



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

Jared Polis
Governor

Dan Gibbs
DNR Executive Director

Rebecca Mitchell
CWCB Director

FINAL
Summary Minutes and Record of Decisions
January 28 -29, 2019 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the Westin Westminster, located at 10600 Westminster Blvd, Westminster CO 80020. 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 Patricia Wells. Ex-officio voting member Dan Gibbs, Executive Director of the Department of Natural Resources, was not present. Non-voting ex officio members present or represented were Kate Greenberg, Department of Agriculture; Deputy Attorney General Amy Beatie, Colorado Department of Law, Natural Resources and Environment Section; Jackie Corday; Colorado Parks and Wildlife; 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. Ten 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, Celene Hawkins, and ex-officio voting member Dan Gibbs, Executive Director of the Department of Natural Resources. Non-voting ex officio members present or represented were Phil Weiser, Attorney General, Colorado Department of Law; Deputy Attorney General Amy Beatie, Colorado Department of Law, Natural Resources and Environment Section; Kevin Rein, State Engineer; Jackie Corday; Colorado Parks and Wildlife; and Rebecca Mitchell, Colorado Water Conservation Board Director.



Monday, January 28, 2019

1. Review and Approve Agenda

Action: A motion to approve the January 2019 agenda with the removal of Agenda Item 9 was made by Patti Wells, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0).

2. Review and Approve November 14 -15, 2018 Board Meeting Minutes

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

3. Approve and/or Remove Consent Agenda Items

Action: A motion to approve the Consent Agenda items after removing item 3b for further discussion (per Curran Trick's request) was made by Patti Wells, which was seconded by Steve Anderson. The motion was approved unanimously (9-0).

5. Directors' Reports

a. DNR Executive Director

Action: Report by Amy Moyer. This was an informational item only. No Board action was required.

b. IBCC Director

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

c. Agriculture Commissioner

Action: Report by Kate Greenberg. This was an informational item only. No Board action was required.

d. CWCB 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 Director

Action: Report by Jackie Corday. This was an informational item only. No Board action was required.

g. Water Resource and Power Development Authority

Action: Report by Mike Brod. This was an informational item only. No Board action was required.

6. Colorado Watershed Restoration Program - Grant Funding Recommendations

Watershed and Flood Protection Section

Action: Report by CWCB staff member Chris Sturm; Sandy White (Huerfano Water Conservancy

District), Jessie Olson (Left Hand Watershed Oversight Group), and Chelsey Nutter (Upper Arkansas Water Conservancy District) addressed the board. A motion to approve the Colorado Watershed Restoration Program - Grant Funding Recommendations was made by Jack Goble, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends that the Board approve a non-reimbursable expenditure up to \$2,960,300 from the Colorado Watershed Restoration Program for the purpose of providing match funding to the projects identified in Table 1.

7. Four Corners Area Permanent Radar Update

Watershed and Flood Protection Section

Action: Report by CWCB staff members Kevin Houck and Joe Busto, Mike Preston with Dolores Water Conservancy District addressed the board under public comment. This is an informational item and no board action is requested at this time.

8. Water Supply Reserve Fund Applications

Water Supply Planning Section

Water Supply Reserve Fund Application Grants at the January 2019 CWCB Board Meeting			
Agenda Item	Basin	Applicant	Name of Water Activity
a	Yampa/White/Green	Upper Yampa River Working Group/Upper Yampa River Water Conservancy District	Characterization of Streamflow, Suspended Sediment & Nutrients in the Upper Yampa River Basin
<p>Action: Report by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by Jay Gallagher, which was seconded by Jack Goble. The motion was approved unanimously (9-0).</p> <p>Staff recommendation: Staff recommends that the Board give conditional approval of up to \$77,424 from the Yampa-White-Green Basin Account to help fund the project titled: Characterization of Streamflow, Suspended Sediment & Nutrients in the Upper Yampa River Basin, contingent upon the conditions state in the Issues/Additional Needs section below.</p> <p>Issues/Additional Needs: As noted above (and below), the applicant has identified \$67,076 in cash matching contributions, however written verification for all matches have as yet to be provided, therefore staff recommends a conditional approval of this grant for the requested \$77,424 contingent upon the applicant providing documentation verifying the all matching contributions prior to entering into a grant contract.</p>			
b	Yampa/White/Green	City of Steamboat Springs	Yampa River Forest Restoration & Temperature Mitigation Project
<p>Action: Report by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by Jay Gallagher, which was seconded by Patti Wells. The motion was approved unanimously (9-0).</p> <p>Staff recommendation: Staff recommends that the Board give conditional approval of up to</p>			

