

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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November 15 - 16, 2011 Board Meeting Agenda

A meeting of the CWCB will be held on Tuesday, November 15, 2011 commencing at 8 a.m. and continuing through Wednesday, November 16, 2011. The meeting will be held at the Northern Water Conservancy District offices located at 220 Water Ave, Berthoud, CO 80513. A Colorado River/Severance Tax Trust Fund Operational Account Workshop will also be held during the afternoon of November 14th from 1:00 p.m. – 5:00 p.m.

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

Jennifer L. Gimbel
CWCB Director

The CWCB posts notices 30 days in advance of each regularly scheduled meeting. Notices for special meetings are posted on the website typically 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 please visit: <http://cwcb.state.co.us/Pages/CWCBIBCCInsider.aspx>.

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. Any known changes to the agenda 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 website at www.cwcb.state.co.us.

The CWCB's meetings are made available through live audio streaming, although Board workshops are not. 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. Listeners must have a program on their computer or mobile device that handles streaming media (such as Windows Media Player, RealPlayer or similar) in order to hear the audio broadcast.

PowerPoint presentations are also being made available to the public. To watch presentations that accompany agenda items, click the "Watch Presentations" link on the CWCB website homepage. You will encounter a few dialogue 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.

The CWCB encourages citizens to express their views and provide feedback to the Board on the agenda items. This can be done by sending an email to Steve.Wolff@state.co.us, by sending a letter to a Board member or to the Chair of the Board, 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 Steve Wolff at 303-866-3441, Ext. 3242. All programs, services, and activities of the CWCB are operated in compliance with the Federal Americans with Disabilities Act (ADA).

Monday, November 14, 2011

Board Workshop (1:00 – 5:00)

1. *Colorado River Water Availability Study*
2. *Colorado River Cooperative Agreement Water Acquisition*
3. *Severance Tax Trust Fund Operational Account – Grant Program Management Review*

Tuesday, November 15, 2011

CWCB Call to Order 8:00 AM

1. Review and Approval of Agenda (8:00 – 8:05)

2. Review and Approval of Meeting Minutes – September 13 - 14, 2011 Board Meeting (8:05 – 8:10)

3. Approve and/or Remove Items from Consent Agenda (8:10 – 8:15)

4. Future Board Meeting Dates – *Informational item only. No action is required by the Board. The Board Coordinator will check available locations listed below and report back to the CWCB Director.* (8:15 – 8:20)

- | | |
|-------------------------------|--|
| a. <i>January 23-24, 2012</i> | <i>Denver (in conjunction with the CWC 1/25-27/12)</i> |
| b. <i>March 20-21, 2012</i> | <i>Denver</i> |
| c. <i>May 15-16, 2012</i> | <i>Glenwood Springs</i> |
| d. <i>July 17-18, 2012</i> | <i>Gunnison</i> |

5. 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 Parks and Wildlife*
- g. *Water Resource and Power Development Authority*

6. Stream and Lake Protection Section – Colorado River Cooperative Agreement Instream Flow Water Acquisition (9:20 – 9:40)

– Staff will ask the Board to accept the interests in water from Grand County and Denver as part of implementing the CRCA and Learning by Doing Cooperative Effort.

7. Stream and Lake Protection Section – Appropriation Date for Colorado River Instream Flow Recommendations in Water Division 5 (9:40 – 9:50)

– Staff will ask the Board to claim an appropriation date for the ISF water rights on the Colorado River appropriated by the Board at its July 2011 meeting.

