

# STATE OF COLORADO

## Colorado Water Conservation Board Department of Natural Resources

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### SUMMARY MINUTES AND RECORD OF DECISIONS

**March 15-16, 2011**

**Final and Approved May 17, 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 offices of the Colorado Water Resources and Power Development Authority, located at 1580 Logan St., Ste 610, Denver, CO 80203. The meeting was called to order by Chair Geoff Blakeslee. Seven 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, Travis Smith, Carl Trick, and Eric Wilkinson. Non-voting *ex officio* members present or represented were CWCB Director Jennifer Gimbel; Casey Shpall, Deputy Attorney General; and Dick Wolfe, State Engineer. Colorado Department of Natural Resources Executive Director Mike King was in attendance after the lunch break on the first day. Alexandra Davis, Assistant Director for Water, Colorado Department of Natural Resources was also in attendance. Barbara Biggs was unavailable following lunch on the first day but returned on the second day. John Stulp, Special Policy Advisor to the Governor on Water, and Chair of the Interbasin Compact Committee arrived during the discussion of agenda item 21 and provided the IBCC Directors Report upon conclusion of the discussion of agenda item 21. Board Appointee Alan Hamel was present but did not vote.

On the second day the meeting was called to order by Chair Eric Wilkinson. Seven 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, April Montgomery, Travis Smith, 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. Board Appointees Alan Hamel and Russ George were present but did not vote.

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, March 15, 2011**

**Strategic Planning Workshop – 8:00 AM – 9:45 AM**

### **Monday, March 15, 2011**

**Call to Order 10:04 AM**

## **1. Election of Officers**

### **Track 1 00:00 – 00:05:31**

**Action:** Travis Smith made a motion, which was seconded by John McClow, to nominate Eric Wilkinson as the new Chair of the CWCB. The motion was approved unanimously (7-0). Barbara Biggs made a motion, which was seconded by Carl Trick, to nominate John McClow as Vice Chair of the CWCB. The motion was approved unanimously (7-0). A motion was made by Carl Trick and seconded by Barbara Biggs to elect by acclamation. The motion was approved unanimously (7-0).

## **2. Review and Approval of Agenda**

### **Track 1 00:05:31 – 00:09:20**

**Action:** Jennifer Gimbel advised the following changes to the agenda: item 8 should be removed. In lieu of item 8, CWCB Watershed & Flood Protection Section will present agenda item 22, Fish and Wildlife Mitigation Policy Update. Item 23a, Chatfield Reservoir Reallocation Update, will follow the presentation of agenda item 22. An item 15h was added to the executive session, a personnel issue. Agenda item 20 was moved to the afternoon of the second day following the scheduled lunch break. Alex Davis requested to have the DNR Directors Report to be given after the scheduled lunch break. A motion was made by Geoff Blakeslee and seconded by Travis Smith to approve the March 2011 Agenda with the above amendments. The motion was approved unanimously (7-0).

## **3. Review and Approval of Meeting Minutes – January 24-26, 2010 Board Meeting**

### **Track 1 00:09:20 – 00:10:09**

**Action:** Carl Trick made a motion, which was seconded by April Montgomery, to approve the January 24-26, 2011 Minutes as submitted. The motion was approved unanimously (7-0).

## **4. Approve and/or Remove Items from Consent Agenda**

### **Track 1 00:10:09 – 00:12:10**

**Action:** Jennifer Gimbel noted the addition of the Basin Roundtable Requests for Water Supply Reserve Account funds to the consent agenda. Barbara Biggs made a motion, which was seconded by Geoff Blakeslee, to approve the Consent Agenda items as presented. The motion was approved unanimously (7-0).

## **5. Future Board Meeting Dates**

- |                                 |   |
|---------------------------------|---|
| a. <b>May 16-18, 2011</b>       | Durango   |
| b. <b>July 12-13, 2011</b>      | Walden  |
| c. <b>September 13-14, 2011</b> | Grand Junction (Ute Water Conservancy District's Headquarters Office) |
| d. <b>November 15-16, 2011</b>  | Denver (possibly NCWCD office in Berthoud)                            |

### **Track 1 00:12:10 – 00:17:51**

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

## **6. Directors' Reports**

- a. **DNR Executive Director** – Report by Mike King.

