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## **Minutes of LSPWA meetings held during 2019**

### **Minutes of January 30, 2019**

On January 29, 2019, Secretary Cathy Gorman sent out to the board for their approval a draft of the minutes of meetings conducted via email during the 4<sup>th</sup> quarter of 2018. By January 30, 2019 the minutes had been approved unanimously with one misspelling correction.

### **Minutes of April 15, 2019**

On April 10, 2019, Chair Peter Else emailed the board with a request to review a letter he had drafted for the LSPWA commenting on the EPA's proposed federal rule change defining the waters of the U.S (WOTUS) regulated under the Clean Water Act. Several of the directors responded with suggested edits and contributions from the literature. On April 12, 2019 Peter responded with a final draft incorporating many of the board's suggestions for their approval. By April 15, 2019 this draft, incorporating by reference the citations from the literature, had been unanimously approved and submitted.

### **Minutes of May 2, 2019**

On May 1, 2019 Chair Peter Else emailed the directors with two action requests. First, instead of continuing to share Peter's personal PO Box, should the LSPWA establish a separate one at the Mammoth post office for the cost of \$46 per year? Second, please respond if you would like to participate in a telephone conference to discuss our possible protest to the Final Resource Management Plan (FRMP) for the BLM's San Pedro River National Conservation Area (SPRNCA). By May 2, 2019 a sufficient number of the directors had approved obtaining a dedicated LSPWA PO Box and a considerable number had expressed interest in the discussion about protesting the FRMP.

### **Minutes of May 26, 2019**

On May 24, 2019 Chair Peter Else sent an email action request to the board to consider the final versions the two protest documents developed by director Diane Laush with input from the committee assembled for that purpose: the cover letter and the protests specific to our previous comments during the SPRNCA Resource Management Plan process. By May 26, 2019 all twelve directors had approved these documents with a few minor edits. Diane submitted them to the BLM on their website and followed up with hard copies via US mail.

### **Minutes of July 8, 2019**

On July 7, 2019 Secretary-Treasurer Cathy Gorman emailed the board a draft of the minutes of the LSPWA meetings conducted via email during the 1<sup>st</sup> and 2<sup>nd</sup> quarters of the year. By July 8, 2019 all directors had responded approving the minutes as written.

### **Minutes of September 17, 2019**

On September 16, 2019 Chair Peter Else circulated an email to the board asking them to approve an attached draft Agreement renewal for field monitoring and reporting on the 3-Links Conservation Easement. The Agreement contained minor changes from the previous agreement acceptable to both the contractor and the Bureau of Reclamation. In addition, the LSPWA 3-Links Monitoring and the Investment Committees had also reviewed and approved the draft.

By September 17, 2019 all the remaining directors had responded in the affirmative with one suggestion for language clarification. Elna Otter was recused due to a potential conflict of interest. Peter was then able to sign the approved Agreement renewal and send it out to the contractor for his signature.

Peter's email also contained a review of the LSPWA current legal efforts along with a request for assistance with these efforts from the directors. He also outlined a substantial potential agenda for an upcoming face-to-face or telephone conference meeting of the board to occur sometime this fall.

### **Minutes of September 27, 2019**

On September 26, 2019 Chair Peter Else asked the board for expedited approval of a draft Editorial Opinion he intended to submit to the Tucson-based AZ Daily Star regarding the Villages at Vigneto development proposal near Benson. The LSPWA has been working with Earthjustice to require that the Army Corps of Engineers conduct an EIS for this development. In response to recent media coverage Peter has been collaborating with Earthjustice to develop this piece. A few directors had some suggested additions but, due to the word limit for the piece, by the next day the board had unanimously approved the draft with minor edits.

### **Minutes of October 7, 2019**

On October 1, 2019 Chair Peter Else emailed the directors with two requests: first, he asked them to contact Secretary Cathy Gorman regarding their availability for an in-person meeting on November 9<sup>th</sup> at the Cascabel Community Center starting at 10 AM; and second, he asked them to review an attached LSPWA comment letter he had drafted on the proposed assumption of the Clean Water Act Section 404 Permit program by the AZ Department of Environmental Quality (ADEQ). He also included a link to ADEQ's "Roadmap" for this process and copied a couple of people from sister organizations who had joined Peter in attending stakeholder meetings on this subject over the last two years.

