



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 May 20-21, 2015 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at Northeastern 18, located at 17408 CO-14, Sterling, CO 80751. The meeting was called to order by Chair Diane Hoppe. 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, April Montgomery, Ty Wattenberg, Travis Smith, Russell George, Jay Gallagher, and Diane Hoppe. *Ex-officio* member Mike King, Department of Natural Resources Director, was present. Non-voting *ex officio* members present or represented were Patrick Kowaleski, Senior Assistant Attorney General for Natural Resources, Colorado Department of Law; Mike Sullivan, Colorado Deputy State Engineer for Division of Water Resources; Bob Broscheid, Colorado Parks and Wildlife Director; John Stulp, Director of the IBCC; Don Brown, Commissioner for the Colorado Department of Agriculture; Lauren Ris, Assistant Director Water for the Executive Director's Office; and James Eklund, Colorado Water Conservation Board Director.

On the second day, the meeting was called to order by Chair Diane Hoppe. 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, April Montgomery, Ty Wattenberg, Travis Smith, Russell George, Jay Gallagher, and Diane Hoppe. *Ex-officio* member Mike King, Department of Natural Resources Director, was present. Non-voting *ex officio* members present or represented were Patrick Kowaleski, Senior Assistant Attorney General for Natural Resources, Colorado Department of Law; Mike Sullivan, Colorado Deputy State Engineer for Division of Water Resources; John Stulp, Director of the IBCC; Lauren Ris, Assistant Director Water for the Executive Director's Office; and James Eklund, Colorado Water Conservation Board 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 Approve Agenda

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

2. Review and Approve March 18 -19, 2015 Board Meeting Minutes

Action: A motion to approve the minutes was made by Alan Hamel, which was seconded by Ty Wattenberg. 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 Travis Smith, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0).

1. This consent agenda item has been removed.

2. Deferral of Consideration of Request to Inundate *Stream & Lake Protection Section*

- The Board will be asked to ratify the Director's approval to defer consideration of a request to inundate two of the Board's instream flow water rights on North Fork Cache la Poudre River in Water Division 1.

a. Case No. 1-13CW3185: Application of the City of Fort Collins

Staff Recommendation: Staff recommends that the Board defer consideration of a request to inundate, so long as, 1) The City agrees to terms and conditions in its water court decree requiring the City to request the Board's approval of its inundation request before it diverts the enlargement water right. 2) Not take action regarding the stipulation, but rather allow full resolution of the case to proceed as usual, under CWCB's ISF Rules wherein the Board has delegated authority to its Director to authorize resolution of opposed water court cases.

3. Statements of Opposition

Stream & Lake Protection Section

- The Board will be asked to ratify Statements of Opposition that have been filed by staff to protect instream flow and natural lake level water rights in the following water court cases:

a. Case No. 1-15CW3021: Application of the City of Brighton

Staff Recommendation: Staff requests ratification of the Statement of Opposition filed to protect ISF water rights. The Attorney assigned to this case is Jeffrey Candrian, who can be contacted at Jeffrey.candrian@state.co.us, or (720)508-6288.

b. Case No. 5-15CW3000: Application of the Town of Silverthorne

Staff Recommendation: Staff requests ratification of the Statement of Opposition filed to protect ISF water rights. The Attorney assigned to this case is Jennifer Mele, who can be contacted at Jennifer.Mele@state.co.us, or (720)508-6282.

4. New Prequalification Loans

Finance Section

a. Orchard Ranch Ditch Company - Ditch Piping Project

Staff Recommendation: Staff recommends that the Board approve the project, as listed on page 2, to be placed on the Prequalified Project List.

5. Statement of Opposition

Interstate, Federal, and Water Information Section

- The Board will be asked to ratify a Statement of Opposition that was filed by staff to protect Colorado's ability to promote maximum utilization of the waters of the State for the following Recreational In-Channel Diversion (RICD) case:

- a. Case No. 1-15CW3025: Application to Make Absolute and for a Finding of Reasonable Diligence by the City of Golden

Staff Recommendation: Staff requests that the Board ratify the attached SOP that was filed by Staff and the Attorney General's Office in this case.