### **Track 2 00:11:37 – 00:21:00**

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

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

### **Track 1 02:12:52 – 02:15:40**

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

- c. **Agriculture Commissioner** – John Salazar was not present to give his report.

**Track 1**                      **00:17:51 – 00:17:51**

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

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

**Track 1**                      **00:17:51 – 00:28:46**

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

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

**Track 1**                      **00:28:46 – 00:37:36**

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

- f. **Division of Wildlife** – Tom Remington was not present. No report was given.

**Track 1**                      **00:37:36 – 00:37:36**

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

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

**Track 1**                      **00:37:36 – 00:37:36**

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

## **7. Legislative Update**

**Track 1**                      **00:47:23 – 00:52:03**

**Action:** Report given by Jennifer Gimbel. This was an informational item only. No action was required by the Board.

## **8. Agenda item 8, Water Supply Planning Section - Discussion of Board Policy**

**Establishing Limits to Grant Project Administration Fees**, was removed from the agenda during the approval of the agenda.

## **9. Office of Water Conservation and Drought Planning /Watershed & Flood Protection Section- Spring Drought and Flood Outlook.**

**Track 2**                      **00:21:00 – 01:07:38**

**Action:** Presentation by Veva Deheza, Klaus Wolter, and Kevin Houck. This was an informational item only. No action was required by the Board.

## **10. Water Supply Planning Section – WSRA Grant Applications to the Statewide Fund**

**Track 2**                      **01:07:38 – 03:21:06**

- a. Southeastern Colorado Water Conservancy District - The use of excess storage capacity in Blue Mesa Reservoir to avoid or reduce the impact of a Colorado River Compact curtailment in Colorado
- b. Arkansas Headwaters Recreation Area - Helena Diversion Structure/BV Boat Chute Improvement Project
- c. Colorado Foundation for Water Education - Raising Awareness in 2012: A Statewide Celebration of Colorado Water
- d. Lower Arkansas Valley Water Conservancy District - Super Ditch Delivery Engineering

- e. Rio Grande Headwaters Land Trust - Rio Grande Initiative: North Rio Grande Ranch Conservation Easement
- f. Colorado Division of Water Resources - Alluvial Aquifer Accretion/Depletion Analysis Tool
- g. La Plata Water Conservancy District - La Plata River Water Resources Operations Model
- h. Lake Durango Water Authority - Source Water Infrastructure Project
- i. Town of Rico - Town of Rico Alluvium Pipeline Water Supply Project - Well Drilling and Water Quality Testing
- j. The Upper Walker Ditch Company - Yampa River/Walker Ditch River Restoration Project
- k. Moffat County Natural Resources Department - Yampa-White Basin Projects and Methods Analysis

**Action:** A red flag item was handed out to the board. John McClow made a motion, which was seconded by Geoff Blakeslee, to consider the red flag application regarding the multimedia program for reporting crop and turf estimates from the Colorado Agricultural Meteorological Network (CoAgMet) at the May Board Meeting. The motion was approved unanimously (7-0). Presentations were given by Todd Doherty, Ted Kowalski, Greg Johnson, and Chris Sturm.

**10a.** John McClow recused himself from voting on this item because of previous involvement with this project. Travis Smith made a motion, which was seconded by April Montgomery, to approve the staff recommendation, to fund up to \$245,000 (\$196,000 from the Statewide Account, \$24,500 from the Arkansas Basin Account, and \$24,500 from the Gunnison Basin Account), for the use of excess storage capacity in Blue Mesa Reservoir to avoid or reduce the impact of a Colorado River Compact curtailment in Colorado. The motion was approved unanimously (6-0). Barbara Biggs was unavailable for this vote.

**10b.** Geoff Blakeslee made a motion, which was seconded by Mike King, to approve the staff recommendation, to fund up to \$325,000 (\$290,000 from the Statewide Account and \$35,000 from the Arkansas Basin Account), for the Helena Diversion Structure/BV Boat Chute Improvement Project. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote.

**10c.** Geoff Blakeslee made a motion, which was seconded by Carl Trick, to approve the amended staff recommendation, conditionally approve up to \$30,515 out of the Statewide Fund, to Raising Awareness in 2012: A Statewide Celebration of Colorado Water, with encouragement to come back to the Board after additional detail in the scope is gathered. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote.

**10d.** John McClow made a motion, which was seconded by Carl Trick, to approve staff recommendation, to fund up to \$225,837 from the Statewide Account, for the Super Ditch Delivery Engineering. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote.

**10e.** Travis Smith made a motion, which was seconded by Geoff Blakeslee, to approve staff recommendation, to fund up to \$70,000 (\$55,000 from the Statewide Account, and \$15,000 from the Rio Grande Basin), for the Rio Grande Initiative: North Rio Grande Ranch Conservation Easement. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote.

**10f.** Carl Trick made the motion, which was seconded by John McClow, to approve staff recommendation, to fund up to \$200,000 from the Statewide Account, for the Alluvial Aquifer Accretion/Depletion Analysis Tool. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote.

**10g.** April Montgomery made the motion, which was seconded by Geoff Blakeslee, to approve staff recommendation, to fund up to \$148,823 from the Statewide Account, for the La Plata River Water Resources Operations Model. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote.

**10h.** April Montgomery made a motion, which was seconded by Carl Trick, to wait to address this item until the May board meeting when it can be considered along with an accompanying application to the CWCB loan program. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote.

**10i.** April Montgomery made a motion, which was seconded by Geoff Blakeslee, to approve staff recommendation, to fund up to \$88,000 (\$68,000 from the Statewide Account and \$20,000 from the Southwest Basin Account), for the Town of Rico Alluvium Pipeline Water Supply Project - Well Drilling and Water Quality Testing project. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote.

**10j.** Geoff Blakeslee made a point of clarification that although the organization he works for was mentioned in the application, his organization has no water rights or interests in the project and therefore he has no conflict of interest in the subject. Geoff Blakeslee made a motion, which was seconded by Travis Smith, to approve the staff recommendation, to fund up to \$40,000 (\$20,000 from the Statewide Account and \$20,000 from the Yampa/White Basin Account), for the Yampa River/Walker Ditch River Restoration Project, contingent on the applicants ability to secure match funding required to construct the project. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote.

**10k.** Geoff Blakeslee made a motion, which was seconded by Travis Smith, to approve the staff recommendation, to fund up to \$190,000 (\$152,000 from the Statewide Account and \$38,000 from the Yampa/White Basin Account), for the Yampa-White Basin Projects and Methods Analysis. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote.

**11. Water Information Section - CWCB WebLink and CSU Water Resources Archive  
Track 2                      03:32:46 – 03:51:09**

**Action:** Presentation by Susan Lesovsky and Pattie Rettig with the CSU Water Resource Archive. This item was an informational item only. No action was required by the Board.

**12. Stream and Lake Protection Section — Authorization to Proceed to Trial in Case No. 6-07CW119; Application of Morrison Creek South Metro Water and Sanitation District  
Track 3                      00:00:38 – 00:01:31**

**Action:** Geoff Blakeslee made a motion to authorize staff to proceed to trial in Case No. 6-07CW119; Application of Morrison Creek South Metro Water and Sanitation District, agenda item 12, which was seconded by Travis Smith. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote.

**13. Stream and Lake Protection Section — Authorization to Proceed to Trial in Case No. 2-08CW106; Application of Upper Arkansas Water Conservancy District  
Track 3                      00:01:31 – 00:02:16**

**Action:** A motion was made by Geoff Blakeslee to proceed to trial in Case No. 2-08CW106; Application of Upper Arkansas Water Conservancy District, agenda item 13, which was seconded by John McCLOW. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote.

**14. 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 2 03:53:29 – 03:58:08**

**Action:** Presentation by Casey Shpall, Deputy Attorney General. This was an informational item only. No action was required by the Board.

**15. Executive Session Items**

**Executive Session 1 00:00:00 – 01:07:42**

- a. Case No. 2-09CW073; Application of Donala Water and Sanitation District
- b. Case No. 6-07CW119; Application of Morrison Creek South Metro Water and Sanitation District
- c. Case No. 2-08CW106; Application of Upper Arkansas Water Conservancy District
- d. Instream Flow Appropriations in Jackson County - North Fork North Platte River
- e. Legal questions regarding Colorado River negotiations
- 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. Personnel Issue

**Action:** Casey Shpall advised another item, a personnel issue, was to be added to the Executive Session as item 15h. Geoff Blakeslee made a motion to enter Executive Session, pursuant to C.R.S. Section 24-6-402(3)(a)(II), to address items 15 a- g, then recess and reconvene to vote on items 15-a-g, then enter Executive Session again to address item 15h, a personnel issue, which was seconded by Carl Trick. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote. Jennifer Gimbel also noted that she requested that item 15h, a personnel issue, be discussed in Executive Session. She also provided a written request for the record. Casey Shpall further clarified the Open Meetings Act requires that personnel matters are to be discussed open to the public unless requested otherwise by the subject of the discussion.

**16. Report from Executive Session**

**Track 3 00:00:00 – 00:00:36**

**Track 4 00:00:00 – 00:00:14**

**Action:** Agenda items 12, 13 and 15 A-G were discussed. Executive session was then reconvened to discuss item 15h, a personnel matter. Following the discussion Travis Smith made a motion to go out of Executive session, which was seconded by April Montgomery. The motion was approved unanimously (7-0). Barbara Biggs was unavailable for this vote. Casey Shpall reported that the only matter discussed in the second executive session was a personnel matter relating to Jennifer Gimbel.

**RECESS 6:43 PM**

**Call to order**

**Track 5** **00:30:53**

**17. Basin Directors' Reports**

**Track 5** **00:35:58 – 01:11:47**

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

**Track 5** **00:35:58 – 00:36:45**

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

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

**Track 5** **00:36:45 – 00:40:33**

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

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

**Track 5** **00:40:33 – 00:44:58**

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

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

**Track 5** **00:44:58 – 00:46:20**

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

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

**Track 5** **00:46:20 – 00:50:20**

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

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

**Track 5** **00:50:20 – 00:56:09**

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

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

**Track 5** **00:56:09 – 00:**

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

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

**Track 5** **01:01:19 – 01:06:00**

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

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

**Track 5** **01:06:00 – 01:09:42**

**Action:** This was an informational item only. No action was required by the Board. Jennifer Gimbel informed the Board that the CWCB will plan receptions for former board members John Redifer and Reed Dills.

**18. Stream and Lake Protection Section – 2011 New Instream Flow Appropriations**

**Track 5** **01:11:47 – 01:18:45**

**Action:** Presentation by Jeff Baessler, CWCB staff. This was an informational item only. No action was required by the Board.

## **19. Stream and Lake Protection Section – 2011 Instream Flow Appropriation**

### **Track 5                      01:18:45 – 01:28:18**

**Action:** Presentation by Jeff Baessler. This was an informational item only. No action was required by the Board.

## **20. Interstate and Federal Section – Presentation by History Colorado on its National Register of Historic Places Multiple Property Documentation Form (MPDF):**

### **“Irrigation, Water Supply Ditches and Canals in Colorado, 1787 to 1960”**

### **Track 6                      00:26:39 – 01:47:06**

**Action:** Presentation by Heather Bailey and Steven Turner, with History Colorado. Travis Smith made a motion, which was seconded by John McClow, to approve the letter drafted by staff with the inclusion of the sentence “The CWCB requests that this proposal be withdrawn without putting water users through the expense and difficulty of additional hearings or other public process.” The motion was then modified by Travis Smith and John McClow, to exclude the conditions and alternative language (the two items bullet pointed in the draft letter.) (April Montgomery and Geoff Blakeslee voted against this motion). The motion failed (5-2). Geoff Blakeslee made a motion, which was seconded by April Montgomery, to approve the letter as drafted by staff. The motion was approved unanimously (7-0).

