



**Great Divide Water Company  
7075 Campus Drive, Suite 200  
Colorado Springs, CO. 80920  
(719) 598-3198 / fax 598-2337**

**DRAFT** Minutes of the 2022 Annual Shareholder Meeting of the Great Divide Water Company held on October 14, 2022 at 7075 Campus Drive, Colorado Springs, CO 80920 and virtually via Zoom.

In Attendance: Doug Barber (GDWC), Matt Dunston (Bent Tree POA), Mike Montgomery (Back O' The Wind), Ken Witt (Hawk Ridge), Katheen McCormick (Wissler Ranch) Ron Cousar and Dr. Wanda Tisby-Cousar (Terra Ridge), Lacy Miranda (Cherry Creek Crossing), Jacob Olson (Div. of Water Resources). Zoom participants: Brian Sutton (Div. of Water Resources), Sharla Davis (Wissler Ranch), Chuck Van Fosson (Manager GDWC), Pete McCollum (Black Forest Estates).

1. Proper Notice with a copy of the proposed budget having been previously sent, the annual meeting of the GDWC was called to order at 12:24 p.m. (when we obtained a quorum) by Doug Barber (GDWC President).
2. Introductions. The attendance list noted above was introduced.
3. Proof of Notice and Confirmation of Quorum: Notices were sent out via mail by Chuck Van Fosson. 3245 shares of the 4910 outstanding (66%) were present, resulting in a quorum. We have 25 total shareholders (most are homeowner associations, but we do have a few individual owners).
4. Approval of Minutes. The 2021 annual meeting minutes were sent out with the meeting notice. No amendments were suggested, so Ken Witt moved approval, Mike Montgomery seconded and the 2021 Annual Meeting minutes were approved unanimously.
5. Financial.

5.1. The 2022-3 budget approved by the Board of Directors was presented for ratification. As noted on the budget (which was mailed out with the meeting notice), the formula for calculating assessments was changed by the Board this year because of a recount of the number of platted subdivision lots was undertaken in August and it was learned that some of the numbers that had historically been used were incorrect (it appears that we augmented for 1612 lots in northern El Paso County). Assessments are calculated as follows: \$310.00 flat fee per shareholder + \$5.50 per platted lot (the referenced lot tally is attached) + \$1.00 per GDWC stock share owned. There were [happily] no major expenses on the wells this year.

Matt Dunston moved ratification of the budget and Mike Montgomery seconded. Discussion was held about the GDWC assessments and how they affect members.

Kathleen McCormick suggested that the board consider changing the formula again, basing it on the number of gallons pumped for each member, which she felt would be more fair.

Lacy Miranda commented that their subdivision covenants restrict them to \$300 per year in dues, so any

increase causes a real problem for them. Doug noted that homeowner associations can amend their covenants by a two-thirds vote at any time, except for those matters that pertain to the water augmentation plan, which may require a return to water court, and does require approval by the Division of Water Resources and the County land use department to amend the approved the water supply plan for the community.

Doug noted that the operating budget has remained relatively unchanged for years, but the process of building reserves for replacement of the wells and pumps had changed from the early years when larger assessments were made. As our reserve balances got to a more comfortable level, the directors voted to reduce the rate of increase of reserves, thus lowering member assessments.

Without adequate reserves, if a well or pump goes down, each shareholder would receive a special assessment to cover their share of the cost or a repair or replacement, and that would be a hardship on the shareholders who would have to then go out and dun the individual members of their subdivisions or borrow money to cover their GDWC assessment. The alternative might be for GDWC to try and borrow money to pay for the repair/replacement, but that would increase the GDWC budget to cover interest payments. Also, the company has no assets other than the two wells and its cash reserves, so it might be challenging to find a bank to make a loan with no real collateral. Thus, prior GDWC Boards always felt that establishing enough reserves for replacement was the best way to protect shareholders from financial uncertainty.

After discussion, the budget was ratified by the members, with Hawk Ridge opposed. The billing formula will be added to the Board of Directors meeting agenda for discussion prior to the next budget cycle. [Hawk Ridge opposed to go on record that the Board should review the fees structure per the request by Wissler Ranch.]

5.2. Our present balance at Ent Credit Union is \$412,524.12 as of October 15, 2021. Most is in certificates of deposit, with some in a money market savings fund and a little in checking. Funds are transferred from interest bearing accounts as needed to write checks.

5.3. Our insurance policy is renewed effective from 11/25/21-11/25/22 with Philadelphia Indemnity Insurance Company (Policy #PHSD1581902). It includes Directors and Officers liability protection, as well as general commercial liability coverage. Renewal for 2022-3 is in progress.

## 6. Election of Directors.

Jack Glavan is moving away, so will be leaving us. We are grateful for his years of service to the company.

