

Jared Polis Governor

Dan Gibbs DNR Executive Director

Rebecca Mitchell CWCB Director

DRAFT Summary Minutes and Record of Decisions March 10 & 11, 2021 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened virtually. The meeting was called to order by Chair Celene Hawkins. Nine voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Robert Sakata, Greg Felt, Heather Dutton, Celene Hawkins, Steven Anderson, Jaclyn Brown, Gail Schwartz, Jessica Brody (arrived at 1 la.m.), and Curran Trick, and exofficio 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; Dan Prenzlow, 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 Jessica Brody. 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, Robert Sakata, Greg Felt, Celene Hawkins, and Heather Dutton. Ex-officio voting member Dan Gibbs, Executive Director of the Department of Natural Resources was present. Non-voting ex officio members present or represented were: Robert Harris, Colorado Parks and Wildlife; 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.



Wednesday, March 10, 2021		
1	Board Appointments, Election of Officers, and Review / Approve Agenda	
la.	Robert Sakata, South Platte Basin Director was sworn as in by Amy Beatie	
lb.	Steve Anderson made a motion to nominate Jessica Brody for Chair and Jaclyn Brown for Vice Chair, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).	
lc.	A motion to approve the agenda was made by Steve Anderson, which was seconded by Jackie Brown. The motion was approved unanimously (9-0).	
2	Review and Approve January 25 & 26, 2021 Board Meeting Minutes	
	A motion to approve the November 2020 Board minutes was made by Steve Anderson, which was seconded by Celene Hawkins. Robert Sakata recused himself from the vote on this item. The motion was approved unanimously (8-0).	
3	Approve and/or Remove Consent Agenda Items	
	Celene Hawkins disclosed that her employer The Nature Conservancy (TNC) is involved in items 2p, 3e, i, g, h, aa and on 3l she is recusing herself from the vote because TNC is the applicant. Heather Dutton disclosed that she is on the board of Colorado Rio Grande Restoration Foundation on item 3gg. Robert Sakata disclosed that he is a volunteer for CAWA for item 2b and on item 2f he named as a stakeholder but that is incorrect, he is not part of the project. Gail Schwartz disclosed she serves on the board for the Colorado Open Lands on item 3b. Greg Felt disclosed he serves on the board of Upper Arkansas Conservation District for item 3o.	
	A motion to approve the Consent Agenda Items CA 1a-p, 2a-r., 3b,c,e-j,o,p,r-u,w,x,z,aa,cc,dd,ff-ll, 4a-b, 5a, and 6a was made by Heather Dutton, which was seconded by Celene Hawkins. The motion was approved unanimously (9-0).	
	 Statements of Opposition Stream & Lake Protection Section a. Case No. 20CW3165 (Water Division 1): Application of Board of County Commissioners of the County of Clear Creek and Clear Creek School District RE-1 b. Case No. 20CW3208 (Water Division 1): Application of HF2M, Inc. c. Case No. 20CW3216 (Water Division 1): Application of City and County of Broomfield d. Case No. 20CW3087 (Water Division 2): Application of Chris and Dale Van Aelstyn e. Case No. 20CW3099 (Water Division 4): Application of Quartz Creek Land Company f. Case No. 20CW3100 (Water Division 4: Application of Hartman Family Trust g. Case No. 20CW3102 (Water Division 4: Application of Beaver Pines LLC h. Case No. 20CW3137 (Water Division 5): Application of Crystal River Ranch Co LLC i. Case No. 20CW3138 (Water Division 5): Application of Winter Park Water and Sanitation District	

- n. Case No. 20CW3176 (Water Division 5): Application of Big Fish Amalgamated, LLC
- o. Case No. 20CW3185 (Water Division 5): Application of Cornerstone Winter Park Holdings, LLC; Byers Peak Properties, LLC; Byers Peak Downhill Properties, LLC; C. Clark Lipscomb; and Meredith C. Lipscomb; Colorado Adventure Park LLC
- p. Case No. 20CW3187 (Water Division 5): Application of Compass For Lifelong Discovery and The Aspen School District