4. Proposed Board Meeting Dates in 2016

- a. January 25 & 26 Denver Tech Center
- b. March 16 & 17 Arkansas Basin
- c. May 18 & 19 Alamosa
- d. July 13 & 14 Steamboat
- e. September 14 & 15 Colorado Basin
- f. November 16 & 17 TBD

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

5. Future Board Meeting Dates in 2015

- a. July 15 & 16 Ignacio
- b. September 16 & 17 Montrose
- c. November 18 & 19 TBD

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

6. 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 Don Brown. 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 Mike Sullivan. 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 Resource and Power Development Authority

Action: No report given as no representative was present. No Board action was required.

7. Colorado's Water Plan Update

Water Supply & Planning Section

Action: Report by CWCB staff Rebecca Mitchell and Kate McIntire. Bart Miller, Western Resource Advocates, addressed the Board during the public comment period. Abby Burke, Audubon Rockies, addressed the Board during the public comment period. Tom Easley, Rocky Mountain Climate Organization, addressed the Board during the public comment period.

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

8. Basin Implementation Plan Presentations

Action: Report from CWCB staff Jacob Bornstein.

a. 10:15 - 10:50 - South Platte/Metro

Action: Joe Frank, Lower South Platte Water Conservancy District; Mark Koleber, City of Thorton; Matt Cook, HDR; and Laurel Stadjuhar, West Sage Water Consultants, presented to the Board. This was an informational item only. No Board action was required.

b. 10:50 - 11:25 - Rio Grande

Action: Heather Dutton, San Luis Valley Conservancy District, presented to the Board. This was an informational item only. No Board action was required.

c. 11:25 - 12:00 - Gunnison

Action: Frank Kugel, Gunnison Basin Roundtable and Upper Gunnison Water Conservancy District, and Greg Johnson, Wilson Water Group, presented to the Board. This was an informational item only. No Board action was required.

d. 1:00 - 1:10 - North Platte

Action: Greg Johnson, Wilson Water Group, presented to the Board. This was an informational item only. No Board action was required.

e. 1:10 - 1:45 - Southwest

Action: Carrie Lile, Southwest Basin Roundtable and Harris Water Engineering, and Ann Oliver, Southwest Basin Roundtable and Animas Watershed Partnership, presented to the Board. This was an informational item only. No Board action was required.

f. 1:45 - 2:20 - Arkansas

Action: Jim Broderick, Arkansas Basin Roundtable and Southeastern Colorado Water Conservancy District; Barbara Biggs, CDMSmith; Mark McClusky, CDMSmith; and Kyle Hamilton, CH2M presented to the Board. This was an informational item only. No Board action was required.

g. 2:20 - 2:55 - Colorado

Action: Mark Hanlon, Colorado Basin Roundtable, presented to the Board. This was an informational item only. No Board action was required.

h. 2:55 - 3:30 - Yampa/White

Action: Mary Brown, Yampa/White/Green Basin Roundtable, presented to the Board. This was an informational item only. No Board action was required.

8B. Basin Roundtable Path Forward Discussion

Water Supply & Planning Section

Action: Report from CWCB staff Jacob Bornstein and Director James Eklund. This was an informational item only. No Board action was required.

9. Colorado Foundation for Water Education 2015-2016 Scope of Work

Water Supply & Planning Section

Action: Report from CWCB staff Kate McIntire. Nicole Seltzer, Colorado Foundation for Water Education, and Greg Ten Eyck, Leonard Rice Engineers, Inc., presented to the Board. A motion to approve the staff recommendation was made by Travis Smith, which was seconded by Alan Hamel. The motion was approved unanimously (8-0).

Staff recommendation: Staff recommends the Board approve the Fiscal Year 2016 Scope of Work for the Colorado Foundation for Water Education.

10. WSRA Grants

Water Supply & Planning Section

WSRA Applications for Consideration at the CWCB May 2015 Board Meeting			
	Basin	Applicant	Name of Water Activity
a.	Colorado	Grand Valley Water Users	Grand Valley Water Users Association Water