By October 7, 2019 all the directors had confirmed their intention to attend the LSPWA meeting on November 9<sup>th</sup> except Matt Clark who may be unavailable due to a schedule conflict. In addition, a number of directors had responded with suggestions for Peter's draft comment letter, particularly Diane Laush who contributed with her Federal agency writing experience. Peter had given us an October 22<sup>nd</sup> deadline for our responses so he will submit the final draft after incorporating our suggested edits later.

### **Minutes of October 10, 2019**

On October 7, 2019 Secretary Cathy Gorman asked the directors to approve the minutes of the meetings conducted via email during the 3<sup>rd</sup> quarter of 2019. By October 10, ten of the directors had responded approving the minutes as written.

### **Minutes of November 4, 2019**

On October 29, 2019 Chair Peter Else emailed two draft comment packages to the directors for their final review and approval. He had incorporated the edits he had received on the first one which he had previously sent us regarding ADEQ's proposal to assume primacy of the Section 404 permit program under the Clean Water Act. The second one, which he and Diane Laush developed, addressed the proposed Resolution Copper Mine at Oak Flat in the Tonto National Forest and, in particular, the proposed Land Exchange component because that includes the 7B Ranch in our watershed. He also included a link to the DEIS for the project.

By November 4, 2019 all the directors had responded with minor edits and unanimous approval of both comment packages which allowed Peter time to incorporate any needed changes and mail the final Comments by the deadline.

### **Minutes of the meeting of the LSPWA held November 9, 2019 at the Cascabel Community Center**

**The following 30 Directors, Members and Guests attended the meeting:** Daniel Baker, Alex Binford-Walsh, Lon Brehmer, Barbara Clark, Matt Clark, Peter Else, Bob Evans, Nancy Ferguson, Tricia Gerrodette, Cathy Gorman, Leslie Hall, Doris Haynes, Phil Hedrick, Carl Howard, Lynwood "Woody" Hume, Ted Jarvi, Anna Lands, Diane Laush, Pearl Mast, Sue Newman, David Omick, Tom Orum, Elna Otter, Joe Page, Cindy Salo, Kai Staats, Nancy Stewart, Jeannie Wagner-Greven, Scott Wilbor, and Dave Wilhelm.

**Chair Peter Else called the meeting to order at 10 AM.** He asked the directors to introduce themselves and then for the members and guests to introduce themselves as well. He then reviewed the LSPWA mission statement and briefly described some of our program areas which were covered in more detail later in the meeting. While one of our initial goals was **Collaborative Conservation** with the agencies and other organizations who are stakeholders in the watershed, we soon discovered that required Neutral Facilitation. Somewhat predictably, **Advocacy** came to the fore due to corporate threats from infrastructure, mining and development proposals. We were also able to respond to the opportunity to take on the additional program of **Conservation Easement Monitoring** for the Bureau of Reclamation at the 3-Links Farm.

### **Governmental Administrative Process Actions Updates**

Peter explained how it is crucial that our Comments on governmental proposals include how they don't conform to specific laws and/or regulations in order to preserve our "standing" for possible legal action at a later date.

- **The Resolution Copper Project and Land Exchange** would transfer thousands of acres of federal and state lands to a foreign corporation whose plans include constructing transport

infrastructure to a tailings disposal site near Dripping Springs located over 20 miles away from the mine site which is centered on Oak Flat in the Tonto National Forest in exchange for a scattering of private lands previously purchased by Resolution Copper for this purpose. Our comments on the Draft Environmental Impact Statement (DEIS) were developed by Peter and Diane Laush who explained that they focused on

1. the choice of the most ecologically damaging alternative for the tailings location, strategically located on state land in order to avoid federal land where the corporation would be required to own the mining rights;
2. inadequate analysis of the impacts of either the mine site and tailings infrastructure or of the management of the land to be exchanged which includes the 7B parcel in the San Pedro watershed, and therefore no opportunity for meaningful comments, both of which are requirements of the National Environmental Policy Act (NEPA);
3. lack of details regarding required mitigation under their Clean Water Act Section 404 permit because they have not completed an application, which again blocked our ability to comment; and
4. no proposal for compensatory mitigation other than what may be occurring behind closed doors.

