

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE NORTH WELD COUNTY WATER DISTRICT

Held: January 10, 2025, at 8:30 A.M.

The meeting was conducted via teleconference.

ATTENDANCE

The meeting was held in accordance with the laws of the State of Colorado. The following directors were in attendance:

Nels Nelson, Treasurer
Anne Hennen, Assistant Secretary (via teleconference)
Matt Pettinger, Assistant Secretary
Scott Cockroft, Secretary

Tad Stout was absent and excused.

Also present were Eric Reckentine and Garrett Mick, General Manager of the District; Zachary P. White, Esq., WHITE BEAR ANKELE TANAKA & WALDRON; Jamie Dickinson, Spencer Fane, District special counsel; Jan Sitterson, Water Resources; Wendy Greenwald, The Solution PR; Dairy owners/operators represented by counsel, Michael Plachy, and members of the public included on **Attachment 1**.

ADMINISTRATIVE MATTERS

Call to Order

The meeting was called to order at 8:33 A.M.

Declaration of Quorum and Confirmation of Director Qualifications

Mr. Reckentine noted that a quorum for the Board was present and that the directors had confirmed their qualifications to serve.

Reaffirmation of Disclosures of Potential or Existing Conflicts of Interest

Mr. White advised the Board that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Mr. White reported that disclosures for those directors that provided WHITE BEAR ANKELE TANAKA & WALDRON with notice of potential or existing conflicts of interest, if any, were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting, in accordance with Colorado law, and those disclosures were acknowledged by the Board. Mr. White inquired into whether members of the Board had any additional disclosures of potential or existing conflicts of interest about any matters scheduled for discussion at the meeting. The remaining Directors reviewed the agenda for the meeting and confirmed that they have no additional conflicts of interest in connection with any of the matters listed on the agenda.

Discussion: Commercial Sector Work Session on Plant Investments, Water Allocations, and Surcharges

Ms. Dickinson started the discussion by introducing the District's intentions for the meeting, primarily to hear and understand the issues facing the commercial sector.

Mr. Plachy presented the serious issues his dairy clients face as a result of the policy decisions of the District, and indicated his hope is to come to a win/win solution for the District and dairies. He presented to the Board regarding the slides attached hereto as **Attachment 2**.

Tom Herrin presented to the Board the history of the dairy business in Weld County.

Adrien Diepersloot presented to the Board the history of Wolfcreek Dairy and his understanding about agreements with the District.

Mr. Plachy addressed the Board regarding surcharge language in Letters of Intent and expressed the belief that such language is incorporated into the final water services agreement signed by the District.

Juan Valez presented to the Board the history of Aurora Organic Dairy and his understanding about agreements with the District. He indicated that Aurora Organic Dairy pays approximately \$2,000,000 annually in surcharge payments to the District.

Casey DeHaan presented to the Board regarding Great Western Dairy and Summit Dairy. He stated he believes the District's policies make livestock and dairy operations unsustainable.

Mr. Plachy addressed the Board and described the impacts of the surcharge policies on the dairies, including:

1. Surcharges are never ending
2. Surcharges are punitive
3. Surcharges threaten the viability of businesses, cause losses in jobs, and labor
4. Surcharges impact financing opportunities.

Mr. Plachy noted that the dairies want some kind of credit and allocations related to the surcharges they pay.

Eldon Marrs presented to the Board regarding the Marrs Milky Way Dairy.

BREAK

Following the break, Ms. Dickinson thanked the dairies for their time, effort, and presentations. The Board noted that it will take the presentations and requests into consideration. It was acknowledged that everyone wants a solution that all parties can live and thrive with.

Director Cockroft asked the dairies why they are not bringing water to the District to make up their allocation shortfalls. The dairies noted that bring water to the District results in a loss of value to them. They noted that they are not getting the full value of the water when it is dedicated to the District.

