



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 18 - 19, 2015 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the History Colorado Center, located at 1200 Broadway, Denver, CO 80203. 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: Diane Hoppe, Russ George, April Montgomery, Ty Wattenberg, Jay Gallagher, Travis Smith, John McCLOW, and Alan Hamel. Ex-officio member Mike King, Executive Director of the Department of Natural Resources, was present. Non-voting ex officio members present or represented were Dick Wolfe, Colorado State Engineer for Division of Water Resources; John Stulp, Director of the IBCC; Don Brown, Commissioner for the Colorado Department of Agriculture; Lauren Ris, Assistant Director of 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. Ten voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Diane Hoppe, Russ George, April Montgomery, Ty Wattenberg, Jay Gallagher, Travis Smith, John McCLOW, Patti Wells, and Alan Hamel. Ex-officio member Mike King, Executive Director of the Department of Natural Resources, was present. Non-voting ex officio members present or represented were Dick Wolfe, Colorado State Engineer for Division of Water Resources; 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; Pat Kowaleski, Senior Assistant Attorney General Natural Resources Section, 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 Jay Gallagher, which was seconded by April Montgomery. The motion was approved unanimously (9-0).

2. Review and Approve September 15 -17, 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 as amended by removing item 4. RCPP Funding Request Approvals from the Consent Agenda and moving to the regular agenda between item 17 and 18 was made by Travis Smith, which was seconded by Ty Wattenberg. The motion was approved unanimously (9-0).

1. Change to Existing Loans

Finance Section

- a. *Greeley Loveland Irrigation Company - Irrigation System Improvements*

2. Loan Deauthorizations

Finance Section

- a. *Hallditch Company - Emergency loan*

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 and to protect CWCB's exclusive authority to hold instream flow water rights in the following water court cases:

- a. *Case No. 6-15CW3034: Application of Arlene E. Fritzlan Revocable Living Trust*

4. RCPP Funding Request Approvals

Interstate, Federal, & Water Information Section

Action: Report by CWCB staff Ted Kowalski. A motion to approve the staff recommendation was made by John McClow, which was seconded by Russ George. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends that the Board approve an expenditure of \$100,000 from the RCPP technical assistance fund to support the CRWCD's 2014 RCPP project as described above.

5. New Prequalification Loans

Finance Section

- a. *City of Fort Collins Utilities - Michigan Ditch Reconstruction*

4. Future Board Meeting Dates in 2015

- | | |
|----------------------|--------------------|
| a. January 25 & 26 | Denver Tech Center |
| b. March 16 & 17 | La Junta |
| c. May 18 & 19 | Del Norte |
| d. July 13 & 14 | Steamboat |
| e. September 13 - 15 | Colorado Basin |
| f. November 16 & 17 | Denver |

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 Don Brown. 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: No report given. No Board action was required.

- g. Water Resource and Power Development Authority

Action: Report by Michael Brod. This was an informational item only. No Board action was required.

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

Finance Section

a. Change to Financial Policy #13 - Fund Growth

Action: Report by CWCB staff Kirk Russell. A motion to approve the staff recommendation was made by Travis Smith, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends the Board approve a change to Financial Policy #13 regarding the Target Growth of the Construction Fund. The Construction Fund will grow at the rate of return on its invested Projects only.

b. Annual Financial Statements

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

c. Projections and Cash Management Report

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

7. Water Project Loans

Finance Section

a. Lookout Mountain Water District - Upper Beaver Brook Dam Spillway

Action: Report by CWCB staff Derek Johnson. Dean Snyder and Christina Shea from the Lookout Mountain Water District addressed the Board. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by Russ George. The motion was approved unanimously (7-0).

Staff recommendation: Staff recommends the Board approve a loan not to exceed \$3,099,690 (\$3,069,000 for Project costs and \$30,690 for the 1% Loan Service Fee) to the Lookout Mountain Water District, acting by and through its water activity enterprise, for the Upper Beaver Brook Dam Spillway project from the Construction Fund. The loan terms shall be 30 years at the high-income municipal rate of 3.25% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

Staff additionally recommends the following loan approval condition prior to executing a contract: The Dam Safety Branch of the State Engineers Office shall provide confirmation that deficiencies identified during the 2014 inspection of the Lower Beaver Brook Dam and spillway have been addressed before CWCB enters into a loan contract for the Upper Beaver Brook Dam Spillway Project.

