

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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SUMMARY MINUTES AND RECORD OF DECISIONS

September 15-16, 2009

Final and Approved November 17, 2009

A regular meeting of the Colorado Water Conservation Board (CWCB) was convened at the Steamboat Grand Hotel, 2300 Mt. Werner Circle, Steamboat, Colorado 80487. The meeting was called to order by Chair, Geoff Blakeslee. Eight voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were Chair Geoff Blakeslee, Vice Chair Eric Wilkinson, Carl Trick, Travis Smith, John McClow, Reed Dils, Barbara Biggs, and Harris Sherman. Non-voting, *Ex-Officio* members present or represented were CWCB Director Jennifer Gimbel, the State Engineer, Dick Wolfe, Senior Assistant Attorney General Patrick Kowaleski, and Alex Davis, Assistant Director of Water for the Department of Natural Resources. April Montgomery, newly appointed by Governor Ritter to the CWCB Board, was sworn in after the call to order. Deputy Executive Director Mike King represented Harris Sherman Tuesday afternoon and Wednesday. Per Colorado Statutes, Mike King is a voting representative. There were nine total voting members present.

Bill Ritter, Jr.
Governor

James Martin
DNR Executive Director

Jennifer L. Gimbel
CWCB Director

Dan McAuliffe
CWCB Deputy Director

Note: While the Board's consideration of agenda items does not always follow the sequence indicated by the agenda numbers, these minutes are listed in agenda item order for easier reference.

Tuesday, September 15, 2009
Call to Order 10:34 a.m.

Swearing In New Board Member

Tape 1, Track 2 000:00:00 – 000:03:00

Action: Patrick Kowaleski, Assistant Deputy Attorney General, swore in new Board Member April Montgomery.

*A complete record of the meeting has been made in electronic form using an MP2 format. The recording and the associated written materials are the only legal record of the meeting. These written summaries are intended only as an aid to research and a guide to the tapes. The motions described herein may not represent a verbatim transcription. Agenda items are presented in numerical order, according to the Agenda for the meeting. Disk numbers and approximate locations are identified for the beginning and end of each agenda item. The complete record of this meeting is available at the CWCB during regular office hours. Arrangements to make copies of the tapes or written transcripts of specific agenda items may be produced at the requestor's expense. Notes from the meeting for identification of times and tapes for specific agenda items can also be reviewed at the CWCB offices. Voting tallies are based on members present for voting. Members recusing themselves are identified. Board members occasionally leave the meeting, but the original meeting notes typically indicate whether or not a particular Board Member was present during a specific agenda item.

1. Review and Approval of Agenda

Tape 1, Track 2 00:03:01 - 00:07:46

Action: Agenda item number 24 was removed from the agenda. A motion was made by Travis Smith and seconded by Carl Trick to approve the amended agenda. The motion was approved unanimously (9-0).

2. Review and Approval of Meeting Minutes for the July 21-22, 2009 meeting

Tape 1, Track 2 00:07:47 - 00:09:37

Action: A motion was made by Carl Trick and seconded by Eric Wilkinson to approve the July 21-22, 2009 Meeting Minutes. Reed Dils brought to the attention of the Board, a typo on agenda item #18. The current Minutes state, "The remaining costs will be provided by SU". After further review of the memo, the SU is Colorado Springs Utility (SU). No changes will be made. This amended motion was approved unanimously (9-0).

3. Approve and/or Remove Items from Consent Agenda

Tape 1, Track 2 00:09:38 - 00:10:07

Action: A motion was made by Eric Wilkinson and seconded by Barbara Biggs to approve the Consent Agenda Items. The motion was approved unanimously (9-0).

4. Future Board Meeting Dates

Tape 1, Track 2 00:10:08 - 00:14:18

- | | |
|--------------------------|---|
| a. November 17-18, 2009 | CWCB Logan Street Office Building, 1580 Logan St., Ste. 610, Denver, CO 80203 |
| b. January 26-27, 2010 | DTC Denver (in conjunction with the Colorado Water Congress) |
| c. March 16-17, 2010 | Denver |
| d. May 17-19, 2010 | Durango w/ALP tour (tour on Monday, 5/17/10) |
| e. July 20-21, 2010 | Grand Junction |
| f. September 21-22, 2010 | Colorado Springs |
| g. November 16-17, 2010 | Denver |

Action: A motion was made by Travis Smith and seconded by Carl Trick to approve the Board meeting with the following changes: 1) the November 2009 meeting will be 3 days long and begin on Monday, November 16, 2009 ending on Wednesday, November 18, 2009. The Board suggested changing the July meeting to Buena Vista or Salida and the September meeting to Grand Junction. These changes were approved unanimously (9-0).

