

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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November 16-18, 2009 Agenda

A meeting of the Colorado Water Conservation Board (CWCB) will commence on Monday, November 16, 2009, at 10:30 a.m. and continue through Wednesday, November 18, 2009. This meeting will be held at 1580 Logan Street, Suite 610, Denver, CO 80203.

The CWCB, in conjunction with Southeastern Colorado Water Conservancy District, will host a reception honoring the Kansas v. Colorado Litigation Team, on Tuesday, November 17, 2009, from 5:30 – 7:00 p.m. at the Warwick Hotel, 1776 Grant Street, Denver, CO.

The CWCB posts notices of its meetings 30-days from the next regular meeting. Notices of special meetings are posted on the website within five business days and not less than 24-hours of such a meeting. Notices of regular and special meetings may also be received by email. To receive notices by email visit: <http://cwcb.state.co.us/Home/CWCBInsider/>.

Although dates and times are indicated in this notice and in the following agenda, the CWCB may address and take action on noticed items in any order. Known changes will be announced at the beginning of the meeting. This notice, any late notice (s) of additional items, and briefing memos prepared for the CWCB will be posted at 1313 Sherman Street, Suite 721, Denver, CO 80203, and on our internet website at: www.cwcb.state.co.us.

The CWCB's meetings are made available live through the internet. To listen to the proceedings, click the "Listen to the meeting LIVE!" link on the CWCB website homepage. The link will be posted just prior to the start of the meeting on the first day of the meeting. A program that handles streaming media (such as Windows Media Player, RealPlayer or similar) is necessary to be able to listen.

Presentations are also being made available. To watch presentations that accompany agenda items, click the "Watch Presentations" link on the CWCB website homepage. You will encounter a few dialog boxes: 1) click Run for the See-and-Share loader, 2) click Run, to run the software, and 3) enter your name to join the conference and click ok.

CWCB encourages citizens to express their views and provide information to the Board on every agenda item. This can be done by sending an email to lisa.barr@state.co.us, by sending a letter to the Board Director or its Chairman, or by attending the meeting. If you attend a meeting, simply fill out a comment sheet and give it to the Board Coordinator at the recording station. The Board will appreciate hearing your views when it reaches that agenda item. If you have any questions, need special accommodations as a result of a disability, or require further information on any CWCB activity, please contact Lisa Barr at 303-866-3441, Ext. 3244. All programs, services, and activities of the CWCB are operated in compliance with the Federal Americans with Disabilities Act (ADA).

Bill Ritter, Jr.
Governor

James Martin
DNR Executive Director

Jennifer L. Gimbel
CWCB Director

Dan McAuliffe
CWCB Deputy Director

Monday, November 16, 2009

CWCB Call to Order 10:30 a.m.

1. Stream and Lake Protection Section – Proposed Instream Flow Recommendations on the Huerfano River and Cucharas Creek, Water Division 2 – *In lieu of the scheduled hearing, the Parties will present a stipulation to the Board regarding the proposed instream flow recommendations.* (10:30 – 12:00)

LUNCH 12:00 – 1:30

2. Stream and Lake Protection Section – Proposed Acquisition of the Stapleton Brothers Ditch Water Right on Maroon Creek, Water Division 5 - *The Board will hold a hearing in the matter of a proposed acquisition of the Stapleton Brothers Ditch Water Right on Maroon Creek, Water Division 5.* (1:30 – 5:00)

RECESS 5:00 p.m.

Tuesday, November 17, 2009

CWCB Call to Order 8:00 a.m.

3. Review and Approval of Agenda (8:00 – 8:05)
4. Review and Approval of Meeting Minutes – September 15-16, 2009 (8:05 – 8:10)
5. Approve and/or Remove Items from Consent Agenda (8:10 – 8:15)
6. Future Board Meeting Dates – (8:15 – 8:20)
 - a. January 26-27, 2010 Hilton Garden Inn/DTC Denver (in conjunction with the Colorado Water Congress Conference)
 - b. March 16-17, 2010 Denver
 - c. May 17-19, 2010 Durango w/ALP tour (tour on Monday, 5/17/10)
 - d. July 20-21, 2010 Buena Vista/Salida
 - e. September 14-15, 2010 Grand Junction
 - f. November 16-17, 2010 Denver
7. Directors' Reports (8:20 – 9:20)
 - a. DNR Executive Director
 - b. IBCC Director
 - c. Agriculture Commissioner
 - d. CWCB Director
 - e. State Engineer
 - f. Division of Wildlife
 - g. Water Resource and Power Development Authority
8. Stream and Lake Protection Section – Proposed Water Acquisition on Washington Gulch and the Slate River – *The Board will consider an acquisition of an interest in water proposed by the Colorado Water Trust to preserve the natural environments of Washington Gulch and the Slate River to a reasonable degree. Consideration of this proposal triggers the 120 day period for Board review pursuant to ISF Rule 6b.* (9:20 – 9:50)

