

**OFFICIAL MINUTES AND ACTIONS TAKEN
ARCH HURLEY CONSERVANCY DISTRICT'S
BOARD OF DIRECTORS**

Tuesday, January 14, 2010

Directors Present: Larry Perkins; President, Tom Bruhn; Vice President, UV Henson; Secretary/Treasurer, Pablo Lopez, Director; John Gilbertson, Director

**Directors/Staff
Absent:**

Staff Present: Franklin McCasland, District Manager; Donna Lafferty, Office Manager; Craig Hoffman, Maintenance Supervisor

Guests Present: Approximately 85

MEETING CALLED TO ORDER-

Finding a quorum present and finding this regularly scheduled meeting of the Arch Hurley Conservancy District's Board of Directors duly advertised, as required by statute, President Perkins called this meeting to order at 1:05 p.m. in the District Office.

PLEDGE OF ALLEGIANCE AND INVOCATION

The Pledge of Allegiance was lead by President Perkins and the Invocation was given by President Perkins.

**APPROVAL OF MINUTES – REGULARLY SCHEDULED MEETING
DECEMBER 8, 2009-**

Director Bruhn made the motion to approve the draft minutes of the Arch Hurley Conservancy District's December 8, 2009 meeting. The motion was seconded by Director Gilbertson. Motion carried 5 – 0.

Perkins – “YES”
Bruhn – “YES”

Directors Voted:

Gilbertson – “YES”

Lopez – “YES”
Henson – “YES”

MANAGER'S REPORT

Today the Conchas Lake elevation is at 4162.8 feet. Conchas Lake received 559 acre feet of inflow for the month of December. Last year at this time the elevation of Conchas Lake was 4161.9 feet.

On December 29th, I spoke with Lisa Croft, the area director for the BOR in Albuquerque. She had just received our request that was made to the Commissioner of the BOR Michael Conner at the NWRA conference. The request was for Arch Hurley to be able to obtain surplus federal equipment. She has committed to taking a fresh look at the previous ruling.

On December 30th, there was hearing held regarding the drowning in tunnel #5 in 2006. The lawyer is trying to add additional defendants to the case. One the adult that purchased the alcohol and second the adult that allowed the minors to drink in her apartment. The judge will rule on the request soon according to the attorney. We should receive a scheduling order in three to four weeks to bring this case to trial.

The end of the Conservancy District's fiscal year ended on December 31. Chester Mattocks is the CPA that will be conducting the District's audit this year. We have started gathering all of the documents requested from him to start the audit.

This week I spoke with Anthony Vigil from the BOR. He has received Arch Hurley's status report regarding their RO&M Inspection that was conducted on June 10 & 11, 2009. He will return here in early spring and inspect the Siphons #29 & #30 and tunnel #5. He has asked that starting next year, we increase the number of siphon inspections from two to six per year. I don't see a problem with us having six siphons a year ready for BOR inspection during the off season.

Prior to the Christmas and New Year holidays all of the heavy equipment was moved into the District's equipment yard. While in the yard all the excavators were serviced and routine maintenance performed on them. The excavators are back out working in the district. We are .75 miles below Quay Road 63 where Madrid Bridge crosses over the canal. Whenever we reach Madrid Bridge the crews will began installing the culverts under that bridge.

I would like to remind everyone that the Extension office will be hosting the 42 annual Agriculture and Home Economics Seminar on Thursday, January 28 at the Tucumcari Convention Center starting at 8:30.

VISITORS COMMENTS-

Visitor's comments and questions were taken after each of the agenda items #7-9.

APPROVAL OF RESOLUTION 2010-001

Director Bruhn made the motion to approve Resolution 2010-001 which pertains to the BOR in regaining control of the property near Tunnel 1. The motion was seconded by Director Henson. Motion carried 5-0. President Perkins would like all the Directors to sign the resolution. Manager McCasland was directed to contact and inform the BOR of the Board's position on this resolution.

