

# STATE OF COLORADO

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## Colorado Water Conservation Board Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Tom Browning, Section Chief

DATE: July 8, 2010

SUBJECT: **Agenda Item 26, July 20-21, 2010 Board Meeting  
Chatfield Reservoir Reallocation Project  
(Water User Redistribution Agreement)**

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Bill Ritter, Jr.  
Governor

Mike King  
DNR Executive Director

Jennifer L. Gimbel  
CWCB Director

### **Background**

The purpose of the Chatfield Reservoir Reallocation Project (Project) is to convert flood control storage space in the existing federal reservoir, owned and operated by the U.S. Army Corps of Engineers (USACE), into joint-use water supply storage space for municipal, industrial, and agricultural uses. An original consortium of 16 Water Users entered into Letters of Commitment with the CWCB related to the reallocation of storage space in reservoir. The Contracts established a distribution of the proposed 20,600 acre-foot storage space based on an agreement developed and endorsed by the 16 Water Users. The Water Users were divided into an upstream group and downstream group to facilitate the distribution process.

At its July 2007 meeting in Craig, the CWCB approved an agreement on behalf of the Water Users to redistribute 100 AF of relinquished storage space by Hock Hocking, LLC. Later, the Board at its March 2008 meeting approved an agreement to redistribute 2,000 AF of storage space relinquished by Parker Water & Sanitation District (PWSD). All of the relinquished space, in both cases, was "purchased" by existing Water Users except that Mount Carbon Metro District acquired 400 AF of the PWSD space. The redistribution approvals were handled in accordance with the procedures outlined in the Letters of Commitment.

Currently, the City of Brighton has notified the CWCB in writing of its intent to relinquish its 1,425 AF of allocated space in the reservoir. Once again, the Water Users are in the process of developing a redistribution agreement for consideration and approval by the Board. At the time of this printing, final documents related to the proposed redistribution of Brighton's storage space are not available. Staff will update the Board on latest developments regarding the redistribution process and request conditional approval of the redistribution.

### **Staff Recommendation**

Staff recommends that the Board conditionally approve the Water Users redistribution agreement and related CWCB resolution (draft attached) for the redistribution of storage space in Chatfield Reservoir. Staff further recommends that the Board allow the CWCB Director to sign the CWCB resolution upon satisfactory execution of all necessary documents by the Water Users.

**CWCB Resolution**  
**\_\_\_\_\_, 2010**

**Storage Space Redistribution for the Chatfield Reservoir Reallocation Project**

WHEREAS, The Colorado Water Conservation Board (CWCB) entered into a “Feasibility Cost Share Agreement” with the Omaha District of the U.S. Army Corps of Engineers to investigate the feasibility of reallocating existing storage space within Chatfield Reservoir for water supply purposes; and

WHEREAS, the CWCB also entered into “Letters of Commitment” or inter-agency agreements related to the reallocation of storage space in Chatfield Reservoir with various water entities (Water Users) regarding the proposed reallocation of storage space in the reservoir and the proposal to “reassign a portion of the storage space in Chatfield Lake to join flood control-conservation purposes, including storage for municipal and industrial water supply, agriculture, and recreation and fishery habitat protection and enhancement”; and

WHEREAS, the Letters of Commitment were executed by the Water Users and established a distribution of the reallocation of storage space in Chatfield Reservoir as provided in the attached Exhibit A, which is a correct copy of the Exhibit A attached to each of the individual Letters of Commitment. The Water Users were divided into the Upstream and Downstream Groups as provided in Exhibit A; and

WHEREAS, the Letters of Commitment provided that if any Water User elected to opt out of its storage allocation in Chatfield Reservoir, it would provide written notice to all of the Water Users in that Water Users assigned group (the Upstream or Downstream Group) and each of the remaining Water Users within that group would have the option of acquiring their prorated share of the surrendered allocation; and

WHEREAS, as a result of previous transactions, the allocation set forth in Exhibit A has been modified and the current distribution of the reallocated storage space in Chatfield Reservoir is set forth in Exhibit B; and

WHEREAS, by letter dated March 22, 2010, the City of Brighton, a Water User within the Downstream Group, provided notice to the CWCB of its intent to opt out of its 1,425 acre-feet of allocation in Chatfield Reservoir (“Brighton’s Storage Allocation”) and of the proposed terms for acquisition of their surrendered allocation; and

WHEREAS, none of the remaining Water Users within the Downstream Group elected to acquire any of portion of Brighton’s Storage Allocation; and

WHEREAS, after the Downstream Users had elected not to acquire any portion of Brighton’s Storage Allocation, Brighton informed members of the Upstream Group that Brighton’s Storage Allocation remained available for users in the Upstream Group to acquire and three members of the Upstream Group, Centennial Water and Sanitation District, Castle Pines Metropolitan District and the Castle Pines North Metropolitan District (collectively the “Purchasers”) informed Brighton of their collective intent to acquire Brighton’s Storage Allocation, in the following amounts: (1) Centennial Water and Sanitation District – 1,181 acre

feet; Castle Pines Metropolitan District – 125 acre feet; and the Castle Pines North Metropolitan District – 119 acre feet.

WHEREAS, Brighton and the Purchasers have requested the CWCB approve the distribution of the Brighton's surrendered allocation to the Purchasers as a condition precedent to completing the acquisition of Brighton's surrendered allocation.

NOW THEREFORE BE IT RESOLVED by the Colorado Water Conservation Board:

1. Brighton is released from its Letter of Commitment related to the Reallocation of Storage Space in Chatfield Reservoir dated August 22, 2005. Brighton's rights and obligations in the reallocation of Chatfield Reservoir are terminated.
2. Brighton's Storage Allocation of 1,425 acre-foot allocation in Chatfield Reservoir will be re-distributed between Brighton and the Purchasers as set forth in Exhibit C. The CWCB expressly approves the distribution of Brighton's surrendered allocation as provided in Exhibit C. The proposed form of the assignments from Brighton to the Purchasers is attached as Exhibit D and this assignment instrument is approved by the CWCB. A Consent, Waiver and Release document is attached as Exhibit E for approval by all members of the Upstream Group, all members of the Downstream Group and the CWCB. The CWCB expressly approves revisions to Exhibit E that are mutually acceptable to the Water Users prior to its execution. The full and complete execution of the Consent, Waiver and Release by all Water Users and the CWCB is a condition of the transfer of Brighton's Storage Allocation to the Purchasers.
3. Exhibit F to this Resolution is a revised form of Exhibit B which reflects the revised total allocation for all Water Users which includes the redistribution of Brighton's Storage Allocation to the Purchasers. Payment of future costs and expenses by the Upstream and Downstream Groups, shall be based on the prorations as provided in Exhibit F.

#### CERTIFICATE

I certify that the foregoing is a true and correct copy of a resolution adopted by a majority vote of the members of the Colorado Water Conservation Board in regular session assembled at Glenwood Springs, Colorado, on the \_\_\_\_\_ day of July, 2010, at which quorum was present.

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Jennifer Gimbel, CWCB Director

**DRAFT DOCUMENT**