The only mitigation Resolution Copper is committed to fulfill would be what is clearly stated in the Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) but by then it would be too late for public comment so it is crucial that details are included in the DEIS. We have particular concerns about the future management of the 7B parcel but there was no information about either its present or future management. We recommended that the compensatory mitigation include the purchase of an additional parcel owned by BHP just upstream from the 7B and include an endowment sufficient to insure its long-term management.

- **The State Roadmap on Assuming Primacy of Clean Water Act Section 404 Permits** describes how the AZ Department of Environmental Quality (ADEQ) would take over issuing and enforcing 404 dredging and filling permits currently federally managed by the Army Corps of Engineers (ACE) under the Clean Water Act. Peter drafted our comments after attending several stakeholder meetings. He related that ADEQ seems to consider those they would regulate as their “customers” and seeks to serve them better by making it easier to obtain permits. Under state administration, there would be no requirements to comply with NEPA, nor with the ACE public interest determination. In exchange for this expedited process, the permit applicants would presumably be willing to pay more since federal funding for the program would be lost. ADEQ is on a tight schedule to implement this program, seemingly to take advantage of the lax regulatory environment under the current federal administration.
- **The San Pedro Riparian National Conservation Area Resource Management Plan (SPRNCA) (RMP)** was recently revised to reflect more typical Bureau of Land Management (BLM) multiple use policies as opposed to the conservation values embodied in the original Congressional mandate. Last May we voted to protest the Final RMP. Diane drafted our protests which were denied but not dismissed so we still have legal standing. She explained that BLM responded to

three of our eight concerns: increased hunting, increased grazing and failure to manage for wilderness values. Increased hunting was justified as a form of recreation. They had proposed opening the entire SPRNCA to grazing but now will allow only the former existing leases. They did not respond to our comments on their new category of “targeted grazing” for vegetation restoration. They stated that BLM is not required to manage their lands for wilderness characteristics and that the lands would be adequately protected by the Visual Resource Management objectives. Two of the other concerns we had raised (removal of existing designations/protection for Areas of Critical Environmental Concern and SPRNCA water rights) were addressed by BLM in their responses to the protests filed by others. The remaining items were not addressed. A couple of the other protesters are contemplating responding to their denied protests, but they will mainly address grazing and possibly a few other issues. There is some thought that, in general, agencies only take comments seriously if they are concerned about possible legal action. We are particularly concerned about BLM’s management because the 7B may become part of SPRNCA due to the Resolution Copper Land Exchange. There was a suggestion that we consider coordinating with folks in the upper San Pedro.

### Ongoing Legal Actions Updates

- **The SunZia Transmission Project** has been on hold due to a lack of permits for the New Mexico portion and now there is an issue with the San Manuel airport that may require re-routing and lighting to increase its visibility. Peter explained that his suit went all the way to the AZ Supreme Court which agreed with the lower courts that it was “not ripe for judicial review” because there is insufficient evidence that it is not primarily a renewable energy project as the backers claim. Since the wind energy resources are in NM, it is important to make sure that SunZia does not start construction before obtaining permits there. SunZia has publicly stated that they will not begin construction in AZ until they have NM permits. However, we should keep an eye out for signs of such activity in case they do otherwise. In the meantime, other transmission lines with more favorable siting are proceeding, such as the Western Spirit line running from northern NM to the 4-corners hub.
- **The Proposed Vigneto Development** near Benson would pump up to 8400 acre-feet of groundwater from city wells for 70,000 new residents occupying 28,000 units along with the accompanying amenities and infrastructure. Because of the profound effects this development would have on the San Pedro River, the LSPWA has joined with 5 other conservation groups to sue the Army Corps of Engineers (ACE) and the Fish and Wildlife Service (FWS) to enforce the provisions of the NEPA to analyze the impacts of the project. The developers are asking to be exempted from analyzing the full impacts of their proposed development on the basis of a technical exception under their Section 404 permit. They claim they are not required to conduct a full NEPA analysis of impacts because they could develop the property without dredging and filling any washes. We contend that claim isn’t credible for obvious reasons. Earthjustice is representing us *pro bono* but we share expenses for court costs and expert witnesses with our fellow plaintiffs. Peter expects our share to amount to about \$2500 this year which we intend to raise through donations. Our suit also seeks to protect the federal surface water rights of the SPRNCA and to make the point that what a corporate-scale developer does on their private land can have profound effects on the surrounding environment. Peter emphasized the necessity of

monitoring this project as well, because, if they begin construction, we would have to file for an emergency injunction to stop it. Matt Clark reminded us of the scandal involving this project. After the head of the FWS in AZ retired, he “blew the whistle” on the political pressure exerted on him to change his biological opinion of the project so that it could proceed.

