

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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DRAFT SUMMARY MINUTES AND RECORD OF DECISIONS September 13-14, 2011

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

Jennifer L. Gimbel
CWCB Director

A regular meeting of the Colorado Water Conservation Board (CWCB) was convened at the Ute Water Conservancy District offices, located at 2190 H ½ Road, Grand Junction, CO 81505. The meeting was called to order by Chair Eric Wilkinson. Nine voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were Chair Eric Wilkinson, Geoff Blakeslee, Barbara Biggs, John McCLOW, Alan Hamel, Travis Smith, Carl Trick, Mike King, and April Montgomery. Non-voting *ex officio* members present or represented were CWCB Director Jennifer Gimbel; Casey Shpall, Deputy Attorney General; and Dick Wolfe, State Engineer, Rick Cables Director of Colorado Parks and Wildlife. Alexandra Davis, Assistant Director for Water, Colorado Department of Natural Resources, and John Stulp, Special Policy Advisor to the Governor on Water, and Chair of the Interbasin Compact Committee, were also in attendance.

On the second day the meeting was called to order by Chair Eric Wilkinson. Nine voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present on the second day were Chair Eric Wilkinson, Geoff Blakeslee, Barbara Biggs, John McCLOW, Alan Hamel, Mike King, Travis Smith, April Montgomery, and Carl Trick. Non-voting *ex officio* members present or represented were Dick Wolfe, Director of the Division of Water Resources and Casey Shpall, Deputy Attorney General. Alexandra Davis, Assistant Director for Water, Colorado Department of Natural Resources was also in attendance. Mike King left early following lunch on the second day.

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 13, 2011

Finance Committee – 8:00 AM – 9:45 AM

Call to Order 10:04 AM

1. Review and Approval of Agenda

Track 1 00:24:29 – 00:24:53

Action: Carl Trick made a motion to accept the agenda, which was seconded by John McCLOW. The motion was approved unanimously (9-0).

2. Review and Approval of Meeting Minutes – July 12-13, 2011

Track 1 00:24:53 – 00:26:05

Action: Eric Wilkinson requested the revision of changing page five, first line, the removal of “Department of”, and the addition of “Colorado”. Geoff Blakeslee made a motion to approve the July 17 – 18, 2011 minutes with the specified revision, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

3. Approve and/or Remove Items from Consent Agenda

Track 1 00:26:05 – 00:26:40

Action: Travis Smith made a motion to accept the consent agenda, which was seconded by Barbara Biggs. The motion was approved unanimously (9-0).

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 the instream flow and natural lake water rights in the following cases:

- a. Case No. 2-08CW038: Application of Hill Ranches, Inc.
- b. Case No. 3-10CW031: Application of Charles W. Tidd and Barbara T. Tidd
- c. Case No. 4-10CW163: Application of O’Dell Land and Livestock, LLC
- d. Case No. 4-11CW48: Application of Lizard Head Wilderness, LLC
- e. Case No. 5-11CW88: Application of Michael and Janet Greene
- f. Case No. 5-11CW92: Application of Upper Eagle Regional Water Authority

2. Finance Section Prequalification Project List Update

- a. Twenty Two Road Lateral Company – Ditch Replacement
- b. City of Trinidad – North Lake Dam Rehabilitation
- c. Rio Grande Canal Water Users Association – Hydroelectric Project
- d. Eckhardt Farms Inc. – Water Rights Purchase

4. Future Board Meeting Dates

- a. **November 15-16, 2011** *Denver (possibly NCWCD office in Berthoud)*
- b. **January 23-24, 2012** *Denver (in conjunction with the CWC 1/25-27/12)*
- c. **March 20-21, 2012** *Denver*
- d. **May 15-16, 2012** *Glenwood Springs*
- e. **July 17-18, 2012** *Gunnison*

Track 1 00:26:05 – 00:28:23

Action: This was an informational item only. No Board action was required and nothing was changed.

5. Water Supply Planning Section – WSRA Grant Applications

Basin Fund Requests

- a. Painted Sky Development and Resource Council - Hartland Dam Improvements*
- b. Jackson County Water Conservancy District - Structures for Water Control: Headgates and Diversion*
- c. Lake Durango Water Authority - Source Water Infrastructure Project*
- d. The Friends of the Yampa - Yampa River Structures Project*

