



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

John W. Hickenlooper
Governor

Robert Randall
DNR Executive Director

James Eklund
CWCB Director

FINAL

Summary Minutes and Record of Decisions

November 16 - 17, 2016 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the Denver Metro Chamber of Commerce, located at 1445 Market St, Denver, CO 80202. 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, Jim Yahn, and Alan Hamel. Voting member Patricia Wells arrived after agenda item 7b. Ex officio voting member Robert Randall, Executive Director, Colorado Department of Natural Resources, was present. Non-voting ex officio members present or represented were: John Stulp, Director, Interbasin Compact Committee; Dick Wolfe, Colorado State Engineer, Division of Water Resources; Laura Chartrand, Deputy Attorney General, Natural Resources and Environment Section, Colorado Department of Law; Don Brown, Commissioner, Colorado Department of Agriculture; 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). Nine 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, Executive Director, Colorado Department of Natural Resources, was not present. Non-voting ex officio members present or represented were: John Stulp, Director, Interbasin Compact Committee; Lauren Ris, Assistant Director for Water, Executive Director's Office, Colorado Department of Natural Resources; Laura Chartrand, Deputy Attorney General, Natural Resources Section, Colorado Department of Law; Dick Wolfe, State Engineer, Division of Water Resources; 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. Review and Approve Agenda

Action: A motion to approve the agenda with amendments as provided by Russell George was made by April Montgomery which was seconded by Jim Yahn. The motion was approved unanimously (9-0).

Amendments from Director George: Agenda item 5b. was moved to the second day to precede item 16a. Consent Agenda Item 2a. was removed from the agenda.

2. Review and Approve September, 20 - 22 2016 Board Meeting Minutes

Action: A motion to approve the minutes with amendments as provided by Alan Hamel was made by Alan Hamel, which was seconded by Ty Wattenberg. The motion was approved unanimously (9-0).

Amendments from Director Hamel: Delete "interim" in the second paragraph of the first page.

3. Approve and/or Remove Consent Agenda Items

Action: A motion to approve the Consent Agenda with amendments as indicated in agenda item 1 was made by Ty Wattenberg, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0).

1. 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. 16CW3056 (Water Division 2) : Application of Colorado Springs, Acting Through Colorado Springs Utilities*
- b. Case No. 16CW3063 (Water Division 5) : Application of Maroon Creek Limited Liability Company*

~~2. Change to Existing Loan~~

~~*Finance Section*~~

- ~~*a. West Reservoir and Ditch Company - Repair of West Reservoir No.1 Outlet Works*~~

4. Proposed Board Meeting Dates in 2017

- a. January 23 & 24 Denver Tech Center
- b. March 22 & 23 South Platte Basin
- c. May 17 & 18 Southwest Basin
- d. July 19 & 20 Gunnison Basin
- e. September 19 - 21 North Platte Basin
- f. November 15 & 16 Denver Metro Area

5. 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: 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 Dick Wolfe. This was an informational item only. No Board action was required.

f. Division of Parks and Wildlife

Action: Report by Jay Skinner, Instream Flow Specialist, Colorado Parks and Wildlife. This was an informational item only. 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.

Anne Castle, Senior Fellow, Getches-Wilkinson Center for Natural Resources, Energy and the Environment, CU Boulder, addressed the Board.

6. Colorado's Water Plan Update

Water Supply Planning Section

Action: Report by CWCB Staff members Rebecca Mitchell and Mara MacKillop. This was an informational item only. No Board action was required.

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

Finance Section

a. Annual Financial Statements

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

b. Severance Tax Funds - Restrictions Update

Action: Report by Bill Levine, Budget Director, Colorado Department of Natural Resources. This was an informational item only. No Board action was required.

Board member Patricia Wells arrived at the Board meeting.

c. Financial Projections and Cash Management Report

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

d. Financial Policy #11 Change

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

Staff Recommendation: Staff recommends changing Financial Policy 11 by increasing the allowable lending limit to up to 100% of project costs for agricultural and municipal borrowers. Private, unincorporated borrowers (i.e., individuals or closely held corporations) and commercial borrowers will remain at the 90% limit. If funds are limited, the Board will maintain the right to reduce the percentage of loan to project costs.

e. Financial Policy #17 Change

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

Staff Recommendation: Staff recommends increasing the approval limit of the CWCB Director to \$50,000 for grants from the Feasibility Study Small Grant Fund.

Amendments from Director McClow: In the second paragraph, first page change “Colorado Water Plan” to “Colorado’s Water Plan.”

