



**Southeastern Colorado Water Conservancy District
Board of Directors Meeting**

**Board Conduct Policy
Action Report**

Date: May 15, 2025

Agenda Item: V.E

STAFF RECOMMENDATIONS:

General and Special Water Counsel recommend that the Board of Directors adopt a Board Conduct Policy that (1) recognizes that the members of the Board are local government officials under the Colorado State Code of Ethics and (2) pursuant to the Code of Ethics, requires all Board members to disclose their conflicts of interest on an annual basis, consistent with their obligation to act in good faith and for the benefit of the District's constituents.

BUDGET IMPLICATIONS:

The Board's adoption of the Conflicts of Interest Policy as proposed in this Action item is budget-neutral.

PREVIOUS BOARD ACTION AND/OR ACTIVITY:

None.

ISSUE SUMMARY DESCRIPTION:

The Colorado Constitution (Article 29), the State Code of Ethics (C.R.S. §§ 24-18-101 through -110), and the Standards of Conduct applicable to local government officials (C.R.S. § 24-18-201 *et seq.*), have codified certain standards promoting an atmosphere of transparency among members of local government boards. Among other aspects, these standards encourage open and ongoing disclosure of potential conflicts of interest.

The codified Standards of Conduct do not impose specific obligations on board members of a water conservancy district to avoid or disclose conflicts of interest. Rather, the applicable statutes apply to "local governments," or "special districts," which are not terms that are broad enough to include water conservancy districts. Even so, the intent behind these statutes is to address the high ethical standards to which government officials, at all levels, are expected to adhere. Under these statutes, local government officials must disclose potential conflicts of interest which may affect their ability to perform their official duties faithfully and objectively.

Similarly, members of the District's Board of Directors have sworn to honestly, faithfully, and impartially perform the duties of their office; to remain disinterested in the District's contracts; and to act in good faith and for the benefit of the District's constituents for the duration of their

Board Conduct Policy

May 15, 2025

tenure on the Board. Consistent with that oath, the District's Board of Directors should acknowledge that board members are local government officials who must timely disclose any potential conflicts of interest (both to the District and to each other) prior to taking action on behalf of the District. Under the Board Conduct Policy, as proposed, it is the responsibility of each Board member to disclose their actual, potential, or apparent conflicts of interest and then determine whether abstention from any District votes may be necessary as a result of any such conflict. By requiring such disclosure, the District is promoting transparency, fairness, and openness among all Board members.

Significantly, it is unrealistic for Board members to avoid all potential conflicts of interest in carrying out their duties for the District. Directors of water conservancy districts are required by statute to reside and own real property in the District and must also be familiar with the water matters impacting the District's rights and interests. C.R.S. § 37-45-114(1)(a). For that reason, it is highly likely that the Directors, at some point, will experience a conflict (actual, potential, or apparent) that should be disclosed under the Board Conduct Policy.

Conflicts of interest that are subject to disclosure may include both apparent and actual conflicts. An apparent conflict of interest may be present if a reasonable person would believe that the Board member's objective professional judgment in serving the District may be compromised by a competing interest. Apparent conflicts may arise, for example, if a Board member is impacted by a Board decision in a manner shared by other, similarly situated individuals (*i.e.*, receiving water from a ditch company which has received an allocation of Project water from the District).

The distinguishing factor between an apparent conflict and an actual conflict is whether the Board member's decision-making is actually influenced by a competing personal or private interest. An actual conflict is present if the Board member has a personal or private interest that is sufficient to influence the Board member's objective exercise of his or her duties to the District. Examples of personal or private interests that may create an actual conflict include (but are not limited to) employment by, management of, or serving on the board of an entity involved in transaction with the District; a substantial ownership interest in an entity involved in a transaction with the District; and any substantial debtor or creditor interest in an entity involved in transaction with the District. For example, it is not uncommon for members of the Board of Directors to be employed by agencies or entities with which the District may contract. It is also not uncommon for the District Board members to also hold seats on other boards within the District (including, but not limited to, the Boards of Directors of the Upper Arkansas Water Conservancy District or the Pueblo Board of Water Works). Each Board member must decide for him- or herself whether such a conflict will influence their decision-making abilities on behalf of the District.

The proposed Board Conduct Policy, included with this Presentation Report as Attachment 1, provides the standards by which Board members must govern themselves with respect to

Board Conduct Policy

May 15, 2025

conflicts of interest. Prior to taking official action on behalf of the District, including voting on matters that are before the Board for consideration, each board member must make a written disclosure to the Board of all interests which may impact the Board's official decisions. The Board Conduct Policy outlines how that disclosure should be made, and what actions the director may take after making that disclosure.

