



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 September 18 - 19, 2019 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at Rio Grande Water Conservation District Office. The meeting was called to order by Chair Heather Dutton. Ten voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Jim Yahn, Jack Goble, Heather Dutton, Celene Hawkins, Steven Anderson, Jaclyn Brown, Gail Schwartz, Jessica Brody, and Curran Trick, and ex-officio voting member Dan Gibbs, Executive Director of the Department of Natural Resources. Non-voting ex officio members present or represented were; Dan Prenzlowl, Colorado Parks and Wildlife; Kate Greenberg, Department of Agriculture Commissioner; Kevin Rein, State Engineer; Russell George, Director of Compact Negotiations; and Rebecca Mitchell, Colorado Water Conservation Board Director. Counsel to the Board, Deputy Attorney General Amy Beatie, was also in attendance.

On the second day, the meeting was called to order by Chair Heather Dutton. Nine voting members were present at the call to order, so a quorum was present (at least 6 required). The voting members present were: Jaclyn Brown, Gail Schwartz, Jessica Brody, Steven Anderson, Curran Trick, Jim Yahn, Jack Goble, Heather Dutton, and ex-officio voting member Dan Gibbs, Executive Director of the Department of Natural Resources. Non-voting ex officio members present or represented were; Kevin Rein, State Engineer; Dan Prenzlowl, Colorado Parks and Wildlife; Russell George, Director of Compact Negotiations; and Rebecca Mitchell, Colorado Water Conservation Board Director. Counsel to the Board, Deputy Attorney General Amy Beatie, was also in attendance.



Wednesday, September 18, 2019

CWCB Call to Order and Pledge of Allegiance

1. Review and Approve Agenda

A motion to approve the agenda was made by Jaclyn Brown, which was seconded by Jack Goble. The motion was approved unanimously (10-0).

2. Review and Approve July 17 & 18, 2019 Board Meeting Minutes

A motion to approve the July 2019 Board minutes with edits to agenda item 16 was made by Celene Hawkins, which was seconded by Jim Yahn. The motion was approved unanimously (10-0).

3. Approve and/or Remove Consent Agenda Items

A motion to approve the Consent Agenda Items as adjusted was made by Jim Yahn, which was seconded by Steven Anderson. The motion was approved unanimously (10-0).

5. Directors' Reports

- a. DNR Executive Director - Dan Gibbs
- b. IBCC Director - Russell George
- c. Agriculture Commissioner - Kate Greenberg
- d. CWCB Director - Becky Mitchell
- e. State Engineer - Kevin Rein and Craig Cotten, Division 3 Engineer, addressed the board
- f. Division of Parks and Wildlife Director - Dan Prenzlowl
- g. Water Resource and Power Development Authority - report was in the board packet

6. Yampa River Fund

Action: Report by CWCB staff member Jojo La. This is an informational item with no Board action required.

7. Colorado River Demand Management 2019 Work Plan Update

Interstate, Federal, and Water Information Section

Action: Report by CWCB staff member Brent Newman. This is an informational item with no Board action required.

8. Technical Assistance for Federal Cost-Share Program

Interstate, Federal, and Water Information Section

Action: Report by CWCB staff member Brent Newman, Nathan Bell with Bell Consulting Group addressed the Board. A motion to approve the staff recommendation was made by Gail Schwartz, which was seconded by Celene Hawkins. The motion was approved unanimously (10-0).

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

- 1) \$67,000 to Silt Water Conservation District for technical assistance related to the Grass Valley Canal Improvements;

These funds shall be utilized to provide technical assistance for applicants seeking competitive federal funds grants, consistent with the 2017 and 2018 Projects Bill (HB 17-1248, SB 18-218).

