



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

John W. Hickenlooper
Governor

Robert Randall
DNR Executive Director

James Eklund
CWCB Director

DRAFT

Summary Minutes and Record of Decisions

January 23 - 24, 2017 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the Hyatt Regency Denver Tech Center located at 7800 E. Tufts Ave., Denver, CO 80237. 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 5c. 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; Lauren Ris, Assistant Director for Water, Executive Director's Office, Colorado Department of Natural Resources; Bob Broscheid, Director, Colorado Department of Wildlife; 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. Ten voting members were present at the call to order, so a quorum was present (at least 6 required). Ten 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 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; Bob Broscheid, Director, Colorado Department of Wildlife; 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 was made by Jim Yahn, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

2. Review and Approve November, 16 - 17, 2016 Board Meeting Minutes

Action: A motion to approve the minutes was made by April Montgomery, which was seconded by Jim Yahn. 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 Ty Wattenberg. 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 and to protect CWCB's exclusive authority to hold instream flow water rights in the following water court cases:

- a. Case No. 16CW3090, Division 5: Application of Powderhorn Ski Company, LLC*
- b. Case No. 16CW3036, Division 6: Application of Nona Powell*

2. Change to Existing Loans

Finance Section

- a. Huerfano County Water Conservancy District - Regional Augmentation Project*

3. New Prequalification Loans

Finance Section

- a. Town of Wiggins - Augmentation Project*
- b. Grand Valley Drainage District - Buthorn Drain*

4. Future Board Meeting Dates in 2017

- a. March 22 & 23 Greeley*
- b. May 17 & 18 Southwest Basin*

- c. July 19 & 20 Gunnison Basin
- d. September 19 - 21 Walden
- e. November 15 & 16 Denver Metro Area

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 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: 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.

6. 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.

7. 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 7.a. through 7.d. The motion was seconded by Alan Hamel. The motion was approved unanimously (9-0).

- a. Rio Grande Compact Issues
- b. Colorado River Issues
 - Negotiations on Minute 32X with Mexico
 - Drought Contingency Planning
 - Glen Canyon Dam Long Term Experimental and Management Plan (LTEMP) -- Final Record of Decision
 - System Conservation Pilot Program
- c. Case No. 14CW3096, Division 5: Application of Stillwater Ranch Open Space Association
- d. Busk-Ivanhoe Case

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

8. 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 7.a. through 7.d., and that the discussion was limited to those items only, with no action taken.

9. Request for Authorization to Proceed to Trial in Case No. 14CW3096, Division 5 (Application of Stillwater Ranch Open Space Association) *Stream and Lake Protection Section*

Action: Report by CWCB staff member Kaylea White. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Jim Yahn. The motion was approved unanimously (9-0).

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

10. Request to Inundate Instream Flow Water Right on Trout Creek in Case No. 15CW3183, Division 1 (Application of Rainbow Falls Mountain Trout Inc.) *Stream and Lake Protection Section*

Action: Report by CWCB staff member Kaylea White. Richard Johnson, Owner of Rainbow Falls Mountain Trout Inc., addressed the Board. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board:

1. Determine that the small inundations do not significantly interfere with the instream flow water right on Trout Creek, and therefore the natural environment of Trout Creek can continue to be preserved to a reasonable degree;
2. Approve the inundation request; and
3. Direct staff to negotiate proper terms and conditions for the final decree regarding maintenance of

the sediment control structures that have already been installed.

11. Water Supply Reserve Fund (WSRF) Grant

Water Supply Planning Section

WSRF Application for Consideration at the CWCB January 2017 Board Meeting			
	Basin	Applicant	Name of Water Activity
a.	Southwest	Morrison Consolidated Ditch Company	McCrometer Automated Gauging Station with Satellite Telemetry
Action: Report by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by April Montgomery, which was seconded by Jim Yahn. The motion was approved unanimously (9-0).			
Staff Recommendation: Staff recommends approval of up to \$10,000 from the Southwest Basin Account to help fund the project titled: McCrometer Automated Gauging Station with Satellite Telemetry.			

~~**12. Water Supply Reserve Fund (WSRF) Conflict of Interest Discussion**~~

~~*Water Supply Planning Section*~~

This item has been removed from the agenda.

13. Colorado's Water Plan and Statewide Water Supply Initiative (SWSI) Update

Water Supply Planning Section

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

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

Finance Section

- a. Financial Projections and Cash Management Report

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

15. Water Project Loans

Finance Section

- a. St. Vrain and Left Hand Water Conservancy District - Lake 4 Outlet Pipeline Repair

Action: Report by CWCB staff member Jonathan Hernandez. Sean Cronin, Executive Director, St. Vrain Water Conservancy District and Mark McLean, Deer and Aug Consultants, addressed the Board. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$619,130 (\$613,000 for Project costs and \$6,130 for the 1% service fee) to the St. Vrain and Left Hand

Water Conservancy District, acting by and through its water activity enterprise, for costs related to the Lake 4 Outlet Pipeline Repair Project, from the Construction Fund. The loan terms shall be 30 years at a blended interest rate of 2.85% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

b. Chilcott Ditch Company - Jimmy Camp Creek Siphon Reconstruction

Action: Report by CWCB staff member Derek Johnson. Jessier Shaffer, Manager, Chilcott Ditch Company addressed the Board. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by John McCLOW. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$580,750 (\$575,000 for Project costs and \$5,750 for the 1% service fee) from the Construction Fund to the Chilcott Ditch Company for costs related to the Jimmy Camp Creek Siphon Reconstruction Project. The loan terms shall be 20 years at the reduced middle-income municipal interest rate of 2.20% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

16. Change to Existing Loans

Finance Section

a. San Luis Valley Water Conservancy District - Anaconda Ditch Water Right Acquisition Project

Action: Report by CWCB staff member Anna Mauss. Heather Dutton, Manager, San Luis Valley Water Conservancy District, addressed the Board. A motion to approve the staff recommendation was made by Travis Smith, which was seconded by Jim Yahn. The motion was approved unanimously (8-0).

