

IBCC call Colorado River Basin

1. November 25, 2019, CBRT Minutes.

1. **November 25, 2019 CBRT Minutes** – Approve \$25,000 grant request for Grand Junction Audubon gravel pit rehabilitation, and Palisade school district \$25,000 ditch repair grant; table Upper Colorado Watershed study due to contention between applicant and Learn by Doing partners; \$12,500 Crystal River Augmentation Study grant approved after much discussion; Amendment DD sports gaming tax passed; Upper Colorado River Demand Management irrigation pilot project proposed.
2. **Next Meeting: January 27 , 2020, Glenwood Springs Community Center, 12:00 – 4:00.**
3. **Upcoming Meetings**
 - a. December 23, Next Steps Committee Meeting, Colorado River District Office
 - b. January 27, 2020, CBRT Roundtable Meeting, Glenwood Springs Community Center
 - c. January 27-28, CWCB meeting, Westminster
4. Reporter: These minutes were prepared by Ken Ransford, Esq., CPA, 970-927-1200, ken@kenransford.com.
5. **CBRT Members Present:** Steve Acquafresca, Paul Bruchez, Stan Cazier, Kathy Chandler Henry, Carlyle Currier, Angie Fowler, Dan Harrison, Mark Hermundstad, Kelly McNicholas Kury Pitkin BOCC, Kirsten Kurath, Merritt Linke, April Long, Ed Moyer Grand County, Ken Neubecker, Chuck Ogilby, Ken Ransford, Steve Ryken, Karn Stieglemeier, Lane Wyatt
6. **Guests:** Richard and Nancy Borden Chair Mt. Ranch, Abby Bork Grand Valley Audubon Grand Junction, John Currier CRD, Dennis Davidson Mt. Sopris Conservation District, Chuck Downey Crystal River Caucus, Dorothea and Doug Farris Crystal River Caucus, David Graf, William George Colorado Ranch Co., Luke Gingerich J.U.B. Engineers, Hannah Holm CMU, Kate Hudson Crystal River Caucus, Dawn Jewell City of Aurora, Bill Jochems Crystal River Caucus, Heather Lewin, Ryan Maecker Colo Springs Utilities, Lisa MacDonald, Pitkin County, Allan Martellaro, John Martinez Garfield County, David Merritt, John Martinez Grand Valley School District, Mickey O'Hara Colo. Water Trust, Jason Orf Crystal River Country Estates, Maria Pastore Colorado Springs Utilities, Sam Potter, Wendy Ryan Colo River Engineering, Heather Sackett Aspen Journalism, Scott Schreiber, Lisa Tasker Pitco Healthy Rivers Board, Richard Vangytenbeek Colo Trout Unlimited, Meredith Walker, Grand Valley Audubon, Chad Weaver Chair Mt Ranch Filing 2, Kent Whitmer Middle Park Water Conservancy District

