



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 November 19-20, 2014 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the the Hotel Colorado, located at 562 Pine Street, Glenwood Springs, CO 81601. The meeting was called to order by Chair April Montgomery. Nine 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. Non-voting *ex officio* members present or represented were Casey Shpall, Deputy Attorney General for Natural Resources; Dick Wolfe, Colorado State Engineer; John Stulp, Director of the IBCC; and James Eklund, CWCB Director. Bob Broscheid, Colorado Parks and Wildlife Director, was present for agenda item 8.

On the second day, the meeting was called to order by Chair April Montgomery. Nine 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. Non-voting *ex officio* members present or represented were Casey Shpall, Deputy Attorney General for Natural Resources; Dick Wolfe, Colorado State Engineer; 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.



1. Review and Approval of Agenda

Action: A motion to approve the agenda was made by , which was seconded by . The motion was approved unanimously (9-0).

2. Review and Approval of September 11-12, 2014 Board Meeting Minutes

Action: A motion to approve the minutes as corrected was made by, which was seconded by. The motion was approved unanimously (9-0).

3. Approve and/or Remove Consent Agenda Items

Action: A motion to approve the consent agenda was made by, which was seconded by. The motion was approved unanimously (9-0).

1. Flood Plan Designations *Watershed and Flood Protection Section*
 - a. "Hydrologic Evaluation of the Big Thompson Watershed", by Jacobs, dated August 2014
 - b. "Hydrologic Evaluation of the Lefthand Creek Watershed", by Jacobs, dated August 2014
 - c. "Hydrologic Evaluation of the St. Vrain Watershed", by Jacobs, dated August 2014
 - d. "Boulder Creek Hydrologic Analysis", by CH2MHill, dated August 2014
 - e. "Little Thompson River Hydrologic Analysis", by CH2MHill, dated August 2014
 - f. "Coal Creek, Headwaters to Jefferson/Boulder County Line, Hydrology Evaluation", by URS Corporation, dated August 2014
2. Statements of Opposition *Stream and Lake Protection Section*
 - a. Case No. 4-14CW037: Application of RoseAnne M. and Jimmy R. Guire II
 - b. Case No. 5-14CW3096: Application of Stillwater Ranch Open Space Association
3. Loan Deauthorizations *Finance Section*
 - a. Zweck & Turner Ditch Co - Emergency Project
 - b. Town of Evans - Emergency Evans Town Ditch Repair Project
 - c. Davidson Ditch and Reservoir Co. - Emergency Davidson Ditch Lining Repair Project
 - d. Union Ditch Co. - Emergency Union Ditch Repair Project
4. Change to Existing Loans *Finance Section*
 - a. Penrose Water District - Raw Water Acquisition and Utilization Project

4. Future Board Meeting Dates in 2014

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

5. 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 Kevin Rein. This was an informational item only. No Board action was required.

f. Division of Parks and Wildlife

Action: Report by Bob Broscheid. This was an informational item only. No Board action was required.

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.

6. Chatfield Reallocation Project - Storage Space Transfer

Action: Presentation by CWCB staff member . A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends that the Board approve, in concept, the redistribution of 1,425 acre-feet of Chatfield project storage space from the Western Mutual Ditch Company to the Central Colorado Water Conservancy District. Staff further recommends that the Board allow the CWCB Director to sign the associated transfer documents once completed.

7. Update on Senate Bill 195 - Phreatophyte Studies

Interstate, Federal, & Water Information Section

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

8. Colorado River Basin Fund - Report on Memorandum of Agreement Funds

Interstate, Federal, & Water Information Section

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

9. RWEACT Update - West Fork Complex Burn Area

Watershed and Flood Protection Section

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

10. Rio Grande Basin Runoff Forecasting Project Update

Watershed and Flood Protection Section

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

11. Water Supply Reserve Account Grants

Water Supply Planning Section

- a. Colorado - Riverside Ranch: Riverside Ranch Irrigation Diversion and River Restoration Project

Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$113,000 from the Colorado Basin Account to help fund the project titled: Riverside Ranch Irrigation Diversion & River Restoration Project.

