

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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SUMMARY MINUTES AND RECORD OF DECISIONS

January 24-26, 2011

Final and Approved March 15, 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 Hilton Garden Inn, Denver Tech Center, located at 7675 E. Union Ave., Denver, CO 80237. The meeting was called to order by Chair Geoff Blakeslee. Nine 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, Barbara Biggs, John McCloy, April Montgomery, John Redifer, Reed Dils, Travis Smith, Carl Trick, and Eric Wilkinson. Non-voting *ex officio* members present or represented were CWCB Director Jennifer Gimbel; John Salazar, Commissioner of Colorado Department of Agriculture; Alexandra Davis, Assistant Director for Water, Colorado Department of Natural Resources; Casey Shpall, Deputy Attorney General; and Dick Wolfe, State Engineer. Also present was John Stulp, Special Policy Advisor to the Governor on Water, and Chair of the Interbasin Compact Committee. Colorado Department of Natural Resources Executive Director Mike King joined after the discussion of agenda item 12.

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.

Monday, January 24, 2011

CWCB Workshop – SWSI 2010 (1:00 PM – 5:00 PM)

Tuesday, January 25, 2011

Call to Order 8:04 AM

1. Review and Approval of Agenda

Tape 1, Track 1 00:05:29 – 00:06:57

Action: Geoff Blakeslee advised the following changes to the agenda: items 22, 24a, and 24c should be removed. In lieu of item 22, CWCB Interstate and Federal section staff will present an agenda item on new RICD applications. Also, item 24g will be added to Executive session, a discussion of the City of Aspen Draft Federal Energy Regulatory Commission Application for Castle Creek Hydroelectric Project, based on Agenda Item 30. A motion was made by Carl Trick and seconded by Eric Wilkinson to approve the January 2011 Agenda with the above amendments. The motion was approved unanimously (9-0).

2. Review and Approval of Meeting Minutes – November 15-17, 2010 Board Meeting

Tape 1, Track 1 00:06:57 – 00:11:00

Interstate & Federal • Watershed Protection & Flood Mitigation • Stream & Lake Protection • Finance
Water Information • Water Conservation & Drought Planning • Water Supply Planning

Action: Eric Wilkinson suggested that the typographical error on page 2 of the draft minutes be corrected. A motion was made by Eric Wilkinson and seconded by Travis Smith to approve the November 15-17, 2011 Minutes with the suggested amendments. The motion was approved unanimously (9-0).

3. Approve and/or Remove Items from Consent Agenda

Tape 1, Track 1 00:11:00 – 00:12:19

Action: Jennifer Gimbel advised that staff is requesting to remove items 5a and 5b from the consent agenda. These RICD matters would be discussed during the meeting, in the place of item 22, which was removed during agenda approval, and also during executive session. A motion was made by Travis Smith and seconded by Reed Dils to approve the Consent Agenda items as amended. The motion was approved unanimously (9-0).

4. Future Board Meeting Dates

- a. **March 15-16, 2011** Denver
- b. **May 17-18, 2011** Durango
- c. **July 12-13, 2011** Possibly Walden area/Gunnison (in conjunction with Gunnison Water Workshop)
- d. **September 13-14, 2011** Grand Junction (Ute Water Conservancy District's Headquarters Office)
- e. **November 15-16, 2011** Denver (possibly NCWCD office in Berthoud)