2. Water Supply Reserve Fund Application Grants

- a. Arkansas Northern Water Colorado Airborne Snow Observatory Expansion Plan Colorado Gunnison Metro South Platte \$45,000
- b. Colorado Colorado Ag Water Alliance Outreach & Capacity Building for Ag Water Projects \$18,936
- c. Colorado Charles F Perry The Toponas Project: Phase I Continued HDPE Install \$25,000
- d. Colorado City of Glenwood Springs Three Mile Creek Confluence Restoration Project \$95,000
- e. Metro City of Thornton Regional Land Use Assessment & Water South Optimization Study Platte \$100,000
- f. Metro Independence Water & San Regulation 84 Edible Crop Irrigation Public South Education & Outreach Platte \$25,000
- g. Metro Colorado Watershed Assembly Roundtable Education/Outreach South Platte
- h. Metro The Greenway Foundation Nautilus 2 South Platte \$37,000
- i. Metro Western Resource Advocates Non-Essential Turf Replacement South Platte \$25,000
- j. Metro Open Water Foundation River Basin Information Websites South Platte \$45,000
- k. Metro The Greenway Foundation Clean River Design Challenge \$16,500
- I. Metro West Denver Trout Unlimited Clear Creek Integrated Water Management Plan Phase I \$10,000
- m. South Platte Town of Erie Horizontal Well Pilot Project \$75,000
- n. Southwest Mountain Studies Institute 416 Fire Aquatic Monitoring Phase 3 \$18,900
- o. Southwest Mountain Studies Institute Forests 2 Faucets 8 \$15,662
- p. Southwest Mountain Studies Institute/Upper San Juan Watershed Enhancement Partnership San Juan Integrated Water Management Planning, Phase 3 \$24,613
- q. Yampa White River & Douglas Creek Conservation Districts White River Integrated Water Initiative \$115,800
- r. Rio Grande Conejos Water Conservancy District Conejos Ground Water Monitoring and Analysis Change of Grantee

3. Water Plan Grants

Agriculture

- b. Colorado Open Lands Acequia Conservation Initiative; Protecting Colorado's Oldest Agricultural Communities Phase II Approve \$45,000
- c. Colorado State University Improving Irrigation Efficiency Through the Development of the Hydraulic Infrastructure at Irrigation Innovation Consortium Headquarters Approve \$157,384
- e. Florida Consolidated Ditch Company Florida Canal Diversion Structure Rehabilitation Project Phase II Approve \$125,000
- f. Grand Valley Water Users Association Vinelands Power Plant Approve \$200,000 (\$100,000 Ag and \$100,000 Env/Rec)
- g. Jack's Solar Garden LLC Agrivoltaics Research Approve \$99,675
- h. Keep It Colorado Colorado's Private Lands Conservation Plan Approve \$75,000

- i. Onward! A Legacy Foundation dba Montezuma Orchard Restoration Project Sustainable Infrastructure to Support Restoration of Southwest Colorado's Orchard Culture and Economy Approve \$150,000
- j. River Network Piloting Multi-Benefit Project Coordinators Approve \$133,170
- o. Upper Arkansas Conservation District Upper Arkansas Watershed Resiliency Plan Phase I Approve \$27,500

Conservation and Land Use

- p. City of Thornton Thornton Northern Properties Stewardship Plan Approve \$100,000 9 (NPSP): Land Use & Water Optimization Study
- r. Denver Regional Council of Governments (DRCOG) Regional Land Cover Project Approve \$101,103
- s. ULI Colorado Advancing Water Smart Development Approve \$20,000
- t. WaterNow Alliance, a program of Multiplier Advancing High Impact Water Efficiency Solutions in Colorado Communities Approve \$138,355
- u. Western Resource Advocates Enabling Large-Scale Replacement of NonEssential Turf Approve \$259,887

Engagement and Innovation

- w. Independence Water & Sanitation Regulation 84 Edible Crop Irrigation Public Education & Outreach Approve \$32,600
- x. Montezuma School to Farm Project Montezuma CWP Education Initiative Approve \$95,000
- z. The Water Connection (Greenway Foundation) Clean River Design Challenge Approve \$45,655 3aa. Trout Unlimited Supporting Outreach & Engagement for the "Evaluating Conserved Consumptive Use in the Upper Colorado River" Project Approve \$50,000

Environment and Recreation

- cc. Adams County Parks Clear Creek Whitewater Park Approve \$100,000
- dd. American Whitewater Economic Impact of River Recreation Approve \$83,458
- ff. Costilla County Conservancy District Upper Culebra Watershed Assessment Approve \$107,224 gg. Colorado Rio Grande Restoration Foundation Conejos River Partnership Project Phase II Approve \$272,000
- hh. Lefthand Watershed Oversight Group Expanding & Implementing the St. Vrain Forest Health Partnership Plan Approve \$122,916
- ii. Middle Colorado Watershed Council Middle Colorado Integrated Water Management Plan Implementation Phase I Approve \$27,400
- jj. Town of Naturita Naturita Town Park Revitalization Project Approve \$40,000