9. Water Supply Protection Section – Platte River ESA Recovery Program – *CWCB staff will update the Board on recent developments regarding the Platte River ESA Recovery Program.* (9:50 – 10:05)

BREAK 10:05 – 10:20

10. Stream and Lake Protection Section – Notice of 2010 Instream Flow Recommendations in Water Divisions 1, 2, 4, 5, 6 and 7 – *Pursuant to ISF Rule 5c., the CWCB is providing notice that the following streams are being considered for instream flow appropriations in 2010. At the January 2010 CWCB meeting, staff may request the Board to form its intent to appropriate ISF water rights on these streams.* (10:20 – 10:35)

Div	Stream Segment	County(ies)	Recommender(s)
1	Black Hollow Creek (headwaters to confl Poudre River)	Larimer	TU
2	Baldwin Creek (headwaters to Chalk Creek)	Chaffee	CDOW
2	Middle Creek (headwaters to Ophir Creek)	Custer / Pueblo	CDOW
2	Middle Creek (Ophir Creek to Beulah Water Works)	Custer / Pueblo	CDOW
4	Big Dominguez Creek (reaches pending Federal legislation)	Delta	CDOW
4	Little Dominguez Creek (reaches pending Federal legislation)	Delta	CDOW
4	Blue Creek (Increase to existing ISF right) (Little Blue Creek to Morrow Point Reservoir)	Gunnison	BLM
4	South Willow Creek (Sugar Creek to Blue Mesa Reservoir)	Gunnison	BLM
4	Alpine Gulch (headwaters to Henson Creek)	Hinsdale	BLM
4	Spring Creek (headgate Creede Trail Ditch to confl with Cebolla Creek)	Hinsdale	BLM
4	Cebolla Creek (Brush Creek to Spring Creek)	Hinsdale / Gunnison	BLM
4	Cebolla Creek (Spring Creek to USGS gage)	Hinsdale / Gunnison	BLM
4	North Fork Tabaguache Creek (headwaters to Tabaguache Creek)	Montrose	USFS
4	Red Canyon Creek (headwaters to Horsefly Creek)	Montrose	USFS
4	San Miguel River (Calamity Draw to Dolores River)	Montrose	CDOW, BLM
4	Tabeguache Creek (unnamed trib to Fortyseven Creek)	Montrose	USFS
4	Tabeguache Creek (confl Fortyseven Creek to Templeton Ditch)	Montrose	BLM

4	Tabeguache Creek (<i>Templeton Ditch to confl San Miguel River</i>)	Montrose	BLM
4	Cochetopa Creek (<i>Nutras Creek to Pauline Creek</i>)	Saguache	BLM
4	Cochetopa Creek (Increase to existing ISF right) (<i>Alkali Creek to Tomichi Creek</i>)	Saguache / Gunnison	BLM
4	East Beaver Creek (<i>headwaters to Beaver Creek</i>)	Saguache	BLM
5	Colorado River (<i>Eagle/Grand Co. Line to Eagle River</i>)	Eagle	Eagle County
5	Colorado River (<i>Blue River to Piney River</i>)	Grand / Eagle	CDOW
5	Colorado River (<i>Piney River to Eagle River</i>)	Grand / Eagle	CDOW
6	Indian Creek (<i>headwaters to confl headgate West Arapahoe Feeder Ditch 2</i>)	Jackson	BLM
6	Wheeler Creek (<i>Headwaters to South Fork Big Creek</i>)	Jackson	BLM
6	West Prong South Fork Slater Creek (<i>Headwaters to Decker Ditch</i>)	Moffat / Routt	CDOW, TU
6	Big Beaver Creek (Increase to existing ISF right) (<i>Allen Creek to East Beaver Creek</i>)	Rio Blanco	BLM
6	Grizzly Creek (<i>Unnamed tributary to USFS Boundary</i>)	Routt	CDOW, TU
6	Morrison Creek (<i>Muddy Creek to Silver Creek</i>)	Routt	CDOW, James Larson, Dequine Family L.L.C, Flying Diamond Resources
6	Morrison Creek (<i>Silver Creek to Yampa River</i>)	Routt	
6	South Fork Slater Creek (<i>Headwaters to West Prong South Fork Slater Creek</i>)	Routt	CDOW, TU
6	South Fork Slater Creek (<i>West Prong South Fork Slater Creek to confl Slater Creek</i>)	Routt	CDOW, TU
6	West Prong South Fork Slater Creek (<i>Decker Ditch to South Fork Slater Creek</i>)	Routt	CDOW, TU
7	Animas River (<i>Minnie Gulch to Cunningham Creek</i>)	San Juan	BLM
7	Animas River (<i>Cunningham Creek to Arrastra Creek</i>)	San Juan	BLM