Tape 1, Track 1 00:12:20 – 00:13:46

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

5. Directors' Reports

- a. **DNR Executive Director** – Alexandra Davis reporting

Tape 1, Track 1 00:13:46 – 00:16:59

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

- b. **IBCC Director** – John Stulp reporting

Tape 1, Track 1 00:17:00 – 00:19:34

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

- c. **Agriculture Commissioner** – John Salazar reporting

Tape 1, Track 1 00:19:35 – 00:26:18

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

- d. **CWCB Director** – Jennifer Gimbel reporting

Tape 1, Track 1 00:26:19 – 00:44:01

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

- e. **State Engineer** – Dick Wolfe reporting

Tape 1, Track 1 00:44:02 – 00:58:14

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

- f. **Division of Wildlife** – no report was given

Tape 1, Track 1 00:58:15 – 00:58:25

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

- g. **Water Resource and Power Development Authority** – Michael Brod reporting

Tape 1, Track 1 00:58:26 – 01:06:33

Tape 1, Track 2 00:00:00 – 00:00:30

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

6. Watershed and Flood Protection Section – Map Modernization / Risk Map Program Update

Tape 1, Track 2 00:00:31 – 00:21:59

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

7. Watershed and Flood Protection Section – South Platte River Easement Request

Tape 1, Track 2 00:22:00 – 00:49:23

Action: Presentation by Tom Browning, Joe Busto of CWCB staff as well as Robert Searns, Project Development Coordinator and David Lorenz from South Suburban Parks and Recreation. A motion was made by Barbara Biggs and seconded by Travis Smith to approve staff recommendation: the request for a temporary construction easement and non-exclusive 25 year trail easement for the South Suburban Parks & Recreation District. The motion was approved unanimously (9-0).

8. Finance Section – Financial Matters – Construction Fund and Severance Tax Perpetual Base Account – Projections and Cash Balance Report

Tape 1, Track 2 01:25:13 – 01:37:11

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

9. Finance Section – Construction Fund and Severance Tax Trust Perpetual Base Account – New Loans

Tape 1, Track 2 01:37:20 – 01:49:25

a. Snowmass Water and Sanitation District – Ziegler Reservoir Expansion Project

Action: Presentation by Anna Mauss. A motion was made by John Redifer and seconded by Barbara Biggs to approve staff recommendation that the Board approve a loan not to exceed \$2,873,804 (\$2,845,350 for project costs and \$28,454 for the 1% Loan Service Fee) to the Snowmass Water and Sanitation District, acting by and through its Water and Sanitation Enterprise, for engineering and construction costs related to the Ziegler Reservoir Expansion Project. The loan terms shall be 20 years at the high-income municipal rate of 4.75% per annum (reduced from 5.0% for a 30-year term). Security for the loan shall be in compliance with CWCB Financial Policy #5. The motion was approved unanimously (9-0).

10. Finance Section – Prequalification Project List Update

Tape 1, Track 2 01:49:25 – 01:53:56

a. Thunderbird Water and Sanitation District – Lambert Ranch Water Rights

Action: Presentation by Anna Mauss. A motion was made by Barbara Biggs and seconded by Eric Wilkinson to approve staff recommendation: the addition of the Thunderbird Water and Sanitation District – Lambert Ranch Water Rights Purchase project to the Prequalified Project List. The motion was approved unanimously (9-0).

11. Finance Section – Design and Construction Status Report

Tape 1, Track 2 01:53:57 – 02:43:38

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

12. Water Supply Planning Section – WSRA Grant Applications

Tape 1, Track 3

00:00:00 – 00:14:45

- a. Purgatoire River Water Conservancy District – Trinidad/Purgatoire River Reach 4 Demonstration Project

Action: Presentation by Chris Sturm. A motion was made by Reed Dils and seconded by Travis Smith to approve staff recommendation to fund up to \$75,000 from the Arkansas Basin Account for this project. The motion was approved unanimously (9-0).

00:00:50 – 00:03:30

- b. Colorado Foundation for Water Education – Educating Denver Metro elected officials and decision makers on solutions-oriented water supply planning

Action: Presentation by Jacob Bornstein. A motion was made by Barbara Biggs and seconded by Eric Wilkinson to approve staff recommendation to fund up to \$14,820 from the Metro Basin Account for this project. The motion was approved unanimously (9-0).

00:03:31 – 00:04:33

- c. Walden Reservoir Company – Structure for Water Control

Action: Presentation by Greg Johnson. A motion was made by Reed Dils and seconded by Eric Wilkinson to approve staff recommendation to fund up to \$36,000 from the North Platte Basin Account for this project. Carl Trick recused himself from this motion. The motion was approved unanimously (8-0).