5. Directors' Report

- a. DNR Executive Director - Harris Sherman Reporting

Tape 1, Track 2 00:14:19 - 00:23:15

Action: Information item only. No action was required by the Board.

- b. IBCC Director – Harris Sherman Reporting

Tape 1, Track 2 00:14:19 - 00:23:15

Action: Information item only. No action was required by the Board.

- c. Agriculture Commissioner

Action: No report on this item.

d. CWCB Director - Jennifer Gimbel Reporting
Tape 1, Track 2 00:23:16 - 00:36:10
Action: Information item only. No action was required by the Board.

e. State Engineer - Dick Wolfe Reporting
Tape 1, Track 2 00:36:11 - 00:52:14
Action: Information item only. No action was required by the Board.

f. Division of Wildlife - Tom Remington Reporting
Action: No report on this item.

g. Water Resource and Power Development Authority
Action: No report on this item.

6. Water Supply Planning and Finance Section – Financial Matters – Construction Fund Cash Balance Report

Tape 1, Track 2 00:52:28 - 01:06:10
Action: Informational item only. No action was required by the Board.

7. Water Supply Planning and Finance Section – New Loans

a. Fort Morgan Reservoir and Irrigation Company – Pipeline Project
Tape 1, Track 2 01:06:11 - 01:19:15
Action: A motion was made by Eric Wilkinson and seconded by Barbara Biggs to approve staff recommendation that the Board approve a loan from the Construction Fund not to exceed \$1,919,000 (\$1,900,000 for project costs and \$19,000 for the 1% Loan Service Fee) to the Fort Morgan Reservoir and Irrigation Company, for the Pipeline Project. The loan terms shall be 30 years at a blended rate of 2.9% per annum. Security for the loan shall be in compliance with CWCB Financial Policy No. 5. Staff further recommends that if the Fort Morgan Reservoir and Irrigation Company is awarded a grant from the Water Supply Reserve Account statewide funds, this CWCB loan approval shall be reduced by such amount plus the 1% Loan Service Fee. Staff also recommends that the following documents be submitted to the CWCB prior to disbursement of funds: 1) an executed copy of the operating agreement between Ft. Morgan Reservoir and Irrigation Company and Groves Farms; and 2) documentation that all necessary easements from neighboring landowners along the pipeline route have been obtained. Harris Sherman was not available for this motion. The motion was approved unanimously (8-0).

b. Lake Canal Reservoir Company – South Gray Reservoir Rehabilitation & Gray No. 3 Breach
Tape 1, Track 2 01:19:16 – 01:30:00
Action: A motion was made by Eric Wilkinson and seconded by Barbara Biggs to approve staff recommendations that the Board approve a loan not to exceed \$393,900 (\$390,000 for project costs and \$3,900 for the 1% Loan Service Fee) to the Lake Canal Reservoir Company for the South Gray Reservoir Rehabilitation & Gray No. 3 Breach from the Construction Fund. The loan terms shall be an interest rate of 3.15% per annum for 30 years. Security for the loan shall be in compliance with CWCB Financial Policy No. 5. Harris Sherman was not available for this motion. The motion was approved unanimously (8-0).

c. Raymond Dairy, Inc. – Raymond Ditch Reconstruction Project

Tape 1, Track 2 01:30:01 – 01:37:30

Action: A motion was made by Travis Smith and seconded by Carl Trick to approve staff recommendations that the Board approve a loan not to exceed \$95,950 (\$95,000 for project costs and \$950 for the 1% Loan Service Fee) for engineering and construction costs, to Raymond Dairy, Inc. from the Construction Fund for the Raymond Ditch Reconstruction Project. Following construction, the staff further recommends the loan be amended to an amount not to exceed \$63,950 (\$63,000 for the remaining balance of the Project and \$950 for the Loan Service Fee). The loan terms shall be 20 years at the reduced agricultural rate of 2.5% per annum (2.75% reduced by 0.25% for a 20-year term). Security for the loan shall be in compliance with CWCB Financial Policy No. 5. Staff further recommends that no loan funds be disbursed until an account is set up with one annual payment set aside as the reserve account. The motion was approved unanimously (9-0).

Harris Sherman was unavailable for the remainder of the Board Meeting. Deputy Executive Director Mike King represented Director Sherman for the remainder of the CWCB Board meeting. Per statute, Director King is an authorized voting representative.

