



COLORADO

Colorado Water  
Conservation Board

Department of Natural Resources

John W. Hickenlooper  
Governor

Robert Randall  
DNR Interim Executive  
Director

Rebecca Mitchell  
CWCB Director

---

## DRAFT

### Summary Minutes and Record of Decisions

### July 19 - 20, 2017 Board Meeting

---

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the The Lodge at Mountaineer Square, located at 620 Gothic Road, Crested Butte, CO 81225. The meeting was called to order by Chair Ty Wattenberg. Nine voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Patti Wells, Ty Wattenberg, Jay Gallagher, Russell George, John McClow, Jim Yahn, Jack Goble, Heather Dutton, and Celene Hawkins. Ex-officio voting member Robert Randall, Executive Director of the Department of Natural Resources, was present. Non-voting ex officio members present or represented were John Stulp, Director of the IBCC; Laura Chartrand, Deputy Attorney General, Colorado Department of Natural Resources and Environment Section; Bob Broscheid, Director of Colorado Parks and Wildlife; Kevin Rein, State Engineer; Chris Wiseman, Deputy Commissioner of Colorado Department of Agriculture; and Rebecca Mitchell, Colorado Water Conservation Board Director.

On the second day, the meeting was called to order by Chair Ty Wattenberg. Nine voting members were present at the call to order, so a quorum was present (at least 6 required). The six voting members present were: Patti Wells, Ty Wattenberg, Jay Gallagher, Russell George, John McClow, Jim Yahn, Jack Goble, Heather Dutton, and Celene Hawkins. Ex-officio voting member Robert Randall, Executive Director of the Department of Natural Resources, was present. Non-voting ex officio members present or represented were John Stulp, Director of the IBCC; Laura Chartrand, Deputy Attorney General, Colorado Department of Natural Resources and Environment Section; Kevin Rein, State Engineer, and Rebecca Mitchell, 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. Board Reappointment & Election of Officers**

Action: Report by Ty Wattenberg. This was an informational item only. No Board action was required.

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

Action: A motion to approve the agenda was made by Jay Gallagher, which was seconded by Jim Yahn. The motion was approved unanimously (10-0).

## **3. Review and Approve May 17 - 18, 2017 Board Meeting Minutes**

Action: A motion to approve the minutes was made by Russell George, which was seconded by Jay Gallagher. 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 Patti Wells, which was seconded by Jim Yahn. The motion was approved unanimously (10-0).

### **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. 16CW3198 (Water Division 1) : Application of Four Mile Fire Protection District\**
- b. Case No. 17CW3057 (Water Division 1) : Application of North Weld County Water District*
- c. Case No. 17CW3022 (Water Division 2) : Application of Town of Buena Vista*
- d. Case No. 17CW3063 (Water Division 5) : Application of Copper Mountain Consolidated Metropolitan District*

*\*Motion to Intervene and Statement of Opposition filed.*

### **5. Proposed Board Meeting Dates in 2018**

- a. January 22 & 23      Denver Tech Center
- b. March 21 & 22      South Platte Basin
- c. May 23 & 24      Arkansas Basin
- d. July 18 & 19      Yampa Basin
- e. September 18 - 20      Colorado Mainstem Basin
- f. November 14 & 15      South Platte Basin

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

## **6. Future Board Meeting Dates in 2017**

- a. September 19 - 21      Walden
- b. November 15 & 16      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: Report by Deputy Commissioner Chris Wiseman. This was an informational item only. No Board action was required.

- d. Colorado Water Conservation Board Director

Action: Report by Rebecca Mitchell. This was an informational item only. No Board action was required.

- e. State Engineer

Action: Report by Kevin Rein. 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 was given.

## **8. 2013 Flood Recovery - Emergency Watershed Protection Program Update** *Watershed and Flood Protection Section*

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

**9. Fish and Wildlife Resources Fund - Buckhorn Valley Metropolitan District**  
**Application for Abrams Creek Cutthroat Trout Recovery**  
*Watershed and Flood Protection Section*

**Action:** Report by CWCB staff member Chris Sturm. A motion to approve the staff recommendation was made by Russell George, which was seconded by Patti Wells. The motion was approved unanimously (10-0).

**Staff Recommendation:** Staff has reviewed Buckhorn's FWRP application (attached) and found it in conformance with Board Policy 15 (attached). Staff recommends that the Board approve a non-reimbursable expenditure of up to \$550,000 from the Fish and Wildlife Resource Fund for the purpose of providing matching dollars to the Abrams Creek Cutthroat Trout Recovery Project. This amount represents 40% of the total project cost.

**10. Uncontested 2017 Instream Flow Appropriations in Water Division 7 on Little Sand Creek and Vallecito Creek**  
*Stream and Lake Protection Section*

**Action:** Report by CWCB staff member Jeff Baessler. A motion to approve the staff recommendation was made by Russell George, which was seconded by Celene Hawkins. The motion was approved unanimously (10-0).

