



**COLORADO**

**Colorado Water  
Conservation Board**

Department of Natural Resources

John W. Hickenlooper  
Governor

Robert Randall  
DNR Interim Executive  
Director

James Eklund  
CWCB Director

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**Summary Minutes and Record of Decisions**

**July 20 -21, 2016 Board Meeting**

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A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the Bud Werner Memorial Library located at 1289 Lincoln Ave, Steamboat Springs, CO 80487. The meeting was called to order by Chair Russell George. Ten voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Russell George, April Montgomery, Patricia Wells, Ty Wattenberg, Jay Gallagher, Travis Smith, John McClow, Jim Yahn, and Alan Hamel. Ex-officio voting member Robert Randall, Executive Director, Department of Natural Resources, was present. Non-voting ex officio members present or represented were: John Stulp, Director, Interbasin Compact Committee; Patrick Kowaleski, Senior Assistant Attorney General, Colorado Department of Law, Natural Resources Section; Ron Velarde, Northwest Regional Manager, Division of Colorado Parks and Wildlife; and James Eklund, Director, Colorado Water Conservation Board.

On the second day, the meeting was called to order by Chair Russell George. Nine voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Russell George, April Montgomery, Ty Wattenberg, Jay Gallagher, Travis Smith, John McClow, Patricia Wells, Jim Yahn, and Alan Hamel. Ex-officio voting member Robert Randall, Interim Executive Director, Department of Natural Resources, was not present. Non-voting ex officio members present or represented were: John Stulp, Director, Interbasin Compact Committee; Patrick Kowaleski, Senior Assistant Attorney General, Colorado Department of Law, Natural Resources Section; and James Eklund, Director, Colorado Water Conservation Board.

*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. Appointment**

**Action:** Patrick Kowaleski, Senior Assistant Attorney General, Colorado Department of Law, Natural Resources Section, swore in incumbent Board member Jim Yahn.

## **2. Review and Approve Agenda**

**Action:** A motion to approve the agenda with amendments as provided by Director Gallagher was made by Jim Yahn, which was seconded by Alan Hamel. The motion was approved unanimously (10-0).

*Amendments from Director Gallagher:  
Director Gallagher moved item 16h to precede item 16a.*

## **3. Review and Approve May , 18 -19 2016 Board Meeting Minutes**

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

## **4. Approve and/or Remove Consent Agenda Items**

**Action:** A motion to approve the Consent Agenda was made by Jay Gallagher, which was seconded by April Montgomery. The motion was approved unanimously (10-0).

### **1.Statement of Oposition**

*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 case:*

*a. Case No. 16CW3036, Water Division 5: Application of The Valley at Winter Park Water District*

### **2.2016 Willow Creek Instream Flow Appropriations Modified Hearing Schedule**

*Stream & Lake Protection Section*

### **3.New Prequalification Loans**

*Finance Section*

*a. Town of Aguilar - Augmentation Project*

*b. Orchard Mesa Irrigation District - Grand Valley Power Plant Rehabilitation*

## **5. Proposed Board Meeting Dates in 2017**

- a. January 23 & 24      Denver Tech Center
- b. March 22 & 23      North Platte Basin
- c. May 17 & 18      Southwest Basin
- d. July 19 & 20      Gunnison Basin
- e. September 20 - 22      South Platte Basin
- f. November 15 & 16      Denver Metro Area

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

## **6. Future Board Meeting Dates in 2016**

- a. September 20 -22      Beaver Creek
- b. November 16 & 17      Denver

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

## **7. Directors' Reports**

- a. Department of Natural Resources Executive Director

Action: Report by Robert Randall. 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: No report was given. 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: No report was given. No Board action was required.

- f. Division of Parks and Wildlife

Action: Report by Ron Velarde. This was an informational item only. No Board action was required.

- g. Water Resource and Power Development Authority

Action: No report given. No Board action was required.