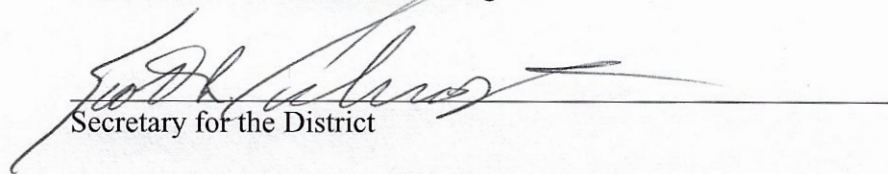
Following discussion, it was noted that the dairies know they need to bring additional water to the District for dedication, and need to undergo development review, but they want assurance that they will get some value for the water they dedicate.

Ms. Dickinson thanked everyone and noted that the full board will take the issues into consideration.

ADJOURNMENT

There being no further business to be conducted, the meeting was adjourned.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting


Secretary for the District

ATTACHMENT 1

MEETING SIGN-IN

NAME:

Kent Walpole
Kseli Podtburg
Jeff Pottberg
John Marinski
AJ DeJager
Rod Johnson
John Johnson
Dane Leonard
Eric Reckenthal
GARRET MICK
Jan Sitterson
Scott Cockroft
Nels Nelson
Matt Pettinger
Juan S. Velez
Casey Nettaan
Adrian Diepermaat

BUSINESS NAME:

Walpole Dairy
Podtburg & Sons Dairy
Podtburg and sons Dairy
Miller Cattle Feeders/Ault Feed Mill
Hunter Ridge
Johnson Dairy LLC
Johnson Dairy LLC
APA INC
NWCWD
NWCWD
SCWTP
Secretary
Treasurer
Assistant Secretary
Aurora Organic Dairy
Great Western Dairy
Wolf Creek Dairy
Eddy Brown

ATTACHMENT 2

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Work Session
Local Dairy Concerns re Water
and Plant Investment Surcharges

Michael D. Plachy
Justin D. Cumming
Lewis Roca Rothgerber Christie LLP

DECEMBER 31, 2024

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History of Dairies in Weld County - Tom Haren



Promises Made to Dairies by NWWD - Adrian Diepersloot



Consequences of Surcharges – Dr. Juan Velez & Casey DeHaan



Proposed Solution - Eldon Mars

Tom Haren - AGPROfessionals

- In 2007 Leprino was planning its cheese plant.
 - Multiple potential sites, and many considerations.
 - One key consideration - milkshed.
 - Agpro, the District, and others worked to recruit dairies to expand the milkshed and create conditions to allow for the dairies to grow.
- The District worked to recruit dairies, and plan expansion that could support the plant.
 - Dairies and the District discussed plans and water needs.
 - he District made promises. The dairies were assured they were assured surcharge payments would be credited to plant investment and water allocation credits.
- The dairies relied on those promises and expanded as planned.
- As a result, the cheese plant has thrived and delivered value for Weld County. But another result is the cows that make the plant possible need water.

Adrian Diepersloot – Wolf Creek Dairy

- **I followed Leprino to Colorado in Summer 2017**
- **Extensive due diligence and negotiations led us to NWWD**
- **NWWD required dedication of 50% - we dedicated much more**
- **Promised, orally and in written documents I could vest into water allocation and plant investment via surcharges**
- **Made massive capital investment in reliance on NWWD's promises**
- **NWWD failure to honor its promises, and violation of the contract upended our business plan.**
- **When I pay the surcharges I don't get anything, and I don't have a path to stop the charges.**

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• Letter of Intent - Wolf Creek Dairy

