



# COLORADO

## Colorado Water Conservation Board

Department of Natural Resources

John W. Hickenlooper  
Governor

Robert Randall  
DNR Executive Director

Rebecca Mitchell  
CWCB Director

### **DRAFT**

## **Summary Minutes and Record of Decisions**

### **July 18 - 19, 2018 Board Meeting**

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the Morgridge Commons Building, located at 815 Cooper Ave, Glenwood Springs, CO 81601. The meeting was called to order by Chair Jim Yahn. Nine voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Jay Gallagher, Russell George, Jim Yahn, Jack Goble, Heather Dutton, Celene Hawkins, Steven Anderson, Curran Trick, and Patti Wells. Ex-officio voting member Robert Randall, Executive Director of the Department of Natural Resources, was absent. Non-voting ex officio members present or represented were Don Brown, Commissioner of the Department of Agriculture; John Stulp, Director of the IBCC; Laura Chartrand, Deputy Attorney General, Colorado Department of Natural Resources and Environment Section; Bob Broscheid; Colorado Parks and Wildlife Director; Kevin Rein, State Engineer; and Rebecca Mitchell, Colorado Water Conservation Board Director.

On the second day, the meeting was called to order by Chair Jim Yahn. Nine voting members were present at the call to order, so a quorum was present (at least 6 required). The voting members present were: Jay Gallagher, Russell George, Patti Wells, Steven Anderson, Curran Trick, Jim Yahn, Jack Goble, Heather Dutton, and Celene Hawkins. Ex-officio voting member Robert Randall, Executive Director of the Department of Natural Resources, was absent. Non-voting ex officio members present or represented were Laura Chartrand, Deputy Attorney General, Colorado Department of Natural Resources and Environment Section; John Stulp, Director of the IBCC; Kevin Rein, State Engineer; Bob Broscheid; Colorado Parks and Wildlife Director; 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. Review and Approve Agenda**

**Action:** A motion to approve the July 2018 agenda was made by Patti Wells, which was seconded by Jack Goble. The motion was approved unanimously (9-0).

## **2. Review and Approve May 23 - 24, 2018 Board Meeting Minutes**

**Action:** A motion to approve the May 2018 minutes was made by Patti Wells, which was seconded by Steve Anderson. The motion was approved unanimously (9-0).

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

**Action:** A motion to approve the Consent Agenda (Items 1b, 1c, 1d) was made by Jack Goble, which was seconded by Patti Wells. The motion was approved unanimously (9-0).

**Action:** A motion to approve the Consent Agenda (Item 1a) was made by Steve Anderson, which was seconded by Jack Goble. Curran Trick abstained from the vote. The motion was approved unanimously (8-0).

### **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. 18CW3076 (Water Division 1) : Application of East Larimer County Water District*
- b. Case No. 18CW0002 (Water Division 2) : Application of RP on TC, LLC d/b/a Eden West Ranch*
- c. Case No. 18CW3033 (Water Division 2) : Application of Sheep Camp Holdings, LLC*
- d. Case No. 18CW3046 (Water Division 5) : Application of Highland Ranch Ltd.*

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

- a. September 18 - 20      Steamboat
- b. November 14 & 15      South Platte Basin

**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 Amy Moyer, standing in for 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 Rebecca Mitchell. This was an informational item only. No Board action was required.

**e. State Engineer**

Action: Report by Mike Sullivan, standing in for Kevin Rein. This was an informational item only. No Board action was required.

**f. Division of Parks and Wildlife**

Action: Report by Jackie Corday, standing in for Bob Broscheid. Katie Birch addressed the Board. This was an informational item only. No Board action was required.

**g. Water Resource and Power Development Authority**

Action: No report.

**6. Platte River Recovery Implementation Program Update**

*Interstate, Federal & Water Information Section*

Action: Report by CWCB staff members Jojo La and Carlee Brown. This was an informational Item only. No Board action was taken.

**7. Technical Assistance for Federal Cost-Share Program**

*Interstate, Federal & Water Information Section*

Action: Report by CWCB staff member Brent Newman. A motion to approve the staff recommendation was made by Steve Anderson, which was seconded by Jay Gallagher (Celene Hawkins was absent from the vote). The motion was approved unanimously (8-0).

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 for Salinity Control Program feasibility studies and program capacity building;
- 2) \$33,000 to Delta Conservation District for cost-share on DCT program and Irrigation Water Management program; and
- 3) \$25,000 to Mancos Conservation District for Salinity Control Program feasibility studies and other Federal cost-share program capacity building.

**8. Damaging High Groundwater Grant Application and Guidelines**

*Interstate, Federal & Water Information Section*

**Action:** Report by CWCB staff member Erik Skeie. A motion to approve the staff recommendation was made by Patti Wells, which was seconded by Steve Anderson (Celene Hawkins was absent from the vote). The motion was approved unanimously (8-0).

