

**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
SPECIAL/EXECUTIVE MEETING HELD ON
Tuesday, February 21, 2017**

A special meeting of the Cochise County Board of Supervisors was held on Tuesday, February 21, 2017 at 10:00 a.m. in the Board of Supervisors' Executive Conference Room, 1415 Melody Lane, Building G, Bisbee, Arizona.

Present: Ann English, Chairman; Patrick G. Call, Vice-Chairman; Peggy Judd, Member

Staff Present: James E. Vlahovich, County Administrator
Edward T. Gilligan, Deputy County Administrator
Britt W. Hanson, Chief Civil Deputy County Attorney
Arlethe G. Rios, Clerk of the Board
Sara Ransom, Civil Deputy County Attorney

Attendees: Catherine L. Traywick, County Treasurer
Rick Mueller, Mayor, Clty of Sierra Vista
Karen Riggs, Highway & Floodplain Director
Lisa Marra, Communications & Community Relations Administrator
Peter Culp, Partner, Culp & Kelly, LLP
Scott Deeny, Water Program Lead, The Nature Conservancy
Jennifer Diffley, Junior Partner, Culp & Kelly, LLP

Chairman English called the meeting to order at 10:00 a.m.

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

PLEDGE OF ALLEGIANCE

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING

ACTION

Board of Supervisors

1. Discussion and possible direction regarding water law issues affecting Cochise County, including current and possible future water litigation.

Pursuant to A.R.S. § 38-431(A)(3) and (A)(4), the Board may go into executive session for legal advice with the attorney of the public body and to consider its position and instruct its attorney regarding the public body's position regarding pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.

Chairman English asked everyone to introduce themselves.

Mr. Hanson provided the Board with the background.

Vice-Chairman Call stated that since the County was a member of the Cochise County Recharge Network (CCRN) and were involved in water issues he thought it was appropriate to have Mr. Culp and Mr. Deeny brief the Board on current water litigation impacting Cochise County.

Mr. Culp and Mr. Deeny gave the background on their experience as an attorney and water issues.

Mr. Culp spoke on the Arizona stream adjudication and said he was here to brief the Board and try to answer any questions or concerns. He said he was involved because he represented the interests of The Nature Conservancy and the Walton Foundation as these entities were both involved in funding projects that assisted with the water deficit in the San Pedro River.

Mr. Deeny explained that current litigation was critical because surface and ground water issues were being treated differently. He said that general stream adjudication was going to affect subwatersheds and noted that the first adjudication had been filed in 1970s and was still not resolved. He went over the current process and stated that the San Pedro River was the first body of water being discussed, which meant this case would have a big impact on other water rights cases.

Mr. Culp said that the Bureau of Land Management (BLM) had made a water flow claim based on legislation that created the San Pedro Riparian National Conservation Area (SPRNCA), which means there has to be a certain water level around the area. He said BLM also wanted to claim the right to be able to pump water based on SPRNCA. He noted that these are currently just claims, they have not been quantified, but the most important claim is the federal reserve right, based on the constitution. He clarified that federal water rights were different than the clean water act, which was referenced by SPRNCA. He added that the local implications would occur if the rights of the federal government were quantified, since they would be responsible for enforcing these rights.

Chairman English noted that the area of impact had changed since the 1970s.

Mr. Deeny said that all questions regarding this topic would be resolved once a decision was made. He said that a local solution should also be discussed.

Mr. Culp said it was important to engage locally and reassured everyone there was no need to panic. He stated that the challenge for federal government was that they would be required to protect the water rights. He did not think that they would go after domestic wells and said that others would be exempt, but as the primary entity they could not refuse to enforce water regulations.

Vice-Chairman Call moved to go into executive session. Supervisor Judd seconded the motion and the Board went into executive session at 11:01 a.m.

The Board convened in open session at 11:45 a.m.

The board directed staff to move forward as directed in executive session.

Chairman English adjourned the meeting at 11:46 a.m.

APPROVED:

Ann English, Chairman

ATTEST:

Arlthe G. Rios, Clerk of the Board