Staff Recommendation: Staff recommends the Board approve a loan increase not to exceed \$284,574.50 (\$281,750 for Project costs and \$2,824.50 for the 1% service fee) to the San Luis Valley Water Conservancy District, acting by and through its Water Activity Enterprise, for costs related to the Anaconda Ditch Water Right Acquisition Project, from the Construction Fund. The total loan amount will become \$1,123,574.50 (\$1,112,450 for Project costs and \$11,124.50 for the 1% service fee). The loan terms shall remain 30 years at the municipal low-income interest rate of 2.5% per annum. Security for the loan shall remain a pledge of water activity enterprise revenues backed by a rate covenant, in compliance with CWCB Financial Policy #5.

b. West Reservoir and Ditch Company - Repair of West Reservoir No.1 Outlet Works

Action: Report by CWCB staff member Derek Johnson. 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 approve a loan increase of \$64,640 (\$64,000 for Project costs and \$640 for the 1% Loan Service Fee), for a total loan not to exceed \$313,018.19 (\$309,919 for Project costs and \$3,099.19 for the 1% Loan Service Fee) to the West Reservoir and Ditch Company for engineering and construction costs related to the Repair of West Reservoir No.1 Outlet Works Project from the Severance Tax Perpetual Base Fund. Loan terms shall remain 30 years at the agricultural interest rate of 2.0% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

17. House Bill 16-1228 Criteria and Guidelines Update

Water Supply Planning Section

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

18. Chatfield Reallocation Sale of Orphan Shares

Finance Section

Action: Report by Lauren Ris, Assistant Director for Water, Executive Director's Office, Colorado Department of Natural Resources. Ronda Sandquist, Shareholder, Brownstein Hyatt Farber Shreck addressed the Board. A motion to approve the staff recommendation was made by John McCLOW, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board approve CWCB staff to draft the process, terms and associated agreements for selling CWCB's shares in the Chatfield Reallocation Project to Dominion Water and Sanitation District (Dominion).

19. 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.

20. Colorado Watershed Restoration Program - Application for Funding Consideration

Watershed and Flood Protection Section

Action: Report by CWCB staff member Chris Sturm. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by April Montgomery. The motion was approved unanimously (9-0).

Director McClow did not vote on this item.

Staff Recommendation: Staff recommends that the Board approve a non-reimbursable expenditure up to \$175,000 from the Colorado Watershed Restoration Program for the purpose of providing match funding to the Upper Gunnison River Water Conservancy District's application.

21. 2013 Emergency Flood Loans Update

Finance Section

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

22. 2017 Water Projects Bill

Finance Section

a. Draft of Fact Sheet

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

23. Alternative Agricultural Water Transfer Methods (ATMs) Update
Interbasin Compact Committee (IBCC)

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

24. Instream Flow and Natural Lake Level Recommendations in Water Divisions 1, 2, 4, 5 and 6
Stream and Lake Protection Section

Action: Report by CWCB staff member Jeff Baessler. Roy Smith, Water Rights Specialist, Bureau of Land Management (BLM), Ken Neubecker, American Rivers, and Julie Nania, High Country Conservation Advocates 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 (10-0).

Staff Recommendation: Staff recommends that, pursuant to ISF Rule 5d., the Board declare its intent to appropriate an instream flow (ISF) water right on each stream segment listed and a natural lake level (NLL) water right for each lake listed on the attached Tabulation of Instream Flow and Natural Lake Level Recommendations, and direct Staff to publicly notice the Board's declaration of its intent to appropriate.

25. Aquatic Nuisance Species
Interstate, Federal & Water Information Section

Action: This was an informational item only. Reid DeWalt, Assistant Director, Colorado Parks and Wildlife and Elizabeth Brown, Invasive Species Coordinator, Colorado Parks and Wildlife presented. Mike Preston, Dolores Water Conservancy District, addressed the Board. No Board action was required.

26. Species Conservation Trust Fund Recommendations
Interstate, Federal & Water Information Section

Action: Report by CWCB staff member Carlee Brown. A motion to approve the staff recommendation was made by Ty Wattenberg, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends, contingent upon appropriations, that the Board: 1) concur with the DNR Executive Director's proposed recommendations to the General Assembly to approve an expenditure of up to \$1.5 million from the SCTF for FY 17-18 for the projects and programs outlined herein; and 2) forward a statement of concurrence to the CPW Commission.

**27. Sunset Review of the 1972 Weather Modification Act, Colorado Office of Policy
Research and Reform**
Watershed and Flood Protection Section

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

Meeting Adjourned

Chair, Russell George adjourned the January 2017 meeting.