Statewide Fund Requests

- e. The Greenway Foundation - South Platte River Recreation and Habitat Improvement Preliminary Design*
- f. The Colorado Rio Grande Restoration Foundation and McDonald Ditch Company - Plaza Project Phase 2 - McDonald Ditch*
- g. Conejos Water Conservancy District - Platoro Reservoir Crest of Dam Repair*
- h. Sanchez Ditch & Reservoir Company - Sanchez Reservoir Rehabilitation - Phase I Assessment & Upgrade*
- i. Ducks Unlimited, Inc. - South Platte River Phreatophyte Control Pilot*
- j. Colorado State University Extension - Agricultural Weather Data Delivery Improvements to Uncompahgre Valley Irrigators*
- k. Pikes Peak Regional Water Authority - Basin Roundtable Project Exploration Committee: Flaming Gorge*

Track 1 **00:28:23 – 03:18:11**

Track 3 **00:00:00 – 01:08:53**

Action:

5a. Presentation by Todd Doherty. John McCLOW made a motion to approve staff recommendation, to fund up to \$53,100 from the Gunnison Basin Account to Painted Sky Development and Resource Council – Hartland Dam Improvements. April Montgomery seconded the motion and it was approved unanimously (9-0).

5b. Presentation by Greg Johnson. Carl Trick made a motion to approve staff recommendation, to fund up to 128,828 from the North Platte Basin Account to Jackson County Water Conservancy District – Structures for Water Control: Headgates and Diversion. Travis Smith seconded the motion and it was approved unanimously (9-0).

5c. Presentation by Greg Johnson. April Montgomery made a motion to approve staff recommendation, to fund up to \$50,000 from the Southwest Basin Account to Lake Durango Water Authority – Source Water Infrastructure Project. Travis Smith seconded the motion and it was approved unanimously (9-0).

5d. Presentation by Jacob Bornstein. Geoff Blakeslee made a motion to approve staff recommendation, to fund up to \$50,000 from the Yampa/White Basin Account to the Yampa River Structures Project. Alan Hamel seconded the motion and it was approved unanimously (9-0).

5e. Presentation by Jacob Bornstein. Barbara Biggs made a motion to approve staff recommendation of up to \$25,000 from the Metro Basin Account, \$25,000 from the South Platte Basin Account, and \$200,000 from the Statewide Account to help complete the South Platte River Recreation and Habitat Improvement Preliminary Design. Travis Smith seconded the motion and it was approved unanimously (9-0).

5f. Presentation by Greg Johnson. Travis Smith made a motion to approve staff recommendation of up to \$20,000 from the Rio Grande Basin Account and \$275,000 from the Statewide Account to help complete the Plaza Project – Phase 2: McDonald Ditch Implementation Project. Carl Trick seconded the motion and it was approved unanimously (9-0).

5g. Presentation by Greg Johnson. Travis Smith made a motion to approve staff recommendation of up to \$15,000 from the Rio Grande Basin Account and \$135,000 from the Statewide Account to help complete the Platoro Reservoir Crest of Dam Repair. Carl Trick seconded the motion and it was approved unanimously (9-0).

5h. Presentation by Greg Johnson. Travis Smith made a motion to approve staff recommendation of up to \$10,000 from the Rio Grande Basin Account and \$85,000 from the Statewide Account to help complete the Sanchez Reservoir Rehabilitation - Phase I Assessment & Upgrade. Barbara Biggs seconded the motion and it was approved unanimously (9-0).

5i. Presentation by Todd Doherty. Barbara Biggs made a motion to approve staff recommendation of up to \$35,000 from the South Platte Basin Account and \$30,000 from the Statewide Account to help complete the South Platte River Phreatophyte Control Pilot project. Geoff Blakeslee seconded the motion and it was approved unanimously (9-0).

5j. Presentation by Todd Doherty. John McCLOW made a motion to approve staff recommendation of up to \$35,000 from the Statewide Account and \$77,000 from the Gunnison Basin Account to help complete Agricultural Weather Data Delivery Improvements to Uncompahgre Valley Irrigators project. Carl Trick seconded the motion and it was approved unanimously (9-0).

5k. This item was discussed on both days of the board meeting. The record of discussion can be found on Track 1 00:28:23 – 03:18:11 and Track 3 00:00:00 – 01:08:53. Presentation by Eric Hecox. John McCLOW made a motion to postpone the vote on this agenda item until the following day to allow staff and the grant requestor to modify the staff recommendation based on the discussion on Tuesday. Alan Hamel seconded the motion and it was approved unanimously (9-0). Eric Hecox presented the redrafted staff recommendation on the second day. John McCLOW made a motion to approve the modified staff recommendation of up to \$72,000, \$50,000 from the Statewide Account, \$8,700 from the Metro account, \$5,300 from the Arkansas account, \$2,000 from the South Platte account, \$2,000 from the Gunnison account, \$2,000 from the Colorado account, \$1,000 from the Rio Grande account, and \$1,000 from the Southwest account for the Basin Roundtable Project Exploration Committee to examine a Flaming Gorge Project contingent on resolution of the items in the Issues/Additional Needs section in addition to Approval of up to \$100,000 from the Statewide Account conditioned on successful completion of Task 3, receiving Basin Roundtable feedback on the final deliverable, and Board approval of recommended next steps, if appropriate. Barbara Biggs seconded the motion and it was approved unanimously (9-0).