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

**9. Emergency Dam Response Funding**

*Finance Section*

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

**Staff Recommendation:** Staff recommends the Board authorize the transfer of \$500,000, or as much as is needed to establish a \$500,000 balance as of July 1, 2018, from the Construction Fund to the Emergency Dam Repair Cash Fund which will remain available to the CWCB and the Division of Water Resources for its intended use.

**10. Renewal of Ute Water Conservancy District Lease of Ruedi Water for Instream Flow Use in the 15 Mile Reach (Water Div. 5)**

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

**Action:** Report by CWCB staff member Linda Bassi. A motion to approve the staff recommendation was made by Russ George, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).

**Staff Recommendation:** Staff recommends that the Board approve renewing the Ute Water Conservancy District lease of up to 6,000 acre-feet of Ruedi Water from the Ute Water Conservancy District for \$7.20 per acre-foot through December 31, 2018, and an expenditure of up to \$43,200 from the Species Conservation Trust Fund, subject to the following conditions:

1. Releases of Ruedi water under the Water Lease Agreement shall not cause the releases out of Ruedi Reservoir to exceed 300 cfs and shall not cause flows in the Fryingpan River below Ruedi Reservoir to exceed 350 cfs. Staff and the U.S. Fish and Wildlife Service shall coordinate with the Bureau of Reclamation to ensure that these conditions are met.
2. CWCB staff shall consult and coordinate weekly with Colorado Parks and Wildlife staff on proposed releases to minimize impacts to the fishery on the Fryingpan River below Ruedi Reservoir.

**11. Colorado River Water Conservation District Lease of Ruedi Water for Winter Instream Flow Use in the Fryingpan River (Water Div. 5)**

*Stream and Lake Protection Section*

**Action:** Report by CWCB staff member Linda Bassi. John Currier, Chief Engineer of the Colorado River Water Conservation District, addressed the Board. A motion to approve the

amended staff recommendation was made by Russ George, which was seconded by Celene Hawkins. The motion was approved unanimously (9-0).

**Staff Recommendation:**

1. Conclude that the proposed acquisition of an interest in water by lease from the Colorado River Water Conservation District is appropriate to preserve and improve the natural environment of the Fryingpan River from the confluence with Rocky Fork Creek to the confluence with the Roaring Fork River to a reasonable degree;
2. Determine that the acquired interest in water would be best utilized by: (a) using it to preserve the natural environment of the Fryingpan River at rates up to the existing decreed ISF water right in that reach; and (b) using it to improve the natural environment in that reach by protecting flows above the decreed ISF rates at rates not to exceed 70 cfs;
3. Approve the expenditure of up to \$228,775 from the Construction Fund for the lease;
4. Authorize the CWCB staff to work with the District on exploring whether the lease should be renewable; and
4. Authorize the Director to execute a Water Lease Agreement with the Colorado River Water Conservation District.

**12. Northern Colorado Water Conservancy District Dedication of Mitigation Releases for Instream Flow Use in the Cache la Poudre River (Water Div. 1)**

*Stream and Lake Protection Section*

**Action:** Report by CWCB staff member Kaylea White. Jerry Gibbens, Director of Operations for Northern Colorado Water Conservancy District, addressed the Board. This was an informational Item only. No Board action was taken.

**Staff Recommendation:** Pursuant to Rule 6b of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program ("ISF Rules"), the Board's consideration of this proposal at this meeting will initiate the 120-day period for Board review. No formal action is required at this time. The initial presentation of this proposal provides an opportunity for the Board and the public to identify questions or concerns that Staff will address at this or a subsequent meeting.

**13. Proposed Expenditures for Costs of Water Acquisitions for Instream Flow Use**

*Stream and Lake Protection Section*

**Action:** Report by CWCB staff member Linda Bassi. A motion to approve the staff recommendation was made by Patti Wells, which was seconded by Russ George. The motion was approved unanimously (8-0).

**Staff Recommendation:** Staff recommends that the Board authorize it to initiate a selection process to contract with an entity for conducting technical analyses and performing other tasks necessary for evaluating proposed acquisitions of water for instream flow use and monitoring the use of acquired water. The contract would be for a term of five years for an amount not to exceed \$500,000, and would be funded from the Construction Fund as authorized by section 37-60- 123.7, C.R.S. (2018).

**14. Statewide Water Supply Initiative Update**

*Water Supply Planning Section*

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

#### **15. Colorado River Basin Fund Memorandum of Agreement (MOA)**

*Interstate, Federal & Water Information Section*

**Action:** Report by CWCB staff members Carlee Brown and Alex Funk. This was an informational item only. No Board action was required.