\$25,000 from the Yampa-White-Green Basin Account to help fund the project titled: Yampa River Forest Restoration & Temperature Mitigation Project, contingent upon the conditions stated in the Issues/Additional Needs section below.

Issues/Additional Needs: As noted above (and below), the applicant has identified \$150,000 in cash matching contributions, however, written verification for all matches have as yet to be provided, therefore staff recommends a conditional approval of this grant for the requested \$25,000 contingent upon the applicant providing documentation verifying the all matching contributions prior to entering into a grant contract.

c	Colorado	City of Grand Junction	Las Colonias Park River Recreation Feature
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Action: Report by CWCB staff member Megan Holcomb. A motion to approve the staff recommendation was made by Russ George, which was seconded by Steve Anderson. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends that the Board approve up to \$10,000 from the Colorado Basin Account to help fund the project titled: Las Colonias Park River Recreation Feature.

d	Rio Grande	Mosca-Hooper Conservation District	SLV Recharge Optimization Pilot Project
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Action: Report by CWCB staff member Megan Holcomb. A motion to approve the staff recommendation was made by Heather Dutton, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends that the Board approve up to \$43,100 from the Rio Grande Basin Account to help fund the project titled: SLV Recharge Optimization Pilot Project.

e	Metro	Colorado Watershed Assembly	Education Coordination
	South Platte		

Action: Report by CWCB staff member Megan Holcomb. A motion to approve the staff recommendation was made by Patti Wells, which was seconded by Celene Hawkins. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends that the Board approve up to \$18,500 from the Metro and up to \$18,500 from the South Platte Basin Account for a total of \$37,000 to fund the project titled: Water Education Coordination.

9. Tap-In/Innovation Item

Water Supply Planning Section

This item was struck from the agenda; the presenters were not able to make it to the meeting because of the weather.

10. Best Practices for Implementing Water Conservation and Demand Management Through Land Use Planning Efforts: Addendum to 2012 Municipal Water Efficiency Plan Guidance Document

Water Supply Planning Section

Action: Report by CWCB staff member Kevin Reidy, Anne Castle with Getches-Wilkinson Center for Natural Resources, Energy, and the Environment University of Colorado and Erin Rugland with the Babbitt Center for Water Policy addressed the board. A motion to approve the staff recommendation was made by Celene Hawkins, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0).

Staff recommendation: Staff recommends that the Board adopt the Best Practices for Implementing Water Conservation and Demand Management Through Land Use Planning Efforts Addendum.

11. Water Plan Progress and Integration with the Statewide Water Supply Initiative

Water Supply Planning Section

Action: Report by CWCB staff members Greg Johnson and Russ Sands. This is an informational item and no board action is requested at this time.

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

Finance Section

- a) Financial Projections and Cash Management Report

Action: Report by CWCB staff member Kirk Russell. This is an informational item and no board action is requested at this time.

13. Water Project Loans - Finance

Finance Section

- a) Left Hand Ditch Company - Allen's Lake Filler Canal Improvements

Action: Report by CWCB staff member Jonathan Hernandez. A motion to approve the staff recommendation was made by Heather Dutton, which was seconded by Patti Wells. The motion was approved unanimously (8-0).