## **8. Attorney General's Report, Legal Briefing, and Executive Session**

Action: Report by Patrick Kowaleski, Senior Assistant Attorney General, Colorado Department of Law. A motion to approve item 8, Attorney General's Report, Legal Briefing, and Executive Session with amendments as provided by Ty Wattenberg, was made by Patricia Wells, which was seconded by Travis Smith. The motion was approved unanimously (10-0).

*Amendments from Director Wattenberg:*

*Item 9g. Green Ditch Forest Service Issues was added to the Executive Session.*

## **9. Executive Session**

Action: Under the Colorado Open Meetings Act, C.R.S. Section 24-6-402(3)(a)(II), a motion was made by Travis Smith for the Board to go into executive session for the discussion of agenda items 9.a. through 9.g. The motion was seconded by Jay Gallagher. The motion was approved unanimously (10-0).

- a. Chatfield Reallocation
- b. Windy Gap Bypass Channel
- c. Colorado River
- d. Republican River
- e. Bear Creek Lake
- f. ALP Update
- g. Green Ditch Forest Service Issues

## **10. Report from Executive Session**

Action: Patrick Kowaleski, Senior Assistant Attorney General, 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 9.a. through 9.g., and that the discussion was limited to those items only, with no action taken.

## **11. Informational Overview**

*One World One Water Center for Urban Water Education and Stewardship*

Action: Report by Tom Cech, Director, One World One Water Center for Urban Water Education and Stewardship. This item was an informational item only. No Board action was required.

## 12. Financial Matters - Construction Fund and Severance Tax Perpetual Base Fund

### *Finance Section*

#### a. Loan Policy Changes

**Action:** Report by CWCB staff member Kirk Russell. A motion to approve the staff recommendation was made by Travis Smith, which was seconded by John McClow. The motion was approved unanimously (10-0).

**Staff Recommendation:** Staff recommends the Board approve the changes presented and as shown on the attached Financial Policy #7 - Lending Rate Determination.

#### b. Projections and Cash Management Report

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

## 13. Water Project Loans

### *Finance Section*

#### a. Southeastern Colorado Water Conservancy District - Arkansas Valley Conduit Phase One, Pueblo Dam Hydroelectric Project

**Action:** Report by CWCB staff member Jonathan Hernandez. Jim Broderick, Executive Director, Southeastern Colorado Water 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 (10-0).

**Staff Recommendation:** Staff recommends the Board approve a loan not to exceed \$17,392,200 (\$17,220,000 for Project costs and \$172,200 for the 1% service fee) to the Southeastern Colorado Water Conservancy District, acting by and through its water activity enterprise, for costs related to the Arkansas Valley Conduit Phase One, Pueblo Dam Hydroelectric 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 power revenues. Staff further recommends that no funds be disbursed until the following contract conditions have been satisfied:

- 1) Execution of the Lease of Power Privilege
- 2) Execution of the Power Purchase Agreement

#### b. North Poudre Irrigation Company - Rehabilitation of the Livermore Irrigation Tunnel

**Action:** Report by CWCB staff member Derek Johnson. Scott Hummer, Operations Manager,

North Poudre Irrigation Company, addressed the Board. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Ty Wattenberg. The motion was approved unanimously (9-0). *Robert Randall, Executive Director, Department of Natural Resources, left the meeting.*

**Staff Recommendation:** Staff recommends the Board approve a loan not to exceed \$1,451,673 (\$1,437,300 for Project costs and \$14,373 for the 1% Loan Service Fee) to the North Poudre Irrigation Company for the Rehabilitation of the Livermore Irrigation Tunnel Project from the Construction Fund. The loan terms shall be 30 years at the blended rate of 2.25% per annum. Security for the loan shall comply with CWCB Financial Policy #5.

**14. Colorado’s Water Plan**

*Finance Section and Water Supply Planning Section*

a. Water Plan Funding Policy

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

b. Water Plan Implementation

**Action:** Report by CWCB staff member Becky Mitchell. This is an informational item only. Bart Miller, Healthy Rivers Program Director, Western Resource Advocates, addressed the board. No Board action was required.

**15. Update on Criteria and Guidelines for Water Supply Reserve Fund (WSRF)**

*Water Supply Planning Section*

**Action:** Report by CWCB staff member Craig Godbout. This was an informational item only. No Board action was required.