		<i>Association</i>	<i>Management Plan Update</i>
<p>Action: Presentation by CWCB staff member Craig Godbout. Mark Harris of the Grand Valley Water Users Association addressed the Board. A motion to approve the staff recommendation was made by Russell George, which was seconded by John McClow. The motion was approved unanimously (8-0).</p> <p>Staff recommendation: Staff recommends approval of up to \$45,000 from the Colorado Basin Account to help fund the project titled: Grand Valley Water Users Association Water Management Plan Update.</p>			
<i>b.</i>	<i>Colorado</i>	<i>Basalt Water Conservancy District</i>	<i>Roaring Fork Watershed - Missouri Heights Groundwater Monitoring Program Phase IIA</i>
<p>Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by Russell George, which was seconded by John McClow. The motion was approved unanimously (8-0).</p> <p>Staff recommendation: Staff recommends approval of up to \$25,000 from the Colorado Basin Account to help fund the project titled: Roaring Fork Watershed - Missouri Heights Groundwater Monitoring Program, Phase IIA</p>			
<i>c.</i>	<i>Gunnison</i>	<i>Marcot Park Ditch & Reservoir Co.</i>	<i>Engineering Review of Marcot Dam & Outlet Structure</i>
<p>Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by John McClow, which was seconded by Russell George. The motion was approved unanimously (8-0).</p> <p>Staff recommendation: Staff recommends approval of up to \$10,000 from the Gunnison Basin Account to help fund the project titled: Engineering Review of Marcot Dam Outlet Structure.</p>			
<i>d.</i>	<i>North Platte</i>	<i>Colorado Division of Parks and Wildlife</i>	<i>Mallon Ditch Extension Bypass Structure</i>
<p>Action: Presentation by CWCB staff member Craig Godbout. Pete Conovitz, Colorado Parks and Wildlife, addressed the Board. A motion to approve the staff recommendation was made by Ty Wattenberg, which was seconded by Travis Smith. The motion was approved unanimously (8-0).</p> <p>Staff recommendation: Staff recommends approval of up to \$35,900 from the North Platte Basin Account to help fund the project titled: Mallon Extension Ditch Bypass Structure.</p>			
<i>e.</i>	<i>Rio Grande</i>	<i>Trout Unlimited</i>	<i>Kerber Creek Restoration Project - Middle Parcel</i>
<p>Action: Presentation by CWCB staff member Craig Godbout. Elizabeth Russell of Trout Unlimited addressed the Board. A motion to approve the staff recommendation was made by Travis Smith, which was seconded by Alan Hamel. The motion was approved unanimously (8-0).</p> <p>Staff recommendation: Staff recommends approval of up to \$30,000 from the Rio Grande Basin Account to help fund the project titled: Kerber Creek Restoration Project - Middle Parcel.</p>			
<i>f.</i>	<i>Rio Grande</i>	<i>Conejos River System Water Users Association</i>	<i>Conejos Groundwater Monitoring and Analysis</i>
<p>Action: Presentation by CWCB staff member Craig Godbout. James Henderson, Conejos River System Water Users Association, addressed the Board. A motion to approve the staff recommendation was made by Travis Smith, which was seconded by Alan Hamel. The motion was approved unanimously (8-0).</p>			

Staff recommendation: Staff recommends approval of up to \$19,000 from the Rio Grande Basin Account, and \$200,000 from the Statewide Account to help fund the needs assessment titled: Conejos Groundwater Monitoring and Analysis.			
<i>g.</i>	<i>Southwest</i>	<i>Trout Unlimited</i>	<i>Upper Dolores CAMP (Coldwater-Fisheries Adaptive Management Plan)</i>
Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by April Montgomery, which was seconded by Jay Gallagher. The motion was approved unanimously (8-0). Staff recommendation: Staff recommends approval of up to \$15,000 from the Southwest Basin Account to help fund the project titled: Upper Dolores CAMP (Coldwater-Fisheries Adaptive Management Plan).			
<i>h.</i>	<i>Southwest</i>	<i>Town of Mountain Village</i>	<i>Town of Mountain Village 2015 Waterline Extension Project</i>
Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by April Montgomery, which was seconded by Jay Gallagher. The motion was approved unanimously (8-0). Staff recommendation: Staff recommends approval of up to \$30,000 from the Southwest Basin Account to help fund the project titled: Town of Mountain Village 2015 Waterline Extension Project.			

11. ATM Application

Water Supply & Planning Section

ATM Applications for Consideration at the CWCB May 2015 Board Meeting	
<i>Lower Arkansas Valley Water Conservancy District</i>	<i>Rotational Fallowing - Leasing Catlin Canal Pilot Project Implementation and Operations Program in the Arkansas River Basin</i>
Action: Presentation by CWCB staff member Craig Godbout. Jay Winner, Lower Arkansas Valley Water Conservancy District, addressed the Board, addressed the Board. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by Ty Wattenberg. The motion was approved unanimously (8-0). Staff recommendation: Staff recommends approval of up to \$173,781.50 from the Alternative Agricultural Water Transfer Methods Grant Program to help fund the “Rotational Fallowing - Leasing Catlin Canal Pilot Project Implementation and Operations Program in the Arkansas River Basin” project.	