00:04:34 – 00:07:14

- d. Colorado Foundation for Water Education – North Platte Basin Education Package

Action: Presentation by Jacob Bornstein. A motion was made by Carl Trick and seconded by Barbara Biggs to approve staff recommendation to fund up to \$14,040 from the North Platte Basin Account for this project. The motion was approved unanimously (9-0).

00:07:15 – 00:08:15

- e. Manassa Land and Irrigation Company – Conejos North Branch Water Conservation and Management

Action: Presentation by Greg Johnson. A motion was made by Travis Smith and seconded by Carl Trick to approve staff recommendation to fund up to \$75,000 from the Rio Grande Basin Account for this project. The motion was approved unanimously (9-0).

00:08:16 – 00:10:59

- f. The Colorado Rio Grande Restoration Foundation and McDonald Ditch Company – The McDonald Ditch and Plaza Project – Phase I

Action: Presentation by Chris Sturm. A motion was made by Travis Smith and seconded by Reed Dils to approve staff recommendation to fund up to \$40,000 from the Rio Grande Basin Account for this project. The motion was approved unanimously (9-0).

00:11:00 – 00:14:20

13. Water Supply Planning Section – Alternative Agricultural Transfer Grant Requests

Tape 2, Track 1

00:02:02 – 01:29:45

- a. The Nature Conservancy – Rotational Fallowing Hay Meadows

Action: Presentation by Todd Doherty. A motion was made by Carl Trick and seconded by John McCLOW to approve staff recommendation to advise applicant to come back to a future meeting after revising scope of application. Geoff Blakeslee

recused himself from this motion. Travis Smith was unavailable for this motion. The motion was approved unanimously (8-0).

00:23:20 – 00:34:45

b. CRWCD – Compact Water Bank

Action: Presentation by Todd Doherty. A motion was made by John Redifer and seconded by April Montgomery to approve staff recommendation to fund \$180,000 for this project. Travis Smith was unavailable for this motion. The motion was approved unanimously (9-0).

00:34:46 – 00:43:55

c. LAVWCD – Farm Financial Planning Tool

Action: Presentation by Todd Doherty. A motion was made by Reed Dils and seconded by Eric Wilkinson to approve staff recommendation to fund \$31,633 for this project. April Montgomery and Travis Smith were unavailable for this motion. The motion was approved unanimously (8-0).

00:43:56 – 00:46:50

d. Colorado Water Innovation Cluster – Lake Canal Demonstration Project

Action: Presentation by Todd Doherty. A motion was made by Barbara Biggs and seconded by Reed Dils to approve staff recommendation to fund \$135,105 for this project. Geoff Blakeslee recused himself from this motion. Travis Smith was unavailable for this motion. The motion was approved unanimously (8-0).

00:46:51 – 01:03:50

e. East Cherry Creek Valley WCD – Maintaining Ag Productivity on Formerly Irrigated Lands

Action: Presentation by Todd Doherty. A motion was made by Carl Trick and seconded by Barbara Biggs to approve staff recommendation to fund \$111,030 for this project. Travis Smith was unavailable for this motion. The motion was approved unanimously (9-0).

01:03:51 – 01:10:35

f. Parker WCD – Lower South Platte Irrigation Demonstration Project

Action: Presentation by Todd Doherty. A motion was made by Barbara Biggs and seconded by Eric Wilkinson to approve staff recommendation to fund \$320,166 for this project. Travis Smith was unavailable for this motion. The motion was approved unanimously (9-0).

01:10:36 – 01:15:00

g. Lower South Platte WCD – Water Cooperative – Technical Work

Action: Presentation by Todd Doherty. A motion was made by Eric Wilkinson and seconded by Carl Trick to approve staff recommendation to fund \$300,477 for this project. Travis Smith was unavailable for this motion. The motion was approved unanimously (9-0).

01:15:01 – 01:23:52

h. Corn Growers – FLEX Market Model Project

Action: Presentation by Todd Doherty. A motion was made by Carl Trick and seconded by Barbara Biggs to approve staff recommendation to fund \$158,365 for this project. Travis Smith was unavailable for this motion. The motion was approved unanimously (9-0).