- b. Gunnison - Town of Olathe: Town of Olathe Water Rights

Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$15,000 from the Gunnison Basin Account to help fund the project titled: Town of Olathe Water Rights Assessment.

- c. Gunnison - Upper Gunnison Water Conservancy District: Basin Implementation Plan (Planning and Technical Support for 2015)

Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends conditional approval (refer to Issues/Additional Needs) of up to \$66,700 from the Gunnison Basin Account; and \$33,300 from the Statewide

Account to help fund the project titled: Gunnison Basin Implementation Plan - Planning & Technical Support.

- d. Rio Grande - Rio Grande Watershed Conservation and Education Initiative:
Increasing the Water Holding Capacity of Soil for Agriculture Sustainability in
the San Luis Valley

Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$98,200 from the Rio Grande Basin Account to help fund the project titled: Increasing the Water Holding Capacity of Soil for Agriculture Sustainability in the San Luis Valley.

- e. Yampa/White/Green - Colorado River Water Conservation District: Basin
Implementation Plan

Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$80,000 from the Yampa/White/Green Basin Account to help fund the study titled: Yampa/White/Green Basin Implementation Plan - Phase 2.

12. Alternative Agricultural Transfer Methods Grant Application Colorado River Water Bank Working Group

Water Supply & Planning and Interstate, Federal, & Water Information Sections

Action: Presentation by CWCB staff member . A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$180,000 from the Alternative Agricultural Water Transfer Methods Program to help fund the “Colorado Water Bank: Agricultural Field Studies and Estimates of Saved Consumptive Use” project.

13. Wild and Scenic Rivers Alternatives Update

Interstate, Federal, & Water Information and Stream & Lake Protection Sections

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

14. Colorado’s Water Plan - Overview

Water Supply & Planning Section

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

15. Colorado's Water Plan - Public Input

Water Supply & Planning Section

Action: Introduction by CWCB staff member Kate McIntire. This was an informational item only. No Board action was required.

Staff Recommendation: Staff recommends the Board approve the first draft of Colorado's Water Plan as ready to submit to the Governor on December 10, 2014.

16. Colorado's Water Plan - Request for approval to submit the draft plan to the Governor

Water Supply & Planning Section

Action: Presentation by CWCB staff member . A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board approve letters of support for the three Colorado applicants for grant funding through the Regional Conservation Partnership Program.

17. Basin Directors' Reports

a. Colorado River (Mainstem) 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.

18. Green Ditch Company Injury with Mitigation Proposal

Stream & Lake Protection Section

Action: Presentation by CWCB staff member . A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that

19. Notice of 2015 Instream Flow Recommendation Appropriations in Water Divisions 1, 4, 5, and 6

Stream & Lake Protection Section

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

20. Request for Authorization to Proceed to Trial in Case No. 5-11CW152 (Application of City and County of Denver, Grand County and CWCB)

Stream & Lake Protection Section

Action: Presentation by CWCB staff member . A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Pursuant to ISF Rule 8j., staff recommends that the Board authorize Staff to proceed to trial in the event that Staff and the Attorney General's Office along with co-applicants are unable to reach a settlement with all opposers.

21. Request for Authorization to Proceed to Trial in Case No. 2-13CW3061 (Application of Town of Palmer Lake)

Stream & Lake Protection Section

Action: Presentation by CWCB staff member . A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that

22. Proposed Acquisition of Contractual Interest in Water on Saint Vrain Creek in Case No. 1-12CW91 (Application of St. Vrain and Left Hand WCD and County of Boulder)
Stream & Lake Protection Section

Action: Presentation by CWCB staff member . A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Pursuant to ISF Rule 8j., staff recommends that the Board authorize Staff to proceed to trial to protect its instream flow water rights in the event that Staff and the Attorney General's Office are unable to reach a settlement with Applicant before trial.

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

Action: Presentation by Casey Shpall. This was an informational item only. No Board action was required.