12. Basin Directors’ Report

a. Colorado River (Mainstem) Basin Director’s Report

Action: Report by Russell George. Caroline Bradford, Understanding Water Resources, addressed the Board. 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 McCloy. 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: No report as Patricia Wells was not present at the meeting.

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.

13. Financial Matters - Construction Fund and Severance Tax Perpetual Base Fund

Finance Section

a. Projections and Cash Management Report

Action: Report by CWCB staff Anna Mauss. This was an informational item only. No Board action was required.

14. Water Project Loans

Finance Section

a. Uncompahgre Valley Water Users Association - Drop 5 Hydroelectric Project

Action: Presentation by CWCB staff Anna Mauss. Steve Fletcher, Uncompahgre Valley Water Users Association, addressed the Board. A motion to approve the staff recommendation was made by John McCloy, which was seconded by Russell George. The motion was approved unanimously (7-0).

Staff recommendation: Staff recommends the Board approve a loan not to exceed \$6,999,300 (\$6,930,000 for Project costs and \$69,300 for the 1% Loan Service Fee) to the Uncompahgre Valley Water Users Association for costs associated with the design and construction of the Drop 5 Hydroelectric Project from the Severance Tax Perpetual Base Fund. The loan terms shall be 20 years at the hydroelectric interest rate of 2.0% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Staff further recommends that no funds be disbursed until the following contract conditions have been satisfied: 1) Execution of the Lease of Power Privilege Agreement (LOPP). 2) Execution of an agreement that provides payment to the Uncompahgre Valley Water Users Association from the Drop 5 hydroelectric revenues.

b. Lower Poudre Augmentation Company - Cornish Water Rights Purchase

Action: Presentation by CWCB staff Jonathan Hernandez. Dale Trowbridge, Lower Poudre Augmentation Company, addressed the Board. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by Ty Wattenberg. The motion was approved unanimously (7-0).

Staff recommendation: Staff recommends the Board approve a loan not to exceed \$1,163,015 (\$1,151,500 for Project costs and \$11,515 for the 1% service fee) to the Lower Poudre Augmentation Company for costs related to the Cornish Water Rights Purchase from the Severance Tax Perpetual Base Fund, up to the approved loan amount. The loan terms shall be 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.

c. Lower Arkansas Valley Water Conservancy District - Water Rights Purchase

Action: Presentation by CWCB staff Derek Johnson. Jay Winner, Lower Arkansas Water Valley Conservancy District, addressed the Board. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by Travis Smith. The motion was approved unanimously (7-0).

Staff recommendation: Staff recommends the Board approve a loan not to exceed \$2,560,350 (\$2,535,000 for project costs and \$25,350 for the 1% Loan Service Fee) from the Severance Tax Perpetual Base Fund to the Lower Arkansas Valley Water Conservancy District for costs associated with the Water Rights Purchase project. The loan terms shall be 20 years at the agricultural interest rate of 1.45% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Staff further recommends the following Contract Condition: Bridge financing for the purchase of the shares shall be paid in full within 30 days of receipt of CWCB funds.

d. Plum Valley Heights Subdistrict of the Roxborough Water and Sanitation District - Raw Water Supply Project

Action: Presentation by CWCB staff Jonathan Hernandez. Larry Moore, Roxborough Water and Sanitation District, addressed the Board. A motion to approve the staff recommendation was made by Ty Wattenberg, which was seconded by Alan Hamel. The motion was approved unanimously (7-0).

Staff recommendation: Staff recommends the Board approve a loan not to exceed \$2,248,260 (\$2,226,000 for Project costs and \$22,260 for the 1% service fee) to the Plum Valley Heights Subdistrict of the Roxborough Water and Sanitation District for costs related to the Raw Water Supply Project from the Construction Fund. The loan terms shall be 30 years at the high-income municipal interest rate of 3.05% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

15. Uncontested 2015 Instream Flow and Natural Lake Level Appropriations

Stream & Lake Protection Section

Action: Presentation by CWCB staff Linda Bassi. A motion to approve the staff recommendation was made by April Montgomery, which was seconded by Russell George. The motion was approved unanimously (7-0).