8. Stream and Lake Protection Section – Notice of 2012 Instream Flow Recommendations in Water Divisions 1, 2, 3, 4, 5 and 6 (9:50 – 10:00)

– Pursuant to ISF Rule 5c., the CWCB is providing notice that the following streams are being considered for instream flow appropriations in 2012. At the January or March 2012 CWCB meeting, staff may request the Board to form its intent to appropriate ISF water rights on some or all of these streams.

| Div | Name | County | Recommender(s) |
|------------|--|-----------------|-----------------------|
| 1 | North Clear Creek <i>Confl. Chase Gulch to Confl. Clear Creek</i> | Gilpin | CDPHE, CPW |
| 1 | Forrester Creek <i>Headwaters to Forrester Creek Ditch Headgate</i> | Larimer | BLM |
| 1 | Grace Creek <i>Confl. NF & SF Grace Creek to Grace Creek Ditch Headgate</i> | Larimer | BLM |
| 1 | Stuck Creek <i>Headwaters to Warren Ditch Headgate (increase)</i> | Larimer | BLM |
| 1 | Pole Creek <i>Headwaters to Confl. Johnson Creek (increase)</i> | Larimer | BLM |
| 1 | Fish Creek <i>Confl. Unnamed Tributary to Confl. Johnson Creek (increase)</i> | Larimer | BLM |
| 1 | Johnson Creek <i>Confl. Unnamed Tributary to Confl. Fish Creek</i> | Larimer | BLM |
| 1 | Johnson Creek <i>Confl. Fish Creek to Confl. Pole Creek</i> | Larimer | BLM |
| 1 | Johnson Creek <i>Confl. Pole Creek to Colorado-Wyoming border (increase)</i> | Larimer | BLM |
| 2 | Apishapa River <i>Headwaters to confl. Herick Canyon Creek</i> | Las Animas | CPW |
| 2 | West Beaver Creek <i>Confl. Douglas Gulch to Confl. East Beaver Creek</i> | Fremont, Teller | CPW |
| 2 | Beaver Creek <i>Confl. East & West Beaver Creeks to Confl. Patton Canyon</i> | Fremont | CPW |
| 3 | Kerber Creek <i>Confl. Elkhorn Gulch to Confl. Brewery Creek</i> | Saguache | BLM |
| 3 | Kerber Creek <i>Confl. Brewery Creek to Wells Kerber Ditch Headgate</i> | Saguache | BLM |
| 3 | Brewery Creek <i>USFS Boundary to Confl. Kerber Creek</i> | Saguache | BLM |
| 3 | Elkhorn Gulch <i>Headwaters to Confl. Kerber Creek</i> | Saguache | BLM |
| 4 | Ute Creek <i>Headwaters to Confl. West Creek</i> | Mesa | BLM |
| 5 | Beaver Creek <i>Headwaters to Rifle Town Intake</i> | Garfield | CPW |

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|---|--|-----------------|-----------|
| 5 | Beaver Dams Creek <i>Headwaters to Confl. East Divide Creek</i> | Mesa | CPW |
| 5 | East Divide Creek #1 <i>Confl. Gennings Creek to Confl. Camp Creek</i> | Mesa & Garfield | CPW |
| 5 | East Divide Creek #2 <i>Confl. Camp Creek to Confl. June Creek</i> | Garfield | CPW |
| 5 | West Divide Creek <i>Confl. Little Beaver Creek to Confl. Mosquito Creek</i> | Mesa | CPW |
| 5 | Meadow Creek <i>Outlet Meadow Creek Reservoir to Confl. Main Elk Creek</i> | Garfield | CPW |
| 6 | Piceance Creek <i>Confl. Dry Fork to Confl. White River</i> | Rio Blanco | BLM & CPW |
| 6 | Yellow Creek <i>Springs in Sec. 12, T1N, R98W 6th PM to Confl. White River</i> | Rio Blanco | BLM & CPW |

CPW (Colorado Division of Parks and Wildlife), BLM (Bureau of Land Management), and CDPHE (Colorado Department of Public Health and Environment)

BREAK 10:00 – 10:15

9. Stream and Lake Protection Section – Case No. 5-07CW210; Application of Vail Associates Inc. and USFS – Injury with Mitigation (10:15 – 10:35)

-- Pursuant to ISF Rule 8i (3), Staff will ask the Board to (1) determine that the natural environment of Two Elk Creek could be preserved to a reasonable degree with the proposed injury if the applicant provides the proposed mitigation and (2) to approve the proposed pre-trial resolution. This is the second of two required meetings for the Board to approve an Injury with Mitigation proposal.

