

November 20, 2008

Meeting Minutes of the Board of Directors

Directors Present: Dennis Bode, Greg Dewey, Dennis Harmon, Kim Hutton, John Kolanz, Randy Rhodes and Kevin Urie

Directors Absent: Alan Berryman and Lisa Darling

1. CALL TO ORDER / INTRODUCTIONS

Kevin Urie, acting Executive Director, called the SPWRAP Board of Directors Meeting to order at 10:00 am at the Board Lunch Room of Northern Water. There was a quorum of Directors.

2. ADDITIONS/CHANGES TO THE AGENDA

There was a suggestion to add discussion about the following items:

- North Platte Issues – Ted Kowalski
- Directors and Officers (D&O) Liability Insurance – Austin Hamre
- Heyborne Issues – Austin Hamre and Greg Kernohan
- Alan Freemyer's proposal for lobbying services.

3. MINUTES FROM THE OCTOBER 16, 2008 BOARD MEETING AND OCTOBER 23, 2008 ANNUAL MEETING OF MEMBERS

Kim Hutton suggested a correction to the October 16, 2008 minutes: In Item 8: AGREEMENTS WITH THE STATE OF COLORADO, the reference to Amendment should be 52, and not 51 as shown.

*MOTION:* Kim Hutton moved that the board approve the minutes from the October 16, 2008 board meeting and the October 23, 2008 annual meeting of members. Dennis Harmon seconded the motion and it was approved unanimously by the directors present.

4. FINANCIAL REPORT

Dennis Harmon presented the SPWRAP financial report, including a financial statement from beginning of fiscal year through November 17, 2008. Dennis is soliciting proposals for a CPA to do a 2008 audit. Dennis also said the following bills needed to be paid:

- Hunt, Spillman & Assoc. for monthly bookkeeping (October) -- \$95.00
- Trout, Raley, Freeman, et al. for legal services (Sep-Oct) – \$2,263.20
- Duncan, Ostrander & Dingess for legal services (October) -- \$7,644.59

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

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

The Governance Committee is meeting on December 2 and December 3 at the DIA Marriot Residence Inn. A large discussion item will be the budget for the program.

The Water Action Committee will see a workshop presentation by Boyle of its phase 2 study of reregulation reservoirs in Nebraska on the first day. A geomorphology meeting will be part of the second day.

The CWCB is proposing a request of \$4 million cash contribution from the Species Conservation Trust Fund to the meet a part of Colorado's obligation in 2009. This needs to be approved by the legislature and may be affected by December's severance tax figures.

The target flows on November 16, 2008 changed. We are gathering credits for our initial water projects. Recharge is being credited, and the plan is to turn on the Tamarack wells as of December 1 (Since we are in a state of excess) to take advantage of the excess.

## 6. SPWRAP ADMINISTRATIVE & CORPORATE ISSUES

### o D&O Liability Insurance

Austin Hamre reported on his follow up with Charles Hix for an insurance quote for director's liability (including Errors and Omissions), general liability, automobile liability and umbrella coverage. The special district provision was just part of the closest one SPWRAP fits into; SPWRAP will not pay extra for this coverage. Umbrella coverage was increased from \$1 million to \$2 million, for a total of \$3 million for a single event. Since SPWRAP has no employees at the current time, the board agreed that employment practices liability and worker's compensation should not be included, but that these would be added when SPWRAP hires any employees. The total annual premium will be \$2,694 for the policy. Austin has reviewed the application and recommends approval.

*MOTION:* Dennis Harmon moved that the board approve the policy. John Kolanz seconded the motion and it was approved unanimously by the directors present.

- ### o Extent of requirement for SPWRAP to comply with Colorado Open Records Act
- The SPWRAP board needs to discuss whether or not it wants to comply with all, some or none of the requirements. A subgroup to research these policy issues was formed and included John Kolanz and Austin Hamre. Discussion ensued about whether or not the State Attorney General's office could offer an opinion. The subgroup will report back to the board in January.

## 7. NORTH PLATTE ISSUES

Ted Kowalski reported that the North Platte water users want a written commitment from SPWRAP on how to handle federal depletions in the North Platte Basin within Colorado's boundaries. Ted expects that there will be a proposal at a future SPWRAP meeting.

The State of Colorado was committed to working on resolving the issue by December 1, 2008 and had sent a letter to that effect to the US Fish and Wildlife Service. Sandy

Vana-Miller of the US Fish and Wildlife is now requesting a letter granting the Bureau of Land Management's coverage of its piscatorial / wildlife uses and stock ponds until the North Platte issues are resolved. Deb Freeman recommended granting an extension, with the understanding that work is continuing.

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 acre-feet upfront. SPWRAP agreed that the combined federal entities will pay \$5,000 for each 175 acre-foot block. Kevin completed the paperwork that SPWRAP needed to do as part of a federal contracting process and is waiting to hear back from the subject federal agencies.