**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 March 23, 2017 Board meeting.

(1) Determine, pursuant to section 37-92-102(3), C.R.S. (2016), and based upon the recommendation of the USFS 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 March 23, 2017 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.

## **11. Colorado River Basin Salinity Control Forum: 2017 Review**

### *Interstate, Federal, & Water Information Section*

**Action:** Report by CWCB staff member Brent Newman. Cindy Lair, Colorado Department of Agriculture, Colorado State Conservation Board, addressed the Board. Dave Kanzer, Colorado River District, addressed the Board. This was an informational item only. No Board action was required.

## **12. Technical Assistance for Federal Cost-Share Programs**

### *Interstate, Federal, & Water Information Section*

**Action:** Report by CWCB staff member Brent Newman. A motion to approve the staff recommendation was made by John McClow, which was seconded by Jim Yahn. The motion was approved unanimously (10-0).

**Staff recommendation:** Staff recommends that the Board approve purchase orders to be executed in the amounts as follows:

- 1) \$99,000 to Delta Conservation District
- 2) \$33,000 to Shavano Conservation District
- 3) \$44,000 to Mancos Conservation District

These funds shall be utilized to provide technical assistance for applicants seeking competitive federal grant funds, consistent with the 2017 Projects Bill (HB17-1248).

## **13. Update on the Platte River Recovery Implementation Program**

### *Interstate, Federal, & Water Information Section*

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

## **14. Wild and Scenic Rivers Fund**

### *Interstate, Federal, & Water Information Section*

#### *a. Stakeholder Group Updates*

**Action:** Report given by CWCB staff member Suzanne Sellers and Linda Bassi on the work of several stakeholder groups which work on Wild and Scenic proposed designations. Staff also shared proposed revisions to the Terms and Conditions for the Wild and Scenic Alternatives Fund. Based upon input Staff received on the revisions prior to this agenda item, Staff asked for more time to refine the proposed changes. The Board agreed that Staff should continue to work on the Terms and Conditions, seek feedback from individual Board Members after the meeting, and bring the Terms and Conditions to the Board for review and approval at a future

Board meeting. Staff did not make the recommendation set forth in the Board memo, and the Board did not take any further action at this time.

b. Proposed Changes to Fund Terms and Conditions

**Action:** Report given by CWCB staff member Suzanne Sellers and Linda Bassi. No Board action was taken at this time.

## 15. Water Supply Reserve Fund (WSRF)

### *Stream and Lake Protection Section*

WSRA Applications for Consideration at the CWCB March 2016 Board Meeting			
Item	Basin(s)	Applicant	Name of Water Activity
a.	Metro/South Platte	Colorado Watershed Assembly	South Platte Basin Education Coordinator
<p><b>Action:</b> Report by CWCB staff member Craig Godbout. A motion to approve the staff recommendation made by Patti Wells, which was seconded by Jim Yahn. The motion was approved unanimously (10-0).</p> <p><b>Staff recommendation:</b> Staff recommends approval of up to \$25,000 from the Metro Account and \$25,000 from the South Platte Basin Account to help fund the project titled: South Platte Basin Education Coordinator.</p>			
b.	Colorado	Grand County Irrigated Land Company	Vail Ditch Water Management Improvements
<p><b>Action:</b> Report by CWCB staff member Craig Godbout. A motion to approve the staff recommendation made by Russell George, which was seconded by Jay Gallagher. The motion was approved unanimously (10-0).</p> <p><b>Staff recommendation:</b> Staff recommends approval of up to \$11,000 from the Colorado Basin Account to help fund the project titled: Vail Ditch Flow Monitoring Improvements.</p>			
c.	Gunnison	Leon Lake Ditch & Reservoir Company	Leon Lake Reservoir/Dam Groin Seep Hole Repair Project
<p><b>Action:</b> Report by CWCB staff member Craig Godbout. Gerald Figueroa, President of the Leon Ditch and Reservoir Company, addressed the Board. A motion to approve the staff recommendation was made by John McClow, which was seconded by Jim Yahn. The motion was approved unanimously (10-0).</p> <p><b>Staff recommendation:</b> Staff recommends approval of up to \$41,000 from the Gunnison Basin Account to help fund the project titled: Leon Lake Reservoir/Dam Groin Seep Hole Repair Project.</p>			