9. WSRF Grant Applications

Water Supply Reserve Fund Application Grants at the September 2019 CWCB Board

Agenda Item	Basin	Applicant	Name of Water Activity
a.	Gunnison	Crawford Water Conservancy District	Lower Aspen Canal Piping Efficiency Project
Action: Report by CWCB staff member Ben Wade and Gary Cuy and Hank LaValley with Crawford Water Conservancy District addressed the Board. A motion to approve the staff recommendation was made by Steven Anderson, which was seconded by Jim Yahn. The motion was approved unanimously (10-0). Staff recommendation: Staff recommends approval of up to \$50,000 from the Gunnison Basin Account; and \$176,000 from the Statewide Account to help fund the project titled: Lower Aspen Canal Piping Efficiency Project.			
b.	Gunnison	Uncompahgre Watershed Partnership	Governor Basin Restoration Project
Action: Report by CWCB staff member Ben Wade and Ashley Bembenek with Uncompahgre Watershed Partnership addressed the Board. A motion to approve the staff recommendation was made by Steven Anderson, which was seconded by Jack Goble. The motion was approved unanimously (10-0). Staff recommendation: Staff recommends approval of up to \$20,000 from the Gunnison Basin Account; and \$11,100 from the Statewide Account to help fund the project titled: Governor Basin Restoration Project.			
c.	Gunnison	City of Montrose	Uncompahgre River Improvement Project
Action: Report by CWCB staff member Ben Wade and Kendall Kramer with the City of Montrose addressed the Board. A motion to approve the staff recommendation was made by Steven Anderson, which was seconded by Celene Hawkins. The motion was approved unanimously (10-0). Staff recommendation: Staff recommends approval of up to \$40,000 from the Gunnison Basin Account; and \$60,000 from the Statewide Account to help fund the project titled: Uncompahgre River Improvement Project.			
d.	South Platte	Fourmile Watershed Group	Boulder Creek Watershed Water quality Sampling

Action: Report by CWCB staff member Ben Wade. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Jaclyn Brown. The motion was approved unanimously (10-0).

Staff recommendation: Staff recommends approval of up to \$18,180 from the South Platte Basin Account to help fund the project titled: Boulder Creek Watershed Water Quality Sampling.

e.

South Platte

Colorado Master Irrigator

Colorado Master Irrigator Program – Northern High Plains

Action: Report by CWCB staff member Ben Wade. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Jaclyn Brown. The motion was approved unanimously (10-0).

Staff recommendation: Staff recommends approval of up to \$59,655 from the South Platte Basin Account to help fund the project titled: Colorado Master Irrigator Program – Northern High Plains.

f.

Yampa/White/Green

Deborah Martin

Martin Springs Irrigation and Storage Improvements

Action: Report by CWCB staff member Ben Wade. A motion to approve the staff recommendation was made by Jaclyn Brown, which was seconded by Jim Yahn. The motion was approved unanimously (10-0).

Staff recommendation: Staff recommends approval of up to \$7,462 from the Yampa/White/Green Basin Account to help fund the project titled: Martin Springs Irrigation and Storage Improvements.

g.

Southwest

Mountain Studies Institute

Upper San Juan Watershed Enhancement Partnership

Action: Report by CWCB staff Ben Wade and Mely Whiting with Trout Unlimited addressed the Board. Director Celene Hawkins disclosed that her employer Trout Unlimited is providing some money on this project. A motion to approve the staff recommendation was made by Celene Hawkins, which was seconded by Jessica Brody. The motion was approved unanimously (10-0).

Staff recommendation: Staff recommends approval of up to \$7,500 from the Southwest Basin Account to help fund the project: Upper San Juan Watershed Enhancement Partnership (WEP) Multiple Use Project.

h.

Southwest

Montezuma County

Noxious Weeds

Action: Report by CWCB staff member Ben Wade. A motion to approve the staff recommendation was made by Celene Hawkins, which was seconded by Jessica Brody. The motion was approved unanimously (10-0).

Staff recommendation: Staff recommends approval of up to \$16,840 from the Southwest Basin Account to help fund the project: Russian Olive and Salt Cedar Waterway Management.

i.