### **Other Actions and Programs**

- **Conservation Easement Monitoring at 3-Links Farm** was assumed by the LSPWA a little over a year ago. The contract for monitoring and reporting with Alex Binford-Walsh, LLC was renewed Oct 1<sup>st</sup> with only slight modifications of the responsibilities. The 3-Links Monitoring Committee members, Barbara, Peter, Diane, and David Omick, read Alex’s reports and provides guidance. One of the properties that has been out of compliance with the terms of their conservation easement is for sale. It consists of more than 400 acres including a state lease. We have prioritized finding a conservation-minded buyer. Barbara Clark has taken a particular interest in that. The ACE has made a site visit to observe the non-compliant river crossing. Treasurer and Investment Committee member Cathy Gorman reported that she had previously distributed the annual Investment Committee report to the directors by email. As of the end of the 3<sup>rd</sup> quarter, September 30<sup>th</sup>, the returns on the endowment were slightly below our stated goal of 4.5% plus inflation. This hasn’t been a problem because we haven’t been spending the full amount budgeted for the project. Cathy and, especially Peter, have been volunteering to do the accounting, financial reporting and tax return. They proposed that now these tasks be contracted out as we originally anticipated they would be. Lon Brehmer, Investment Committee member, explained his budgeting proposal. Basically, we would figure on 4% of the average quarterly balance of the endowment for the previous three years. There has been some concern about whether or not this method would conflict with the terms of our Memorandum of Agreement with the Bureau of Reclamation. However, Lon and others agreed it would not.
- **Collaborative Conservation**, one of our original program areas, is now taking place through the **Lower San Pedro Collaborative** (Collaborative), which consists of 20 groups and agencies, including the LSPWA, who use Neutral Facilitation to achieve action at the watershed level. A number of working groups have been formed, including the following:
  1. Community Engagement and Economic Development which is currently working with the San Manuel visioning effort to deal with the effects of the “bust” phase that inevitably follows the mining “boom” and is also coordinating the comprehensive plans of the four counties in which our watershed occurs.
  2. Fire and Invasives which is focused on tamarisk removal and habitat restoration along the river as well as creating defensible space around our communities.
  3. Wildlife Connectivity which is identifying important corridors in the watershed for wildlife movement and opportunities to protect them.
  4. The Birding Trail which is being developed by the representatives of Audubon and AZ Game & Fish will be a web-based map of locations in our watershed, as well as the entire state, with access for birding. They are also working on Economic Development by identifying nearby restaurants and lodging.

5. Mitigation Study which meets as needed to inform Collaborative members about mitigation opportunities in the watershed and coordinate messaging among members, when appropriate.

Peter welcomed us to volunteer for these working groups and attend the next Collaborative meeting in San Manuel. The LSPWA has contributed to provide the Collaborative's crucial Neutral Facilitation and we project we'll need to raise another \$2500 for next year.

- **The San Manuel to Benson Road** has been the focus of various paving projects and proposals over the years. Daniel Baker explained that the Cascabel Conservation Association (CCA) included the Fragmentation paper that he and Matt wrote in the letter they sent to the Pima County Department of Transportation and the Office of Sustainability to inquire about any potential paving proposals. They received both written and verbal assurance from County Administrator Huckleberry that Pima County has no paving plans because they value their conservation properties in the watershed. Next, they plan to approach Cochise County about their portions of the road. Peter emphasized alternative methods to deal with dust control.
- **The Wildlife Monitoring Project** has been coordinated for the last 4 years by Alex who has been monitoring 12 cameras and compiling the mammal data from those and a few additional cameras monitored by others. Due to increased commitments, he will only be able to continue managing the 3 cameras on 3-Links, so he asked that other arrangements be made for the project. Currently the data is shared with Bill Radtke of the FWS who provided the cameras but it is also useful to both the CCA and the LSPWA as well as of personal interest to anyone monitoring a camera. Since FWS data would be considered public information, Phil Hedrick voiced concern about how the data, especially that of predators, could be misused. One option would be to provide a data set without location information. Scott Wilbor suggested that in addition to the wildlife cameras placed in the San Pedro riparian areas, if volunteers are available we could consider directing camera placement in areas where we may be interested in more information on wildlife use of landscape connecting corridors. The CCA offered to assume the project management. Additional cameras are available.
- **Dark Sky Designations** are currently being considered by both Oracle and Cascabel. The LSPWA submitted a letter of recommendation for the Oracle State Park designation a few years ago. Kai Staats attended the recent International Dark Sky Association meeting in Tucson where the association is based. He reported on what he had learned there about the designation process. The CCA plans to pursue this and Matt volunteered to help. LSPWA would once again provide a letter of support, as we did for the Oracle State Park designation.