Staff recommendation: Staff recommends that the Board approve a loan not to exceed \$671,650 (\$665,000 for Project costs and \$6,650 for the 1% service fee) to the Left Hand Ditch Company for costs related to the Allen's Lake Filler Canal Improvements Project, from the Construction Fund. The loan terms shall be 30 years at a blended interest rate of 2.50% per annum. Security for the loan shall be in compliance with the CWCB Financial Policy #5.

- b) Schneider Ditch Company - Diversion Structure Replacement

Action: Report by CWCB staff member Rachel Pittinger. A motion to approve the staff recommendation was made by Patti Wells, which was seconded by Heather Dutton. The motion was approved

unanimously (8-0).

Staff recommendation: Staff recommends that the Board approve a loan not to exceed \$1,245,330 (\$1,233,000 for Project costs and \$12,330 for the 1% service fee) to the Schneider Ditch Company for costs related to the Diversion Structure Replacement Project, from the Severance Tax Perpetual Base Fund. The loan terms shall be 30 years at an agricultural interest rate of 1.85% per annum. Security for the loan shall be in compliance with the CWCB Financial Policy #5.

14. Changes to Existing Loans

Finance Section

- a) St. Vrain and Left Hand Water Conservancy District - Emergency Rock'n WP Ranch Lake No. 4 Repair

Action: Report by CWCB staff member Jonathan Hernandez, Sean Cronin with the St. Vrain and Left Hand Water Conservancy 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 (8-0).

Staff recommendation: Staff recommends that the Board approve the existing loan terms to be increased from 3 to 5 years of 0% interest followed by 27 years at a blended interest rate of 3.20% per annum. Security for the loan shall be in compliance with the CWCB Financial Policy #5.

Additionally, in accordance with similar emergency loans receiving FEMA funds, staff recommends modifying the existing contract condition that reads:

“Any future grant funds obtained for the purpose of this Project shall be submitted to CWCB to be applied to the balance of the loan within thirty (30) calendar days after receipt of said funds.”

To read:

“Any future grant funds obtained for the purpose of this Project shall be submitted to CWCB to be applied to the balance of the loan within thirty (30) calendar days after receipt of said funds except that FEMA grant funds can be applied to the balance of the loan within thirty (30) calendar days after FEMA Project Closeout, as long as the borrower deposits received FEMA grant funds in a secured account prior to Project Closeout. FEMA grant funds shall only be used for the repayment of rescinded grant funds or to pay down the loan principal.

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

Action: Report by CWCB staff member Jonathan Hernandez, Sean Cronin with St. Vrain and Left Hand Water Conservancy 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 (8-0).

Staff recommendation: Staff recommends that the Board approve a loan increase of \$245,430

(\$243,000 for Project costs and \$2,430 for the 1% service fee) for a total loan not to exceed \$864,560 (\$856,000 for Project costs and \$8,560 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 the CWCB Financial Policy #5.

c) Ordway Feedyard, LLC - Transfer of Loan Obligation

Action: Report by CWCB staff member Anna Mauss, Luke Larson with Ordway Feedyard 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 (7-0).

Staff recommendation: In order to help the Company to remain viable as a borrower and as an economic benefit to Crowley County, Staff recommends the Board approve a transfer of loan obligation, (Contract Number C150349) from Ordway Feedyard, LLC to Ordway Cattle Feeders, LP. The loan terms will remain 1.75% with no change to the repayment schedule. Collateral for the loan shall remain in compliance with CWCB Financial Policy #5.

15. 2019 Projects Bill

Finance Section

Action: Report by CWCB staff member Kirk Russell. This is an informational item and no board action is requested at this time.

16. Emergency Dam Response Fund - Cucharas #5 Dam Removal

Finance Section

Action: Report by CWCB staff member Kirk Russell, Scott Cuthbertson Deputy State Engineer addressed the board. This is an informational item and no board action is requested at this time.