Colorado

Trout Unlimited

Granby Diversion Structure Improvement

Action: Report by CWCB staff member Ben Wade and Mely Whiting with Trout Unlimited addressed the Board. A motion to approve the staff recommendation was made by Gail Schwartz, which was seconded by Curran Trick. The motion was approved unanimously (10-0). Staff recommendation: Staff recommends approval of up to \$50,000 from the Colorado Basin Account and up to \$162,404 from the Statewide Account to help fund the project: Granby Diversion Structure Improvement.			
j.	Arkansas	Beaver Park Water Inc.	Phase 3 Upper Canal Lining Removal and Replacement
Action: Report by CWCB staff member Ben Wade and Steve Kastner, Jack Tyler, and Justin Jenkins with Beaver Park Water addressed the Board. A motion to approve the staff recommendation was made by Jack Goble, which was seconded by Jaclyn Brown. The motion was approved unanimously (10-0). Staff recommendation: Staff recommends approval of up to \$10,000 from the Arkansas Basin Account and \$100,000 from the Statewide account to help fund the project/study titled: Phase 3 – Upper Canal			
k.	Arkansas	DeWeese Dye Ditch and Reservoir Company/Upper Arkansas Water Conservancy District	DeWeese Reservoir Feasibility Study
Action: Report by CWCB staff member Ben Wade and Terry Scanga with Upper Arkansas Water Conservancy District addressed the Board. A motion to approve the staff recommendation was made by Jack Goble, which was seconded by Jim Yahn. The motion was approved unanimously (10-0). Staff recommendation: Staff recommends approval of up to \$15,000 from the Arkansas Basin Account and \$150,000 from the Statewide account to help fund the project/titled: DeWeese Reservoir Feasibility Study.			
l.	Arkansas	Otero Ditch Company	Otero Ditch Infrastructure Updates
Action: Report by CWCB staff member Ben Wade. A motion to approve the staff recommendation was made by Jack Goble, which was seconded by Jackie Brown. The motion was approved unanimously (10-0). Staff recommendation: Staff recommends approval of up to \$5,000 from the Arkansas Basin Account and \$50,000 from the Statewide account to help fund the project/study titled: Otero Ditch Infrastructure Updates.			

10. Final Action on Contested ISF Appropriations:

Stream and Lake Protection Section

a) Carnero Creek (Water Division 3)

Action: Report by CWCB staff member Rob Viehl and Jen Mele with the Attorney General's Office and Dee Greeman with Mountain Valley addressed the Board. A motion to approve the staff recommendation was made by Celene Hawkins, which was seconded by Jim Yahn. The motion was approved unanimously (9-0), Dan Gibbs left after lunch.

Staff recommendation: Staff recommends the Board make the following determinations and take the following actions on the Carnero Creek appropriation, based on the information contained in staff's memo as well as the information presented by staff both in writing and orally at the January 29, 2019 Board meeting:

- (1) Determine, pursuant to section 37-92-102(3), C.R.S. (2019), that for the ISF appropriation on Carnero Creek at the rates 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 January 29, 2019 as the appropriation date for this water right.
- (3) Direct staff to request the Attorney General's Office to file the necessary water right application and to include the terms and conditions contained in Staff's stipulation with S&T Farms, LLC in the water court application and decree for this ISF appropriation.

b) Disappointment Creek (Upper & Lower Segments) (Water Division 7)

Action: Report by CWCB staff member Rob Viehl. A motion to approve the staff recommendation was made by Celene Hawkins, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).

Staff recommends that the Board make the following determinations and take the following actions on the two segments of Disappointment Creek, based on the information contained in staff's memo as well as the information presented by staff both in writing and orally at the January 29, 2019 Board meeting:

- (1) Determine, pursuant to section 37-92-102(3), C.R.S. (2019) that for the two ISF appropriations on Disappointment Creek at the rates 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 January 29, 2019 as the appropriation date for these water rights.
- (3) Direct staff to request the Attorney General's Office to file the necessary water right application for these ISF appropriations.

11. Abrams Creek Project Update*Stream and Lake Protection Section*

Action: Report by CWCB staff member Rob Viehl, Mely Whiting with Trout Unlimited and John Hill with Buckhorn Valley Metropolitan District No. 1 addressed the Board. This is an informational item with no Board action required.