01:23:53 – 01:29:45

**14. Water Information Section – Colorado River Water Availability Study – Update
Tape 2, Track 1**

01:29:46 – 01:54:05

Action : Presentation by Ray Alvarado, CWCB staff and Matt Brown, Blaine Dwyer from AECOM. Informational item only. The Board provided direction for staff on the CRWAS. No action was required by the Board.

15. Stream and Lake Protection Section – New Appropriation Recommendations in Water Divisions 2, 4, and 5

Tape 2, Track 1 02:20:42 – 04:04:15

Action: Presentation by Jeff Baessler. A motion was made by April Montgomery and seconded by Reed Dils to approve staff recommendation that, pursuant to Rule 5d., the Board declare its intent to appropriate an ISF water right on each stream segment listed on the presented Tabulations of Instream Flow Recommendations, and direct Staff to publicly notice the Board’s declaration of its intent to appropriate. Travis Smith was unavailable for this motion. The motion was approved unanimously (9-0).

Division	Stream Segment	County(ies)	Recommender(s)*
2	Chaparral Creek (<i>headwaters to USFS Boundary</i>)	Huerfano	CDOW
2	Dodgeton Creek (<i>headwaters to USFS Boundary</i>)	Huerfano	CDOW
4	North Fork Tabeguache Creek (<i>headwaters to confl Tabeguache Creek</i>)	Montrose	USFS
4	Tabeguache Creek (<i>confl NFK Tabeguache Creek to confl Forty-Seven Creek</i>)	Montrose	USFS
4	Red Canyon Creek (<i>confl Big A Creek to confl Horsefly Creek</i>)	Montrose	USFS
4	San Miguel River (<i>confl Calamity Draw to confl Dolores River</i>)	Montrose	CDOW & BLM
5	Little Green Creek (<i>headwaters to confl Muddy Creek</i>)	Grand, Routt	Trout Unlimited
5	Unnamed tributary to Muddy Creek (<i>headwaters to confl Muddy Creek</i>)	Grand, Routt	Trout Unlimited

*CDOW (Colorado Division of Wildlife), BLM (Bureau of Land Management) and USFS (United States Forest Service)

16. Legislative Session 2011 Update

Tape 2, Track 1 04:04:16 – 04:22:11

Action: Presentation by Jennifer Gimbel.

- a. Finance Section – 2011 Construction Fund Projects Bill

A motion was made by Eric Wilkinson and seconded by Carl Trick to authorize the transfer of \$700,000 from the construction fund to the litigation fund. Travis Smith was unavailable for this motion. The motion was approved unanimously (9-0).

04:04:16 – 04:10:59

- b. Finance Section – 2010 Small Project Loan Report
Informational item only. No action was required by the Board.

04:11:00 – 04:11:17

- c. Watershed and Flood Protection Section – Healthy Rivers Fund Reauthorization

A motion was made by John McCLOW and seconded by Reed Dils to support the reauthorization of the Healthy Rivers Fund. Travis Smith was unavailable for this motion. The motion was approved unanimously (9-0).

04:11:18 – 04:13:08

- d. Watershed and Flood Protection Section – Weather Modification Sunset Review
A motion was made by John Redifer and seconded by Barbara Biggs to support the continuation of the weather modification program. The motion was approved unanimously (10-0).

04:13:09 – 04:19:13

RECESS 5:44 PM

Wednesday, January 26, 2011

A regular meeting of the Colorado Water Conservation Board (CWCB) was convened at the Hilton Garden Inn, Denver Tech Center, located at 7675 E. Union Ave., Denver, CO 80237. The meeting was called to order by Chair Geoff Blakeslee. Nine 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, Barbara Biggs, John McCLOW, April Montgomery, John Redifer, Reed Dils, Travis Smith, Carl Trick, and Eric Wilkinson. Non-voting *ex officio* members present or represented were Acting CWCB Deputy Director Eric Hecox; Alexandra Davis, Assistant Director for Water, Colorado Department of Natural Resources; and Casey Shpall, Deputy Attorney General. Also present was John Stulp, Special Policy Advisor to the Governor on Water, and Chair of the Interbasin Compact Committee. CWCB Director Jennifer Gimbel arrived after discussion of agenda item 18. Department of Natural Resources Executive Director Mike King joined after the discussion of agenda item 23.