10. Stream and Lake Protection Section – Colorado Water Trust Update from Amy Beatie (10:35 – 10:45)

11. Stream and Lake Protection Section – Colorado Water Trust Proposal to Benefit Hermosa Creek Instream Flows with Three Sisters Ditch Water Right (10:45 – 11:05)

– Staff will request the Board to join with the Colorado Water Trust in requesting retirement of the Three Sisters Ditch water right to benefit the Board's ISF water rights on Hermosa Creek.

12. This item was removed.

13. Attorney General's Report, Legal Briefing and Executive Session (11:05 – 11:15)

– 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.

14. Executive Session (11:15 – 12:35)

- a. *Case No. 2011CV7019: Complaint for Declaratory Judgment filed by Farmers Water Development Company*
- b. *Proposed Terms and Conditions for Plans for Augmentation*
- c. *Potential Water Acquisition*
- d. *Chatfield Reservoir Reallocation Project*
- e. *Animas La Plata*
- f. *RICD Case No. 10CW298: Application for Water Rights of the Board of Commissioners for the County of Grand, Colorado*
- g. *RICD Case No. 10CW305: Application for Water Rights of the Board of Commissioners for the County of Pitkin, Colorado*
- h. *Colorado River issues (Grand Canyon Trust litigation/legal questions regarding negotiations between the U.S. and Mexico)*

LUNCH 12:35 – 1:35

15. Report from Executive Session (1:35 – 1:40)

16. Finance Section – Financial Matters – Construction Fund and Severance Tax Perpetual Base Account (1:40 – 2:10)

- a. *Annual Financial Statements*
- b. *Projections and Cash Balance Report.*

17. Finance Section – En-bloc Non-Reimbursable Investments Recommendations (2:10 – 2:20)

(The Finance Committee reviewed the following projects on September 13, 2011. The Committee recommends approval by the Board. No presentation will be made unless requested by a Board member. An opportunity for public comment may be provided.)

- a. *Division of Water Resources - Satellite Monitoring System Maintenance*
- b. *CWCB – Weather Modification Program*
- c. *CWCB – Colorado Floodplain Map Modernization*
- d. *CWCB – Colorado Watershed Restoration Program*
- e. *CWCB – Flood Response Program Fund – Refreshed*
- f. *CWCB – South Platte Groundwater Level Data Collection*

BREAK 2:20 – 2:35

18. Finance Section – Referred Non-Reimbursable Investments (2:35 – 4:05)

(The Finance Committee reviewed the following projects on September 13, 2011. The Committee asked for more information about the following projects and requested the projects be referred for consideration by the entire Board. An opportunity for public comment may be provided. Item e. was added to the original NRI list).

- a. *CWCB – Tamarisk Cost-Sharing Grant Program – Phase II*
- b. *CWCB - Colorado River Availability Study Phase II*
- c. *San Luis Valley Irrigation District – Rio Grande Cooperative Project*
- d. *Colorado Water and Power Authority – Long Hollow Reservoir Construction*
- e. *CWCB – Alternative Agricultural Water Transfer Methods – Grant Program*

19. Finance Section/Interstate & Federal Section – Animas-La Plata (A-LP) State's Pool Allocation Purchase (4:05 – 5:00)

20. Finance Section/Stream and Lake Protection Section – Crystal Lakes Water & Sewer Association (5:00 – 5:30)

- a. *Case No. 1-09CW185 –Request to Inundate ISF Right on North Lone Pine Creek*
- b. *New Project Loan – Lower Lone Pine Reservoir Enlargement Project*

ADJOURN 5:30

Wednesday, November 16, 2011

CWCB Call to Order 8:00 AM

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

- 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. Interstate and Federal Section – Wild and Scenic Update (9:00 – 9:20)

The Staff update the Board, and will seek direction from the Board, on several Wild and Scenic alternative processes.