Don Brown, Commissioner, Colorado Department of Agriculture, left the Board meeting.

8. S. Platte Phreatophyte Study Update (SB195)

Interstate, Federal & Water Information Section

Action: Report by CWCB staff member Steve Miller. Reagan Waskom, Director, Water Institute, Colorado State University and Andrew Norton, Professor of Entomology, Colorado State University addressed the Board. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Jay Gallagher. The motion was approved unanimously (10-0).

Staff recommendation: Staff recommends that the Board authorize completion and delivery of the final report as follows:

1. Board and BRT members send comments and input on the draft report to CWCB staff through December 1.

2. Staff incorporates all comments into a proposed final report by December 15, and redistributes to the Board and BRT for final review.
3. CWCB Director delivers final report to General Assembly by December 30, 2016.

In addition, staff recommends that the Board direct staff to continue working with the research team and the BRT to develop a plan for future research needs. Upon direction from the Board, staff could begin working with potential local sponsors to develop suitable restoration strategies through the stream management planning process.

9. 2017 Projects Bill

Finance Section

- a. Colorado Water Plan Funding
 1. Water Supply Reserve Fund - Supplemental Funding
 2. Colorado Watershed Restoration Program Funding
 3. Water Plan Implementation Funding
 4. Creation of a Loan Guarantee Fund

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

Staff recommendation: Staff recommends the Board request the General Assembly to authorize the Colorado Water Plan Funding to include \$25 million for the Implementation of the Funding Plan and \$30 million for a Loan Guarantee Fund. The request will require \$55 million to be transferred from the Severance Tax Perpetual Base Fund to the other Funds described.

- b. Non-Reimbursable Project Investments “En-Bloc” Approval
 1. Flood & Drought Response Fund - Refresh
 2. Colorado Floodplain Map Modernization Program
 3. Satellite Monitoring/Maintenance Program
 4. Litigation Fund Budget - Refresh
 5. CDSS Operation and Maintenance
 6. Feasibility Study Small Grant Fund - Refresh
 7. Colorado Mesonet Project
 8. Water Forecasting Partnerships Project
 9. Fish & Wildlife Resources Fund (37-60-122.2) - Refresh
 10. Alternative Agricultural Transfer Methods (ATMs) Grant Program

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

Staff recommendation: The Staff recommends the Board approve the Non-Reimbursable Investments listed as Agenda Item 9b. (1) through (10) and include them in the 2017 Projects Bill.

- c. Non-Reimbursable Project Investments - Presentations

Agenda item 9c4. was moved to precede agenda item 9c1.

1. Weather Modification Permitting Program

Action: Report by CWCB staff member Joe Busto. A motion to approve the staff recommendation with amendments as provided by Joe Busto was made by April Montgomery, which was seconded by Ty Wattenberg. The motion was approved unanimously (10-0).

Staff recommendation: Staff recommends the Board request the General Assembly appropriate \$175,000 from the Construction Fund to the Department of Natural Resources for use by the CWCB for the Weather Modification Program.

Amendments from CWCB staff member Joe Busto: Changed requested amount of \$175,000 from the Construction Fund to \$500,000.

2. Tech Assistance for Federal Irrigation Improvement Cost-sharing

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

Staff recommendation: Staff recommends the Board request the General Assembly appropriate \$500,000 from the Construction Fund to the Department of Natural Resources for use by the CWCB to provide Technical Assistance Grants for Federal Irrigation Improvement Cost-sharing Programs.

3. Colorado Water Loss Control Initiative

Action: Report by CWCB staff member Kevin Reidy. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Alan Hamel. The motion was approved unanimously (10-0).

Staff recommendation: Staff recommends the Board request the General Assembly appropriate \$1,100,000 from the Construction Fund to the Department of Natural Resources for use by the CWCB for the Colorado Water Loss Initiative.

4. Non - Potable Water Reuse Regulation Funding

Action: Report by CWCB staff member Kirk Russell. Nicole Rowan, Watershed Program Manager, Colorado Department of Public Health and Environment (CDPHE) addressed the Board. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Jay Gallagher. The motion was approved unanimously (10-0).

Staff recommendation: Staff recommends the Board request the General Assembly to transfer \$260,000 from the Construction Fund to the Department of Public Health and the Environment for use on the Non-potable Water Reuse Regulation efforts.

d. Large Water Project Financing Authorization

1. Northern Colorado Water Conservancy - Municipal Sub District - Windy Gap Farming Project

Action: Report by CWCB staff member Kirk Russell. Eric Wilkinson, General Manager, Northern Colorado Water Conservancy District addressed the Board. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Patricia Wells. The motion was approved unanimously (10-0).