d.	Southwest	Big Stick Ditch Company	Lightner Creek Canal Improvement and Water Efficiency Project
<p><b>Action:</b> Report by CWCB staff member Craig Godbout. A motion to approve the staff recommendation made by Celene Hawkins, which was seconded by Jay Gallagher. The motion was approved unanimously (10-0).</p> <p><b>Staff recommendation:</b> Staff recommends approval of up to \$30,000 from the Southwest Basin Account to help fund the project titled: Lightner Creek Canal Improvement and Water Efficiency Project.</p>			
e.	Metro	Denver Trout Unlimited	Biological and Ecological Benefits from Chatfield Reallocation Environmental Pool Increased Releases
<p><b>Action:</b> Report by CWCB staff member Craig Godbout. A motion to approve the staff recommendation made by Patti Wells, which was seconded by Jim Yahn. The motion was approved unanimously (10-0).</p> <p><b>Staff recommendation:</b> Staff recommends approval of up to \$10,000 from the Metro Basin Account to help fund the project titled: Biological and Ecological Benefits from Chatfield Reallocation Environmental Pool Increased Releases.</p>			
f.	Southwest	Mountain Studies Institute	Animas River Community Forum
<p><b>Action:</b> Report by CWCB staff member Craig Godbout. A motion to approve the staff recommendation made by Celene Hawkins, which was seconded by Jay Gallagher. The motion was approved unanimously (10-0).</p> <p><b>Staff recommendation:</b> Staff recommends approval of up to \$28,919 from the Southwest Basin Account to help fund the project titled: Animas River Community Forum 2017.</p>			

## 16. Aquatic Nuisance Species Funding Update

*Interstate, Federal, & Water Information Section*

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

## 17. Colorado River Storage Project Act (CRSP) Memorandum of Agreement (MOA) Annual Update

*Interstate, Federal, & Water Information Section*

**Action:** Report by CWCB staff member Carlee Brown. Carlee reported on the current status of Colorado's involvement in the 2011 MOA between Colorado, Wyoming, New Mexico, Utah, the

U.S. Bureau of Reclamation, the Western Area Power Administration, and the Colorado River Energy Distributors Association. Carlee shared that a difference in interpretation of the MOA had resulted in Reclamation rescinding approval of multiple projects under the MOA that it had previously approved. Dave Kanzer, Colorado River Districts, and Dick Bratton, representing the Bostwick Park Water Conservancy District, addressed the Board to describe the impact of Reclamation's decision from their perspectives. Carlee noted that CWCB staff was working on offering comments to Reclamation's selection criteria and standard operating procedure through detailed redlines. John McClow directed staff to include the affected water users and the River District and the Southwest District in this revision redlining process in the criteria, which was seconded by Russell George.

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

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

## **19. Executive Session**

**Action:** Under the Colorado Open Meetings Act, C.R.S. Section 24-6-402(3)(a)(II), a motion was made by Jay Gallagher for the Board to go into executive session for the discussion of agenda items 19.a. through 19.d. The motion was seconded by Jim Yahn. The motion was approved unanimously (10-0).

- a. Bear Creek Lake Diligence Application: Case No. 14CW3127, Water Division 1
- b. Windy Gap Connectivity Channel
- c. Colorado River Issues
  - Drought Contingency Planning
  - Minute 32x
- d. Compact Compliance Study

## **20. Report From Executive Session**

**Action:** Patti Wells made a motion for the Board to leave Executive Session, which was seconded by Jim Yahn. The motion was approved unanimously (10-0).

## **21. HB16-1228 Criteria and Guidelines - Agricultural Water Protection Programs**

### *Water Supply and Planning Section*

**Action:** Report given by CWCB staff member Greg Johnson. A motion to approve the staff recommendation was made by Patti Wells, which was seconded by Jack Goble. The motion was approved unanimously (10-0).

**Staff recommendation:** Staff recommends approval of: *Criteria and Guidelines for the Establishment of an Agricultural Water Protection Program in Water Division 1 or 2 for the Implementation of an Agricultural Water Protection Water Right as allowed by House Bill 16-1228.*



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

### *Finance Section*

#### **a. Financial Projections and Cash Management Report**

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

## **23. Water Project Loans**

### *Finance Section*

#### **a. Consolidated Ditch and Headgate Company - Consolidated Diversion and Headgate Replacement**

**Action:** Report given by CWCB staff member Jonathan Hernandez. Scot Schaefer, President of Consolidated Ditch and Headgate Company, addressed the Board. A motion to approve the staff recommendation was made by Heather Dutton, which was seconded by Jim Yahn. The motion was approved unanimously (10-0).

**Staff recommendation:** Staff recommends the Board approve a loan not to exceed \$1,010,000 (\$1,000,000 for Project costs and \$10,000 for the 1% service fee) to the Consolidated Ditch Company for costs related to the Consolidated Diversion and Headgate Replacement Project, from the Severance Tax Perpetual Base Fund. The loan terms shall be 30 years at the agricultural interest rate of 1.8% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

#### **b. Church Ditch Water Authority - Ditch System Improvements**

**Action:** Report given by CWCB staff member Jonathan Hernandez. Nathan McCoy, General Manager of Church Ditch Water Authority, addressed the Board. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Patti Wells. The motion was approved unanimously (10-0).