12. Rainwater Harvesting Pilot Projects: Updates to Criteria & Guidelines for Regional Factors*Division of Water Resources*

Action: Report by Ryan Gilliom a student with Colorado State University and an intern with Division of Water Resources. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Jaclyn Brown. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board adopt the proposed updates to the Rainwater Harvesting Pilot Project Criteria and Guidelines.

13. Colorado River 101*Interstate, Federal, and Water Information Section*

Action: Report by CWCB staff member Amy Ost diek and Attorney General's staff members Karen Kwon and Lain Leoniak. This is an informational item with no Board action required.

14. Attorney General's Report, Legal Briefing, and Executive Session

Action: Report by Deputy Attorney General Amy Beatie. A motion to go into Executive Session was made by Jaclyn Brown, which was seconded by Jack Goble. The motion was approved unanimously (9-0).

16. Report from Executive Session

Action: Report by Deputy Attorney General Amy Beatie. A motion to go out of Executive Session was made by Jim Yahn, which was seconded by Jaclyn Brown. The motion was approved unanimously (9-0).

Thursday, September 19, 2019

18. Basin Directors' Reports

- a. Colorado River (Mainstem) Basin Director's Report
- b. San Juan/San Miguel-Dolores River Basin Director's Report – Celene Hawkins was absent
- c. Gunnison River Basin Director's Report
- d. North Platte River Basin Director's Report
- e. South Platte River Basin Director's Report
- f. Arkansas River Basin Director's Report
- g. City and County of Denver Director's Report
- h. Rio Grande River Basin Director's Report
- i. Yampa-White River Basin Director's Report

19. Financial Matter - 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 with no Board action required.

20. Water Project Loans

Finance Section

- a. Cedar Mesa Ditch Company – Lower Cedar Mesa Ditch Piping

Action: Report by CWCB staff member Matt Stearns. A motion to approve the staff recommendation was made by Steven Anderson, which was seconded by Jim Yahn. The motion was approved unanimously (8-0) Celene Hawkins & Jaclyn Brown left the meeting before the vote.

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$1,359,460 (\$1,346,000 for Project costs and \$13,460 for the 1% service fee) to the Cedar Mesa Ditch Company for costs related to the Ditch Piping Project, from the Severance Tax Perpetual Base Fund. Following construction and the receipt of the NRCS funds, staff further recommends the loan be amended to the remaining loan balance plus the 1% service fee. The loan terms shall be 30 years at an agricultural interest rate of 1.55% per annum. Security for the loan shall be in compliance with the CWCB Financial Policy #5.

24. Alternative Agricultural Transfer Method Grant Program, Palmer Land Trust, Bessemer Project ATM Economic Impact Analysis
Interstate, Federal, and 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 Jessica Brody. The motion was approved unanimously (7-0). Dan Gibbs left the meeting before the vote.

Staff Recommendation: Staff recommends that the Board approve ATM Request from Palmer Land Trust, the Bessemer Project ATM Economic Impact Analysis in the amount of \$150,000.

21. Rio Grande Reservoir Rehabilitation Project

Finance Section

Action: Report by CWCB staff member Kirk Russell, Rob Phillips with San Luis Valley Irrigation addressed the Board. This is an informational item only, with no Board action requested.

22. Water Plan Technical Update

Water Supply Planning Section

Action: Report by CWCB staff member Russ Sands. This is an informational item with no Board action required.

23. Updates on Watershed Health

Water Supply Planning Section

Action: Report by CWCB staff members Russ Sands and Chris Sturm. This is an informational item with no Board action required.

25. Project Updates in the Rio Grande Basin

Action: Report by Emma Reesor and Nathan Coombs with the Rio Grande Basin Roundtable. This is an informational item with no Board action required.

17. Doppler Radar Presentation

Action: Report by Ken Howard with NOAA. This is an informational item with no Board action required.

ADJOURN

A motion to adjourn the September 2019 Board meeting was made by Jack Goble, which was seconded by Gail Schwartz. The motion was approved unanimously (6-0).