17. Species Conservation Trust Fund

Interstate, Federal, & Water Information Section

Action: Report by CWCB staff member Carlee Brown. A motion to approve the staff recommendation was made by Patti Wells, which was seconded by Heather Dutton. The motion was approved unanimously (8-0).

Staff recommendation: Staff recommends, contingent upon available revenues, that the Board: (1) concur with the DNR Executive Director's proposed recommendations to the General Assembly to approve an expenditure of up to \$6 million from the SCTF for FY 19-20, including \$3 million for the CWCB priorities outlined herein; and (2) forward a statement of concurrence to the CPW Commission.

Staff additionally recommends that the Board authorize up to \$600,000 from the Construction Fund to ensure that one year's worth of Colorado's anticipated financial commitment to the Platte River Recovery Implementation Program is met in the coming fiscal year.

CA Item 1b

Case No. 18CW3162 (Water Division 5): Application of Connell Development Co.

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 Steve Anderson. The motion was approved unanimously (10-0)

Staff recommendation: Staff recommends that the Board ratify the filings of a Statement of Opposition filed on behalf the Board in December 2018 to protect CWCB's instream flow water rights.

22. 2019 Instream Flow Appropriations in Water Divisions 2, 3, 4, 6, and 7

Stream and Lake Protection Section

Action: Report by CWCB staff member Robert Viehl. A motion to approve the staff recommendation was made by Celene Hawkins, which was seconded by Jack Goble. 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 ISF water right on each stream segment listed on the attached Tabulation of Instream Flow Recommendations, and direct Staff to publicly notice the Board's declaration of its intent to appropriate. If the Board takes final action on the two segments of Disappointment Creek listed in the attached tabulation, water court applications will not be filed until December 2019.

23. Colorado River Drought Contingency Planning and Demand Management

Interstate, Federal, & Water Information Section

Action: Report by CWCB staff member Brent Newman and Karen Kwon with the Colorado Attorney General's office. This is an informational item and no board action is requested at this time. Staff will welcome guidance and comment from the Board on Drought Contingency Planning efforts and Demand Management Feasibility investigation scoping.

24. Criteria and Guidelines for Following-Leasing Pilot Projects (House Bill 13-1248)

Interstate, Federal, & Water Information Section

Action: Report by CWCB staff member Alex Funk. A motion to approve the staff recommendation was made by Jack Goble, which was seconded by Curran Trick. The motion was approved unanimously (8-0).

Staff recommendation: Staff recommends Board approval of the updated Criteria and Guidelines for Following-Leasing Pilot Projects as proposed.

25. Colorado Springs Utilities Following-Leasing Pilot Project Proposal

Interstate, Federal, & Water Information Section

Action: Report by CWCB staff member Alex Funk; Jay Winner with Lower Arkansas Valley Water Conservancy District and Matt Montgomery with Hill and Robbins also addressed the Board. A motion to approve the staff recommendation was made by Patti Wells, which was seconded by Steve Anderson. The motion was approved unanimously (8-0).

Staff recommendation: Staff recommends upon the Board's review and consideration, the Board may select the proposed pilot project to participate in the program, request that a sponsor provide more information regarding the proposed pilot project for reconsideration by the Board at its next regularly scheduled meeting (March), or deny the proposal. At this time, CWCB Staff recommends that the Board request the Applicants to provide additional information as to the comments received on the pilot proposal and reconsider the proposal for selection at its March meeting.

26. Basin Fund MOA

Interstate, Federal, & Water Information Section

Action: Report by CWCB staff members Carlee Brown and Alex Funk; Dave Kanzer with the Colorado River District also addressed the Board. 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 direct staff to draft a proposed process for developing an annual list of the state's MOA project priorities. Staff additionally recommends that the Board direct staff to develop guidelines for addressing MOA project cost overruns, incorporating certain concepts discussed in this memo.

Meeting Adjourned

A motion to adjourn the January 2019 Board meeting was made by Steve Anderson, which was seconded by Jack Goble. The motion was approved unanimously (9-0).