Staff recommendation: Staff requests that the Board make the following determinations and take the following actions on each of the appropriations identified in the attached tables, based on the information contained in this memo as well as the information presented by staff both in writing and orally at the January 26, 2015 Board meeting.

1) Pursuant to section 37-92-102(3), C.R.S. (2014) and based upon: (1) the recommendations of CPW, City of Fort Collins and the BLM addressing biological needs, flow rates/volume, reaches and time periods, and (2) a review of the data and other information presented by Staff in this memo and orally, determine for each instream flow and natural lake level appropriation in the amounts identified in the attached tables that:

(a) There is a natural environment that can be preserved to a reasonable degree with the recommended water rights, if granted;

(b) The natural environment will be preserved to a reasonable degree by the water available for the recommended appropriations; and

(c) Such natural environment can exist without material injury to water rights.

2) Pursuant to ISF Rule 5f., establish January 26, 2015 as the appropriation date for these water rights.

3) Direct staff to request the Attorney General's Office to file the necessary water rights applications.

16. 2014 and 2015 Contested Instream Flow Appropriations

Stream & Lake Protection Section

Action: Presentation by CWCB staff Linda Bassi. A motion to approve the staff recommendation was made by Travis Smith, which was seconded by Ty Wattenberg. The motion was approved unanimously (7-0).

Staff recommendation: Staff recommends that the Board designate a Hearing Officer for each contested instream flow appropriation. Staff further recommends that the Board set the hearing date for all appropriations, except the two segments of Yellow Creek, to be held in conjunction with the Board's September 2015 meeting, which will be held in Montrose Colorado. For the Yellow Creek appropriation, staff recommends that the Board set the hearing date to be held in conjunction with the Board's November 18-19, 2015 meeting (location to be determined). The staff recommendation was amended to add the designation of Casey Shpall as the hearing officer.

17. Proposed Acquisition of Contractual Interest in Water on the 15 Mile Reach of the Colorado River, Water Division 5

Stream & Lake Protection & Interstate and Federal Sections

Action: Presentation by CWCB staff Linda Bassi and Ted Kowalski. Tom Chart, U.S. Fish and Wildlife Service, addressed the Board. A motion to approve the staff recommendation was made by John McClow, which was seconded by Russell George. The motion was approved unanimously (7-0).

Staff recommendation: 1. Conclude that the proposed acquisition of an interest in water under the proposed Water Lease Agreement with the Ute Water Conservancy District is appropriate to preserve and improve the natural environment of the 15-Mile Reach of the Colorado River to a reasonable degree. 2. Determine that the acquired interest in water would be best utilized by: (a) using it to preserve the natural environment of the 15-Mile Reach of the Colorado River at rates up to the existing decreed ISF water rights in that reach; and (b) using it to improve the natural environment in that reach by protecting flows above the decreed ISF rates at rates not to exceed the U.S. Fish and Wildlife Service's flow targets for the four endangered fish; 3. Approve the expenditure of up to \$500,000 from the Species Conservation Trust Fund for the lease; 4. Authorize the Director to execute the Water Lease Agreement; and 5. Direct staff to implement the Water Lease Agreement pursuant to the following conditions:

a. Releases of Ruedi water under the Water Lease Agreement shall not cause the releases out of Ruedi Reservoir to exceed 300 cfs and shall not cause flows in the Fryingpan River below Ruedi Reservoir to exceed 350 cfs. Staff shall coordinate with the Bureau of Reclamation to ensure that this condition is met.

b. If CWCB and Ute Water desire to renew the Water Lease Agreement after the first year, CWCB staff will notify local stakeholders of the potential renewal and seek input, and will seek the Board's approval for any lease renewal at a subsequent regularly scheduled CWCB meeting.

c. CWCB staff shall consult and coordinate weekly with CPW staff on proposed releases to minimize impacts to the fishery below Ruedi Reservoir.

18. Request for Authorization to Proceed to Trial in Case No. 1-11CW265 (Application of the City of Fort Collins)

Stream & Lake Protection Section

Action: Presentation by CWCB staff Kaylea White. A motion to approve the staff recommendation was made by Russell George, which was seconded by John McClow. The motion was approved unanimously (7-0).

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.

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

Action: Report by Patrick Kowaleski, Colorado Department of Law. This was an informational item only. No Board action was required.

