



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

James Eklund
CWCB Director

DRAFT

Summary Minutes and Record of Decisions July 16-17, 2014 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the Rector Building of Colorado Northwestern Community College, located at 500 Kennedy Drive, Rangely, CO 81648. The meeting was called to order by Chair April Montgomery. 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* voting member Mike King, Director of the Department of Natural Resources, was present. Non-voting *ex officio* members present or represented were Patrick Kowalski, Assistant Attorney General for Natural Resources; Dick Wolfe, Colorado State Engineer; John Stulp, Director of the IBCC; and James Eklund, CWCB Director.

On the second day, the meeting was called to order by Chair April Montgomery. 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, Russell George, Ty Wattenberg, Diane Hoppe, Patricia Wells, April Montgomery, Travis Smith, Russell George, and Jay Gallagher. *Ex officio* voting member Mike King, Director of the Department of Natural Resources, was present. Non-voting *ex officio* members present or represented were Dick Wolfe, Colorado State Engineer; Ron Carlton, Deputy Commissioner for the Colorado Department of Agriculture; John Stulp, Director of the IBCC; and James Eklund, CWCB Director.

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.



Wednesday, July 16, 2014

CWCB Call to Order 8:00 AM

Rangely Mayor Frank Huitt welcomed the Colorado Water Conservation Board to Rangely.

1. Review and Approval of Agenda

Action: A motion to approve the agenda was made by Ty Wattenberg, which was seconded by Diane Hoppe. The motion was approved unanimously (10-0).

2. Review and Approval of May 21-22, 2014 Board Meeting Minutes

Action: A motion to approve the minutes was made by Jay Gallagher, which was seconded by Ty Wattenberg. The motion was approved unanimously (10-0).

3. Approve and/or Remove Consent Agenda Items

Action: A motion to approve the consent agenda was made by Travis Smith, which was seconded by Diane Hoppe. The motion was approved unanimously (10-0).

1. Statements of Opposition *Stream and Lake Protection Section*
 - a. Case No. 4-14CW24: Application of Tsawhawbitts Meadows Ranch Trust
 - b. Case No. 5-14CW3027: Application of POWDR, Copper Mountain, LLC and the United States of America
2. Change to Existing Loan *Finance Section*
 - a. Consolidated Home Supply Ditch and Reservoir Company - Emergency George Rist Ditch Repair Project
3. Floodplain Designations *Watershed and Flood Protection Section*
"Colorado Post Flood Awareness Mapping," by Atkins, dated June 2014
4. Stream Restoration Grant Program Funding Recommendation
Watershed and Flood Protection Section

4. Future Board Meeting Dates in 2014

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

5. Arkansas Basin Implementation Plan Presentation

Action: Introduction by staff member Jacob Bornstein. Presentations by Betty Konarksi and Gary Barber, representatives from the Arkansas Basin Roundtable. This was an informational item only. No Board action was required.

6. Colorado Basin Implementation Plan Presentation

Action: Presentations by Jim Pokrandt and Louis Meyer, representatives from the Colorado Basin Roundtable. This was an informational item only. No Board action was required.

7. Gunnison Basin Implementation Plan Presentation

Action: Presentations by Frank Kugel and Greg Johnson, representatives from the Gunnison Basin Roundtable. This was an informational item only. No Board action was required.

8. Metro/South Platte Basin Implementation Plan Presentation

Action: Presentations by Mark Koleber, Sean Cronin, Blaine Dwyer, and Laurel Stadjuhar, representatives from the Metro and South Platte Basin Roundtable. This was an informational item only. No Board action was required.

9. North Platte Basin Implementation Plan Presentation

Action: Presentations by Greg Johnson and Rick Wyatt, representatives from the North Platte Basin Roundtable. This was an informational item only. No Board action was required.

10. Rio Grande Basin Implementation Plan Presentation

Action: Presentations by Mike Gibson, Tom Spezze, Rio de la Vista and Kelly DiNatale, representatives from the Rio Grande Basin Roundtable. This was an informational item only. No Board action was required.