*CDOW (Colorado Division of Wildlife), TU (Trout Unlimited) and BLM (Bureau of Land Management)

11. Water Supply Protection Section - Wild and Scenic Rivers – *The staff will provide updates to the Board on the status of the various Wild and Scenic Rivers alternatives stakeholder groups and seek input or approval from the Board on the development of criteria and guidelines.* (10:35 – 11:30)

LUNCH 11:30 – 12:30

12. Intrastate Water Management and Development Section – Water Supply Reserve Account – Grant Applications – The Florida Mesa Canal Companies – Canal Seepage Reduction Program – *This grant application was postponed from the September 2009 Board meeting to give the applicant time to respond to Board questions.* (12:30 – 1:00)
13. Intrastate Water Management and Development Section – Water Supply Reserve Account – Grant Applications (1:00 – 1:40)
- a. Mancos Conservation District – Mancos River Diversion Project, Phase I
 - b. Conserving Farmlands Partnership – Protecting Irrigated Agricultural Lands and Water Rights for Agricultural Production
 - c. Yellow Jacket Water Conservancy District – Water Storage Feasibility Study
14. Watershed Protection and Flood Mitigation Section – Designation and Approval of 100-year Floodplain Information (1:40 – 2:00)
15. Stream and Lake Protection Section – Authorization to Proceed to Trial – Case No. 3-08CW010: Application of Robert Gregg Sease - *Pursuant to ISF Rule 8j., the CWCB staff will seek authorization to proceed to trial in this application for approval of a plan for augmentation.* (2:00 – 2:15)
16. Stream and Lake Protection Section – Injury with Mitigation – Case No. 4-05CW264: Application of Ranch Properties, LLC – *Pursuant to ISF Rule 8i.(3), the Board will be asked to (1) determine that the natural environment of Ohio Creek could be preserved to a reasonable degree with the proposed injury if applicant provides the proposed mitigation and (2) to approve the proposed pre-trial resolution of this case. This is the second of two required meetings for the Board to approve an Injury with Mitigation proposal.* (2:15 – 2:35)

BREAK 2:35 – 3:05

17. Water Supply Protection Section - Kansas v. Colorado – *CWCB staff will give a briefing on the Kansas v. Colorado Litigation* (3:05 – 3:35)
18. Attorney General’s Report, Legal Briefing and Executive Session – *This is a briefing on legal issues contained in the Attorney General’s written report and on items listed below that the Board may refer for discussion in an Executive Session based upon attorney-client privilege.* (3:35 – 4:30)

Executive Session Items

- a. Kansas v. Colorado
- b. Case No. 3-08CW010: Application of Robert Gregg Sease
- c. Case No. 5-07CW277: Application of the Colorado Water Conservation Board (Hat Creek Ditch Water Donation from the Colorado Water Trust)
- d. Case No. 4-05CW264: Application of Ranch Properties, LLC

- e. Platte River Compact
- f. Grand Canyon Trust
- g. Mexico Negotiations

19. Report from Executive Session (4:30 – 4:35)

20. Water Supply Protection Section - Request for Expenditure from Litigation Fund – *CWCB staff will request authorization from the Board for expenditures associated with the defense of the Colorado River Sub-unit.* (4:35 – 4:45)

RECESS 4:45 p.m.