8. Change to Existing Loans

Finance Section

a. Lake Canal Reservoir Company - North Gray Reservoir Rehabilitation

Action: Report by CWCB staff Jonathan Hernandez. Justin Green, Lake Canal Reservoir Company, 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).

Staff recommendation: Staff recommends the Board approve a loan increase of \$87,673 (\$86,805 for Project cost and \$868 for the 1% Loan Service Fee), for a total loan not to exceed \$204,298 (\$202,275 for Project cost and \$2,023 for the 1% Loan Service Fee) to the Lake Canal Reservoir Company for Project costs related to the North Gray Reservoir Rehabilitation Project, from the Construction Fund. The loan terms shall remain 30 years at a blended restricted reservoir interest rate of 2.10% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

9. CWCB's 2016 Projects Bill - Statutory Changes

Finance Section

a. Funding for Treated Water Projects

Action: Report by CWCB staff Kirk Russell. Michael Brod, Water Resource and Power Development Authority, 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).

Staff recommendation: Staff recommends the Board approve the language change as provided for inclusion in the 2016 CWCB's Project Bill.

b. Using Severance Tax Perpetual Base Fund for Grants

Action: Report by CWCB staff Kirk Russell. No Board action was taken.

Staff recommendation: Staff shall continue to investigate options to change the C.R.S. 39-29-109 that will put the CWCB in the best position to respond to the states increasing needs for water project funding.

10. Notice of 2016 Instream Flow Recommendation Appropriations in Water Divisions 1, 2, 4, 5, and 6

Stream & Lake Protection Section

Action: Report by CWCB staff Jeff Baessler. This was an informational item that provided notice of recommended stream segments that staff may bring to the Board in January 2016 with a recommendation that the Board form its intent to appropriate ISF water rights. No Board action was required.

11. Inventory and Assessment of Colorado Weather Modification Programs

Watershed & Flood Protection Section

Action: Report by CWCB staff Joe Busto. Greg Johnson, Wilson Water Group, presented to the Board. This was an informational item only. No Board action was required.

12. Colorado Hazard Mapping Program Overview

Watershed & Flood Protection Section

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

13. Rainwater Harvesting Criteria and Guidelines Update

Water Supply & Planning Section

Action: Report by CWCB staff Tom Browning. Kevin Rein, Division of Water Resources, presented to the Board. This was an informational item only. No Board action was required.

14. WSRA Grants

Water Supply & Planning Section

BASIN	APPLICANT	WATER ACTIVITY
Arkansas	Arkansas River Basin Water Forum	Arkansas BIP Education & Outreach Goals

Action: Report by CWCB staff Craig Godbout. CWCB staff Kate McIntire addressed the Board. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by Patti Wells. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends approval of up to \$150,000 from the Arkansas Basin Account to help fund the project titled: Implementing the Education and Outreach Goals of the Ark BIP through Education to Action Projects/Programs over a 3-year Period.

Colorado	Eagle County Conservation District	Irrigation Asset Inventory Program
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Action: Report by CWCB staff Craig Godbout. Scott Schlosser, Eagle County Conservation District, addressed the Board. A motion to approve the staff recommendation was made by Russ George, which was seconded by John McClow. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends approval of up to \$54,300 from the Colorado Basin Account to help fund the project titled: Eagle County Conservation District Irrigation Asset Inventory Program.

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

Action: Report by Casey Shpall, Deputy Attorney General for Natural Resources. This was an informational item only. No Board action was required.

16. Executive Session

Action: Under the Colorado Open Meetings Act, C.R.S. Section 24-6-402(3)(a)(II), a motion was made by April Montgomery for the Board to go into executive session for the discussion of agenda items 16.a. through 16.e. The motion was seconded by Ty Wattenberg. The motion was approved unanimously (8-0).

- a. Glenwood Springs RICD
- b. Colorado River Legal Issues
- c. ALP
- d. Bear Creek Reservoir Litigation
- e. Republican River Litigation

Ty Wattenberg made a motion for the Board to leave Executive Session, which was seconded by April Montgomery. The motion was approved unanimously (9-0).

17. Report from Executive Session

Action: 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 16.a. through 16.e., and that the discussion was limited to those items only, with no action taken.

18. CWCB's 2016 Projects Bill - Non-Reimbursable Project Investments "En-Bloc" approval *Finance Section*

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

Action: Report by CWCB staff Kirk Russell. A motion to approve the staff recommendation was made by Ty Wattenberg, which was seconded by Travis Smith. The motion was approved unanimously (9-0).