Storage and Supply

- kk. Genesee Water & Sanitation District Enlargement of Genesee Reservoir No. 1 Approve \$1,384,000
- II. Town of Silverton Kendall Mountain Alluvial Aquifer Test Drilling Program Approve \$27,702
 - 4. Alternative Water Transfer Method Grants Interstate, Federal, and Water Information Section
 - a. Trout Unlimited, Evaluating Conserved Consumptive Use in the Upper Colorado River
 - Phase II
 - b. Lower Arkansas Water Conservancy District, Evaluation of Agricultural Land Protection Measures
 - 5. Technical Assistance for Federal Cost-Share Grant Interstate, Federal, and Water Information Section
 - a. Rocky Mountain Farmers Union, Natural Working Lands, and Water Co-Benefits Tech Assistance
 - 6. Change to Existing Loan Finance Section
 - a. Lateral Ditch ML47, Inc. Increase Lateral Ditch Pipeline Project

A motion to approve the Consent Agenda Items was made by Greg Felt, which was seconded by Gail Schwartz. The motion was approved unanimously (8-0).

Water Plan Grant

31. The Nature Conservancy Maybell Headgate Replacement Approve \$168,114

- 4 **Directors' Reports**
 - 4a. DNR Executive Director - Dan Gibbs
 - 4b. CWCB Director - Rebecca Mitchell
 - 4c. IBCC Director - Russell George
 - 4d. Colorado Parks and Wildlife Director - Dan Prenzlow
 - 4e. Agriculture Commissioner - Kate Greenberg
 - 4f. State Engineer - Kevin Rein
 - 4g. Water Resource and Power Development Authority - Keith Laughlin

5 Public Comment on 2021 Instream Flow Appropriations in Water Divisions 1, 4, and 7

Stream and Lake Protection Section

Action: Report by CWCB staff member Rob Viehl.

This is an informational item with no Board action is required.

6 2021 Instream Flow Appropriations in Water Divisions 2 and 4

Stream and Lake Protection Section

Action: Report by CWCB staff member Rob Viehl. A motion to approve the staff recommendation was made by Gail Schwartz, which was seconded by Jackie Brown. The motion was approved unanimously (9-0).

Staff Recommendation: 1) 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 Tabulation of Instream Flow Recommendations, and direct staff to publicly notice the Board's declaration of its intent to appropriate.

2) Establish the following initial schedule for the notice and comment procedure

pursuant to ISF Rule 5c.:

Date	Action
March 10, 2021	Board declares its intent to appropriate and
	hears public comment
May 19-20, 2021	Public comment at CWCB Meeting
May 31, 2021	Notice to Contest due
June 10, 2021	Deadline for notification to the ISF
	Subscription Mailing List of Notices to Contest
	(no notification if none received)
June 30, 2021	Notices of Party Status and Contested
	Hearing Participant Status due
July 21-22, 2021	If necessary, Staff informs Board of Parties
	and Participants; Board sets hearing date;
	and the Board may take final action on any
	uncontested ISF appropriations at the July
	Board meeting
November 2021	ISF Contested Hearing conducted in
	conjunction with CWCB Meeting

7	Notice of Instream Flow Recommendations for 2022 Stream and Lake Protection Section
	Action: Report by CWCB staff member Rob Viehl.
	This is an informational item with no Board action is required.
8	Loan and Grant Review Process Operations Section
	Action: Report by CWCB staff member Anna Mauss.
	This is an informational item with no Board action required.
9	Chatfield Environmental Pool and Shares Purchase
	Action: Report by CWCB staff member Lauren Ris. A motion to approve this item was made by Celene Hawkins, which was seconded by Gail Schwartz. Jessica Brody recused herself from the vote on this agenda item. The motion was approved unanimously (8-0).
	Staff Recommendation : Staff recommends that the Board approve the sale of up to 1,633 units in the Chatfield Storage Reallocation Project to Denver Water for \$8,300.97 per unit.
10	Demand Management Feasibility Investigation Update Interstate, Federal, and Water Information Section
	Action: Report by CWCB staff member Amy Ostdiek.
	This is an informational item with no Board action required.
11	Colorado River Updates Interstate, Federal, and Water Information Section
	Action: Report by CWCB staff member Michelle Garrison.
	This is an informational item with no Board action required.
12	Grant Recommendations
	Action: Report by CWCB staff members Lauren Ris and Anna Mauss. Aaron Citron with The Nature Conservancy addressed the Board. A motion to approve this item was made by Steve Anderson, which was seconded by Celene Hawkins. The motion was approved unanimously (9-0).
	Staff Recommendation : Staff recommends striking the Water Plan Grant match requirement language from statute through this year's Projects Bill in order to give the Board more flexibility in determining the appropriate match requirements for the program. The current language in statute is: 37-60-106.5(6)(c) Grant money must amount to no more than fifty percent of the total cost of an individual project, and the total money from all board funding sources must not exceed seventy-five percent of the total cost of an individual project.

