

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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May 18-19, 2010 Agenda

A meeting of the Colorado Water Conservation Board (CWCB) will commence on Tuesday, May 18, 2010, at 8:00 a.m. and continue through Wednesday, May 19, 2010. This meeting will be held at 1580 Logan Street, Suite 610, Denver, CO 80203.

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

Tuesday, May 18, 2010

CWCB Call to Order

8:00 a.m.

1. Election of Officers and Swearing in New and Returning Board Members (8:00 – 8:15)
2. Review and Approval of Agenda (8:15 – 8:20)
3. Review and Approval of Meeting Minutes (8:20 – 8:25)
 - a. January 26-27, 2010 Board Meeting
 - b. March 29, 2010 Special Telephonic Meeting
4. Approve and/or Remove Items from Consent Agenda (8:25 – 8:30)
5. Future Board Meeting Dates – Informational item only. No action is required by the Board (8:30 – 8:35)
 - a. July 20-21, 2010 Salida
 - b. September 14-15, 2010 Grand Junction (in conjunction with the Colorado River District Water Seminar, September 16, 2010)
 - c. November 16-17, 2010 Denver
 - d. January 25-26, 2011 Denver (in conjunction with Colorado Water Congress)
6. Directors' Reports (8:35 – 9:35)
 - a. DNR Executive Director
 - b. IBCC Director
 - c. Agriculture Commissioner
 - d. CWCB Director – Resolutions Recognizing Ray Wright and Chips Barry
 - e. State Engineer
 - f. Division of Wildlife
 - g. Water Resource and Power Development Authority
7. Interstate & Federal Section – WaterSmart Water Bank Grant Application – *The Board will be updated on a recent WaterSmart grant application.* (9:35 – 9:55)

BREAK

9:55 – 10:05

8. Interstate & Federal Section/Stream and Lake Protection Section – Wild and Scenic Rivers – *Staff will update the board on the various Wild and Scenic Rivers processes. The Board may be asked to approve stakeholder proposals.* (10:05 – 10:20)
9. Finance Section/Interstate & Federal Section – Animas-La Plata (ALP) State's Pool Allocation Update (10:20 – 10:40)
10. Finance Section – Financial Matters (10:40 – 11:10)
 - a. Construction/Severance Tax Fund Cash Balance Report
 - b. Loan Lending Rates for FY 2010/11

11. Finance Section – Revisions to Existing Loans (11:10 – 11:30)
 - a. Owl Creek Reservoir Company – Owl Creek Reservoir Rehabilitation (Increase)
 - b. Tom Hill – McElroy Reservoir Rehabilitation (Loan Restructure)
 - c. City of Aurora – Prairie Waters Project (Loan Restructure)

LUNCH 11:30 – 12:30

12. Stream and Lake Protection Section – San Miguel River Instream Flow Recommendation – *The Board will hear a status report on the San Miguel River Water users’ efforts to identify their projected water needs and develop water court applications to meet those needs.* (12:30 – 1:00)
13. Stream and Lake Protection Section – Injury with Mitigation – Case No. 4-03CW108: *Application of Upper Gunnison River Water Conservancy District, Lake San Cristobal - Pursuant to SF Rule 8i (3), the Board will be asked to conduct a preliminary review of the proposed pre-trial resolution of this case to determine whether the natural environment of Lake San Cristobal in the Gunnison River Basin could be preserved to a reasonable degree with the proposed injury if the applicant provides the proposed mitigation. This is the first of two required meetings for the Board to approve an Injury with Mitigation proposal.* (1:00 – 1:30)
14. Finance Section – New Project Loans (1:30 – 2:30)
 - a. Consolidated Extension Canal Company – Emergency Repair of the Las Animas Consolidated Canal Diversion Dam
 - b. Las Animas Consolidated Canal Company – Emergency Repair of the Las Animas Consolidated Canal Diversion Dam
 - c. Parkville Water District – Canterbury Tunnel Repair
 - d. City of Monte Vista – Augmentation Water Rights Acquisition
15. Finance Section – Future Project Loan Review and Board Approval (2:30 – 2:50)

BREAK 2:50 – 3:05

16. Watershed Protection and Flood Mitigation Section – Update on Proposed Floodplain Rules (3:05 – 3:25)
17. Stream and Lake Protection Section – Uncontested 2010 Instream Flow Appropriations - *Staff will ask the Board to take final action on the following 21 uncontested streams.* (3:25 – 3:40)