24. Executive Session

Action: Under the Colorado Open Meetings Act, C.R.S. Section 24-6-402(3)(a)(II), a motion was made by for the Board to go into executive session for the discussion of agenda items 24.a. through 24.i. The motion was seconded by . The motion was approved unanimously (9-0).

- a. Case No. 5-11CW152: Application of City and County of Denver, Grand County, and CWCB
- b. Case No. 2-13CW3061: Application of Town of Palmer
- c. Bear Creek Lake Reasonable Diligence Case
- d. Colorado River Legal Issues
- e. Republican River Litigation
- f. Rio Grande River Litigation
- g. Glenwood Springs RICD
- h. Pagosa Springs Area Water & Sanitation District - Loan Restructuring
- i. Chatfield Reservoir Litigation

made a motion for the Board to leave executive session, which was seconded by . The motion was approved unanimously (9-0).

25. Report from Executive Session

Action: Deputy Attorney General Casey Shpall 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 24.a. through 24.i., and that the discussion was limited to those items only, with no action taken.

26. Financial Matters - Construction Fund and Severance Tax Perpetual Base Fund
Finance Section

- a. Interest Rate Policy Change

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve the revised Financial Policy #7 which includes automatic adjustment of interest rates.

b. Annual Financial Statements

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

c. Projections and Cash Balance Report

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

27. Water Project Loans

Finance Section

a. Town of Bennett - Well #3 and #6 Replacement Project

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$1,454,400 (\$1,440,000 for Project cost and \$14,400 for the 1% service fee) to the Town of Bennett, acting by and through its water enterprise, for engineering and construction cost related to the Well #3 and #6 Replacement Project from the Construction Fund, up to the approved loan amount. The loan terms shall be 30 years at the current middle-income municipal interest rate of 3.25% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

b. Supply Irrigating Ditch Company - Emergency Supply Ditch Rehabilitation Project

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$324,210 (\$321,000 for Project cost and \$3,210 for the 1% service fee) to the Supply Irrigating Ditch Company, for engineering and construction costs related to the Emergency Supply Ditch Rehabilitation 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 condition: 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.

c. Platte Valley Irrigation Company - Sand Hill Lake Outlet Works Rehabilitation Project

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$745,380 (\$738,000 for Project costs and \$7,380 for the 1% service fee) to the Platte Valley Irrigation Company for engineering and construction costs related to the Sand Hill Lake Outlet Works Rehabilitation Project from the Severance Tax Perpetual Base Fund, up to the approved loan amount. The loan terms shall be 30 years at the agricultural interest rate of 2.0% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

d. Las Animas Consolidated Canal Company - Repair & Replacement of Canal Spillway Structure

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$363,782 (\$360,180 for project costs and \$3,602 for the 1% Loan Service Fee) to the Las Animas Consolidated Canal Company for costs associated with design and construction of the Repair & Replacement of Canal Spillway Structure Project from the Severance Tax Perpetual Base Fund. The loan terms shall be 30 years at the blended rate of 5.05% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Staff additionally recommends a contract condition that, upon payment towards outstanding principal representing the non-agricultural Company share of the final accumulated loan amount (including the 1% Loan Service Fee), the loan interest rate shall be amended down to the agricultural rate of 2% per annum.

e. West Reservoir and Ditch Co. - Repair of West Reservoir No. 1 Outlet Works

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$248,378 (\$245,919 for project costs and \$2,459 for the 1% Loan Service Fee) from the Severance Tax Perpetual Base Fund to the West Reservoir and Ditch Company for costs associated with engineering and construction of the Repair of West Reservoir No.1 Outlet Works project. The loan terms shall be 30 years at the agricultural interest rate of 2.00% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Staff also recommends that no funds be disbursed until the Company prepares and records an easement encompassing the West Reservoir No. 1 high water limits and additional perimeter maintenance access.