11. Southwest Basin Implementation Plan Presentation

Action: Presentations by Mike Preston, Ann Oliver, and Carrie Lile, representatives from the Southwest Basin Roundtable. This was an informational item only. No Board action was required.

12. Yampa/White Basin Implementation Plan Presentation

Action: Presentations by Jeff Devere, Jon Hill, Geoff Blakeslee, and Kevin McBride, representatives from the Yampa/White Basin Roundtable. This was an informational item only. No Board action was required.

13. IBCC Conceptual Agreement

Action: Presentation by staff member Jacob Bornstein. Eric Kuhn, representing the IBCC, addressed the Board. This was an informational item only. No Board action was required.

14. Colorado's Water Plan - Review of Public Input and Presentations

Action: Presentation by staff member Rebecca Mitchell. The following members of the public addressed the Board: Abby Burk, representing the Audubon Society; Torie Jarvis, representing the Northwest Colorado Council of Governments - Quality/Quantity Group; and Theresa Conley, representing Conservation Colorado. This was an informational item only. No Board action was required.

15. Basin Directors' Reports

a. Colorado River (Mainstream) Basin Director's Report

Action: Report by Russell George. This was an informational item only. No Board action was required.

b. San Juan/San Miguel-Dolores River Basin Director's Report

Action: Report by April Montgomery. This was an informational item only. No Board action was required.

c. Gunnison River Basin Director's Report

Action: Report by John McClow. This was an informational item only. No Board action was required.

d. North Platte River Basin Director's Report

Action: Report by Ty Wattenberg. This was an informational item only. No Board action was required.

e. South Platte River Basin Director's Report

Action: Report by Diane Hoppe. This was an informational item only. No Board action was required.

f. Arkansas River Basin Director's Report

Action: Report by Alan Hamel. This was an informational item only. No Board action was required.

g. City and County of Denver Director's Report

Action: Report by Patricia Wells. This was an informational item only. No Board action was required.

h. Rio Grande River Basin Director's Report

Action: Report by Travis Smith. This was an informational item only. No Board action was required.

i. Yampa-White River Basin Director's Report

Action: Report by Jay Gallagher. This was an informational item only. No Board action was required.

Craig Ullman and Scott Grosscup of the Yellow Jacket Conservancy District gave a presentation to the Board. Staff member Brent Newman gave the introduction.

16. Directors' Reports

a. Department of Natural Resources Executive Director

Action: Report by Mike King. This was an informational Item only. No Board action was required.

b. Interbasin Compact Committee Director

Action: Report by John Stulp. This was an informational item only. No Board action was required.

c. Agriculture Commissioner

Action: Report by John Salazar. This was an informational item only. No Board action was required.

d. Colorado Water Conservation Board Director

Action: Report by James Eklund. This was an informational item only. No Board action was required.

e. State Engineer

Action: Report by Dick Wolfe. This was an informational item only. No Board action was required.

f. Division of Parks and Wildlife

Action: The Division of Parks and Wildlife did not provide a report.

g. Water Recourse and Power Development Authority

Action: Report submitted by letter to the Board. This was an informational item only. No Board action was required.

17. Attorney General's Report, Legal Briefing and Executive Session

Action: Presenation by Patrick Kowalski. This was an informational item only. No Board action was required.

18. Executive Session

Action: Under the Colorado Open Meetings Act, C.R.S. Section 24-6-402(3)(a)(II), a motion was made by Diane Hoppe for the Board to go into executive session for the discussion of agenda items 18.a. through 18.d. The motion was seconded by Ty Wattenberg. The motion was approved unanimously (10-0).

- a. Colorado River Issues and Legal Questions
- b. Aspinall Unit Operations and Legal Questions
- c. Pagosa Area Water & Sanitation
- d. Animas-La Plata (A-LP) Update

Diane Hoppe made a motion for the Board to leave executive session, which was seconded by Ty Wattenberg. The motion was approved unanimously (10-0).

19. Report from Executive Session

Action: Assistant Attorney General Patrick Kowalski 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 18.a. through 18.d., and that the discussion was limited to those items only, with no action taken.