Staff recommendation: Staff recommends the Board request the General Assembly authorize up to \$90

million in loans to the participants in the Windy Gap Firing Project in the 2017 CWCB Projects Bill.

Additional Conditions:

Prior to execution of a loan contract, the borrower must submit a loan application and loan feasibility study for review by CWCB staff and for approval by the Board

Robert Randall, Executive Director, Colorado Department of Natural Resources left the Board meeting.

2. Rio Grande Cooperative Project - Funding Increase

Action: Report by CWCB staff member Kirk Russell. A motion to approve the staff recommendation was made by John McClow, which was seconded by Alan Hamel. The motion was approved unanimously (8-0).

Staff recommendation: Staff recommends the Board request the General Assembly to authorize an additional \$10 million for a total of \$40 million funding package for the Rio Grande Cooperative Project. This increase will be reflected in the 2017 CWCB Projects Bill as a \$25 million loan-grant funding package to the San Luis Valley Irrigation District's Rio Grande Reservoir Rehabilitation Project.

Travis Smith did not vote on agenda item 9d2.

10. Success Stories - Colorado Hazard Mapping Program in Colorado Watersheds
Watershed and Flood Protection Section

Action: Report by CWCB staff member Corey Elliott. Varda Blum, Floodplain Administrator, Boulder County Transportation addressed the Board. This was an informational item only. No Board action was required.

11. Water Efficiency Grant Application, Town of Frisco
Water Supply Planning Section

Action: Report by CWCB staff member Ben Wade. Bill Efting, Town Manager of Frisco and Jessica Burley, Community Programs Manager, High Country Conservation Center addressed the Board. A motion to approve the staff recommendation was made by Ty Wattenberg, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends the Board approve a Water Efficiency Grant not to exceed \$94,160 to the Town of Frisco, to develop the Blue River Watershed Regional Water Efficiency Plan.

12. Statewide Water Supply Initiative (SWSI) Update
Water Supply Planning Section

Action: Report by CWCB staff members Rebecca Mitchell and Greg Johnson. This was an informational item only. No Board action was required.

13. Water Supply Reserve Fund (WSRF) Grants
Water Supply Planning Section

WSRF Application for Consideration at the CWCB November 2016 Board Meeting				
Basin		Applicant	Name of Water Activity	
a.	Yampa/White/Green	Maybell Irrigation District	Maybell Ditch Improvement Project	
<p>Action: Report by CWCB staff member Craig Godbout. Mike Camblin, President, Maybell Irrigation District addressed the Board. A motion to approve the staff recommendation was made by Jay Gallagher, which was seconded by Travis Smith. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$45,675 from the Yampa/White/Green Basin Account to help fund the project titled: Maybell Ditch Improvement Project.</p>				
WSRF Change of Fiscal Agent for Consideration at the CWCB November 2016 Board Meeting				
Basin		Original Fiscal Agent	Proposed Fiscal Agent	Name of Water Activity
b.	Gunnison	Trout Unlimited	Upper Gunnison River Water Conservancy District	Elk Home Ditch Improvement & Steuben Creek Flow Restoration
<p>Action: Report by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by Travis Smith, which was seconded by April Montgomery. The motion was approved unanimously (8-0).</p> <p>Staff Recommendation: Staff recommends approval in Change of Fiscal Agent from Trout Unlimited to the Upper Gunnison River Water Conservancy District for the project titled: Elk Home Ditch Improvement, Steuben Creek Flow Restoration.</p> <p><i>John McClow did not vote on agenda item 13b.</i></p>				

14. Water Project Loans

Finance Section

a. Town of Firestone - Storage Development and Water Rights Purchase

Action: Report by CWCB staff member Derek Johnson. Julie Pasillas, Resources and Sustainability Corrdinator, Town of Firestone and Davis Lindsay, Engineer, Colorado Civil Group, Inc. addressed the Board. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$10,000,000 (\$9,900,990 for Project costs and \$99,010 for the 1% service fee) to the Town of Firestone, acting by and through its water activity enterprise, for costs related to the Storage Development and Water Rights Purchase Project from the Construction Fund. The loan terms shall be 20 years at the reduced high-income municipal interest rate of 2.35% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

Robert Randall, Executive Director, Colorado Department of Natural Resources, returned to the Board meeting.

