per day leakance factor and that it probably is not worth continuing to argue over.

There was discussion about whether or not SPWRAP needed to re-evaluate and consider adding language into SPWRAP documents that addresses the handling of SPWRAP members who oppose actions being conducted by SPWRAP.

12. AGREEMENTS WITH THE STATE OF COLORADO

It was agreed that this item will be discussed at the October 16, 2008 meeting.

Jon Altenhofen stated that SPWRAP needs to finalize the Heyborne Agreement. It was agreed that this item would be taken up at the October 16, 2008 meeting.

13. ANNUAL MEETING OF MEMBERS

The Annual meeting is scheduled for October 23, 2008 following the South Platte Forum in Longmont, CO. Kevin Urie and Austin Hamre agreed to send an Annual Meeting notice and informational packet out to the membership next week.

14. Next Meeting of the Board of Directors:
October 16, 2008 – Denver Water