Under the Policy, and consistent with statutory requirements that apply to local government officials, each director must annually disclose their conflicts of interests to the District and to the Secretary of State (via the Secretary of State's website or such other means as may be offered by the Secretary of State's office). Once the disclosure form is submitted, the form may be searched for and reviewed by the public. General and Special Water Counsel recommend that this disclosure be made during the Board meeting held in April of each year, when new Board members are sworn in. The disclosure can be updated as needed during the year should additional conflicts of interest arise that require disclosure. As required by the State Code of Ethics, C.R.S. § 24-18-110, this written disclosure must describe, for example, all business interests in which the director is involved and shall include: (1) the amount of his or her financial interest, (2) the purpose and duration of any services rendered, (3) the amount of any compensation received, and (4) other information that may be necessary to describe the nature of the conflict.

Consistent with the State Code of Ethics and the Standards of Conduct, a Board member may take official action, including voting, if the conflict of interest has been disclosed to the Board and to the Secretary of State, in a manner consistent with the Board Conduct Policy, or the Board member may abstain from taking any action in light of their conflict. Abstention from voting may be warranted for a situation in which the Board member has an actual or apparent conflict of interest that may influence their decision-making abilities. On the other hand, a Board member may decide that he or she may remain objective in taking action on behalf of the District, in spite of such a conflict. Ultimately, the decision to vote or abstain is left to each individual member of the Board.

There is some risk to the District and to the Board member, should a Board member decide to take official action on behalf of the District when a conflict of interest is present. It is important to note that taking official action on behalf of the Board, where an undisclosed conflict of interest is present, may result in criminal liability under the Colorado Criminal Code, C.R.S. §§ 18-8-308. Moreover, if a Board member does take official action on behalf of the District, even when a conflict has been disclosed, the Board's action may be called into question or even overturned at a later date. Ultimately, under the Board Conduct Policy, each Board member is responsible for determining whether he or she should participate in a Board decision, in light of any actual or apparent conflicts they may have disclosed.

Board Conduct Policy

May 15, 2025

SUGGESTED MOTION:

I move to authorize the Board of Directors to approve the attached Conflicts of Interest Policy.

ATTACHMENTS:

Attachment 1: Board Conduct Policy

Attachment 2: Disclosure Form

BOARD CONDUCT POLICY
Southeastern Colorado Water Conservancy District
Board of Directors

The members of the Board of Directors of the Southeastern Colorado Water Conservancy District (“the District”) are considered local government officials pursuant to the Colorado State Code of Ethics, C.R.S. §§ 24-18-101 through -110, and agree to abide by the requirements of the Code of Ethics and the standards of conduct for government officials set forth in Article XXIX of the Colorado Constitution. Local government officials, including the District’s Board members, must disclose conflicts of interest which may affect their ability to perform their official duties faithfully and objectively. Members of the Board of Directors have sworn to honestly, faithfully, and impartially perform the duties of their office, and they shall act in good faith and for the benefit of Southeastern’s constituents for the duration of their tenure on the Board.

Under this Policy, it is the responsibility of each Board member to disclose their actual, potential, or apparent conflicts of interest and then determine whether abstention from any District votes may be necessary as a result of any such conflict. By requiring such disclosure, the District is promoting transparency, fairness, and openness among all Board members.

Prior to taking official action on behalf of the District, including voting on matters that are before the Board for consideration, each Board member must make a written disclosure to the Board of all conflicts of interest that may influence the Board member’s objective exercise of his or her duties to the District. Conflicts of interest that are subject to disclosure may include both apparent and actual conflicts. An apparent conflict of interest may be present if a reasonable person would believe that the Board member’s objective professional judgment in serving the District may be compromised by a competing interest. Apparent conflicts may arise, for example, if a Board member is impacted by a Board decision in a manner shared by other, similarly situated individuals (*i.e.*, receiving water from a ditch company which has received an allocation of Project water from the District).

The distinguishing factor between an apparent conflict and an actual conflict is whether the Board member’s decision-making is actually influenced by a competing personal or private interest. An actual conflict is present if the Board member has a personal or private interest that is sufficient to influence the Board member’s objective exercise of his or her duties to the District. Examples of personal or private interests that may create an actual conflict include (but are not limited to) employment by, management of, or serving on the board of an entity involved in transaction with Southeastern; a substantial ownership interest in an entity involved in a transaction with Southeastern; and any substantial debtor or creditor interest in an entity involved in transaction with Southeastern. For example, it is not uncommon for members of the Board of Directors to be employed by agencies or entities with which the District may contract. It is also not uncommon for the District Board members to also hold seats on other boards within the District (including, but not limited to, the Boards of Directors of the Upper Arkansas Water Conservancy

Attachment 1

District or the Pueblo Board of Water Works). Each Board member must decide for him- or herself whether such a conflict will influence their decision-making abilities on behalf of the District.