Doug Barber, Mike Montgomery and Matt Dunston volunteered to continue as Directors. John Bridges was not at the meeting, but Matt Dunston said he was also willing to continue.

Nominations for an open director position were opened and for the first time in the history of the company there were more volunteers than spaces. Doug noted this was unfamiliar territory. Had it been thought a possibility, he would have prepared ballots for voting (he will for the 2023 annual meeting). Secret ballots were offered, but attendees were okay with a voice vote.

Dr. Wanda Tisby-Cousar and Ken Witt volunteered. Each gave some background as to what they could bring to the Board, and both appear to have excellent qualifications and ability to contribute.

The slate of Doug Barber, Mike Montgomery, John Bridges, Matt Dunston and Ken Witt was elected.

Doug Barber explained that while multi-year staggered Director terms are preferable for continuity, all GDWC Director terms are for one year because shareholder Associations typically change officers annually and GDWC cannot count on the same people being available for multiple years. He also noted that help for the Board from any member, director or not, that has knowledge and ability is appreciated, as we want the best brains possible when making decisions.

## 7. New Business.

7.1. Kathleen McCormick asked about the possibility of someone other than GDWC taking over the augmentation business, so that it could be done in a more cost-effective manner.

Doug Barber responded that it is his dream that some other entity (municipality or water provider) take over GDWC and run it, but doubted it could happen because 1) what would be the motivation for someone to do that, as the directors are unpaid and the manager receives only a small annual salary; and 2) the Northgate water rights that each shareholder owns are tied to the GDWC wells and are specified in their court decrees as an approved source of augmentation water. Changing to some other source of augmentation (if one could be found) might require each shareholder to go back to water court to amend their decree. He also noted that should GDWC wells ever become unable to provide water, members would be looking for another way to augment their depletions.

7.2. Matt Dunston discussed the idea of looking into modification of members' augmentation plans to try and change from the current system that requires us to dump so much water to augment current depletions to a post-pumping depletion model that uses just septic systems for current replacements in order to reduce wasteful extraction of ground water. He proposed spending some GDWC money to explore the matter and possibly amend all decrees to accomplish this.

Matt Dunston moved allowing the Board to spend up to \$50,000 from reserves to explore with a water attorney the possibility of success of a major augmentation change, and Ken Witt seconded for purposes of discussion of the motion.

Discussion: Pete McCollum asked how do we know that \$50,000 is the right amount. Sharla Davis commented that \$50,000 would likely be the low end of cost if such a task were undertaken. Doug Barber commented that while the objective is worthy, each development is constrained by its own unique factors and present Colorado water law, so it may not be possible to achieve it, but investigating it might be worthwhile in order to get a legal opinion of the likelihood of success and the process and expense that would be required. Kathleen McCormick noted that it would need to be a neutral attorney with no conflict of interest (not also the attorney for any shareholder). [Doug notes that many of the original subdivision decrees were done by attorneys who are dead or retired. However, we would need to provide a list of shareholders to a prospective attorney and ask the attorney to run a conflict check.]

The question was called and the motion passed with Bent Tree, Hawk Ridge, Cherry Creek Crossing and Black Forest Estates in favor and Back O' The Wind, Terra Ridge, Equine Meadows and Wissler Ranch opposed. [voting is based on number of GDWC shares owned].

7.3. Sharla Davis asked about online reporting and Brian Sutton informed that the State has moved to a new method of submitting the annual accounting for the subdivisions. If anyone needs to contact him to get their subdivision set up with this new system, contact him at

brian.sutaton@state.co.us. Each homeowner association should create an online profile for their reporting (sample reporting forms are included as an attachment to many decrees), so their members can upload their readings online. He recommends that each association create an association email address that does not change from year to year. Email Brian for more information and help with this at Brian.Sutton@state.co.us.

7.4. Jacob Olson responded to a question about the process for handling well owners who overpump their wells or otherwise endanger their homeowner association by installing water features (ponds, fountains, pools, etc.) or excess irrigable area that violate their well permit and, therefore, the shareholder's decree. He stated that for overpumpers they try to help the owner determine why they are overpumping (leaky toilet, sprinkler system leak or excessive use, etc.). They may require more frequent meter reading reporting until things are on track. For other issues, they may instruct the owner to remove offending water features or excess irrigated landscaping. If the owner does not work at compliance, they may involve the Division Engineer who has less flexibility to work with the owner and focuses more on compliance. Failure to comply can eventually result in litigation by the State against the owner and/or association for noncompliance with the augmentation plan.

7.5. Doug Barber noted that the GWS-11 well transfer form has been replaced with online reporting of well transfers. Pete McCollum asked about whether the fact that some wells were never transferred to current owners by the form (or now, online) as required, Doug stated that it is not because the well transfer is simply for the purpose of updating the Division of Water Resources on who they should contact now regarding any well permit out there; it is not a chain of title to the well (the property deed conveys ownership of the well).