20. WSRA Grants

- a. Metro/South Platte - Ducks Unlimited: Basin Implementation Plan/Nonconsumptive Needs

Action: Presentation by staff member Craig Godbout. A motion to approve the staff recommendation was made by Diane Hoppe, which was seconded by Alan Hamel. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends conditional approval (refer to Issues/Additional Needs) of up to \$79,703 from the South Platte Basin Account, and \$79,703 from the Metro Account, and \$79,702 from the Statewide Account to help complete the project titled: South Platte and Metro Integrated Basin Implementation Plan: Phase II - Nonconsumptive.

- b. Metro/South Platte - South Metro Water Supply Authority: Basin Implementation Plan/Consumptive Needs

Action: Presentation by staff member Craig Godbout. A motion to approve the staff recommendation was made by Diane Hoppe, which was seconded by Patricia Wells. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends conditional approval (refer to Issues/Additional Needs) of up to \$170,297 from the South Platte Basin Account; \$170,297 from the Metro Account; and \$170,298 from the Statewide Account to help complete the project titled: South Platte and Metro Integrated Basin Implementation Plan: Phase II - Consumptive.

c. Colorado - Colorado River Water Conservation District: Basin Implementation Plan

Action: Presentation by staff member Craig Godbout. A motion to approve the staff recommendation was made by Russell George, which was seconded by Ty Wattenberg. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends conditional approval, contingent on basin roundtable approval, of up to \$100,000 from the Colorado Basin Account to help complete the project titled: Colorado Basin Implementation Plan.

d. Gunnison - Coal Creek Watershed Coalition: McCormick Ditch Reconstruction

Action: Presentation by staff member Craig Godbout. A motion to approve the staff recommendation was made by John McCloy, which was seconded by Patricia Wells. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends conditional approval (refer to Issues/Additional Needs) of up to \$21,346 from the Basin Account to assist in the funding of the project titled: McCormick Ditch Reconstruction.

e. Gunnison - Trout Unlimited: Upper Ohio Creek Flow Restoration

Action: Presentation by staff member Craig Godbout. A motion to approve the staff recommendation was made by John McCloy, which was seconded by Patricia Wells. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends approval of up to \$6,000 from the Gunnison Basin Account to assist in the funding of the project titled: Upper Ohio Creek Flow Restoration.

f. Southwest - La Plata Water Conservancy District: Long Hollow Reservoir Compact Water Delivery Study

Action: Presentation by staff member Craig Godbout. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by Ty Wattenberg. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends approval of up to \$38,000 from the Southwest Basin Account to assist in the funding of the project titled: Long Hollow Reservoir Compact Delivery Study

g. Yampa/White/Green - Rio Blanco Water Conservation District: White River Storage Study - Phase 2

Action: Presentation by staff member Craig Godbout. A motion to approve the staff recommendation was made by Jay Gallagher, which was seconded by Russell George. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends approval of up to \$97,750 from the Yampa/White/Green Basin Account and up to \$97,750 from the Statewide Account to help complete the project titled: White River Storage Feasibility Study - Phase II.

- h. Yampa/White/Green - Colorado Water Trust: White River Highland Ditch Diversion & Headgate Redesign

Action: Presentation by staff member Craig Godbout. A motion to approve the staff recommendation was made by Jay Gallagher, which was seconded by Russell George. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends approval of up to \$30,000 from the Yampa/White/Green Basin Account to assist in the funding of the study titled: White River-Highland Ditch Diversion & Headgate Redesign.

- i. Arkansas - Pike's Peak Regional Water Authority: Basin Implementation Plan

Action: Presentation by staff member Craig Godbout. A motion to approve the staff recommendation conditional upon receiving the letter of approval from the Arkansas Basin Roundtable was made by Alan Hamel, which was seconded by Ty Wattenberg. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends conditional approval contingent upon Arkansas Basin Roundtable approval (anticipated on July 9, 2014) of up to \$19,000 from the Arkansas Basin Account to help complete the project titled: Arkansas Basin Implementation Plan, contingent on roundtable approval.