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	Blue Creek (Increase to existing ISF right) (<i>Little Blue Creek to Morrow Point Reservoir</i>)	Gunnison	BLM
4	South Willow Creek (<i>Sugar Creek to Blue Mesa Reservoir</i>)	Gunnison	BLM
4	Alpine Gulch (<i>headwaters to Henson Creek</i>)	Hinsdale	BLM
4	Spring Creek (<i>headgate Creede Trail Ditch to confl with Cebolla Creek</i>)	Hinsdale	BLM
4	Cebolla Creek (<i>Brush Creek to Spring Creek</i>)	Hinsdale / Gunnison	BLM
4	Cebolla Creek (<i>Spring Creek to USGS gage</i>)	Hinsdale / Gunnison	BLM
4	Cochetopa Creek (<i>Nutras Creek to Pauline Creek</i>)	Saguache	BLM
4	East Beaver Creek (<i>headwaters to Beaver Creek</i>)	Saguache	BLM
4	Cochetopa Creek (Increase to existing ISF right) (<i>Alkali Creek to Tomichi Creek</i>)	Saguache / Gunnison	BLM
6	Indian Creek (<i>headwaters to confl headgate West Arapahoe Feeder Ditch 2</i>)	Jackson	BLM
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	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>Headwaters to Decker Ditch</i>)	Routt/ Moffat	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)

18. Stream and Lake Protection Section – Contested 2010 Instream Flow Appropriations – *Staff will ask the Board to designate a Hearing Officer and set hearing dates for the following streams. (3:40 – 3:55)*

Water Division	Stream Name	County(ies)	Recommender(s)
4	Tabeguache Creek (upper)	Montrose	BLM
4	Tabeguache Creek (lower)	Montrose	BLM
6	Morrison Creek (upper)	Routt	CDOW
6	Morrison Creek (lower)	Routt	CDOW, James Larson, Dequine Family L.L.C, Flying Diamond Resources

19. Stream and Lake Protection Section – Contested 2009 ISF Appropriations - *Staff will ask the Board to designate a Hearing Officer and set hearing dates for the following streams (3:55 – 4:05)*

Water Division	Stream Name	County(ies)	Recommender(s)
2	Cucharas Creek	Huerfano	CDOW
2	Huerfano River (lower)	Huerfano	CDOW
2	Huerfano River (upper)	Huerfano	CDOW

20. Stream and Lake Protection Section – Proposed Water Rights Acquisition on the Alamosa River – *Staff will ask the Board to accept a donation of a water right on the Alamosa River from the Alamosa Riverkeepers to preserve and improve the natural environment of the Alamosa River to a reasonable degree. (4:05 – 4:25)*

21. Stream and Lake Protection Section – Authorization to Proceed to Trial (4:25 – 4:35)

- Case No. 5-08CW77: Application of Eagle River Water & Sanitation District – *Pursuant to ISF Rule 8j., the CWCB Staff will seek authorization to proceed to trial in this application for water rights and approval of a plan for augmentation.*
- Case No. 5-07CW262: Application of the Town of Minturn – *Pursuant to ISF Rule 8j., the CWCB Staff will seek authorization to proceed to trial in this application for change of water right.*
- Case No. 5-95CW272: Application of Colorado Springs and Aurora – *Pursuant to ISF Rule 8j., the CWCB Staff will seek authorization to proceed to trial in this application for water rights, change of water rights, and approval of a plan for augmentation.*

22. 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. (4:35 – 5:35)*

Executive Session Items

- Colorado River Basin Fund

- b. Grand Canyon Trust Litigation
 - c. Case No. 5-08CW77: Application of Eagle River Water & Sanitation District
 - d. Case No. 5-07CW262: Application of the Town of Minturn
 - e. Case No. 5-95CW272: Application of Colorado Springs and Aurora
 - f. U.S./Mexico Negotiations
 - g. Fish and Wildlife Mitigation Statute (section 37-60-122.2, C.R.S.)
 - h. Dominguez Canyon Wilderness Area Instream Flow Recommendations
 - i. Republic River Litigation
23. Report from Executive Session (5:35 – 5:40)

RECESS 5:40 p.m.

Wednesday, May 19, 2010

CWCB Call to Order 8:00 a.m.

24. Watershed Protection and Flood Mitigation Section – Southern Delivery System Fish and Wildlife Mitigation Plan (8:00 – 8:20)

25. Basin Directors' Reports (8:20 – 9:20)

- 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

26. Water Supply Planning Section – Colorado River Water Availability Planning Ranges and Update on Water Supply Planning Activities (9:20 – 10:20)