Directors Voted:

Perkins – “YES”

Bruhn – “YES”

Gilbertson – “YES”

Lopez – “YES”

Henson – “YES”

GARY CORDOVA, USACE UPDATE ON CONCHAS DAM WORKS

Gary Cordova gave a power point presentation. He stated that this year is the 75th anniversary of the Corp of Engineers. Mr. Cordova stated that there has never been this long of time without being able to deliver water to the Conservancy District. Conchas Lake would need to rise 10 feet or more to be worth opening the gate. Since the completion of Conchas Dam, there has been flood control in the years 41,42,65,87 and 99. Flood control is the primary purpose of the Corp of Engineers. Mr. Cordova explained all the maintenance, improvements and inspections that have been completed at Conchas Dam. Mr. Cordova answered questions from the floor which included questions about flood protection, opening gates to allow water to come down the canal, automated gates and cost effect to reclaim dewatering back into the lake. Mr. Cordova extended an invitation for anyone to come out to Conchas Lake.

UPDATE FROM DISTRICT VII MANAGER TIM FARMER AND WATER SPECIALIST GREG QUARTIERI

Mr. Farmer thanked the Board for the invitation to the Board Meeting and for their support the first year in the new office in Cimarron. Mr. Farmer stated that this year has brought new challenges with staff shortages, hiring freeze and furloughs. The Cimarron Office has 4 employees. Since October, Greg and I have been focusing on the Mora area. In the La Cueva area, we went thru the files for declared and permitted water rights which has over 100 years of history. The field work will start next week. We have no way to force people to declare their water rights without adjudication. There are 400 acres that is not declared or permitted. Those acres will still have priority of 1850. La Cueva can store water if a certain level is obtained at the flume. There is approximately 5,648 af of storage in the La Cueva, Red and Horse Lakes. Mr. Farmer had some

handouts and maps and they will be posted on the Arch Hurley web site. Currently annual readings are done and those readings aren't reliable because they are not submitted on a timely basis. The readings should be done on a monthly basis to be more reliable. There has been no readings for the last several years for pumping from the lakes to the pivots. Mr. Farmer stated that he just needs to go do the field work. Greg Quartieri read the answers to questions that were submitted to Tim Farmer on August 11, 2009. A copy of those questions and answers are attached and are made a part of these minutes.

Following are some statements and questions asked of Mr. Farmer and Mr. Quartieri: At different times during the year it was noted that Mora was diverting water every time. The last trip to Mora, 100% of the water was being diverted. Arch Hurley knows that they have senior water rights, we just want their usage to be measured. What is it going to take to get them measured? Is the answer adjudication? Mr. Farmer stated that the final, best answer is adjudication. If you say you are going to adjudicate Mora Valley, at that point it makes the people come forward and file their declarations. It is the State Engineer's intent that everything be metered and measured –where the funds and man power to accomplish this is the question, something we are constantly working on. How many water users are there? There are hundreds of acequias and maybe 20 to 40 users on each acequia. Can someone declare 5,000 acre feet of water and have 200 acres of land? On the declaration form there is a place for acreage and a place for acre feet and further investigation would be performed if the numbers raise questions. Is there a complete set of aerial photography for the La Cueva Ranch area and Mora Basin down I-25 area? We do have some, have some from Department of Transportation aerial photography and the Santa Fe Office has been gathering as far back as they can go. A declaration isn't a water right – it is a statement of what you say you have. Mr. Farmer will get a set of the aerial photographs to Manager McCasland. Do you know what the carriage loss is to Conchas Lake? The answer was no. Continuous use is a key factor also. Carlsbad was able to get a congressional adjudication, why couldn't a congressional adjudication of all the irrigable lands be possible and then where you suspect people are reusing acreage that doesn't show up on aerial photos, only so much water can be used. I don't see how we can ever get a handle on what the true declarations are? The hydrographic survey would have to come first and I'm not familiar with congressional adjudication. The Carlsbad adjudication didn't involve the State Engineer, but now they do. In the measuring devices in the Pecos area, when the Corps of Engineers go over by 1 af, they are notified that day. What is going to take to get the same consideration with respect to over usage on the Canadian as on the Pecos? Mr. Richard Trujillo, who is with the State Engineer's Office, stated at a prior meeting that previous ponds are now lakes that cover 40 to 50 acres. The answer and proof is with the aerial photography. Mr. Farmer was asked about transferring in employees to District 7 and he stated that per diem expense probably wouldn't allow it. In reference to law on water permits, does it read "shall" or "should" measure and the answer is that it reads "shall" on the condition or permit. It was stated that meetings have been held in Mora County. The location was changed because of the large attendance. The majority of people in Mora County are against having a Water Master. Mr. Estrada stated that the fact that Mora County doesn't want a Water Master is a sign. Mr. Farmer stated that it needs to be metered and measured on a monthly basis- there is no recourse if it is reported on an annual basis. Mr. Swenson asked if Mr. Farmer found the Water Resource Assessment from the University of NM dated June 2009 valid?