17. Basin Directors' Reports

Tape 3, Track 1 00:01:55 – 00:53:29

- a. **Colorado River (Mainstem) Basin Director's Report** – John Redifer reporting

Tape 3, Track 1 00:02:09 – 00:05:55

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

- b. **San Juan/San Miguel-Dolores River Basin Director's Report** – April Montgomery reporting

Tape 3, Track 1 00:05:56 – 00:09:19

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

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

Tape 3, Track 1 00:09:20 – 00:16:00

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

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

Tape 3, Track 1 00:16:01 – 00:18:13

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

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

Tape 3, Track 1 00:18:14 – 00:25:05

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

- f. **Arkansas River Basin Director's Report** – Reed Dils reporting

Tape 3, Track 1 00:25:06 – 00:33:09

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

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

Tape 3, Track 1 00:33:10 – 00:38:05

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

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

Tape 3, Track 1 00:38:06 – 00:47:54

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

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

Tape 3, Track 1 00:47:55 – 00:53:22

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

18. Interstate & Federal Section / Stream and Lake Protection Section – Wild and Scenic Rivers Update

Tape 3, Track 1 00:53:29 – 01:12:21

Tape 3, Track 2 00:00:00 – 00:25:00

Action: Presentation by Ted Kowalski and Linda Bassi, CWC staff. Informational item only. No action was required by the Board.

19. Interstate & Federal Section – Litigation Account Draft Report

Tape 3, Track 2 00:25:01 – 00:26:40

Action: Presentation by Ted Kowalski. A motion was made by Carl Trick and seconded by John McClow to approve staff recommendation that CWC staff forward the Annual Litigation Account report to the Senate Agriculture, Natural Resources, and Energy Committee; and House of Representatives Agriculture, Livestock, and Natural Resources Committee. The motion was approved unanimously (9-0).

20. Interstate and Federal Section – National Register of Historic Places Multiple Property Documentation Form: "Irrigation and Water Supply Ditches and Canals in Colorado, 1787 to 1960"

Tape 3, Track 2 00:26:41 – 00:54:41

Action: Presentation by Ted Kowalski. A motion was made by Barbara Biggs and seconded by John McClow to draft a letter with comments for the Colorado Historical Society regarding the proposed listing, for Board review, and to request that a member of that Society attend the next Board meeting to answer further questions on this matter. The motion was approved unanimously (9-0).

21. Stream and Lake Protection Section — Authorization to Proceed to Trial in Case No. 2-09CW073; Application of Donala Water & Sanitation District

Tape 3, Track 2 01:25:26 – 01:27:47

Tape 4, Track 1 00:05:14 – 00:06:16

Action: Presentation by Kaylea White. A motion was made by John Redifer and seconded by Reed Dils to approve staff recommendation that the Board authorize Staff to proceed to trial, pursuant to ISF Rule 8j, to protect the Board's instream flow water rights in the event that Staff and the Attorney General's Office are unable to reach a settlement with the Applicants in this case. The motion was approved unanimously (9-0).

22. Interstate and Federal Section – RICD Applications

Tape 3, Track 2 **01:27:48 – 01:50:01**

Action: Presentation by Suzanne Sellers, CWC staff. A motion was made by Eric Wilkinson and seconded by John Redifer to approve staff recommendation that the Board authorize Statements of Opposition that will be filed by staff in conjunction with the Attorney General's office to comport with the Board's statutory obligations in the following Recreational In-Channel Diversion cases: Case No. 10CW298: Application for Water Rights of the Board of Commissioners for the County of Grand, Colorado, and Case No. 10CW305: Application for Water Rights of the Board of Commissioners for the County of Pitkin, Colorado. The motion was approved unanimously (9-0).

