

# STATE OF COLORADO

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## Colorado Water Conservation Board Department of Natural Resources

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### DRAFT

### SUMMARY MINUTES AND RECORD OF DECISIONS DECEMBER 19, 2013

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John W. Hickenlooper  
Governor

Mike King  
DNR Executive Director

James Eklund  
CWCB Director

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A special meeting of the Colorado Water Conservation Board (CWCB) was convened at the CWCB offices, 1313 Sherman Street, Room 719, Denver, CO 80203 and by conference call. The meeting was called to order by Chair Alan Hamel. Ten voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Alan Hamel, John McClow, Diane Hoppe, April Montgomery, Ty Wattenberg, Travis Smith, Patricia Wells, Russell George and Jay Gallagher. *Ex officio* member present was Mike King, Executive Director of the Department of Natural Resources. Non-voting *ex officio* members present or represented were Casey Shpall, Deputy Attorney General for Natural Resources; Bob Broscheid, Director for Colorado Parks and Wildlife; James Eklund, CWCB Director; and John Stulp, Special Policy Advisor to the Governor for Water. Also present were Pat Miks, Chief Financial Officer for the State Engineer's Office; and Ron Carlton, Deputy Director of the Colorado Department of Agriculture.

*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.*

**THURSDAY, DECEMBER 19, 2013**

**1. Roll Call**

**Action:** All Board Members present by conference call and in person stated their names for the record.

**2. Financial Matters – Construction Fund and Severance Tax Perpetual Base Fund**

a. Overview and Status of Emergency Loan Requests

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

**3. Finance - Emergency Loans**

a. Haldi Ditch Company - Emergency Haldi Ditch Repair

**Action:** Presentation by Anna Mauss. Chris Smith, General Manager of the Left Hand Ditch Company, addressed the Board. A motion to approve the staff recommendation was made by Diane Hoppe, which was seconded by Ty Wattenberg. The motion was passed unanimously (10-0).

**Staff Recommendation:** Staff recommends the Board approve a loan not to exceed \$50,500 (\$50,000 for project cost and \$500 for the 1% service fee) to the Haldi Ditch Company for 100% of engineering and construction costs related to the Emergency Haldi Ditch Repair Project from the Severance Tax Perpetual Base Fund, up to the approved loan amount. The loan terms shall be three years of no interest followed by 27-years at a blended interest rate of 2.35% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Staff additionally recommends the following contract conditions: Any future grant funds obtained and/or Excel Energy contributions for the purpose of this Project shall be submitted to CWCB to be applied to the balance of the loan within thirty (30) calendar days after receipt of said funds.

b. Culver Lateral Ditch Company - Emergency Culver Mahoney Ditch Repair

**Action:** Presentation by Jonathan Hernandez. Jim Nankervis, President of the Culver Lateral Ditch Company, addressed the Board. Tom Day, of TZA Water Engineers, addressed the Board. A motion to approve the staff recommendation was made by Diane Hoppe, which was seconded by Travis Smith. The motion was passed unanimously (10-0).

**Staff Recommendation:** Staff recommends the Board approve a loan not to exceed \$151,500 (\$150,000 for Project cost and \$1,500 for the 1% service fee) to the Culver Lateral Ditch Company for 100% of engineering and construction costs related to the Emergency Culver Mahoney Ditch Repair Project from the Severance Tax Perpetual Base Fund, up to the approved loan amount. The loan terms shall be 3 years of no interest followed by 27 years at a blended interest rate of 2.30% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Staff additionally recommends the following contract conditions: Any future grant funds shall be submitted to CWCB to be applied to the balance of the loan within thirty (30) calendar days after receipt of said funds.

c. Zweck and Turner Ditch Company - Emergency Zweck and Turner Ditch Repair

**Action:** Presentation by Jonathan Hernandez. Reggie Golden, President of the Zweck and Turner Ditch Company, addressed the Board. A motion to approve the staff recommendation was made by Diane Hoppe, which was seconded by Jay Gallagher. The motion was passed unanimously (10-0).

**Staff Recommendation:** Staff recommends the Board approve a loan not to exceed \$252,500 (\$250,000 for Project cost and \$2,500 for the 1% service fee) to the Zweck and Turner Ditch Company for 100% of engineering and construction costs related to the Emergency Zweck and Turner Ditch Repair Project from the Severance Tax Perpetual Base Fund, up to the approved loan amount. The loan terms shall be 3 years of no interest followed by 27 years at a blended interest rate of 2.25% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Additionally, staff recommends the following contract conditions:

1. Any future grant funds obtained for the purpose of this Project shall be submitted to CWCB to be applied to the balance of the loan within thirty (30) days after receipt of said funds.
2. The borrower shall deposit one-third of an annual payment into a Reserve Account each of the first three years of the contract.

#### **4. Stream and Lake Protection Section – Green Ditch Company Injury with Mitigation Proposal**

**Action:** Presentation by Linda Bassi. A motion to approve the staff recommendation was made by Diane Hoppe, which was seconded by April Montgomery. The motion was passed unanimously (10-0).

**Staff Recommendation:** Staff recommends that the Board: 1) Make a preliminary determination that the natural environment of Boulder Creek could be preserved to a reasonable degree with the proposed injury if the Company provides the proposed mitigation; and 2) Provide comments to Staff on the proposal and identify any issues that the Company and Staff should address before bringing the proposal to the Board for final approval.

#### **5. Interstate, Federal, and Water Information Section – Pitkin County RICD designation of Casey Shpall as the hearing officer**

**Action:** Presentation by Ted Kowalski. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Ty Wattenberg. The motion was passed unanimously (10-0).

**Staff Recommendation:** At the request of the Attorney General's Office, the Staff requests that the Board appoint Casey Shpall as the "public deliberation" officer for subject case:

- a. Case No. 10CW305: Application for Water Rights of the Board of Commissioners for the County of Pitkin, Colorado

#### **ADJOURN**

A motion was made by Travis Smith to adjourn the special December 2013 Board meeting, which was seconded by Jay Gallagher. The motion was approved unanimously (10-0).