

**GUNNISON COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING MINUTES
April 2, 2008**

The April 2, 2008 Board of Commissioners meeting was held in the Commissioners Meeting Room at the Courthouse. Present were:

Hap Channell, Chairperson
Paula Swenson, Vice-Chairperson
Jim Starr, Commissioner

Matthew Birnie, County Manager
Katherine Haase, Clerk to the Board
Others Present as Listed in Text

CALL TO ORDER: Chairperson Channell called the meeting to order at 9:06 am.

BLACK CANYON WATER QUANTIFICATION LITIGATION; SPECIAL MEETING WITH MEDIATION PARTICIPANTS, POSSIBLE EXECUTIVE SESSION: County Attorney David Baumgarten; Deputy County Attorney Tom Dill; Upper Gunnison River Water Conservancy District (UGRWCD) representatives Brett Redden, Dennis Steckel, Frank Kugel, Steve Glazer and Steve Schechter; High Country Citizens' Alliance (HCCA) representative Dan Morse; Western Resource Advocates (WRA) representative Bart Miller; National Park Service representative Ken Stahlnecker; and UGRWCD attorney John McClow were present for discussion. Attorneys Barney White and Drew Peternell, representing objectors in the case, were available for discussion via telephone.

County Attorney Baumgarten suggested that attorney McClow make a short presentation, encompassing the fundamentals of the litigation, to the group and then that the Board enter into an executive session.

Attorney McClow showed the group a short PowerPoint presentation outlining the geographic areas involved in the current litigation. He also explained that the Park Service's application, filed in 2001, provides a formula that would define a flow in the Black Canyon based upon the inflows to the Blue Mesa Reservoir. On May 1st of each year, the Park Service would look at the forecasted inflows to Blue Mesa Reservoir and then, based on that forecast, calculate peak and base flows. Through the negotiation process, the Park Service has modified their request to accept a minimum year-round base flow of 300 cubic feet per second (cfs) with an annual peak occurring for a period of 24-hours in duration, as determined by the formula and that year's hydrology.

Attorney McClow stated that the Fish and Wildlife Service has calculated the fish populations in the Gunnison River based on hydrology and has requested a certain level of water in the reservoir in order to protect an endangered species of fish in the lower reaches of the river; and that, under the Endangered Species Act, the Bureau of Reclamation is required to operate the reservoir in a way that would help to protect the fish. An Environmental Impact Statement process, separate from the subject litigation, is currently being discussed which would achieve this goal. He also explained that the Park Service and the Fish and Wildlife Service provided differing data because of the use of varied monitoring locations.

Attorney McClow stated that the water flows for 2008 are very similar to the data available for 1984 and that indications are that the Gunnison area will experience flooding even after considering the practice of dumping water from the reservoir in preparation for the increased demand.

County Attorney Baumgarten suggested that the executive session begin in order to review four drafted legal documents for language and conceptual differences as well as determining negotiating strategies, instructing negotiators, and providing legal advice to the Board. **Moved** by Commissioner Starr, seconded by Commissioner Swenson to go into executive session with the Gunnison County Board of County Commissioners, Gunnison County directors and staff, Upper Gunnison River Water Conservancy District directors and staff, and those other parties to the litigation who have participated in the drafting of those documents who are also participants in the mediation or are willing to sign the joint defense agreement. Motion carried unanimously

The board went into executive session at 9:41 am. *Executive sessions of the Board of County Commissioners are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)(b)(e).*

Attorney Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402 (2)(d.5)(II)(B), I attest that I am the Gunnison County Attorney, that I represent the Gunnison County Board of County Commissioners, that I attended all of the above referenced executive session, that all of the executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4) and that, because in my opinion all of the discussion during the executive session constituted a privileged attorney-client communication, no record of the executive session was required to be kept and no such record was kept.

Date: _____

David Baumgarten
Gunnison County Attorney

Chairperson Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402(2)(d.5)(II)(B), I attest that I am the Chairperson of the Gunnison County Board of Commissioners, that I attended all of the above referenced executive session, and that all of that executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4).

Date: _____

Hap Channell, Chairperson
Gunnison County Board of Commissioners

The Board came out of executive session at 11:56 am. Chairperson Channell confirmed that the discussion remained on-topic, that all parties stated to be in attendance were, in fact, in attendance and that no decisions were made. County Attorney Baumgarten concurred with Chairperson Channell's statement.

ADJOURN: Moved by Commissioner Swenson, seconded by Chairperson Channell to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 11:57 am.

Hap Channell, Chairperson

Paula Swenson, Vice-Chairperson

Jim Starr, Commissioner

Minutes Prepared By:

Katherine Haase, Deputy County Clerk

Attest:

Stella Dominguez, County Clerk