8. Water Supply Planning and Finance Section – Revisions to Existing Loans – Bull Creek Reservoir, Canal & Power Co. – Reservoir No. 4 Rehabilitation and Enlargement

Tape 1, Track 3 00:00:00 - 00:22:25

Action: A motion was made by Barbara Biggs and seconded by Travis Smith to approve staff recommendation that the Board approve an increase of \$244,218(\$241,800 for project costs and \$2,418 for the 1% loan service fee) to the Bull Creek, Canal and Power Company, from the Severance Tax Trust Fund Perpetual Base Account, at its current interest rate of 2.5% for 30 years. The Company's total amended loan amount will be \$1,456,218(\$1,441,800 for project costs and \$14,418 for the 1% loan service fee) for the enlargement of Bull Creek Reservoir No. 4. Security for the loan shall remain in compliance with CWCB Financial Policy No. 5. The motion was approved unanimously (9-0).

9. Intrastate Water Management & Development Section – Water Supply Reserve Account Project Change – Demonstration of Membrane Zero Liquid Discharge Process for Drinking Water Systems

Tape 1, Track 3 00:22:26 – 00:26:49

Action: A motion was made by Barbara Biggs and seconded by Eric Wilkinson to approve staff recommendation that the Board grant the requested change of Water Supply Reserve Account contracting entity from the American Water Works Association Research Foundation to the WateReuse Foundation for the project titled: Demonstration of Membrane Zero Liquid Discharge Process for Drinking Water Systems. The motion was approved unanimously (9-0).

10. Intrastate Water Management & Development Section – Water Supply Needs Report

Tape 1, Track 3 00:26:50 – 01:39:46

Action: Informational item only. No action was required by the Board.

11. Intrastate Water Management & Development Section – Water Supply Reserve Account – Grant Applications

- a. Upper Arkansas Water Conservancy District – UAWCD Hyrdologic Water Balance Study

Tape 1, Track 4 00:32:56 – 00:38:46

- b. City of Pueblo – Bedload/Sediment Collection and Removal Technology – Fountain Creek

Tape 1, Track 4 00:38:47 – 00:48:39

- c. Fort Morgan Reservoir and Irrigation Company (FMRICo) – FMRICo Recharge & Wetlands Project

Tape 1, Track 4 00:48:40 – 00:52:59

Action: A motion was made by John McCLOW and seconded by Eric Wilkinson to approve staff recommendations for this applicant. This applicant has also applied for a loan through the CWCB loan program and the stipulations listed in the loan request are also conditional for this grant request. The motion was approved unanimously (9-0).

- d. Florida Mesa Canal Companies – Canal Seepage Reduction Program

Tape 1, Track 4 00:52:59 – 01:12:36

Action: A motion was made by John McCLOW and seconded by Carl Trick to postpone consideration of this agenda item until the November 2009 Board meeting. The Board also instructed CWCB staff to advise the applicants of the Boards concerns and request that the applicant be present to address the Board on the issues discussed. The motion was approved unanimously (9-0).

- e. La Plata Archuleta Water District – la Plata Archuleta Water District Permitting

Tape 1, Track 4 01:12:35 – 01:19:00

- f. Lower Blanco River Restoration – Lower Blanco River Restoration Project

Tape 1, Track 4 01:19:01 – 01:23:29

- g. San Luis Valley Resource Conservation & Development Council – Lower Willow Creek Restoration Project

Tape 1, Track 4 01:23:30 – 01:28:20

- h. Trinchera Irrigation Company – Sangre de Cristo Trinchera Diversion Canal Restoration

Tape 1, Track 4 01:28:21 – 01:31:58

- i. South Metro – Aquifer Recharge Pilot Study

Tape 1, Track 4 01:31:59 – 01:34:37

- j. Douglas County Water Resource Authority – Appraisal & Feasibility Studies Required for Federal Assistance Under the Rural Water Supply Act

Tape 1, Track 4 01:34:38 – 01:38:36

Tape 1, Track 4 01:54:53 – 01:56:32

Action: A motion was made by John McCLOW and seconded by Eric Wilkinson to approve staff recommendation that the Board approve funding of all statewide applications, listed

above, with the exception of item 11d, per staff's recommendation listed in the board memos (11c and 11d are listed above with amended recommendations). The motion was approved unanimously (9-0).

k. Colorado Rio Grande Restoration Foundation – Rio Grande Conservation Reserve Enhancement Program (CREP) Phase II - Implementation