7. **River Forecast.** The Colorado River is flowing 950 cfs at Dotsero, slightly below the 78-year median flow of 1,000 cfs on this date.¹ The Colorado River is flowing 1,750 cfs; the median is 1,800 cfs at Cameo on this date.²
8. **The WSRA balance is \$112,000 before approving any grants slated for today's meeting.** We expect another \$140,000 will be contributed in January 2020. Today we are voting on:
 - a. **Grand Valley Audubon \$25,000 request.** The Next Steps Committee recommends a \$25,000 grant. Meredith Walker said the grant would be used to rehabilitate steep and deep gravel pits near the Colorado River into shallow wetlands for shorebirds. Grand Junction is on the Western edge of the Central North American flyway. Much of the wetlands along the Colorado River in Grand Junction have been dried up due to diversions from the river.
 - i. Ken Ransford motioned to approve the grant and Ed Moyer of Grand County seconded it. **The motion passed unanimously.**
 - b. **Garfield County School District \$25,000 request for a ditch improvement in Palisade.** The grant will get water from an undermined ditch into a 24" pipe to irrigate 14 acres along the middle and high schools used for ball fields. The request from the school district was for \$50,000, but the Next Steps Committee reduced it to \$25,000.
 - i. Stan Cazier motioned that we approve this grant, Paul Bruchez seconded it, and it **passed unanimously.**
9. **Crystal River Augmentation Feasibility Study: \$12,500 from each of the CBRT Basin and statewide WSRA Accounts.** The Division Engineer called out users including **the Town of Carbondale in the 2018 drought to cease using water**, bringing this issue to a head. After the long discussion detailed below, the motion passed with 3 opposing.
 - a. Allan Martellaro, Division Engineer, Division 5, said that Division 5 did not issue the call, since technically, the State Engineer does not have a water right on the Crystal River. Rather, the Ella Ditch made the call and the State Engineer administers the call. Martellaro said **there have been calls on the Crystal for years**, most recently for instream flows (as the Crystal River has gained notoriety in state water discussions for nearly drying up in 2002 and 2018—ed.), and he **believes a basin-wide solution of storage or irrigation dry-up is needed.** The Town of Carbondale has no interest in drying up the river; the CWCB in recent years has been making calls for In Stream Flows. Martellaro also believes that **water above Avalanche Creek will be needed to contribute to the solution.**

¹ Dotsero forecast: https://waterdata.usgs.gov/usa/nwis/uv?site_no=09070500.

² Cameo forecast: https://waterdata.usgs.gov/co/nwis/uv/?site_no=09095500&PARAMeter_cd=00065.00060

- b. Scope of the request: The augmentation study will look at developing a Crystal River basin-wide augmentation plan. Wendy Ryan of Colorado River Engineering described the proposal.
 - i. The first step is to **quantify the amount of water needed**, and how much demand there is for augmentation water.
 - ii. Can they **augment by exchange**? The **instream flow reaches will probably limit this**, which is why they will likely need storage upstream.
 - iii. They may also want to practice alluvial aquifer recharge, by building a leaky pond that slowly recharges the aquifer and enhances river flows.
 - iv. **Where do they need supplies to meet the demands**, with an eye toward timing.
 - v. The ultimate solution is a decree for augmentation of the Crystal River.
- c. John Currier said that calls on the Crystal River are not new; they've been happening a long time. There is **no recommendation for a dam on the Crystal River (termed "on-channel storage")**. Currier said the only likely way to satisfy downstream agricultural irrigators is to build ponds upstream to recharge the aquifer.
- d. Pitkin County Commissioner Kelly McNicholas Kury said that Pitkin County will not support the grant request, because Pitkin County continues to support Wild and Scenic River status on the Crystal. Kury said that **Pitkin County requires two modifications to the proposed grant request**: (1) The application must state that **all storage will be off-channel**; (2) The study should **narrow the scope of locations for storage to below the point where the Sweet Jessup diverts from the Crystal River**.
- e. Kate Hudson represents the **Crystal River Caucus** and presented a letter explaining their position. The Caucus is concerned that the grant application was not brought to their attention earlier, so they did not have a full and timely discussion of it. They are **apprehensive of plans that do not solicit their participation**. The Caucus supports Wild and Scenic River designation as part of their master plan. The Crystal Caucus Board does not support a feasibility study that contemplates any on-channel storage on the Crystal River. The Caucus encourages the CBRT to table the submitted grant application so it can be re-worked to accommodate the Caucus' and Pitkin County's concerns. They **request the proponents to present the revised grant application at a Caucus meeting**. In particular, they are concerned about potential dams in the Crystal River drainage to support this augmentation plan.
- f. Karn Stieglemeier asked if any augmentation plan can be compatible with Wild and Scenic River designation.