#### **16. 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.

#### **17. Executive Session**

**Action:** Under the Colorado Open Meetings Act, C.R.S. Section 24-6-402(3)(a)(II), a motion was made by Heather Dutton for the Board to go into executive session for the discussion of agenda items 17.a. through 17.f. The motion was seconded by Steve Anderson. The motion was approved unanimously (9-0).

- a. Instream Flow Acquisitions on the Cache la Poudre River
- b. Administrative Process to Recognize Claimed Stockwatering Uses Pursuant to Section 37-92-102(3)(b), C.R.S. (2018)
- c. Colorado River Issues
  - 1. Colorado River Basin Drought Contingency Planning
  - 2. Upper Colorado River Basin Fund MOA
  - 3. Upper Colorado River Basin Fund Monies
  - 4. System Conservation Pilot Program
- d. Republican River Compact Compliance Discussions
- e. Rio Grande Issues
  - 1. Texas v. New Mexico and Colorado, Orig. No. 141, Update
- f. Hill v. Warsewa, 18-cv-300069, Fremont County District Court, Colorado

#### **18. Report From Executive Session**

**Action:** Heather Dutton made a motion for the Board to leave Executive Session, which was seconded by Jack Goble. The motion was approved unanimously (9-0).

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

*Finance Section*

- a. Financial Projections and Cash Management Report
- b. Two Rivers Water & Farming Company and Two Rivers Farms F-2 Inc. - Loan Payment Delinquency

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

## **20. Water Project Loans**

### *Finance Section*

#### **a. Chilcott Ditch Company - Chilcott Augmentation Station**

**Action:** Report by CWCB staff member Rachel Pittinger. Jessie Shafer, Manager of Chilcott Ditch Company, addressed the Board. A motion to approve the staff recommendation was made by Jack Goble, which was seconded by Steve Anderson. The motion was approved unanimously (9-0).

**Staff Recommendation:** Staff recommends the Board approve a loan not to exceed \$505,000 (\$500,000 for Project costs and \$5,000 for the 1% service fee) to the Chilcott Ditch Company for costs related to Chilcott Augmentation Station Project, from the Construction Fund. The loan terms shall be 20 years at a reduced middle-income interest rate of 2.55% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

#### **b. Missouri Heights Mountain Meadow Irrigation Company - Ditch Piping Phase B**

**Action:** Report by CWCB staff member Jonathan Hernandez. Felix Tornare, with Missouri Heights Mountain Meadow Irrigation Company, addressed the Board. A motion to approve the staff recommendation was made by Russ George, which was seconded by Patti Wells. The motion was approved unanimously (9-0).

**Staff Recommendation:** Staff recommends the Board approve a loan not to exceed \$404,000 (\$400,000 for Project costs and \$4,000 for the 1% service fee) to the Missouri Heights Mountain Meadow Irrigation Company for costs related to the Ditch Piping Phase B Project, from the Construction Fund. The loan terms shall be 30 years at a blended interest rate of 2.05% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

#### **c. Roxborough Water and Sanitation District - Ravenna Development Interconnect**

**Action:** Report by CWCB staff member Jonathan Hernandez. Barbara Biggs, General Manager of Roxborough Water and Sanitation District, addressed the Board. A motion to approve the staff recommendation was made by Patti Wells, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).

**Staff Recommendation:** Staff recommends the Board approve a loan not to exceed \$1,584,690 (\$1,569,000 for Project costs and \$15,690 for the 1% service fee) to the Roxborough Water and Sanitation District, acting by and through its water activity enterprise, for costs related to the Ravenna Development Interconnect Project, from the Construction Fund. The loan terms shall be 30 years at the high-income municipal interest rate of 3.15% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

## **21. 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 Steven Anderson. This was an informational item only. No Board action was required.

d. North Platte River Basin Director's Report

Action: Report by Curran Trick. 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 Jack Goble. This was an informational item only. No Board action was required.

g. City and County of Denver Director's Report

Action: Report by Patti 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.

**22. Colorado Water Plan Implementation Update**

*Water Supply Planning Section*

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

**23. Floodplain Designation - Colorado Hazard Mapping Program (CHAMP) Data (Unincorporated Areas of Boulder and Larimer Counties) Including:**

- Boulder County (excluding the 2D draft floodway reaches for Boulder Creek from Kenosha Rd/115th Street to the Weld County Line)
  - Colorado Hazard Mapping Program Hydraulic Analysis, Technical Support Data notebook (TSDN) for the Big Thompson Watershed (HUC-8 10190006), by CWCB/AECOM, submitted March 21, 2017; and,
  - Colorado Hazard Mapping Program Hydraulic Analysis, Technical Support Data notebook (TSDN) for the St. Vrain Watershed (HUC-8 10190005), by CWCB/AECOM, submitted April 2018; and,