23. 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.*

Tape 3, Track 2 **01:50:02 – 01:53:09**

Action: Presentation by Casey Shpall, Deputy Attorney General. Informational item only. No action was required by the Board.

24. Executive Session Items

- a. ~~Instream flow appropriations in Jackson County – North Fork North Platte River~~
(Removed by staff)
- b. Case No. 2-09CW073: Application of Donala Water & Sanitation District
- c. ~~Consolidated Case Nos. 5-07CW055 and 5-07CW054 into Case No. 5-07CW176: Applications of Roaring Fork Club, L.P. consolidated with St Jude's Co. and Reno Cerise v. Roaring Fork Club, L.L.C. (Removed by staff)~~
- d. Legal questions on several Colorado River issues
- e. RICD Case No. 10CW298: Application for Water Rights of the Board of Commissioners for the County of Grand, Colorado
- f. RICD Case No. 10CW305: Application for Water Rights of the Board of Commissioners for the County of Pitkin, Colorado
- g. City of Aspen Draft Federal Energy Regulatory Commission Application for Castle Creek Hydroelectric Project

Action: A motion was made by Eric Wilkinson and seconded by John Redifer to go into Executive Session pursuant to C.R.S. Section 24-6-402(3)(a)(II) for discussion of items 24a – 24g. The motion was approved unanimously (9-0).

25. Report from Executive Session

Tape 4, Track 1 **00:04:12 – 00:05:19**

Action: Deputy Attorney General 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 24b,d-e and that the discussion was limited to those items only.

26. Watershed and Flood Protection Section / Interstate & Federal Section – Fish and Wildlife Mitigation Statute: Draft Policy

Tape 4, Track 1 **00:06:24 – 00:48:20**

Action: Presentation by Chris Sturm. The Board provided suggested edits for this draft policy. Informational item only. No action was required by the Board.

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

Tape 4, Track 1 **00:48:21 – 01:02:10**

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

28. Interstate & Federal Section – Species Conservation Trust Fund Recommendations

Tape 4, Track 1 **01:02:11 – 01:14:45**

Action: Presentation by Doug Robotham, Ted Kowalski, Linda Bassi. A motion was made by Travis Smith and seconded by John McClow to approve staff recommendation, contingent upon appropriations, that the Board: 1) concur with the DNR Executive Director’s proposed recommendation to the General Assembly to approve an expenditure of up to \$7,000,000 from the SCTF for FY 11-12; and 2) forward a statement of concurrence to the Colorado Wildlife Commission. Barbara Biggs was unavailable for this motion. The motion was approved unanimously (9-0).

29. Interstate & Federal Section – Colorado River Basin Study Update

Tape 4, Track 1 **01:17:15 – 01:33:01**

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

30. Stream and Lake Protection Section — City of Aspen Draft Federal Energy Regulatory Commission Application for Castle Creek Hydroelectric Project

Tape 4, Track 1 **02:09:00 – 02:49:07**

Action: Presentation by Linda Bassi, CWCB staff and Karl Kumli, City of Aspen counsel. Counsel for City of Aspen advised that his client would include in their FERC Application “an unequivocal statement that 1) a Colorado instream flow right is not ‘consumptive’ under Colorado water law, and 2) CWCB is not a ‘municipality’ under Colorado water law.” This is a representation to which the City of Aspen agrees to be bound. On advice of counsel, the Board chose to take no action.

31. Water Supply Planning Section – SWSI 2010

Tape 2, Track 1 **04:22:12 – 04:26:02**

Tape 4, Track 1 **02:49:09 –**

Action: Presentation by Eric Hecox. A motion was made by Travis Smith and seconded by Eric Wilkinson to approve staff recommendation that Board approve SWSI 2010 report as amended, and subsequently direct staff to deliver the report to the legislature and the Governor. John Redifer opposed this motion. The motion was approved (9-1).

ADJOURN 5:47 pm