- g. Bill Jochems, another Caucus member, described the Caucus' "challenging history" with both the Colorado River District and West Divide Water Conservancy District. **In 1957 a plan for 2 reservoirs**, one at the bottom end of Redstone to store water for 4 miles up to the Placita site, and a second dam at Placita that would impound water nearly up to Marble. These conditional rights were kept alive for 50 years, as the Colorado River District consistently met the "can and will" test in Water Court at Due Diligence hearings to prove they were able and willing to build the 2 reservoirs. That is why the Caucus is so nervous whenever it hears any discussion of any dams on the Crystal River or its tributaries.
- i. **Eight years ago the Colorado River District surrendered its conditional storage water rights.** Rather than go to trial, the River District abandoned them.
- h. Carlyle Currier said the purpose of the Roundtable was to search for solutions. **"We don't find solutions that starts out with "No,"** he said. "To find a solution, you need to look at all possibilities, and that includes looking at potential dams. The Colorado Water Plan calls for 400,000 acre feet of new storage in Colorado over the next 40 years, and dams are a part of the solution."
- i. Zane Kessler has been on the Colorado River District's External Affairs team, and he mentioned that **Marble and Carbondale both support the feasibility study**, as well as many local homeowners. Kessler said the Division Engineer has identified a problem, and this study will let the community weigh in on solutions it can support.
- j. **Ken Neubecker agrees with Carlyle Currier.** "A reservoir is not the first choice, but we've agreed that storage must be considered. **You must consider all options.** If you want Carlyle Currier to take the feasibility study seriously, it must consider all options."
- k. Paul Bruchez. Although this is specific to the Crystal River, Demand Management is taking front and center, and the entire Colorado River basin is running out of water.
- l. **Lisa Tasker, former Pitkin County Healthy Streams Board member** and self-described environmental advocate, said she is concerned that we are ignoring that we are in a new era. **We need to think beyond traditional storage.** Storage is the preferred solution historically. The Colorado River District should have met with the Crystal River caucus first. Water in the Crystal River is not scarce; Colorado water law and diversions to grow hay is causing this problem.
- m. **Ken Ransford recommended** tabling the vote until the Colorado River District could meet with the Crystal River Caucus, and to revise the feasibility study to determine **how to solve the problem without constructing any additional reservoirs.**

- n. **Chuck Ogilby made the following motion**, “I Move that we (the Colorado River Roundtable) fund the requested portion of the Crystal River Augmentation Study from our Basin Funds for the investigation of the future augmentation of in-basin water needs only; and that the study area be limited only to the Crystal River off channel sites below the Sweet Jessup ditch. And further; that the study also look at all other **means of meeting the augmentation needs other than a new reservoir site**; and further again, that the Colorado River Water Conservation District and the West Divide Water District both agree to support and actively participate in the creation of the Wild and Scenic designation on the Crystal River above the Sweet Jessup Ditch.”
 - i. Chuck’s motion was motioned for approval seconded by Kury, but the motion **did not pass**.
- o. **John Currier** requested the Crystal River Caucus to describe what is meant by “traditional storage.” “If we only consider the river downstream of the traditional irrigation ditches, we aren’t looking at the total problem,” he said. Currier does not object to revising the augmentation study to eliminate “on-channel storage structures,” but **if storage is required upstream to solve the problem, he does not want to limit it**.
- p. **Dave Merritt**, the original chair of the CBRT, said he headed up a Crystal River Wild and Scenic River study in 1989 when working with the Colorado River District. It was initially targeted to receive funding from the National Park Service. But the River District could not sign off on the Wild and Scenic River proposal without going through the Wild and Scenic River study. The National Park Service staffer then went on maternity leave, the National Park Service funding evaporated, and the Park Service lost the survey. **“Any sort of Wild and Scenic River permitting process must consider all alternatives,”** Dave said. There won’t be a dam on or near the main stem of the Crystal River. The Colorado River District is not pre-disposed to approving all dams, but Merritt said there is a need for a small amount of augmentation water to maintain the existing population.
- q. Mark Hermundstad made a **motion to approve** the Colorado River District grant request for a augmentation plan feasibility study. Carlyle Currier seconded it. It **passed with 3 opposed; Chuck Ogilby, Ken Ransford, and Pitkin County Commissioner Kury**. Ken Ransford said he opposed it because he thinks the study should propose a solution that calls for no additional storage projects.
- r. **Chuck Ogilby suggested we do a Phase I and Phase II analysis, where Phase I is seeing if we can solve the augmentation plan without storage**. “We’ve been studying Wild and Scenic River status for 8 years. **The Forest Service already manages it as if it was Wild and Scenic River; all it lacks is federal approval of this.**”