8. Continuing Business. Doug Barber noted that the water rights issues associated with Wissler Ranch, White Fir Estates, County Line Estates, Sylvan Meadows and Black Forest Estates were resolved in the past year. Back O' The Wind is just about fixed and he is working with Ken Witt on Hawk Ridge's rights, and Terra Ridge will be next.

Summary of issue: Northgate Company contracted with developers to sell them water rights (Northgate water rights) to be used as an augmentation source to augment their subdivisions. The deeds for those water rights were included a provision that the water purchase contract (Northgate Contract) obligated the purchaser to membership in the GDWC, and provided that it would be a continuing part of the water purchase and not merge into the deed. GDWC stock shares were issued to the developers (in most cases) in conjunction with the closing of the purchase of the water rights (not necessarily at the same time as the developers obtained water decrees under their subdivisions).

Developers were expected to record their deeds and contracts to place their ownership of the Northgate water rights of record to give constructive notice to purchasers in their developments as to what the deal was regarding those rights and membership in GDWC. Once they formed a property owner association (POA) in their communities, they were supposed to transfer their GDWC stock to the POA and deed the Northgate water rights and assign the Northgate Contract and their rights in their water decrees (augmentation plan) to the POA, which would then act as the perpetual entity to administer the plans under which their well permits were issued.

In some cases, those developers never recorded their deeds/contracts (or used quitclaim deeds prior to actually having title to the Northgate rights, which is why Doug recommends Bargain and Sale deeds for water rights transfers), and/or they never conveyed the water rights or assigned the augmentation plans and Northgate contract to their associations, so the affected associations need to fix the problem.

Complicating the matter is the fact that some of the developers have died and those Northgate water rights and GDWC stock shares became part of the developer’s estate, necessitating determination of who the Personal Representative is/was and what happened to those estate assets (still in estate? Conveyed to trusts or beneficiaries? Etc.). If unable to adequately establish this sort of information, it may require a quiet title action to have the Court vest ownership of the Northgate water rights and contract and GDWC stock shares in the POAs. It may also be necessary to petition the Water Court to issue an order that the rights in the subdivision water decrees belong to the HOAs. Obviously, the affected POAs need to seek legal assistance in this regard.

If we can correct the issue without a lot of legal action and expense it would be better for the affected POAs, so Doug undertook the abstracting research to help. Northgate is no longer in existence, but Doug may still be able to provide Northgate assistance (it’s complicated). We have to look at each situation individually, as no two shareholder situations or decrees are alike. Action by developers and associations should be coordinated with Doug to ensure it is done right. Doug has been working on this for years and has gotten a number of them fixed, but is still working on it to help the affected associations, but it is legally up to each association to resolve these matters. Failure to do so may result in liability to the association.

GDWC is still making the water releases for the associations in the meantime because we know what the intent of the water rights transaction was, but the issues need to be corrected, but at some point the GDWC Directors may require affected Associations to take action to fix things. Chris Cummins is a water attorney familiar with this situation, and has worked well with Doug Barber to resolve issues.

If any association has information correcting data in the following table, please provide it to Doug via email at Rawhide@Realtor.com. Also, if you have information on the whereabouts or contact information of the developers listed (or successors), let Doug know. Following are the associations Doug believes are affected (subject to revision, if Doug is incorrect):

Association	Northgate Deed Recorded?	GDWC Stock Cert Issued to Association?	Issue
Back O’ The Wind HOA, Inc. (Should be done shortly)	Yes	No	Water rights in the Dawson under the subd were conveyed to the HOA, but Northgate water rights not conveyed to HOA by developer, Joe Lenski. Northgate water rights and GDWC stock shares still owned by developer or developer’s successors.
Silver Ponds POA, Inc.	Yes	No	Water rights not conveyed to POA by developer, Camp Properties (Jon Campbell-deceased). Northgate water rights and GDWC stock shares still owned by developer or developer’s successors.
Hawk Ridge HOA, Inc. (In progress)	No	No	Deed for water rights to developer, Hawk Ridge Land Co, LLC (Chester Pratt), not recorded. Water rights not conveyed to POA by developer. Northgate water rights and GDWC stock shares still owned by developer or developer’s successors.

Terra Ridge POA, Inc.	No	No	Deed for water rights to developer, Terra Five Development, LLC (Alan Dietel), not recorded. Water rights not conveyed to POA by developer. Northgate water rights and GDWC stock shares still owned by developer or developer's successors.
Phyllis Campbell and Dean Stoecker	N/A	N/A	Need clarification of which owns what and definition of allocation of water rights by aquifer. Stock still in name of Jon Campbell, deceased.

9. Ken Witt moved adjournment, Mike Montgomery seconded and the meeting was adjourned by acclamation.

Recorded and submitted by:



Doug Barber, GDWC President