The consensus of the board was to extend the deadline by a year for Bureau of Land Management's development of up to 25 acre-feet for piscatorial uses and stock ponds. SPWRAP is being kept whole because the 25 acre-feet is part of the initial 175 acre-foot block.

*MOTION:* Greg Dewey moved that SPWRAP provide a letter extending the Bureau of Land Management's coverage of its piscatorial / wildlife uses and stock ponds, for up to an additional year, with the understanding that the North Platte issues need to be resolved. Dennis Bode seconded the motion and it was approved unanimously by the directors present.

#### 8. WATER SOURCE 2008 QUESTIONNAIRE

Jon Altenhofen handed out a questionnaire he developed for use with the future depletion model. He needs each municipal entity represented on the board to fill out the questionnaire and return it to Jon, so he can use the data to test the model. This is required to compute the percent of water sources and provide validation for the model.

By the second week of December, Jon hopes to email it to all municipal SPWRAP members to complete the questionnaire by January 31, 2008. Jon can then produce a depletions report by March 31, 2009. Austin Hamre developed a cover letter to emphasize the importance and it will be sent to current SPWRAP members. Ted Kowalski will send out the questionnaire to non-SPWRAP members.

Discussion followed about the questionnaire. Jon will consider all the comments and provide a revised form next week.

#### 9. AGREEMENTS WITH THE STATE OF COLORADO

- SPWRAP-CDNR First Amendment to MOA
- SPWRAP-CDOW MOU

Austin has forwarded the documents to the State and is working through DNR and CDOW for approval. Ted Kowalski and Mary Halstead are shepherding the respective documents through CDNR and CDOW. Ted envisions a meeting on December 19, 2008 with Harris Sherman (and Austin Hamre, Deb Freeman, Kevin Urie, and Jon Altenhofen as representatives of SPWRAP) to discuss the First Amendment to MOA.

Mary said that Tamarack is being considered for 25 acres of lined ponds to provide warm-water fish hatchery habitat. Jon Altenhofen said this is in line with what Tamarack was originally anticipated that it could provide (e.g. currently have success with minnows species of concern).

Jon Altenhofen mentioned that he would like to turn on the Tamarack wells as early as December 1, 2008. SPWRAP has budgeted \$22,000 to pay the electricity which has been approved. The MOU states that SPWRAP will cover O&M (including replacement of meters, pipeline back to the slough, road maintenance and mileage reimbursement for a ) Jon asked for approval of up to \$19,000 for these O&M items; this work would be done from now through spring 2009. Mary clarified that these items would be paid by SPWRAP through a reimbursable grant (i.e. CDOW purchases items and sends invoices to SPWRAP for reimbursement). None of the work would be related to capital development. Ted Kowalski mentioned that the Species Conservation Trust Fund could be used to cover the capital expenses of additional well drilling at Tamarack. Ted Kowalski will start the process with Jon Altenhofen and Mary Halstead.

*MOTION:* Dennis Harmon moved that SPWRAP provide a letter to CDOW stating that up to \$19,000 are available for O&M costs. Randy Rhodes seconded the motion and it was approved unanimously by the directors present.

#### 10. HEYBORNE RECHARGE PROJECT AGREEMENT (AND RELATED HEYBORNE ISSUES)

Greg Kernohan (Ducks Unlimited) has not heard back from their contracting specialist about the three-party MOU, but he didn't expect any problems. Greg highlighted the funding for the project. The plan is to go out for bid for the project as originally designed and see where the bids go. The total amount for the DU projects (\$1.5 million) includes a SPWRAP contribution of \$500,000. The State of Colorado is also participating for various benefits. The agreement includes an analysis of the cost and the water credits produced. The Heyborne Project, includes a floating pump in the river in a backwater portion of a slough, may be in the range of \$350,000 to \$500,000. Jon Altenhofen said it depends on the bids. A question is if SPWRAP wants to take on the responsibility of paying back NAWCA grant money if the final project does not meet NAWCA criteria. Jon suggested waiting on the bids and evaluating a final design before awarding a contract to build the project. Discussion followed about the specific engineering aspects of the project. Jon Altenhofen mentioned that the parties are proceeding as if the signed agreement were in place. Jon Altenhofen and Greg Kernohan will report back to the board in January.

#### 11. ALAN FREEMYER'S PROPOSAL FOR LOBBYING SERVICES

Discussion occurred about the costs and benefits for a lobbyist in Washington D.C. to secure federal appropriation for PRRIP. Wyoming and Nebraska have not offered any funding. The State of Colorado will not be able to contribute. If a lobbyist is to be retained, it will be up to SPWRAP to cover all costs. Alan Freemyer had submitted a proposal for lobbying services, with the assumption that the State of Colorado would bear some of the cost. One possibility is to return to Alan Freemyer and explain the current funding situation and ask for a revised proposal. Another possibility is to ask for a

couple other lobbyists to provide proposals. The board agreed to revisit the issue at the January board meeting.

12. ADJOURN

The meeting adjourned at 12:45 pm.

Next Meeting of the Board of Directors:  
January 15, 2009 – Northern Water