Staff recommendation: The Staff recommends the Board approve the Non-Reimbursable Investments listed as Agenda Item 18a through 18f and include them in the 2016 Project Bill.

19. CWCB's 2016 Projects Bill - Non-Reimbursable Project Investments

Finance Section

a. Water Forecasting Partnerships Project

Action: Report by CWCB staff Joe Busto. A motion to approve the staff recommendation was made by Travis Smith, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends the Board request the General Assembly to authorize \$300,000 from the Construction Fund to be appropriated to the Department of Natural Resources for allocation to CWCB for the Water Forecasting Partnerships Project.

b. Colorado Watershed Restoration Program

Action: Report by CWCB staff Kevin Houck. A motion to approve the staff recommendation was made by April Montgomery, which was seconded by John McClow. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends the Board request the General Assembly to authorize to the Department of Natural Resources for allocation to the Colorado Water conservation Board, the sum of \$1,500,000 or so much as may be necessary in order to restore the unencumbered balance up to 1,500,000 from the Severance Tax Perpetual Base Fund for the Colorado Watershed Restoration Program.

c. Bear Creek Reallocation of Storage Study

Action: Report by CWCB staff Ted Kowalski and CWCB staff Tom Browning. A motion to approve the staff recommendation was made by Patti Wells, which was seconded by Ty Wattenberg. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends the Board request the General Assembly to authorize up to \$2,500,000 from the Severance Tax Perpetual Base Fund to be appropriated to the Department of Natural Resources for allocation to the CWCB for the Bear Creek Reallocation of Storage Study.

d. Windy Gap Bypass

Action: Report by CWCB staff Michelle Garrison. Jeff Drager, Northern Water, addressed the Board. A motion to approve the staff recommendation was made by Russ George, which was seconded by Patti Wells. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends the Board request the General Assembly to authorize up to \$200,000 additional funding from the Severance Tax Perpetual Base Fund to be appropriated to the Department of Natural Resources for allocation to the CWCB for engineering and design of the Windy Gap Bypass Project.

20. Colorado River System Conservation Agreement

Interstate, Federal & Water Information Section

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

21. Ruedi Reservoir Lease Report

Interstate, Federal & Water Information Section

Action: Report by CWCB staff Michelle Garrison. A motion to approve the staff recommendation was made by April Montgomery, which was seconded by Ty Wattenberg. The motion was approved unanimously (9-0).

Staff recommendation: The Staff recommends that the Board direct Staff to conduct meetings with the stakeholders, and report the results for future Board consideration of a renewal of the lease with Ute Water, and possibly other entities that have acquired Ruedi Reservoir water that have an interest in leasing water to the CWCB.

22. Colorado's Water Plan

Water Supply & Planning Section

Action: Report by CWCB staff Becky Mitchell, Jacob Bornstein, Kate McIntire, and Brent Newman. A motion to approve the staff recommendation was made by Russ George, which was seconded by Patti Wells. The motion was approved unanimously (10-0).

Staff recommendation: Staff recommends the board adopt Colorado's Water Plan and authorize Director Eklund to deliver the first final of Colorado's Water Plan to John W. Hickenlooper, Governor of the state of Colorado.

Colorado's Water Plan continued

Water Supply & Planning Section

Alan Hamel invited Sandy White, White & Jankowski, LLP and the Arkansas Basin Roundtable, to address the Board.

John McClow invited Frank Kugel, Upper Gunnison River Water Conservancy District and the Gunnison Basin Roundtable, to address the Board.

Patti Wells invited Joe Stibrich, Aurora Water and the Metro Roundtable, to address the Board.

Diane Hoppe invited Joe Frank, Lower South Platte Water Conservancy District and the South Platte Basin Roundtable, to address the Board.

Russ George invited Ken Nuebecker, American Rivers and the Colorado Basin Roundtable, to address the Board.

April Montgomery read a letter on behalf of the Southwest Basin Roundtable.

Ty Wattenberg addressed the Board on behalf of the North Platte Basin Roundtable.

Jay Gallagher invited Geoff Blakeslee, The Nature Conservancy and the Yampa/White/Green Basin Roundtable, to address the Board.

Travis Smith addressed the Board on behalf of the Rio Grande Basin Roundtable.

Mike King addressed the Board.

23. Basin Directors' Report

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.

Meeting Adjourned

A motion to adjourn the November 2015 Board meeting was made by John McClow, which was seconded by Patti Wells. The motion was approved unanimously (9-0).