BREAK 10:20 – 10:35

27. Colorado/Wyoming Coalition and the Flaming Gorge Pipeline Project – Frank Jaeger presenting (10:35 – 11:05)

28. Water Supply Planning Section – WSRA Criteria and Guidelines (11:05 – 11:25)

29. Water Supply Planning Section – Water Supply Reserve Account – Grant Applications (11:25 – 12:25)

- a. Gunnison River Festival - 75 Ditch Diversion Improvements and Feature Enhancements
- b. Lake San Cristobal Water Activity Enterprise (LSCWAE) - Lake San Cristobal Outlet Structure
- c. Ducks Unlimited, Inc. - North Park Irrigated Meadow Conservation Program – Phase I
- d. The Colorado Rio Grande Restoration Foundation - 2009 Rio Grande Riparian Stabilization Project - Phase 4

- e. San Luis Peoples Ditch Company - San Luis Peoples Ditch Upgrade and Rehabilitation Project - Phase I
- f. Rio Grande Watershed Conservation and Education Initiative - Educating Today to Balance Tomorrow's Water Supplies & Needs
- g. El Paso County Water Authority/The Keystone Center - Flaming Gorge Project Task Force Assessment

LUNCH 12:25 – 1:25

- 30. Water Supply Planning Section – Proposed Change of Fiscal Agent for Water Supply Reserve Account Project: Lower Willow Creek Restoration Project (1:25 – 1:40)
- 31. Office of Water Conservation and Drought Planning Section – Status of the State Drought Mitigation and Response Plan Revision and Associated Work Products (1:40 – 2:00)
- 32. Office of Water Conservation and Drought Planning Section – Proposed Revisions to the Guidelines for the Office to Review and Evaluate Water Conservation Plans (2:00 – 2:30)
- 33. Colorado Foundation for Water Education – FY 2010/11 Scope of Work - Nicole Seltzer Presenting (2:30 – 2:45)

BREAK 2:45 – 3:00

- 34. Stream and Lake Protection Section – New Appropriation Recommendations in Water Division 4 - *Staff will ask the Board to declare its intent to appropriate the following two instream flow recommendations.* (3:00 – 5:00)

Stream Name	County (ies)	Recommender
Big Dominguez Creek	Mesa	BLM
Little Dominguez Creek	Delta	

ADJOURN 5:00 p.m.

CWCB Consent Agenda
May 18-19, 2010

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. Stream and Lake Protection Section – Statements of Opposition – The Board will be asked to ratify Statements of Opposition that have been filed by staff to protect instream flow and natural lake level water rights in the following cases:
 - a. Case No. 1-09CW270: Application of Genesee Water & Sanitation Dist.
 - b. Case No. 1-09CW272; 2-09CW142 and 5-09CW186: Application of Busk-Ivanhoe, Inc.
 - c. Case No. 1-09CW185: Application of Crystal Lakes Water & Sanitation Assn.
 - d. Case No. 2-09CW149: Application of Parkville Water District
 - e. Case No. 2-10CW002: Application of Pioneer Natural Resources USA, Inc., XTO Energy Inc., El Paso E&P Co., LP, and Red River Ranch Holdings LLC
 - f. Case No. 3-09CW034: Application of San Luis Valley Water Conservancy District
 - g. Case No. 4-09CW144: Application of Energy Fuels Resources Corp.
 - h. Case No. 4-09CW186: Application of Aldasoro Ranch Homeowners Co.
 - i. Case No. 4-09CW190 and Consolidated Cases 4-91CW127 and 4-98CW239: Application of San Miguel Valley Corp.
 - j. Case No. 5-09CW169: Application of Vail Assoc. & Holland Creek Metro. Dist.
 - k. Case No. 5-09CW173: Application of Daria Stowell Revocable Trust
 - l. Case No. 5-09CW187; 1-09CW278 and 2-CW143: Application of Freemont Pass Ditch Co.
 - m. Case No. 5-09CW188: Application of Freemont Pass Ditch Co.
 - n. Case No. 5-09CW192: Application of Upper Eagle Regional Water Authority
 - o. Case No. 5-09CW191: Application of Eagle River Water & Sanitation Dist.
 - p. Case No. 5-10CW043: Application of Summit County Bd of Commissioners
 - q. Case No. 6-09CW062: Application of City of Steamboat Springs
 - r. Case No. 6-09CW072: Application of Morrison Creek Metro. Water & San. Dist.
 - s. Case No. 7-10CW005: Application of BP America Production Co.
 - t. Case No. 7-10CW006: Application of Southern Ute Indian Tribe, BP America Production Co., XTO Energy Inc. and Samson Resources Company
 - u. Case No. 7-10CW007: Application of Four Star Oil & Gas, Chevron Midcontinent LP, XTP Energy Inc. and BP America Production Co.
2. Finance Section – Revisions to Existing Loans – The Lower Poudre Augmentation Company – Reservoir & Water Rights Purchase
3. Watershed Protection and Flood Mitigation Section - Flood Insurance Study - Boulder County, Colorado and Incorporated Areas - Prepared by the Federal Emergency Management Agency, October 2002.