23. Interstate and Federal Section – Colorado River Basin Study (9:20 – 9:40)

The Staff will update the Board on Colorado River Basin Study. The Board and the public will be given an opportunity to provide input on the quantified demand scenarios and the options and strategies phase of the Study.

24. Office of Water Conservation and Drought Planning - Guidelines Regarding the Reporting of Water Use and Conservation Data by Covered Entities - Implementation of HB10-1051 (9:40 – 10:25)

BREAK 10:25 – 10:35

25. Office of Water Conservation & Drought Planning – CWCB Water Efficiency Planning Guidance Document (10:35 – 11:20)

26. Office of Water Conservation and Drought Planning – Current Drought Status and Update on State Drought Plan Activation (11:20 – 11:35)

27. Water Supply Planning Section -- WSRA Criteria and Guidelines (11:35 – 12:05)

LUNCH 12:05 – 1:05

- 28. Water Supply Planning Section – ATM Grant Application (1:05 – 1:25)**
Building and Assessing an Accounting and Administration Tool for Lease-Fallowing in Colorado's Lower Arkansas River Valley
- 29. Water Supply Planning Section -- Update on Water 2012 activities – Presentation of the Water 2012 overall plan developed under a WSRA grant to CFWE (1:25 – 1:45)**
- 30. Water Supply Planning Section -- WSRA Grants –New basin applications (1 :45 – 1:55)**
a. Water 2012: The Rio Grande Basin Partnering for Colorado's Water Future
b. Lining Outlet Pipe for Grand Mesa Reservoir #6
- 31. Water Supply Planning Section -- WSRA Change of Fiscal Agents (1:55 – 2:00)**
a. The Lower Willow Creek Restoration Project
- 32. Water Supply Planning Section -- Planned activities for CWCB's 75th anniversary celebrations (2:00 – 2:10)**
- 33. Water Supply Planning Section -- Update on Basin Roundtable Project Exploration Committee – Flaming Gorge Grant (2:10 – 2:20)**
- 34. Finance Section – Construction Fund and Severance Tax Trust Fund Perpetual Base Account - New Loans (2:20 – 3:10)**
a. Paradise Acres Homeowners Association – Dedicated Fill Pipe Project
b. Big Elk Meadows Association – Raw Water System Improvements Project
c. Two Rivers Water Company – Orlando Reservoir Rehabilitation Project

ADJOURN 3:10 PM

CWCB Consent Agenda
November 15 - 16, 2011

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 the instream flow and natural lake water rights in the following cases:*
 - a. *Case No. 4-11CW86: Application of Taylor River Canyon LLC.*
 - b. *Case No. 5-11CW105: Application of Mesa Cortina Water and Sanitation District*
 - c. *Case No. 5-11CW109: Application of Vail Summit Resorts, Inc.*
 - d. *Case No. 7-11CW41: Application of Edgemont Ranch Metropolitan District*
2. **Stream and Lake Protection Section – Case No. 4-09CW144; Application of Energy Fuels Resources Corporation – Injury with Mitigation** - *Pursuant to ISF Rule 8i (3), Staff will ask the Board to (1) determine that the natural environment of the Dolores River could be preserved to a reasonable degree with the proposed injury if the applicant provides the proposed mitigation and (2) to approve the proposed pre-trial resolution.*
3. **Finance Section Prequalification Project List Update**
4. **Finance Section – Construction Fund and Severance Tax Trust Perpetual Base Account - Loan De-authorization**
 - a. *Huerfano Cucharas Irrigation Company – Cucharas Dam Rehabilitation Project.*
5. **Interstate and Federal Section** -- *The Board will be asked to appoint the following as the Recreational In-Channel Diversion (RICD) Public Deliberation Officers:*
 - a. *Casey Shpall in Case No. 10CW298: Application for Water Rights of the Board of Commissioners for the County of Grand, Colorado*
 - b. *Casey Shpall in Case No. 10CW305: Application for Water Rights of the Board of Commissioners for the County of Pitkin, Colorado*
6. **Watershed and Flood Protection Section - Floodplain Designation, Flood Hazard Area Delineation, Cottonwood Creek, August 2011.**