28. Change to Existing Loans

Finance Section

a. Pisgah Reservoir and Ditch Company - Mount Pisgah Dam/Wrights Reservoir Outlet Works Rehabilitation Project

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan increase of \$386,133

(\$382,310 for Project costs and \$3,823 for the 1% Loan Service Fee) for a total loan not to exceed \$549,091 (\$543,655 for Project cost and \$5,437 for the 1% Loan Service Fee) to the Pisgah Reservoir and Ditch Company for engineering and construction costs related to the Mount Pisgah Dam/Wrights Reservoir Outlet Works Rehabilitation Project from the Construction Fund. The loan terms shall remain at 30 years at a blended interest rate of 1.75% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

b. Northern Colorado Water Conservancy District - Granby Hydropower Project

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$5,135,183 (\$5,084,340 for Project costs and \$50,843 for the 1% Loan Service Fee) to the Northern Water Hydropower Water Activity Enterprise owned by Northern Colorado Water Conservancy District for the design and construction of the Granby Hydropower Project from the Severance Tax Perpetual Base Fund. The loan terms shall be 30 years at the Hydroelectric interest rate of 2.0% per annum. Security for the loan shall be a pledge of Granby Hydropower Plant revenues. Staff also recommends the addition of condition #3 below to the original requirements that must be met prior to the disbursement of loan funds: Contract Conditions
1. Execution of the Lease of Power Privilege
2. Execution of the Power Purchase Agreement
3. Modify the existing Enterprise debt to clearly define the Pledged Revenues used for the construction of the Carter Hydropower Plant.

c. Pagosa Area Water and Sanitation District-Dry Gulch Reservoir Loan Restructuring

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board direct staff to proceed with negotiations with Pagosa Area Water and Sanitation District, to amend its existing loan contract with the Colorado Water Conservation Board, Contract C150261, per the terms and conditions listed as 1 through 6 above. The terms and conditions identified above shall be in the form of a signed agreement, between the Pagosa Area Water and Sanitation Company, the San Juan Water Conservancy District, and the Colorado Water Conservation Board. The agreement must be executed prior to Loan Contract C150261 being amended.

**29. CWCB's 2015 Projects Bill - Construction Fund Non-Reimbursable Project Investments
"En-Bloc" Approval**

Finance Section

- a. Satellite Monitoring System Maintenance
- b. Weather Modification Permitting
- c. Colorado Floodplain Map Modernization
- d. Colorado Watershed Restoration Program
- e. Flood & Drought Response Fund - Refresh
- f. Litigation Fund - Refresh

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve the Non-Reimbursable Investments listed as Agenda Item 29a through 29f and include them in the 2015 Project Bill.

30. CWCB's 2015 Projects Bill - Construction Fund Non-Reimbursable Project Investments
Finance Section

a. Arkansas River Decision Support System

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board approve this request for the General Assembly to authorize this project and appropriate \$1,000,000 from the Construction Fund to the Department of Natural Resources for allocation to the CWCB to continue implementation of the ArkDSS.

b. Technical Assistance for USDA Regional Conservation Partnership Program

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board approve this request for the General Assembly to authorize this project and appropriate \$500,000 from the Construction Fund to the Department of Natural Resources for allocation to the CWCB to provide technical assistance to applicants and participants in the Regional Conservation Partnership Program.

c. Water Conservation Planning and Data Tracking Tool

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board approve this request the General Assembly to authorize this project and appropriate \$100,000 from the Construction Fund to the Department of Natural Resources for allocation to the CWCB for technical activities related water conservation planning and data tracking.

31. CWCB's 2015 Projects Bill - Modern Method to Determine Probable Maximum Precipitation (PMP) Rainfall for Sizing Spillways
Finance Section

Action: Presentation by CWCB staff member. A motion to approve the staff recommendation was made by , which was seconded by . The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board approve this request for the General Assembly to authorize this project and appropriate \$1,200,000 from the Severance Tax Operational Fund, to the Department of Natural Resources for allocation to the CWCB for

a period of three years to fund the Modern Methods to Determine PMP for Rainfall Spillway Sizing Project.