Mr. Farmer stated that he hasn't read the study. Mr. Swenson stated that he would get him a copy of the study. Our license reads 7 af and Mr. Farmer referred to a 3.5 af per acre per anum is the duty to the farm head gate. The license is the only thing we have, what is that going to do when the license states 3.5 af? Our application is for 7.1 af diverted out of the lake. Mr. Farmer stated that he would look into this. President Perkins stated that Arch Hurley can't wait for results 2 or 3 years, we need some results now. Focus all the resources and get an explanation as to why this one district is shut completely off. Mr. Farmer stated we will look at La Cueva and La Cueva is a start. This will be a tool to take to my supervisors Jim Sizemore and John D'Antonio and this is the tip of the iceberg in that valley and it is critical that we get a water master there. Pre. Perkins asked when the numbers on La Cueva were declared? Mr. Farmers stated that the dates vary and are listed on the spread sheets. Mr. Weeks asked what does the State consider a pond? It used to be 10 af, the legislators have made some changes though. Mr. Randals asked Tim, as a representative of SEO, do you agree or disagree that we have a problem? Mr. Farmer agreed that there is a problem, we need metering, measuring and a water master. All of the handouts will be included with these minutes.

ARCH HURLEY ATTORNEY CHUCK DUMARS

Mr. Chuck DuMars introduced himself and Catherine Robinson from the Law and Resource Planning Associates. Mr. DuMars stated the other Districts that he represents and gave an overview of the firm's clients and suits his firm has handled. Mr. DuMars stated that he is looking forward to working on Arch Hurley's issues. Mr. Tatschl asked what is, in your opinion, the value of an acre foot of water deliver to Conchas Lake? Mr. DuMars stated that in the Middle Rio Grande it sells for \$15,000. an acre foot, the tributaries north of Santa Fe pay \$35,000 to \$40,000 and in the Las Cruces area \$3,500 to \$4,000. One day, as this area grows, the ability to have the right to take water out of the Canadian River and above Conchas Lake is going to be really valuable. It is much easier to get control of the water than to ever take it away from someone that is using it.

DIRECTORS COMMENTS

President Perkins thanked all the people in attendance. He commended Manager McCasland and crew for the condition of the ditches and time and effort given to the BOR inspection.

EXECUTIVE SESSION

Director Bruhn made the motion to go into executive session at 4:25 p.m. The motion was seconded by Director Lopez. Results of Director’s roll call follow:

	Directors Voted:	
Perkins – “YES”		Lopez – “YES”
Bruhn – “YES”	Gilbertson – “YES”	Henson – “YES”

COME OUT OF EXECUTIVE SESSION

Director Bruhn made the motion to come out of executive session at 5:15 p.m. The motion was seconded by Director Lopez. Results of Director’s roll call follow:

	Directors Voted:	
Perkins – “YES”		Lopez – “YES”
Bruhn – “YES”	Gilbertson – “YES”	Henson – “YES”

President Perkins stated that no action was taken and nothing but litigation and illegal diversions on the Canadian River Water shed were discussed. The Board of Directors requested that attorney Chuck DuMars start the aerial photography research so Arch Hurley will have the knowledge as to what has been happening in the water shed. Mr. DuMars will make a recommendation to the Board on the direction Arch Hurley needs to go after his firm has reviewed all the gathered material.

CONSIDERATION OF BILLS-

Director Henson made a motion to pay the submitted bills. The motion was seconded by Director Gilbertson. Motion carried 5-0.

	Directors Voted:	
Perkins – “YES”		Lopez – “YES”
Bruhn – “YES”	Gilbertson – “YES”	Henson – “YES”

ADJOURNMENT OF REGULAR MEETING-

With no further business to discuss, the meeting was adjourned at 5:17 p.m. with a unanimous vote.

ARCH HURLEY CONSERVANCY DISTRICT

President Larry Perkins

ATTEST:

Secretary/Treasurer UV Henson