20. Executive Session

Action: Under the Colorado Open Meetings Act, C.R.S. Section 24-6-402(3)(a)(II), a motion was made by Ty Wattenberg for the Board to go into executive session for the discussion of agenda items 20.a. through 20.e. The motion was seconded by April Montgomery. The motion was approved unanimously (7-0).

- a. Case No. 1-11CW265: Application of the City of Fort Collins
- b. Bear Creek Lake
- c. Colorado River Issues
- d. Rio Grande Interstate Litigation
- e. Animas-La Plata Litigation

April Montgomery made a motion for the Board to leave Executive Session, which was seconded by Ty Wattenberg. The motion was approved unanimously (7-0).

21. Wild and Scenic Rivers Issues

Stream and Lake Protection & Interstate and Federal Sections

- a. Updates
- b. Annual review of the fund

Action: Report by CWCB staff Ted Kowalski and Linda Bassi. Roy Smith, Bureau of Land Management, presented to the Board. A motion to approve the staff recommendation was made by April Montgomery, which was seconded by Russell George. The motion was approved unanimously (7-0).

Staff Recommendation: Regarding the Wild and Scenic Alternatives Fund, the Staff recommends that the Board:

- 1) Acknowledge that the need and purpose of the Wild and Scenic Alternatives Fund still exists and is expected to continue in the future, and
- 2) Make no revisions to the existing Terms and Conditions, which are attached.

22. Litigation Account

Interstate, Federal, & Water Information Section

- a. Annual Report to the General Assembly

Action: Report by CWCB staff Ted Kowalski. A motion to approve the staff recommendation was made by Ty Wattenberg, which was seconded by Travis Smith. The motion was approved unanimously (7-0).

Staff recommendation: The Staff recommends that the Board approve the attached report for submittal to the General Assembly.

b. Requests for authorizations

Action: Report by CWCB staff member Ted Kowalski. Karen Kwon, Office of the Colorado Attorney General, addressed the Board. A motion to approve the staff recommendation was made by Russell George, which was seconded by Ty Wattenberg. The motion was approved unanimously (7-0).

Staff Recommendation: The Staff recommends that the Board:

- 1) Authorize expenditure of \$55,034 for FY 16 for the Arkansas River Basin,
- 2) Authorize expenditures of \$500,000 for FY 16 for Colorado River Basin,
- 3) Authorize expenditure of \$85,000 for FY16 for litigation work related to the Republican River litigation.
- 4) Authorize \$310,500 for FY 16 for litigation work related to the Rio Grande River and ~~\$50,000 related to the potential suit from WildEarth Guardians~~ (removed from staff recommendation),
- 5) Direct the CWCB Director and Staff to expend these funds consistent with the request by the Office of the Attorney General, and;
- 6) Direct the CWCB Director, CWCB Staff, and Office of the Attorney General to comply with the annual reporting requirements as specifically provided for in Section 37-60-121(2.5).

23. Report on South Platte High Groundwater Issues

Interstate, Federal, & Water Information Section

Action: Report by CWCB staff Andy Moore. This item is informational only, and there is no action required by the Board.

24. Report on Non-Native subcommittee work for the Upper Colorado River Recovery Program

Interstate, Federal, & Water Information Section

Action: Report by CWCB staff member Michelle Garrison. Tom Chart, U.S. Fish and Wildlife Service, presented to the Board. This item is informational only, and there is no action required by the Board.

25. Colorado River System Conservation Agreement Update and Approval as a state approved conservation program

Interstate, Federal, & Water Information Section

Action: Report by CWCB staff Ted Kowalski. A motion to approve the staff recommendation was made by Russell George, which was seconded by John McClow. The motion was approved unanimously (7-0).

Staff Recommendation: The Staff recommends that the Board affirm the Pilot Program as an approved water conservation program through the following approval: “The Colorado Water Conservation Board approves the Upper Colorado River Commission's System Conservation Pilot Program as a water conservation program subject to C.R.S. 37-92-103(2) and 37-92-305.”

26. Report from Executive Session

Action: Senior Assistant Attorney General for Natural Resources Patrick Kowaleski, Colorado Department of Law, 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 20.a. through 20.e., and that the discussion was limited to those items only, with no action taken.

Meeting Adjourned

A motion to adjourn the May Board meeting was made by April Montgomery, which was seconded by Ty Wattenberg. The motion was approved unanimously (7-0).