Peggy Rector addressed the Board.

21. Proposed Acquisition of Interest in Water on the Little Cimarron River *Stream and Lake Protection Section*

Action: Presentation by staff member Linda Bassi. This was an informational item only. No Board action was required.

22. Construction Fund and Severance Tax Perpetual Base Fund *Finance Section*

- a. Projections and Cash Balance Report

Action: Presentation by staff member Kirk Russell. This was an informational item only. No Board action was required.

23. Water Project Loan

Finance Section

- a. Upper Platte & Beaver Canal Company - Hospital Road Recharge Facility and Bridge Widening

Action: Presentation by staff member Derek Johnson. A motion to approve the staff recommendation was made by Diane Hoppe, which was seconded by Patricia Wells. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$190,890 (\$189,000 for project costs and \$1,890 for the 1% Loan Service Fee) to the Upper Platte and Beaver Canal Company for costs associated with design and construction of the Hospital Road Recharge Facility and Bridge Widening Project from the Construction Fund. The loan terms shall be 10 years at a blended interest rate of 1.75% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

24. Emergency Loan

Finance Section

- a. St. Vrain and Left Hand Conservancy District - Emergency Rock'n WP Ranch Lake No. 4 Repair Project

Action: Presentation by staff member Jonathan Hernandez. A motion to approve the staff recommendation was made by Diane Hoppe, which was seconded by Patricia Wells. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$4,545,000 (\$4,500,000 for Project cost and \$45,000 for the 1% service fee) to the St. Vrain and Left Hand Water Conservancy District, acting by and through its water activity enterprise, for 100% of its engineering and construction cost share related to the Emergency Rock'n WP Ranch Lake No. 4 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 3.20% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

25. Change to Existing Loan

Finance Section

- a. Sanchez Ditch and Reservoir Company - Sanchez Reservoir Outlet Rehabilitation Project

Action: Presentation by staff member Anna Mauss. A motion to approve the staff recommendation was made by Travis Smith, which was seconded by Patricia Wells. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends the Board approve a loan increase, from the Construction Fund, not to exceed \$252,500 (\$250,000 for Project costs and \$2,500 for the 1% Loan Service Fee) for a total loan not to exceed \$1,381,276 (\$1,367,600 for Project cost and \$13,676 for the 1% Loan Service Fee) to the Sanchez Ditch And Reservoir Company for the Sanchez Reservoir Outlet Rehabilitation Project. The loan terms shall be changed to 40 years

at an adjusted agricultural interest rate of 2.0% per annum. Security for the loan shall be as originally approved and is in compliance with CWCB Financial Policy #5.

26. Animas-La Plata (A-LP) Update

Finance/Interstate & Federal Sections

Action: Presentation by staff member Tim Feehan. A motion to approve the staff recommendation was made by Travis Smith, which was seconded by Diane Hoppe. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends the CWCB proceed with the sale of water to the La Plata Archuleta Water District of up to 2,500 AF from the State's water depletion allocation in the Animas-La Plata Project and authorize the Director of CWCB to sign and execute the attached Agreement, entitled "Agreement for Acquisition of Municipal and Industrial Water Supply from the State of Colorado Depletion Allocation in the Animas-La Plata Project, Colorado."

Second Action: Presentation by staff member Tim Feehan. A motion to approve the staff recommendation was made by Ty Wattenberg, which was seconded by Travis Smith. The motion was approved unanimously (10-0).

Second Staff Recommendation: Given that the 46-acre parcel originally held by the CWCB for the benefit of the Animas-La Plata Project was expressly to be held by the entity that would operate and maintain the Project and that parcel was intended for the full benefit of the Project, the CWCB directs staff to prepare a letter to the Bureau of Reclamation stating that the final permanent easement for the Durango Pumping Plan should be the full 46 acres.

A motion to adjourn was made by Diane Hoppe, which was seconded by Jay Gallagher. The motion was approved unanimously (10-0).