**16. Water Supply Reserve Fund (WSRF) Grants**

*Water Supply Planning Section*

WSRF Applications for Consideration at the CWCB July 2016 Board Meeting			
Item	Basin(s)	Applicant	Name of Water Activity
a.	Colorado	East Mesa Water Company	Thomas Creek Crossing and Pipeline and Flume Replacement
<b>Action:</b> Report by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by John McClow, which was seconded by Jim Yahn. The motion was			

approved unanimously (9-0).

**Staff Recommendation:** Staff recommends approval of up to \$30,000 from the Colorado Basin Account to help fund the project titled: East Mesa Water Company - Thomas Creek Crossing and Pipeline and Flume Replacement.

b.	Colorado	The New Multa Trina Ditch Company	North Thompson Ditch
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**Action:** Report by CWCB staff member Craig Godbout. Don Louthan, Multi Trina Ditch Co. addressed the Board. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Ty Wattenberg. The motion was approved unanimously (9-0).

**Staff Recommendation:** Staff recommends approval of up to \$20,000 from the Colorado Basin Account to help fund the project titled: North Thompson Ditch.

c.	Gunnison	Surface Creek Ditch and Reservoir Company	Eggleston Dam Outlet Repair Project
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**Action:** Report by CWCB staff member Craig Godbout. Bob Morris, Director of the Surface Creek Ditch and Reservoir Company addressed the Board. A motion to approve the staff recommendation was made by John McClow, which was seconded by Travis Smith. The motion was approved unanimously (9-0). The motion was approved unanimously (9-0).

**Staff Recommendation:** Staff recommends approval of up to \$46,911 from the Gunnison Basin Account to help fund the project titled: Eggleston Dam Outlet Repair Project.

d.	Gunnison	Marcot Park Ditch and Reservoir Company	Marcot Dam Outlet Repair
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**Action:** Report by CWCB staff member Craig Godbout. Milan Armstrong of the Marcot Ditch and Reservoir Company addressed the Board. A motion to approve the staff recommendation was made by John McClow, which was seconded by Travis Smith. The motion was approved unanimously (9-0).

**Staff Recommendation:** Staff recommends approval of up to \$49,649 from the Gunnison Basin Account to help fund the project titled: Marcot Dam Outlet Repair.

e.	Gunnison	Shavano Conservation District	Ditch Mapping of Colona Area
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**Action:** Report by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by John McClow, which was seconded by Travis Smith. The motion was approved unanimously (9-0).

**Staff Recommendation:** Staff recommends approval of up to \$13,658 from the Gunnison Basin Account to help fund the project titled: Ditch Mapping of Colona Area.

f.	Southwest	Bauer Lake Water Company	Jackson Lake / Bauer Lake #2 Ditch Upgrade Project
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**Action:** Report by CWCB staff member Craig Godbout. Don Janz of the Bauer Lake Water Company addressed the Board. A motion to approve the staff recommendation was made by April Montgomery, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

<b>Staff Recommendation:</b> Staff recommends approval of up to \$55,000 from the Southwest Basin Account to help fund the project titled: Jackson Lake/Bauer Lake #2 Ditch Upgrade Project.			
g.	Southwest	Animas Consolidated Ditch Company	Culvert Replacement Project
<b>Action:</b> Report by CWCB staff member Craig Godbout. 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).			
<b>Staff Recommendation:</b> Staff recommends approval of up to \$34,354 from the Southwest Basin Account to help fund the project titled: Culvert Replacement Project.			
h.	Yampa/White /Green	City of Steamboat Springs	Steamboat Springs Yampa River Management Plan
<b>Action:</b> Report by CWCB staff member Craig Godbout. Kelly Romero-Heaney, Water Resources Manager, City of Steamboat Springs, addressed the Board. A motion to approve the staff recommendation was made by Jay Gallagher, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).			
<b>Staff Recommendation:</b> Staff recommends approval of up to \$21,000 from the Yampa/White/Green Basin Account to help fund the project titled: Steamboat Springs Yampa River Management Plan.			