10. **Grant Request for \$10,000 for North Fork of the Colorado for Water Implementation Plan.** The Next Steps Committee recommends a \$10,000 grant from the Colorado Basin roundtable WSRA fund. Lane Wyatt described the project. There's an inter-governmental agreement among the entities involved, as well as BuRec which operates three dams, Grand Lake and Shadow Mountain Reservoir, Granby Reservoir, and Windy Gap Reservoir. Wyatt said the project is awesome, but the problem is that **one of the applicants is a plaintiff in a lawsuit suing Northern Water over the Windy Gap Firming Project.** This lawsuit is **preventing all the environmental mitigation solutions that have been proposed and agreed to by Denver Water and Northern** from being implemented. Northern has much of the most important data, and they're not going to cooperate and share this data until the lawsuit is settled.
- a. Paul Bruchez said he's still confused about what information exists, and he is **concerned that this study could duplicate and collect data that already exists.** Decades ago, Grand County stepped up against well-funded entities (Denver Water and Northern) and it found a way to reach agreement with them. He wishes the grant applicant had taken the same approach.
 - b. Grand County Commissioner and CBRT Roundtable member Merritt Linke said that **this is a good project.** But Wyatt hit the nail on the head, Grand County officially did not support this because **some of the applicants are in conflict with the Windy Gap connectivity project.** It puts Grand County in an awkward position.
 - c. Wyatt made a **motion to table the vote, Stan seconded it.** The motion was to have more collaboration with the stakeholders, prevent duplicating data that has already been collected, and **investigate what information Northern is willing to release.** The motion passed unanimously. Paul Bruchez recommended that we send this motion to the grant applicant.
11. Karn announced that **in January we elect the chair, vice-chair and recorder.** If anyone is interested in applying for one of these positions, please contact Ken Ransford.
12. **Limitations on Grant Disbursements.** Karn reported that the **CBRT has an unwritten policy to limit grants to \$25,000.** Angie Fowler reported that we are **modifying the matrix so that grant applicants can complete it as part of their grant application.** The matrix supports our 6 basin themes. This project isn't yet complete. Angie's group also thinks it is a good idea to have all applicants together so that we can vet and compare applications, and she recommends that we discuss this at a future roundtable meeting. Angie said that some recent grant applications haven't been as much aligned with our top 6 basin themes.
13. **State Senator Bob Rankin and State Representative Julie McCluskey discussed the passage of Amendment DD,** which raises revenue from a tax on sports betting to pay for Colorado water projects. Rankin is concerned that **"This won't go very far toward meeting water project funding needs in Colorado."** Bob Rankin is on the Joint Budget Committee, which decides how to spend tax revenue raised by Colorado and provided by

the federal government from income taxes it raises. Rankin is now participating in his sixth budget negotiation.

- a. Severance taxes, the major source of water funding, are in decline, particularly starting 2 years from now. Rankin fears that **Amendment DD will cause a false sense of complacency by the electorate, causing people to say, “We’ve already funded water.** It is likely to produce less than \$10m a year, and we’ll have a public perception problem trying to get additional water project funding in the future. We set a precedent in the past few years of spending General Fund money on water; initially \$30m, then reduced to \$10m a year. This is precedent-setting, to spend General Fund money on water; there’s also a proposal to spend \$10m on a state park. This is likely to be challenged.”
- b. There is a priority to fund Roundtables. **Rankin complimented the CBRT on the conduct of our meetings.** No one knows where we are going to find long term in funding Colorado’s Water Plan or Demand Management.
- c. The **projected revenue from Amendment DD** is \$29m at the most, but Bob said this also has to fund administering the tax. He doubts we’ll get more than **\$10m** a year from it, and should not expect more than that.