BOARD OF DIRECTORS

CHARLES ACHZIGER
GENE STILLE
GARY SIMPSON
TODD BEAN
ROBERT ARNBRECHT



NORTH WELD COUNTY WATER DISTRICT

32825 CR 39 • LUCERNE, CO 80646

RICK PICKARD, DISTRICT MANAGER

P.O. BOX 56 • BUS: (970) 356-3020 • FAX: (970) 395-0997

WWW.NWCWD.ORG • EMAIL: WATER@NWCWD.ORG

January 29, 2016

Lind Farms, Inc.
38241 WCR 23
Eaton, CO 80615

AgProfessionals, Tim Naylor
3056 67th Ave, Ste 200
Greeley, CO 80634
970.535.9318

This letter is in response to your inquiry regarding water service to the following described property,
Approx. 10350 WCR 80, in a portion of the Northwest Quarter (NW1/4) Section 23, T7N, R67W of the 6th Prime Meridian.
(See attached North Weld County Water District sketch)
Parcel 070523000036

LOI Description of Surcharges

Water Surcharge

Surcharge will be assessed when an account's year to date usage exceeds the annual water allotment. Currently the surcharge is \$2.00 per 1,000 gallons in addition to the standard monthly usage fee. This fee is to recover the District's cost to obtain additional water rights for delivery.

Rate Differential Charge

Effective November 1, 2015, the District will no longer accept water transfers.

Plant Investment Surcharge

Surcharge will be assessed when an account's year to date usage exceeds the Plant Investment Allotment. The transfer of additional water will not remove this charge. Additional Plant Investment Units must be purchased to increase the allotment and reduce the Plant Investment Surcharges. These rates are in addition to the standard monthly usage fee.

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AURORA ORGANIC DAIRY

- Dairying in Weld County since 1980
- Built a small processing plant in Platteville, Colorado in 2004
- Private label organic milk to all 50 states
- High Plains Dairy in Gill in 2006. 4400 cow dairy.
- Processing Plant expansion in 2010

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AURORA ORGANIC DAIRY

- LCRD Dairy (2012). 2000 cow dairy to increase supply for the high demand
- High Meadows Dairy (2013). 3000 cows
- Second Processing plant expansion in 2014
- High Ridge Dairy (2017). 2000 cows

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AURORA ORGANIC DAIRY WELD COUNTY



170 employees at the processing plant



215 employees at the dairy farm

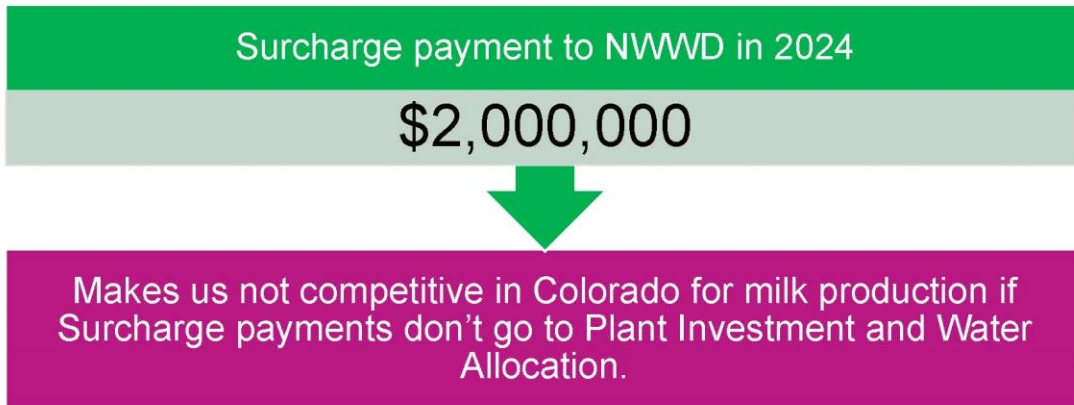


\$1,300,000 tax to the county per year



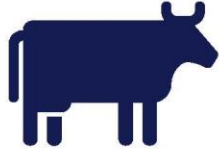
Support 40,000 acres of crops in Colorado

AURORA ORGANIC DAIRY



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CASEY DEHAAN - GREAT WESTERN DAIRY AND SUMMIT DAIRY



1/3 of Colorado Milk production and half of Leprino's daily use comes from this District.