6. San Miguel ISF Hearing

Track 1 00:19:45 – 06:51:19

Action: Casey Shpall made a recommendation on of the manner in which to conduct the hearing. Carl Trick made a motion to adopt the method suggested by Casey Shpall, which was seconded by Alan Hamel. The motion was approved unanimously (9-0). Representatives of the Parties to the hearing gave presentations, and the Board heard public comment on the proposed ISF appropriation. After hearing all presentations and comments, the Board deliberated on the proposed ISF appropriation. April Montgomery made a motion to approve the staff recommendation, which was seconded by Geoff Blakeslee. The motion was approved (8-1). Carl Trick voted against the motion.

7. Basin Directors' Reports

Track 3 01:08:53 – 01:47:56

a. Colorado River (Mainstem) Basin Director's Report

Action: Russell George was unavailable to give his report. This was an informational item only. No Board action was required.

- b. **San Juan/San Miguel-Dolores River Basin Director's Report** – April Montgomery was not present to give her report.

Action: This was an informational item only. No Board action was required.

- c. **Gunnison River Basin Director's Report** – John McClow reporting.

Action: This was an informational item only. No Board action was required.

- d. **North Platte River Basin Director's Report** – Carl Trick reporting.

Action: This was an informational item only. No Board action was required.

- e. **South Platte River Basin Director's Report** – Eric Wilkinson reporting.

Action: This was an informational item only. No Board action was required.

- f. **Arkansas River Basin Director's Report** – Alan Hamel reporting.

Action: This was an informational item only. No Board action was required.

- g. **City and County of Denver Director's Report** – Barbara Biggs reporting.

Action: This was an informational item only. No Board action was required.

- h. **Rio Grande River Basin Director's Report** – Travis Smith reporting.

Action: This was an informational item only. No Board action was required.

- i. **Yampa – White River Basin Director's Report** – Geoff Blakeslee reporting.

Action: This was an informational item only. No Board action was required.

8. Final Action on Colorado River Instream Flow

Track 3 **01:47:56 – 02:03:38**

Action: Presentation by Jeff Baessler and Linda Bassi, and by Roy Smith with the Bureau of Land Management. Barbara Biggs made a motion to accept the staff recommendation with the addition that “the board will set the appropriation date at the November CWCB Board Meeting”. John McClow seconded the motion and it was approved unanimously (9-0).

9. ISF Water Acquisitions for Colorado River Cooperative Agreement

Track 3 **02:03:38 – 02:54:00**

Action: Presentation by Kaylea White and Linda Bassi and Paul Benington with the AG's Office. This was an informational item only. No Board action was required.

10. Finance Section/Interstate & Federal Section – Animas-La Plata (A-LP) State's Pool Allocation – Update

Track 3 **03:19:26 – 03:24:08**

Action: Presentation by Ted Kowalski. This was an informational item only. No Board action was required.

11. Chatfield Reservoir Reallocation – Status Report

Track 3 **05:45:10 – 05:51:34**

Action: Presentation by Tom Browning. This was an informational item only. No Board action was required.

**12. Stream and Lake Protection Section — Injury with Mitigation — Case No. 6-05CW23:
Application of Deerwood Service Company**

Track 3 05:51:34 – 06:02:59

Action: Presentation by Linda Bassi. Geoff Blakeslee made a motion to approve the staff recommendation, with the provision that staff move forward after working with the Division Engineer and or the applicant to develop a method of enforcement. Travis Smith seconded the motion and it was approved unanimously (9-0).

13. Presentation from Mesa

Track 3 03:09:54 – 03:19:26

Action: Presentation by Gigi Richard with Colorado Mesa University. This was an informational item only. No Board action was required.

14. Joint Meeting with the Colorado River Water District

Track 3 03:24:08 – 04:05:56

Action: This was an informational item only. No Board action was required.

15. 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.*

Track 3 04:05:56 – 04:08:11

Action: Presentation by Casey Shpall, Deputy Attorney General. This was an informational item only. No action was required by the Board. Barbara Biggs made a motion to go into Executive Session, which was seconded by Geoff Blakeslee. The motion was approved unanimously (9-0).

16. Executive Session Items

Executive Session 4 00:00:00 – 00:39:43

Action: Mike King left prior to Executive Session. John McClow recused himself for the discussion of item 16a. Travis Smith made a motion to leave executive session, which was seconded by Alan Hamel. The motion was approved unanimously (8-0).