**Staff recommendation:** Staff recommends the Board approve a loan not to exceed \$3,615,800 (\$3,580,000 for Project costs and \$35,800 for the 1% service fee) to the Church Ditch Water Authority for costs related to the Ditch System Improvements Project, from the Construction Fund. The loan terms shall be 30 years at a blended interest rate of 3.0% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

#### **c. Corsentino Dairy Farms - Holita Dam Rehabilitation**

**Action:** Report given by CWCB staff member Anna Mauss. A motion to approve the staff recommendation was made by Jack Goble, which was seconded by Patti Wells. The motion was approved unanimously (10-0).

**Staff recommendation:** Staff recommends the Board approve a loan not to exceed \$85,446 (\$84,600 for Project costs and \$846 for the 1% service fee) to Corsentino Dairy Farms, Inc. for costs related to the Holita Dam Rehabilitation Project from the Severance Tax Perpetual Base Fund. Loan terms shall be 10 years at the reduced agricultural interest rate of 0.5% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

Staff additionally recommends a contract condition requiring the borrower to establish a reserve fund equal to one annual payment prior to disbursement of loan funds.

**d. City of Walsenburg - City Lake Dam Rehabilitation & Enlargement**

**Action:** Report given by CWCB staff member Anna Mauss. James Eccher, Mayor of Walsenburg, addressed the Board. A motion to approve the staff recommendation was made by Jack Goble, which was seconded by John McClow. The motion was approved unanimously (10-0).

**Staff recommendation:** Staff recommends the Board approve a loan not to exceed \$6,889,210 (\$6,821,000 for Project costs and \$68,210 for the 1% service fee) to the City of Walsenburg, acting by and through its water activity enterprise, for costs related to the City Lake Dam Rehabilitation & Enlargement Project from the Severance Tax Perpetual Base Fund. Loan terms shall be 30 years at the reduced municipal low-income interest rate of 2.0% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

**24. Basin Directors' Reports**

**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 Celene Hawkins. 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 Jsck Goble. 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 Heather Dutton. 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.

**25. Fluvial Hazard Zone Map Update**

*Watershed and Flood Protection Section*

Action: Report given by CWCB staff member Stephanie Dibetto. This was an informational item only. No Board action was required.

**26. Colorado's Water Plan Implementation Update**

*Water Supply and Planning Section*

Action: Report given by CWCB staff member Linda Bassi. This was an informational item only. No Board action was required.

**27. Proposed Criteria and Guidelines for Damaging High Groundwater Response Grants in the South Platte Basin**

*Interstate, Federal, & Water Information Section*

Action: Report given by CWCB staff member Erik Skeie. A motion to approve the staff recommendation was made by John McCloy, which was seconded by Patti Wells. The motion was approved unanimously (10-0).

Staff recommendation: Staff recommends the approval of the proposed Criteria and Guidelines for Damaging High Groundwater Response Grants in the South Platte Basin.

**28. HB15-1178 Dewatering Grant Application from the Town of Gilcrest**

*Interstate, Federal, & Water Information Section*

Action: Report given by CWCB staff member Eric Skeie. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Jay Gallaher. The motion was approved unanimously (10-0).

Staff recommendation: CWCB staff have reviewed the application and it meets the grant program criteria and guidelines as approved by the Board in July 2015. CWCB staff

recommends that the Board approve this HB 15-1178 emergency dewatering grant request from the Town of Gilcrest for up to \$57,986.30.

### **29. Statewide Water Supply Initiative (SWSI) Update**

*Water Supply and Planning Section*

**Action:** Report given by CWCB staff member Greg Johnson. This was an informational item only. No Board action was required.

### **30. ATM Grant Request: Larimer County - Supplemental Funding Request for Open Space ATM Project**

*Water Supply and Planning Section*

**Action:** Report given by CWCB staff member Craig Godbout. Kerri Rollings, Larimer County Open Lands Program Manager, addressed the Board. Todd Doherty, Western Water Partnerships, addressed the Board. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Heather Dutton. The motion was approved unanimously (10-0).

**Staff recommendation:** Staff recommends approval of up to \$51,750 from the Alternative Agricultural Water Transfer Methods Grant Program to help fund the “Supplemental Funding Request: Larimer County - Open Space ATM Pilot Project”.

### **31. Water Plan Grant Guidelines**

*Colorado Water Conservation Board*

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

### **Meeting Adjourned**

A motion to adjourn the May 2017 Board meeting was made by Jay Gallagher, which was seconded by Jim Yahn. The motion was approved unanimously (10-0).