The District's current approach is unsustainable.

Consequences of Surcharges

- **Never ending**
- **Punitive**
- **Threatening viability of our businesses**
- **Loss of jobs and capital investment**
- **Impacts ability to obtain financing**



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ELDON MARRS

Who is Eldon Marrs?

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MARRS MILKY WAY DAIRY

My family has been dairying in the state of Colorado since 1939. My father and my uncle started dairying in Broomfield, CO after returning home on a hog train from California with enough money between them to buy to purchase 3 dairy cows. We have been in the dairy business ever since. And while I am proud of my family history by no means are we the oldest dairy family in the state.

My wife and I currently run a dairy east of Ault that we purchased in 2014. This particular dairy facility has been in operation in the same location since the late 1920's. Ironically, my father attended grade school in the same schoolhouse that is located on my farm and would have ridden in a horse drawn wagon past my home on his way to school as a child.

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RELEVANT PERSONAL EXPERIENCE

My 42 years of personal experience spans across 15 ditch companies, 3 augmentation plans, 12 co-ops, 4 water districts and 3 state officer positions that I can remember.

I served as chairman of the board for 14 of these entities and held officer positions in 5 others.

My personal history with NWWWD dates back to 1998.



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WHY ARE WE HERE ?

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1) PURCHASE OF PI UNITS.

- a) A policy would be developed by NWWD where all current surcharges are applied to the CAT tap user account counts as an increase in PI units for that CAT Tap. At the beginning of each fiscal year of NWWD (November 1), NWWD will inform the CAT user of the number of PI units they have earned that year and give them the option to fully purchase any partially earned PI credits for that year.
- b) Money paid by CAT users in surcharges up to and including monies paid from November 8, 2022, until the date of this agreement would retroactively earn PI credits in NWWD.
- c) PI units would be made available to purchase directly from NWWD by CAT tap users to prevent surcharges.
- d) Cost for PI units must be fair and equitable and in line with what other NWWD users pay.
- e) Increases in the costs of PI units must be based on a system that provides transparency as to how the increases are used and are applicable to CAT taps.
- f) PI units associated with CAT taps will retain value to the CAT user in the following forms.
 1. A CAT tap would have the ability to be fully transferable in whole or part to another owner.
 2. A CAT tap could be changed into other types of taps with NWWD approval.
 3. A reinstatement of the policy regarding sale of unused PI units.
 4. A CAT tap agreement would state delivery specifications at the CAT tap location.

2) CAT WATER UNITS.

- a. CAT users can commit outside water units to NWWD. Units of water will be accepted by NWWD with yield totals for that water to be equal to the consumptive use of that share as decreed by the water court change case pertaining to that particular water supply.
- b. CAT users shall be able to dedicate water units to NWWD and to the specific CAT tap but shall retain ownership of the water, with NWWD having a first right of matching purchase price of the water if the CAT user wishes to sell the water or stops using the water through the tap. CAT users retained ownership of 100% of water units dedicated to NWWD in the past.
- c. Water could be purchased through the NWWD if available with the same concept as the PI plan but if water is purchased from the NWWD, however NWWD would retain partial ownership of the water.
- d. NWWD must accept outside water in lieu of water they own to increase CAT taps.
- e. The reinstatement of the prior procedure in paragraph 1.b and retroactive application of payments concept to be applied for water surcharges.

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3) END OF CAT AGREEMENT.

- a. NWWD would develop as part of the CAT tap agreement the following policies so as to ensure the value of the CAT tap and give CAT owners the following rights:
- b. Any water dedicated to that tap can be sold as per item 2 b.
- c. The tap can be converted to other types of taps.
- d. The tap can be converted to a smaller tap with an appropriate amount of water and PI units left on the tap. Any excess PI units can be sold to other users in the District with NWWD approval.



Questions or comments?

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