Tape 1, Track 4 00:00:00 – 00:14:07

Action: A motion was made by Travis Smith and seconded by Carl Trick to approve staff recommendation that the Board approve funding up to \$31,500 from the Rio Grande Basin Account to fund the Rio Grande Conservation Reserve Enhancement Program (CREP) Phase II – Implementation, contingent on resolution of the items in the issues/additional needs section of the board memo. Mike King was not available for this motion. The motion was approved unanimously (8-0).

l. San Juan Resource Conservation and Development – Animas Watershed Project – Animas River Needs Assessment

Tape 1, Track 4 00:14:08 – 00:18:55

Action: A motion was made by April Montgomery and seconded by Barbara Biggs to approve staff recommendation that the Board approve funding up to \$57,000 from the Southwest Basin Account to partially fund the Animas River Needs Assessment for the San Juan Resource Conservation and Development – Animas Watershed Project (AWP), contingent on resolution of the items in the issues/additional needs section of the board memo. The motion was approved unanimously (9-0).

m. Colorado Foundation for Water Education – Headwaters Magazine – January 2010

Tape 1, Track 4 00:18:56 – 00:25:16

Action: A motion was made by Travis Smith and seconded by Eric Wilkinson to approve staff recommendation that the Board fund up to \$20,000 from the Yampa/White Basin Account to help complete this project. The motion was approved unanimously (9-0).

n. Community Agriculture Alliance, Inc. – Development and Implementation of Water Forums, Workshop, and/or Tours

Tape 1, Track 4 00:25:17 – 00:29:33

Action: A motion was made by Travis Smith and seconded by Reed Dils to approve staff recommendation that the Board fund up to \$10,000 from the Yampa/White Basin Account to help complete this project. The motion was approved unanimously (9-0).

o. Bear River Reservoir Company – Stillwater Reservoir Seepage Project

Tape 1, Track 4 00:29:34 – 00:32:55

Action: A motion was made by Carl Trick and seconded by Barbara Biggs to approve staff recommendations that the Board approve funding up to \$189,000 from the Yampa/White Basin Account to help complete this project. The motion was approved unanimously (9-0).

RECESSED 5:30 p.m.

Wednesday, September 16, 2009
Call to Order 8:08 a.m.

A regular meeting of the Colorado Water Conservation Board (CWCB) was convened at the Steamboat Grand Hotel, 2300 Mt. Werner Circle, Steamboat, Colorado 80487. The meeting was called to order by Chair, Geoff Blakeslee. Eight voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were Chair Geoff Blakeslee, Vice Chair Eric Wilkinson, Carl Trick, Travis Smith, John McClow, Reed Dils, Barbara Biggs, April Montgomery, and Mike King, representing Harris Sherman. Non-voting, *Ex-Officio* members present or represented were CWCB Director Jennifer Gimbel, the State Engineer, Dick Wolfe, Senior Assistant Attorney General Patrick Kowaleski, and Alex Davis, Assistant Director of Water for the Department of Natural Resources. There were nine total voting members present.

12. Basin Director Report

a. Colorado River (Mainstem) Basin Director Report

Action: No report on this item.

b. Yampa-White River Basin Director Report – Chair Geoff Blakeslee Reporting

Tape 1, Track 5 00:00:00 – 00:03:02

Action: Information item only. No action was required by the Board.

c. San Juan/San Miguel-Dolores River Basin – April Montgomery Reporting

Tape 1, Track 5 00:03:03 – 00:07:04

Action: Information item only. No action was required by the Board. Director Montgomery requested a Resolution honoring Randy Seaholm for his 33-years of service to the CWCB be included in the record.

d. Gunnison River Basin – John McClow Reporting

Tape 1, Track 5 00:07:05– 00:10:20

Action: Information item only. No action was required by the Board.

e. Basin Director Report – North Platte River Basin Director Report – Carl Trick Reporting

Tape 1, Track 5 00:10:21 – 00:14:10

Action: Information item only. No action was required by the Board.

f. South Platte River Basin Director Report – Vice Chair Eric Wilkinson Reporting

Tape 1, Track 5 00:14:11 – 00:21:22

Action: Information item only. No action was required by the Board.

g. Arkansas River Basin Director Report – Reed Dils Reporting

Tape 1, Track 5 00:21:23 – 00:28:17

Action: Information item only. No action was required by the Board.

h. City and County of Denver Director Report – Barbara Biggs Reporting

Tape 1, Track 5 00:28:18 – 00:33:36

Action: Information item only. No action was required by the Board.

i. Rio Grande River Basin Director Report – Travis Smith Reporting
Tape 1, Track 5 00:33:37 – 00:42:22
Action: Information item only. No action was required by the Board.