Wednesday, November 18, 2009

CWCB Call to Order 8:00 a.m.

21. Basin Directors' Reports (8:00 – 9:30)

- a. Colorado River (Mainstem) Basin Director's Report
- b. San Juan/San Miguel-Dolores River Basin Director's Report
- c. Gunnison River Basin Director's Report
- d. North Platte River Basin Director's Report
- e. South Platte River Basin Director's Report
- f. Arkansas River Basin Director's Report
- g. City and County of Denver Director's Report
- h. Rio Grande River Basin Director's Report
- i. Yampa-White River Basin Director's Report

22. Decision Support System Section – Colorado Water Availability Study Preliminary Results (9:30 - 10:15)

BREAK 10:15 – 10:30

23. Stream and Lake Protection Section – State of Colorado Stream Gaging Programs – *The CWCB staff will explain the State's stream gaging programs, funding sources and strategies, and the ongoing collaboration between CWCB, DWR, and USGS aimed at strengthening stream gaging efforts throughout the state.* (10:30 – 10:50)

24. State Engineer's Office – Scott Cuthbertson, Assistant State Engineer, will give a presentation on Satellite Monitoring. (10:50 – 11:20)

25. Water Supply Planning and Finance Section – Financial Matters – Construction Fund and Severance Tax Trust Fund Perpetual Base Account (11:20 – 12:00)

- a. Annual Financial Statement Update
- b. Projections & Cash Balance Reports

LUNCH 12:00 – 1:00

26. Water Supply Planning and Finance Section – Construction Fund and Severance Tax Trust Fund Perpetual Base Account – New Loans (1:00 – 1:40)

- a. WRCC, Inc. – Cobb Lake Inlet Structure Project
- b. Riverside Ditch & Allen Extension Co. – Phased Canal Improvement Project

27. Water Supply Planning and Finance Section – Changes to Existing Loans (1:40 – 2:20)
 - a. Boulder White Rock Ditch and Reservoir Company – Panama Reservoir Outlet
 - b. Supply Irrigating Ditch Company – Knouth Reservoir Dam Rehabilitation
28. Water Supply Planning and Finance Section – En-bloc Non-Reimbursable Investments Recommendations (*The Finance Committee reviewed the following projects on September 15, 2009 and recommends approval by the Board. No presentation will be made unless requested by a Board member. An opportunity for public comment may be provided.*) (2:20 – 2:25)
 - a. Division of Water Resources – Satellite Monitoring System Maintenance
 - b. CWCB – Weather Modification Program
 - c. CWCB – Colorado Floodplain Map Modernization Program
 - d. CWCB – Colorado Watershed Restoration Program
 - e. CWCB – Flood Response Program Refreshed
 - f. Colorado Water Education Foundation – Annual Appropriation
29. Water Supply Planning and Finance Section – Referred Non-Reimbursable Investments – CWCB – Instream Flow Engineering and Technical Support Services (*The Finance Committee reviewed this project on September 15, 2009 and asked for more information on this project. The Committee requested the project be referred for consideration by the entire Board and for an opportunity for public comment*) (2:25 – 2:55)
30. Office of Water Conservation and Drought Planning Section - Presentation on Conservation Demand Reduction to 2050 – “1% Per Year” (2:55 – 3:25)

ADJOURN 3:25 p.m.

CWCB Consent Agenda
November 16-18, 2009

Matters may be placed on the Consent Agenda when the recommended action follows established policy or precedent, there has been a negotiated settlement, or the matter is uncontested and non-controversial. Staff provides memos to CWCB members explaining the matters on the Consent Agenda. Matters on the Consent Agenda are noticed for hearing in the same manner as other agenda items. If a member of the CWCB requests further consideration of an item on the Consent Agenda, the item will be withdrawn from the Consent Agenda and discussed at the end of the meeting or at the next meeting. The Consent Agenda may be voted on without reading or discussing individual items. Any CWCB member may request clarification about any matter on the Consent Agenda.

1. Water Supply Planning and Finance Section – Construction Fund and Severance Tax Trust Fund Perpetual Base Account – Loan De-authorization – Park Center Water District – Well Rehabilitation Project