### **New Business**

- **The Treasurer's Report** had previously been emailed to the directors so Cathy passed out copies to the other attendees. The report covered the time period since our last in-person meeting 18 months ago. Our income, solely from donations was almost \$5,750 while expenses totaled just under \$4,845. Since we started with a little over \$3,100 on hand, our current general account balance is just over \$4000. Our largest expense of \$2500 was for our share of the neutral facilitation for the Collaborative followed by our share of litigation expenses for Vigneto, both of

which are ongoing expenses. We would also like to start contracting some administrative tasks such as web site maintenance, so we need to raise additional funds for next year's budget. Sue Newman suggested we place another solicitation in the local Valley View newsletter. Several directors have pledged matching donations.

- **The Upper San Pedro Watershed** has been a concern of the LSPWA from the beginning of our organization. For practical reasons we decided to focus on the lower portion of the watershed although both the Vigneto development and the SPRNCA have been on our agenda. Peter related that he had been invited to attend the next Friends of the Upper San Pedro meeting. Due to time constraints he asked for a volunteer to attend in his place. Because of their relationship with the BLM, the Friends are prohibited from taking legal action against them. We need a mechanism to monitor activities in the upper watershed and especially on the SPRNCA. The BLM will do Environmental Assessments for specific activities there such as vegetation management. One of our members, Tricia Gerrodette, has been active in the upper watershed and regularly attends the Hereford NRC meetings. Forums by phone and/or email were also proposed.
- **LSPWA Board Elections** are scheduled for May, 2020. Peter briefly outlined the director's job description and asked for volunteers. Terms are for two years. Most of our meetings are conducted by email and we have 6 – 12 motions to consider per year. Doris Haynes is retiring so we need at least one new candidate to stand for election.

**Other New Business.** Peter opened up the floor to other pertinent issues.

- The federal administration is proposing new rules for the Waters of the US (WOTUS) which would eliminate from regulation the ephemeral waters so common in the region and especially in Arizona. In response, the ADEQ is considering revising the rules regarding the Waters of AZ. We were encouraged to attend, in person or by webinar, the upcoming meeting on this issue in Tucson.
- Tricia told us about several state-level committees, whose work she is following, that have been tasked to work on groundwater issues in non-attainment management areas (non-AMA's), one of which is the Governor's Water Advisory Committee. Matt mentioned the Sustainable Water Working Group ([azwaterfuture.org](http://azwaterfuture.org)). The LSPWA shares their goal of having Ecological Water designated by the state as a beneficial use. However, as a non-profit, our lobbying efforts are restricted to no more than 20% of our time. Arizona has not yet formally recognized the connection between ground and surface water, although there is some movement in that direction through the ongoing process of the adjudication of water rights.
- Sue suggested we contact KUAT, the Tucson public radio station, to publicize our issues, for example, as described in Daniel and Matt's paper on fragmentation in the watershed.
- Matt brought up the issue of militarization and wall construction on the border and its negative effects on wildlife migration. Several areas of special concern are the bridge over the San Pedro and the wall construction in the Organ Pipe Cactus National Park and the San Bernadino Refuge.

- Peter encouraged us to take on such issues by making motions to the board and reminded us that any member can let him know they want to be notified of board email forums so they can participate.

**The Meeting Adjourned** at 12:50 PM. Informal discussion continued during the potluck following the meeting.

Respectfully submitted,

Catherine Gorman

LSPWA Secretary-Treasurer