As part of their duties as members of the Board of Directors, each director must annually disclose their conflicts of interests to the District and to the Secretary of State (via the Secretary of State's website or such other means as may be offered by the Secretary of State's office). Once the disclosure form is submitted, the form may be searched for and reviewed by the public. This disclosure shall be made during the Board meeting held in April of each year, in the form attached hereto, and shall be updated as needed during the year should additional conflicts of interest arise that require disclosure. As required by C.R.S. § 24-18-110, this written disclosure must describe all business interests in which the director is involved and shall include: (1) the amount of his or her financial interest, (2) the purpose and duration of any services rendered, (3) the amount of any compensation received, and (4) other information that may be necessary to describe the nature of the conflict.

A Board member may take official action, including voting, if the conflict of interest has been disclosed to the Board and to the Secretary of State, in a manner consistent with the Board Conduct Policy, or the Board member may abstain from taking any action in light of their conflict. Abstention from voting may be warranted for a situation in which the Board member has an actual or apparent conflict of interest that may influence their decision-making abilities. On the other hand, a Board member may decide that he or she may remain objective in taking action on behalf of the District, in spite of such a conflict. Ultimately, the decision to vote or abstain is left to each individual member of the Board.

Each Board member should be aware that, if he or she does take official action on behalf of the District, even when a conflict has been disclosed, the Board's action may be called into question or even overturned at a later date. Moreover, taking official action on behalf of the Board, where an undisclosed conflict of interest is present, may result in criminal liability under C.R.S. §§ 18-8-308 of the Colorado Criminal Code. Ultimately, under this Board Conduct Policy, each Board member is responsible for determining whether he or she should participate in a Board decision, in light of any real or apparent conflicts they may have disclosed.

In the event that a conflict of interest arises or is made known to a director during Board discussions without the interested director having prior notice of the possible conflict, the director must consider removing himself or herself from the discussion due to the conflict of interest, not taking any official action, and supplementing his or her annual conflicts disclosure to include the new or additional information.

DISCLOSURE FORM

TO: THE SECRETARY OF STATE AND THE BOARD OF DIRECTORS OF THE SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT

FROM:

RE: DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST OR PRIVATE INTEREST

DATE:

I, _____, am a member of the Board of Directors of the Southeastern Colorado Water Conservancy District (the "District"). The District's office is located at 31717 United Avenue, Pueblo, CO 81001.

In accordance with C.R.S §§ 24-18-109(3)(b) and 24-18-110, I hereby notify the District and the Secretary of State that to the best of my knowledge, information and belief as of the date noted above, I have the following conflict(s) of interest or apparent or potential personal, financial, private or other interest(s) which may impinge on my fiduciary duty to the District and to the District's constituents.

1. I hereby give notice to the District and the Secretary of State that I have the following financial interests:

a. I have an ownership interest in the following business(es), and the approximate amount of my financial interest in each identified business is as set forth below. (Note: the amount of financial interest may be reported as a dollar amount, the number of shares held, or other relevant description.)

| Business Name | Financial Interest | Ownership Percentage |
|----------------------|---------------------------|-----------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |

b. I have a creditor interest in the following insolvent business(es), and the approximate amount of my financial interest in each identified business is as set forth below. (Note: the amount of financial interest may be reported as a dollar amount, the number of shares held, or other relevant description.)

| Business Name | Financial Interest | Ownership Percentage |
|----------------------|---------------------------|-----------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |

Attachment 2

- c. I am employed by or am negotiating for employment with the following business(es), and the amount of my financial interest in each identified business is described as follows:

| Business Name | Position/Title | Financial Interest |
|----------------------|-----------------------|---------------------------|
| | | |
| | | |
| | | |
| | | |

- d. I have the following interest in real or personal property, and the approximate amount of my financial interest is described as follows:

| Property | Financial Interest |
|-----------------|---------------------------|
| | |
| | |
| | |
| | |

- e. I have the following loan or debtor interest in the following business, and the approximate amount of my financial interest is described as follows:

| Business | Financial Interest |
|-----------------|---------------------------|
| | |
| | |
| | |
| | |

- f. I am a member of the board of directors or am an officer for the following businesses, and the amount of my financial interest, if any, is described as follows:

| Name of Board/Business | Position/Title | Financial Interest |
|-------------------------------|-----------------------|---------------------------|
| | | |
| | | |
| | | |
| | | |

Attachment 2

2. I hereby give notice to the District and Secretary of State that I provide services to the following entities as follows:

- a. Services Provided: _____
- b. To Whom Service Provided: _____
- c. Purpose: _____
- d. Time Period: _____
- e. Compensation Received or Nature of Interest: _____
- f. Other Relevant Information: _____

3. I hereby give notice to the District and the Secretary of State that I have the following personal or private interest which may impinge on my fiduciary duty and the public trust, as described below and not otherwise disclosed above:
