

# STATE OF COLORADO

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## Colorado Water Conservation Board Department of Natural Resources

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### MEMORANDUM

**TO:** Colorado Water Conservation Board Members

**FROM:** Tom Browning, Assistant Director  
Tim Feehan, Assistant Director

**DATE:** January 16, 2013

**SUBJECT:** Agenda Item 17b, January 28-29, 2013 Board Meeting  
Chatfield Reallocation – Orphan Shares Purchase

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John W. Hickenlooper  
Governor

Mike King  
DNR Executive Director

Jennifer L. Gimbel  
CWCB Director

### Staff Recommendation

Staff recommends that the Board request the General Assembly to authorize up to \$49 million in the 2013 Projects Bill, from the Severance Tax Trust Fund Perpetual Base Account, to fund the Chatfield Reservoir Reallocation project to acquire reservoir storage space.

### Background

Years ago the CWCB contracted with the U.S. Army Corps of Engineers (Corps) to investigate the “reallocation” of existing storage space in Chatfield reservoir. The Corps has prepared a Draft Feasibility Report and Environmental Impact Statement (FR/EIS) for the Chatfield Reallocation project (Project), which was released for public comment in 2012. The Corps is the lead federal agency for the NEPA process, and is working closely with DNR, several of its Divisions, a variety of water providers seeking storage space in the project, and a large number of interested stakeholders.

At its November 2011 meeting, the CWCB approved a \$13 million authorization to purchase orphan allotments (Orphan Shares) of Project storage space that were anticipated to revert back to the CWCB. The General Assembly approved the CWCB Projects Bill, including the \$13 million Chatfield funding, during the special session last year. Orphan Shares from Colorado Parks & Wildlife and Perry Park Country Club were included in the transfer agreement.

Currently, Staff is aware that additional Orphan Shares may revert back to the CWCB. The best estimate currently available is that up to \$49 million in Orphan Shares (roughly 5,500 acre-feet of storage, or one-fourth of the Project reallocation storage space) could revert back to the State. The Orphan Share purchase process is essentially identical to the one that took place last year.

Staff is also aware that there is serious interest by at least one other water provider to purchase some of the Orphan Shares. However, due to timing and uncertainty of any potential transfer

agreement, Staff firmly believes that the prudent step is for CWCB to approve the requested funding for the Project. This approach would be consistent with requirements spelled out in the executed Letters of Commitment between the CWCB and water providers, and would also serve as an important safety net by preventing unintended consequences at a later time.

The first \$5 million from last year's projects bill has already been appropriated as of January 1, 2013. The remaining \$8 million is scheduled to be appropriated on July 1, 2014. If the additional \$49 million is approved by the Board and authorized by the General Assembly, then the first \$20 million installment of that amount will be added to the \$8 million on July 1, 2014 for a total appropriation of \$28 million. The last installment of \$29 million would then be transferred on July 1, 2015.

The grand total amount for Orphan Shares would therefore equal \$62 million (\$13 million from last years' Projects Bill plus the additional requested \$49 million). Any unused (unobligated) portion of the funding would revert back to the CWCB Construction Fund by July 1, 2016. All necessary language to address this funding request is proposed in the draft 2013 Projects Bill.