14. Kirsten Kurath **Demand Management workgroup update.**

- a. They had a panel discussion at the **CMU Water conference in November** with three economists on the panel; their report is on CMU’s website. The **economists discussed how a reverse auction would work** (where irrigators would bid successively less with the **lowest bidder selected** to be paid to fallow fields and leave the water savings for Lake Powell’s Demand Management pool), and other funding plans.
- b. The **Colorado River District got a Water Smart grant for a water marketing study.** It has a public outreach and West slope stakeholder segment. We should get more info from the Colorado River District on this.
- c. The **Upper Gunnison Water Conservancy District is funding its own research study with Trout Unlimited regarding high altitude hay irrigation and measuring residual soil moisture.** They’ll fully fallow fields in 2019, followed by full irrigation **for the next 2 seasons.** They have equipment in place to monitor recovery in the next 2 years. This is the type of study everyone has been asking for, and we should ask Jesse from Trout Unlimited to give us a presentation. They’re presenting before the Colorado River District in January on this.

15. Paul Bruchez reported on the **CWCB ag impacts workgroup.** They have realized that many of the gaps and concerns that the CBRT Demand Management Group has are duplicated statewide. They too want to **do a feasibility analysis of another high elevation irrigation study, similar to the Upper Gunnison Water Conservancy District.** Paul thinks the CBRT should weigh in on this project. Bruchez said he has not

met any landowners who are excited to irrigate less and get paid to not irrigate. An Upper Colorado River Basin demonstration project with irrigators driving the study would be very valuable; he has spoken with **several NGOs** and believes **seed money will be available**. The CWCB plans to continue the work groups through June 2020, and it is still too soon to do an implementation project. We don't want to duplicate projects.

- a. The CWCB has no direction to authorize a project like this. It's premature to speak of transporting Upper Colorado Basin water to Lake Powell.
- b. **Size of demonstration project: 2,000 acre-feet.** Enough to say we did something, but not so much to have sacrificed too much toward this cause. Bob Rankin asked what the likely cost would be, and Bruchez did not know, saying, **"This is too much for ILBK. American Rivers, Trout Unlimited, and The Nature Conservancy are all excited about this."**
- c. Since we know the crop is hay, **we should be able to demonstrate what the likely cost would be, and how much conserved consumptive use we could get.** The study goal is to identify what type of innovative tools we can use to irrigate with less water.
- d. How does this compare to the Upper Gunnison Water Conservancy District? Some concepts are similar, but some differ a lot. Foregoing irrigation in the main stem of the Colorado and determining impacts to return flows go beyond what is occurring in the Upper Gunnison Water Conservancy District.
- e. **Kathy Chandler Henry** is on the CWCB's local government workgroup with Karn Stieglemeier; she was critical of what she called "artificially separated" workgroups. An **on-the-ground demonstration project is a good solution** to these shortcomings.
- f. **David Graf considered this an "environmental opportunity."** This is a way to discuss how to leave water in the river at the same time preserving agriculture. The variability among studies is pretty great, depending on whether the irrigated land is next to the river or 15 miles away.
- g. Last year when the state budget initially allocated \$30m to water grants, \$20m was for Demand Management, but when **no one could define "Demand Management,"** the budget item was reduced to \$10m. Bob Rankin said he could explain a demo project to the State budget committee, so he encouraged the Roundtable to pursue this.
- h. Carlyle Currier also supports it. To make it credible, we need to be careful who the partners are—**Perry Cabot and CSU should be involved.** The outcome should be valid, duplicatable information. Every place will be different, so it is good to do this study along with the Upper Gunnison Water Conservancy District. A multiple year project is more effective than a single-year project. It's a great idea to go forward with this. Carlyle encouraged Paul to attend the upcoming West slope ag meeting and make a presentation on this.