## **21. Interstate and Federal Section - Wild and Scenic**

### **Track 1                      01:26:53 – 02:12:52**

### **Track 5                      03:29:59 – 03:45:29**

**Action:** : Presentation by Ted Kowalski. Because this item was originally scheduled to be discussed on Wednesday March 16<sup>th</sup> Eric Wilkinson requested that the vote for this item be done on Wednesday to allow public comments before voting. Steve Glazier spoke on behalf of High Country Citizen’s Alliance. This agenda item was revisited on the second day to allow for public comment. Carl Trick made a motion, which was seconded by John McClow, to accept the staff recommendation, “The Board endorses the Upper Colorado Stakeholder Group Wild and Scenic Management Plan Alternative. By this endorsement, the CWCB is not determining whether to appropriate an instream flow water right on the Colorado River or whether to commit funds to this Management Plan.” He also requested a modification of the further language, “This endorsement is contingent on the endorsement of the management plan, which is in substantial compliance with the February 28 2011, Upper Colorado Wild and Scenic Stakeholder Management plan, also recognizing this alternative to the wild and scenic cannot go forward without the support and endorsement of the stakeholders.” The motion was approved unanimously (7-0).

## **22. Watershed & Flood Protection - Fish and Wildlife Mitigation Policy Update**

### **Track 1                      00:52:01 – 01:02:00**

**Action:** Presentation by Chris Sturm. This was an informational item only. No action was required by the Board.

## **23. Watershed & Flood Protection - Chatfield Reservoir Reallocation Update**

### **Track 1                      01:02:00 – 01:26:53**

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

**24. Water Information Section - Irrigated Lands: Western Colorado Past and Present**

**Track 5**                      **01:28:18 – 01:42:31**

**Action:** As noted previously this agenda item was moved to this time slot. Presentation by Ray Alvarado and Carolyn Fritz. This was an informational item only. No action was required by the Board.

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

- a. Trinchera Irrigation Company – Garland #2 Canal Repair

**Track 5**                      **04:03:28 – 04:12:26**

**Action:** Presentation by Ryan Edwards. A motion was made by Travis Smith, which was seconded by Carl Trick, to approve staff recommendation, that the Board approve a loan not to exceed \$251,793 (\$249,300 for project costs and \$2,493 for a 1% Loan Service Fee) to the Trinchera Irrigation Company for the Garland #2 Canal Repair Project from the Construction Fund. The loan terms shall be 30 years at the agricultural rate of 2.75% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. The motion was approved unanimously (6-0). Eric Wilkinson was unavailable for this vote.

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

**Track 5**                      **01:42:31 – 01:57:48**

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

**27. Finance Section – Prequalification Project List Update**

- a. Crystal Lakes Water and Sewer Association – Lone Pine Reservoir Enlargement
- b. Big Thompson and Platte River Ditch Company and Beeline Ditch Company – Ditch Rehabilitation
- c. Town of Georgetown – Georgetown Lake Dam Outlet Works Modification Project

**Track 5**                      **03:59:23 – 04:03:23**

**Action:** Presentation by Anna Mauss. A motion was made by Travis Smith, which was seconded by Geoff Blakeslee, to approve the new projects (Crystal Lakes Water and Sewer Association; Big Thompson and Platte River Ditch Company and Beeline Ditch Company; and Town of Georgetown) to be placed on the prequalified project list. The motion was approved unanimously (6-0). Eric Wilkinson was unavailable for this vote.

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

**Track 5**                      **03:45:29 – 03:59:23**

**Action:** This agenda item was moved to this time slot due to time constraints. Presentation by Ted Kowalski. This was an informational item only. No action was required by the Board.

**Track 6**                      **01:46:20 – 1:47:06**

**Action:** Barbara Biggs made a motion to adjourn the CWCB March 2011 Board meeting, which was seconded by Carl Trick. The motion was approved unanimously (7-0).

**ADJOURN 2:32 pm**