<b>WSRF Change of Fiscal Agent for Consideration at the CWCB July 2016 Board Meeting</b>				
<b>Item</b>	<b>Basin</b>	<b>Current Fiscal Agent</b>	<b>Proposed Fiscal Agent</b>	<b>Name of Water Activity</b>
i.	Arkansas	Lower Arkansas Water Conservancy District	Huerfano County Water Conservancy District	Arkansas Roundtable Basin Implementation Plan Coordinator
<b>Action:</b> Report by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by Travis Smith. The motion was approved unanimously (9-0).				
<b>Staff Recommendation:</b> Staff recommends approval of change of fiscal agent from Lower Arkansas Valley Water Conservancy District to Huerfano County Water Conservancy District for the project titled: Arkansas Roundtable Basin Implementation Plan Coordinator.				

## **17. Wild and Scenic Rivers Update**

*Interstate, Federal, and Water Information Section and Stream and Lake Protection Section*

**Action:** Report by CWCB staff member Linda Bassi. A motion to approve the staff recommendation with amendments as provided by CWCB staff member Linda Bassi, was made by April Montgomery, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

**Staff Recommendation:** Staff recommends that the Board provide input on staff's proposed conceptual comments for submittal to BLM on the Uncompahgre Draft RMP (set forth in



Section G of this memo) and authorize Director James Eklund to prepare and submit a comment letter on behalf of the Board.

*Amendments from CWCB staff member Linda Bassi:*

*In light of the fact that BLM has extended the deadline for comments on the resource management plan, Staff recommends that the Board postpone discussion of the resource management plan and direct staff to prepare a comment letter for the Board to consider at its September meeting.*

## **18. 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:** No report was given. 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.

**19. White River PBO Update**

*Interstate, Federal, and Water Information Section*

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

**20. Colorado River Storage Project Act Memorandum of Agreement Update**

*Interstate, Federal, and Water Information Section*

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

**21. Alternative Agricultural Water Transfer Methods (ATM) Grant  
Grand Valley Water Bank Pilot Project**

*Interstate, Federal, and Water Information Section*

Action: Report by CWCB staff member Michelle Garrison. Mark Harris, General Manager, Grand Valley Water Users Association, addressed the Board. 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 approval of up to \$200,000 from the Alternative Agricultural Water Transfer Methods Grant Program to help fund the Grand Valley Water Bank Pilot Project

**22. Report on Non-Native Subcommittee Work for the Upper Colorado River Recovery Program**

*Interstate, Federal, and Water Information Section*

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

**23. Fish and Wildlife Resources Grant- Chatfield Mitigation**

*Watershed and Flood Protection Section*

Action: Report by CWCB staff member Chris Sturm. Barbara Biggs, Client Service Leader, CDM Smith, addressed the Board. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Ty Wattenberg. The motion was approved unanimously (9-0).

**24. Request for Approval of Stipulation and Final Action on East Hawxhurst Creek and West Hawxhurst Creek Instream Flow Appropriations**

*Stream and Lake Protection Section*

**Action:** Report by CWCB staff member Jeff Baessler. A motion to approve the staff recommendation was made by John McClow, which was seconded by Patricia Wells. The motion was approved unanimously (9-0).

**Staff Recommendation:** Staff requests that the Board accept the stipulation entered into by Staff and Laramie Energy LLC, and approve the terms and conditions contained in the stipulation. If the Board approves such stipulation, Staff requests that the Board make the following determinations and take the following actions on each of the appropriations identified in the attached table, 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, 2016 Board meeting.

(1) Determine, pursuant to section 37-92- 102(3), C.R.S. (2015), and based upon the recommendations of BLM addressing biological needs, flow rates, reaches and time periods, and a review of the data and other information presented by Staff in this memo and orally, that for each ISF appropriation in the amounts identified in the attached table:

(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, 2016 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, and to include the terms and conditions contained in Staff's stipulation with Laramie Energy LLC in the water court applications and decrees for these ISF appropriations.

### **Meeting Adjourned**

The Chair, Russell George adjourned the July 2016 meeting.