- i. **Steve Acquafresca said he has been asking for a definition of Demand Management**, and the CWCB hasn't been able to answer him. Bob Rankin said they set aside \$1.7m in the 2019 \$10m allocation to do just this. Acquafresca said we need a cost-benefit analysis of this: "What's the cost, and what is the benefit we expect to achieve? We wouldn't buy and insurance policy if we didn't know what the benefit is."
- i. Bruchez believes a demonstration project would yield much of the information needed to do a cost-benefit analysis. Acquafresca says this would help determine the cost, but he's still concerned that **we don't know what the benefit of preserving 500,000 acre-feet in Lake Powell.**

16. CWCB Report, Gail Schwartz.

- a. Next, CWCB Board approval of the 5 categories of water plan grants funded from the \$7M in the projects bill and partially funded with the \$10M general fund allocation. These projects are included in the following categories: Agriculture, Engagement and Innovation Activities, Environmental and Recreation, Water Conservation and Land Use Planning, and Water Storage and Supply implementing the priorities of the Water Plan. Quite a few grants were approved were for continued public education of water issues recognizing water literacy in Colorado is low and the need greater public awareness and buy-in in order to address Colorado's future water challenges.
- b. **The Board also approved the elements of the 2020 Projects Bill**, of significance is the loan and grant for the **Arkansas Valley Conduit Project of \$100M to the Southeast Colorado Water Conservancy District.**
- c. Discussion of Amendment DD's passage was brief and what funds might be anticipated in the 2021-2022 budget.
- d. Water Supply Reserve Fund Grants were also approved including the Colorado Basin projects for the Fazzi Washout Pipeline, and the Missouri Heights Pipeline Phase B2 which the CBRT recommended. It was noted that these projects were funded at a lower level that requested due to the limitations in the Basin Account.
- e. Climate impacts, ATMs and In Stream Flows were important topics at the meeting. Of interest were the **Stock Watering Uses claimed as a priority ahead of Instream Flows in CRS Section 37-92-102(3)(b)** (Irrigators are requesting that diversions for stock watering be recognized without requiring a water court decree, and that they be superior to instream flow rights, the CRS statute referenced here, and likely the longest paragraph in the entire Colorado Revised Statutes—ed.) There was considerable board and public discussion of the issue and testimony from the Colorado River District and the Southwest District. At the conclusion of the discussion, the recommendation to the staff was to continue to work with the interest groups to find a satisfactory compromise. The State engineer's office will also be party to these conversations.

- f. Power point slides and minutes of the meeting are available online and our next meeting will be held in Westminster in conjunction with the Colorado Water Congress winter meeting January 27 and 28th.
17. IBCC Report. Carlyle Currier. **Demand management was the main topic.** There is a lot of mis-information, and fear that the state has already reached conclusions on how to implement Demand Management. Is it **possible to come up with a program that is temporary and feasible? How can it be equitable because there's bound to be winners and losers.** It has to be geographically diverse, but if based on a free-market system, what will that look like. **A Metro Roundtable member said the water they would give up was water they're now leasing to agriculture on the Front Range.**
- a. Stan Cazier said that Demand Management means something different to other people, and determining equity will be very difficult. We are all in a different place; **the CBRT is much further along than the rest of the state.**
 - b. The **new Headwaters Magazine is one of the best ever produced.** It has a very good discussion and background of the future Demand Management negotiations we're likely to have.
 - c. Paul Bruchez, another IBCC rep on the CBRT Roundtable, chimed in that this is another reason why we should try to do a demonstration project, quipping, **"I'll show you mine if you show me yours."**