13. Watershed Protection and Flood Mitigation Section – CWCB Floodplain Rules and Regulations - Status Update
Tape 1, Track 5 00:46:25 - 00:49:25
Action: Information item only. No action was required by the Board.

14. Office of Water Conservation & Drought Planning Section – Presentation on the Proposed approach for the Water Conservation Strategy
Tape 1, Track 5 00:49:26 – 01:12:46
Action: Information item only. No action was required by the Board.

15. Office of Water Conservation & Drought Planning Section – CWCB Criteria and Guidelines for the Rainwater Harvesting Pilot Project Program Guidelines
Tape 1, Track 5 01:12:47 – 02:07:02
Action: Information item only. No action was required by the Board.

16. Office of Water Conservation & Drought Planning Section – Presentation of Utility Water Loss: A Review of Current Practices in Colorado, Requirements in Other States, and New Procedures and Tools
Tape 1, Track 5 02:07:03 – 02:32:39
Action: Information item only. No action was required by the Board.

17. Stream and Lake Protection Section – Authorization to Proceed to Trial – Case No. 2-06CW32: Application of the Upper Arkansas Water Conservancy District
Tape 1, Track 5 03:10:51 – 03:16:07
Tape 1, Track 7 00:00:41 – 00:01:20
Action: A motion was made by Eric Wilkinson and seconded by Reed Dils s to approve staff recommendation that the Board authorize staff to proceed to trial to protect the Board’s instream flow water rights in the event that staff and the Attorney General’s Office is unable to reach a settlement with the applicant. The motion was approved unanimously (9-0).

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.*

Executive Session Items

- a. Case No. 2-06CW32: Application of the Upper Arkansas Water Conservancy District
- b. Case No. 5-08CW073; Application of the Town of Breckenridge RICD

Tape 1, Track 5 03:16:08 - 03:19:08
Action: A motion was made by Carl Trick and seconded by Barbara Biggs to go into Executive Session. The motion was approved unanimously (9-0).

A motion was made by Eric Wilkinson and seconded by Carl Trick to go out of Executive Session. The motion was approved unanimously (9-0).

19. Report from Executive Session

Tape 1, Track 7 00:00:0 – 00:00:40

Action: Assistant Attorney General Patrick Kowaleski reported that the Board went into Executive Session, pursuant to C.R.S. Section 24-6-402(3)(a)(II) for discussion of Agenda Items 18a and 18b, and that the discussion was limited to those items.

20. Office of Water Conservation & Drought Planning Section – Drought Mitigation and Response Plan Revision

Tape 1, Track 7 00:01:56 – 00:23:37

Action: Information item only. No action was required by the Board.

21. State Engineer's Office – Erin Light of Division 6 Reporting

Tape 1, Track 5 02:32:39 - 03:06:10

Action: Information item only. No action was required by the Board.

22. Stream and Lake Protection Section – Instream Flow Recommendations on Dominguez Creek and Little Dominguez Creek in Water Division 4

Tape 1, Track 7 00:23:38 – 00:57:39

Action: Information item only. No action was required by the Board.

23. Stream and Lake Protection Section – Instream Flow Recommendations on Morrison Creek in Water Division 6

Tape 1, Track 7 00:57:40 – 00:58:37

Tape 1, Track 7 01:27:41 – 02:22:50

Action: Information item only. No action was required by the Board.

24. Stream and Lake Protection Section – Proposed Water Rights Acquisition on Washington Gulch and the Slate River in Water Division 4 – This item was removed from the agenda.

25. Water Supply Protection Section – Wild and Scenic Rivers

Tape 1, Track 7 00:58:38 – 01:27:40

Action: Information item only. No action was required by the Board.

26. Water Supply Protection Section – Species Conservation Trust Fund – Uncompahgre Valley Water Users Association – Salinity/Selenium Control Project

Tape 1, Track 7 02:22:51 – 02:31:45

Action: A motion was made by John McClow and seconded by Barbara Biggs to approve staff recommendation that the Board concur in providing the authorized SCTF funds for the Upper Colorado River Recovery Program identified in HB09-1289 to the UVWUA for use in lining .3 miles of the EC canal for salinity/selenium reduction purposes. Eric Wilkinson and Mike King were not available for this motion. The motion was approved unanimously (7-0).

ADJOURNED 3:55 p.m.