17. Report from Executive Session

Executive Session 00:00:00 – 01:04:36

Action: Casey Shpall reported that the items discussed in Executive Session were the items listed in the agenda under Agenda Item 16. No Board actions were taken during executive session.

**18. Office of Water Conservation and Drought Planning - Proposed Guidelines Regarding the Reporting of Water Use and Conservation Data by Covered Entities –
Implementation of HB10-1051**

Track 3 06:02:59 – 06:38:09

Action: Presentation given by Veva Deheza. This was an informational item only. No Board action was required.

19. Finance Section – Financial Matters

- a. *Projections and Cash Balance Report for the Construction Fund and Severance Tax Perpetual Base Account.*

Track 3 **06:38:09 – 06:46:05**

Action: Presentation given by Tim Feehan. This was an informational item only. No Board action was required.

20. Finance Section – Construction Fund and Severance Tax Trust Perpetual Base Account – New Loans. (3:05 – 3:50)

- a. *Lake Canal Reservoir Company – North Gray Reservoir Rehabilitation*
- b. *The Jackson Ditch Company – Check Dam Rehabilitation*
- c. *Tri-County Water Conservancy District – Ridgway Reservoir Micro-Hydro*

Track 3 **06:46:05 – 07:10:13**

Track 4 **00:00:00 – 15:00:00**

Action:

20a. Presentation by Anna Mauss. Travis Smith made a motion to approve staff recommendation, that the Board approve a loan not to exceed \$116,625 (\$115,470 for project costs and \$1,155 for the 1% Loan Service Fee) from the Construction Fund to the Lake Canal Reservoir Company for engineering and construction costs related to the Rehabilitation of North Gray Reservoir Project. The loan terms shall be 30 years at a blended-restricted reservoir interest rate of 2.10% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. The motion was seconded by Carl Trick and it was approved unanimously (8-0).

20b. Presentation by Ryan Edwards. Travis Smith made a motion to approve staff recommendation, that the Board approve a loan, from the Construction Fund, not to exceed \$81,810 (\$81,000 for project costs and \$810 for the 1% Loan Service Fee) to the Jackson Ditch Company for the Check Dam Rehabilitation Project. The loan terms shall be 30 years at a blended interest rate of 3.60% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Barbra Biggs seconded the motion and it was approved unanimously (8-0).

20c. Presentation by Ryan Edwards. John McClow made a motion to approve the staff recommendation, that the Board approve a loan, from the Construction Fund, not to exceed \$9,090,000 (\$9,000,000 for project costs and \$90,000 for the 1% Loan Service Fee) to the Tri-County Water Conservancy District, acting by and through its Water Enterprise, for the Ridgway Reservoir Micro-Hydro Project. The loan terms shall be 30 years at the hydroelectric rate of 2.0% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5, staff further recommends that no funds be dispersed prior to the following conditions being satisfied: Execution of the Lease of Power Privilege, Execution of the Power Purchase Agreement, Execution of the loan contract with the Colorado Water Resources and Power Development Authority, A 404 Permit from the Corps of Engineers, or a letter from the Corps stating that a 404 Permit is not required, An interconnection agreement between the District and San Miguel Power Association or Tri-State Generation and Transmission Association. Alan Hamel seconded the motion and it was approved unanimously (8-0).

21. Directors' Reports

- a. **DNR Executive Director** – Report by Alex Davis.

Track 4 **00:15:00 – 00:21:34**

Action: This was an informational item only. No Board action was required.

- b. **IBCC Director** – Report by John Stulp.

Track 4 00:21:34 – 00:24:54

Action: This was an informational item only. No Board action was required.

- c. **Agriculture Commissioner** – John Salazar was not present. No report was given.

Action: This was an informational item only. No Board action was required.

- d. **CWCB Director** – Report by Jennifer Gimbel.

Track 4 00:24:54 – 00:34:32

Action: This was an informational item only. No Board action was required.

- e. **State Engineer** – Report by Dick Wolfe.

Track 4 00:34:32 – 00:41:06

Action: This was an informational item only. No Board action was required.

- f. **Colorado Parks and Wildlife** – Tom Remington was not present. No report was given.

Action: This was an informational item only. No Board action was required.

- g. **Water Resource and Power Development Authority** – Michael Brod was not present. No report was given other than the report provided in the board notebook.

Action: This was an informational item only. No Board action was required.

ADJOURN

Track 4 00:34:32 – 00:41:40

Action: Alan Hamel made a motion to adjourn the September CWCB Board Meeting, which was seconded by John McClow. The motion was approved unanimously (8-0).