- Colorado Hazard Mapping Program Hydraulic Analysis - Volume 2, Technical Support Data notebook (TSDN) for the St. Vrain Watershed (HUC-8 10190005), by CWCB/AECOM, submitted June 2018.
- Larimer County
  - CHAMP Colorado Hazard Mapping Program Hydrology Technical Support Data notebook (TSDN) for the Big Thompson Watershed (HUC-8 10190006), by CWCB/AECOM, submitted March 2016; and
  - CHAMP Colorado Hazard Mapping Program Year 1 and Year 2 Draft Hydraulics for the Big Thompson Watershed (HUC-8 10190006), excluding Year 2, 2-D draft hydraulics model for the Big Thompson River and its tributaries through the City of Loveland and surrounding portions of unincorporated Larimer County, by CWCB/AECOM, submitted March 2017 for Year 1 and March 2018 for Year 2.

*Watershed and Flood Protection Section*

**Action:** Report by CWCB staff member Kevin Houck. Varda Bloom, Floodplain Manager for unincorporated Boulder County, addressed the Board. A motion to approve the staff recommendation was made by Heather Dutton, which was seconded by Jack Goble. The motion was approved unanimously (9-0).

**Staff recommendation:** Staff recommends that the Board: 1) designate and approve the detailed 100-year and 500-year floodplain and floodway information contained in said report for Little Thompson River, Fourmile Canyon Creek, Fourmile Creek, Gold Run, Left Hand Creek, St. Vrain Creek, and North St. Vrain Creek within Boulder County, and designate and approve the approximate 100-year floodplain information contained in said report for Geer Canyon, Little Thompson River, West Fork Little Thompson River, and James Creek also within Boulder County, and 2) designate and approve the detailed 100-year and 500- year floodplain and floodway information contained in said report for Big Thompson River (excluding Year 2, 2-D draft hydraulics model for the Big Thompson River and its tributaries through the City of Loveland and surrounding portions of unincorporated Larimer County), Buckhorn Creek, Little Thompson River, Redstone Creek, Dry Creek, Dickson Gulch, Cedar Creek, Quillan Gulch, Long Gulch, Tributary BT-1, Tributary BT-2, Tributary BT-3, Noel's Draw, Dark Gulch, Fox Creek, Black Canyon Creek, Dry Gulch, Fall River, Fish Creek, North Fork Big Thompson River, and West Creek within Larimer County, and designate and approve the approximate 100-year floodplain information contained in said report for Buckhorn Creek, Dry Creek, Little Thompson River, North Fork Little Thompson River, West Fork Little Thompson River, and Redstone Creek also within Larimer County, and 3) authorize staff to prepare a floodplain resolution to be signed by the Director and transmitted to Boulder County and Larimer County and FEMA. This action is recommended in order to meet statutory requirements.

## **24. New Policy - Temporary Designation of Best Available Floodplain Data**

*Watershed and Flood Protection Section*

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

## **25. State Flood Mitigation Plan Update**

*Watershed and Flood Protection Section*

**Action:** Report by CWCB staff member Stephanie Dibetitto. Chris Ide, with Wood, addressed the Board. This was an informational item only. No Board action was required.

## 26. SW Temporary Mobile Radar System

### *Watershed and Flood Protection Section*

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

## 27. Water Supply Reserve Fund (WSRF)

### *Water Supply and Planning Section*

Water Supply Reserve Fund Applications for Consideration at the CWCB July 2018 Board Meeting			
Item	Basin(s)	Applicant	Name of Water Activity
a.	North Platte	Spicer Ranches, Ltd.	Coyte Reservoir Outlet Repair
<p><b>Action:</b> Report by CWCB staff member Megan Holcomb. Coy Meyring, with Spicer Ranches, addressed the Board. A motion to approve the staff recommendation made by Curren Trick, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0).</p> <p><b>Staff recommendation:</b> Staff recommends approval of up to \$67,600 from the North Platte Basin Account to help fund the project titled: Coyte Reservoir Outlet Repair Project.</p>			
b.	Rio Grande	Special Improvement District Number One	Rio Grande Water Conservation District Groundwater Level Telemetry
<p><b>Action:</b> Report by CWCB staff member Megan Holcomb. Chet Tokarsky, with Rio Grande Water Conservation District, addressed the Board. A motion to approve the staff recommendation made by Heather Dutton, which was seconded by Jack Goble. The motion was approved unanimously (9-0).</p> <p><b>Staff recommendation:</b> Staff recommends approval of up to \$71,348 from the Rio Grande Basin Account to help fund the project titled: Rio Grande Water Conservation District Groundwater Level Telemetry.</p>			

## Meeting Adjourned

A motion to adjourn the July 2018 Board meeting was made by Curran Trick, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0).