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

Action: Report by CWCB staff member Jonathan Hernandez. Max Schmidt, Manager, Orchard Mesa Irrigation District, addressed the Board. A motion to approve the staff recommendation was made by John McCloy, which was seconded by April Montgomery. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$1,717,000 (\$1,700,000 for Project costs and \$17,000 for the 1% service fee) to the Orchard Mesa Irrigation District, for costs related to the Grand Valley Power Plant Rehabilitation Project, from the Construction Fund. The loan terms shall be 30 years at the hydroelectric interest rate of 2.0% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

c. Grand Valley Water Users Association - Grand Valley Power Plant Rehabilitation

Action: Report by CWCB staff member Jonathan Hernandez. Mark Harris, Manager, Grand Valley Water Users Association, addressed the Board. A motion to approve the staff recommendation was made by John McCloy, which was seconded by Alan Hamel. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$1,717,000 (\$1,700,000 for Project costs and \$17,000 for the 1% service fee) to the Grand Valley Water Users Association, for costs related to the Grand Valley Power Plant Rehabilitation Project, from the Construction Fund. The loan terms shall be 30 years at the hydroelectric interest rate of 2.0% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

15. Proposed Revisions to the 1921 Irrigation District Act

Finance Section

Action: Report by CWCB staff member Kirk Russell. Max Schmidt, Manager, Orchard Mesa Irrigation District, addressed the Board. This was an informational item only. No Board action was required.

16. 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 Jim Yahn. 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.

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

Action: Report by Laura Chartrand, Deputy Attorney General, Natural Resources and Environment Section, Colorado Department of Law. This was an informational item only. No Board action was required.

18. Executive Session

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

- a. Windy Gap Connectivity Channel Water Rights Application
- b. Bear Creek Lake Reallocation Water Rights Application
- c. Case No. 14CW3127 (Bear Creek Lake Diligence Application)

- d. Poudre River Instream Flow Augmentation Plan Proposal
- e. Colorado River Matters
 - Negotiations with Mexico on Minute 32x
 - Drought Contingency Planning
- f. Proposed "St. Jude's" Legislation - Potential Legal Implications and Impact on CWCB's Authority
- g. Sale of Chatfield Environmental Pool Shares

Alan Hamel made a motion for the Board to leave Executive Session, which was seconded by Jay Gallagher. The motion was approved unanimously (10-0).

19. Report from Executive Session

Action: Laura Chartrand, Deputy Attorney General, Natural Resources and Environment Section, 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 18.a. through 18.g., and that the discussion was limited to those items only, with no action taken.

20. Notice of 2017 Instream Flow Recommendation Appropriations in Water Divisions 2, 4, 5, 6 and 7 *Stream & Lake Protection Section*

Action: Report by CWCB staff member Jeff Baessler. This was an informational item that provides notice of recommended stream segments that staff may bring to the Board in January or March of 2017 with a recommendation that the Board form its intent to appropriate ISF water rights. No Board action was required.

21. Presentation by the Nature Conservancy Regarding Revenue Generation Study *Finance Section*

Action: Presentation by Aaron Citron, Policy Advisor of the Nature Conservancy, Jason Doedderlein, and Paul Rochette of Summit Economics. This was an informational item only. No Board action was required.

22. CWCB Reservoir Dredging Program - Grant Program Guidance *Finance Section*

Action: Report by CWCB staff member Derek Johnson. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by Jim Yahn. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends the Board approve the CWCB Reservoir Dredging Program - Grant Program Guidance.

23. Chatfield Reservoir Storage Project New Member Buy-In Fee

Action: Report by Lauren Ris, Director of Water, Executive Director's Office, Colorado Department of Natural Resources. Tim Feehan, General Manager, Chatfield Mitigation Company addressed the board. A motion to approve the staff recommendation with amendments as provided by Lauren Ris was made by Patricia Wells, which was seconded by Jay Gallagher. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends that the Board approve the Chatfield Reallocation Mitigation Company (CRMC) Board's proposal to assess new project participants a one-time buy-in fee, to be added to the cost per acre-foot of the final purchase price on all future transfers of the right to storage space in Chatfield to any party that is not currently a CRMC member.

Amendments from Lauren Ris: Add at the end "The annual operating costs will be included in the buy-in fee calculation up to when the U.S. Army Corps of Engineers approves filling the reservoir up to 80%."

Meeting Adjourned

The Chair, Russell George adjourned the November 2016 meeting.