13	Loan Delinquency Action Two Rivers Water & Farming Company, and Two Rivers Farms F-2, Inc. Finance Section
	Action: Report by CWCB staff member Kirk Russell.
	This is an informational item with no Board action required.
14	Attorney General's Report, Legal Briefing, and Executive Session
	Action: Report by Attorney General Phil Weiser and Counsel to the Board, Deputy Attorney General Amy Beatie. A motion to go into Executive Session was made by Gail Schwartz, which was seconded by Jackie Brown. The motion was approved unanimously (9-0).
15	Executive Session
15a.	Two Rivers Water & Farming Company, and Two Rivers Farms F-2, Inc.
15b.	Chatfield Environmental Pool and Shares Purchase
16	Report from Executive Session
	Action : Report by Counsel to the Board, Deputy Attorney General Amy Beatie. A motion to go out of Executive Session was made by Greg Felt, which was seconded by Celene Hawkins. The motion was approved unanimously (9-0)
Thursday, March 11, 2021	
17	Basin Directors' Reports

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17a.	City and County of Denver Director's Report – Jessica Brody
17b.	Rio Grande River Basin Director's Report – Heather Dutton
17c.	Yampa-White River Basin Director's Report – Jaclyn Brown
17d.	Colorado River (Mainstem) Basin Director's Report – Gail Schwartz
17e.	San Juan/San Miguel-Dolores River Basin Director's Report – Celene Hawkins
17f.	Gunnison River Basin Director's Report – Steve Anderson
17g.	North Platte River Basin Director's Report – Curran Trick
17h.	South Platte River Basin Director's Report – Robert Sakata
17i.	Arkansas River Basin Director's Report – <i>Greg Felt</i>
18	Financial Matters - Construction Fund and Severance Tax Perpetual Base Fund Finance Section
	Financial Projections and Cash Management Report Action: Report by CWCB staff member Kirk Russell. This is an informational item with no Board action required.
19	Water Project Loans Finance Section
19a.	Rio Grande Water Conservation District Subdistrict No. 5 - Saguache Pipeline
	Action: Report by CWCB staff member Rachel Pittinger. A motion to approve this item was made by Heather Dutton, which was seconded by Greg Felt. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$4,892,440 (\$4,844,000 for Project costs and \$48,440 for the 1% service fee) to the Rio Grande Water Conservation District Subdistrict No. 5, acting by and through its water activity enterprise, for costs associated with the Saguache Pipeline, from the Construction Fund. The loan term will be 30 years at an interest rate of 1.20% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Additionally, staff recommends the following loan contract conditions:

- 1. Obtain an executable purchase agreement between the District and the well owner and submit to CWCB a copy of the agreement before any disbursement of loan funds occur.
- 2. Submit to CWCB needed Project easement agreements before pipeline or Project components are constructed.

19b. City of Victor – Victor Reservoir No. 2 Dam Rehabilitation

Action: Report by CWCB staff member Rachel Pittinger. Richard Mann with City of Victor addressed the Board. A motion to approve this item was made by Curran Trick, which was seconded by Celene Hawkins. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$378,750 (\$375,000 for the Project costs and \$3,750 for the 1% service fee) to the City of Victor, acting by and through its utility enterprise fund, for costs related to the Victor Reservoir No. 2 Dam Rehabilitation, from the Construction Fund. The loan terms shall be 20 years at an interest rate of 1.25% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

19c. Logan Irrigation District – Prewitt Reservoir Rehabilitation

Action: Report by CWCB staff member Cole Bedford. A motion to approve this item was made by Robert Sakata, which was seconded by Gail Schwartz. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$1,578,630 (\$1,563,000 for Project costs and \$15,630 for the 1% service fee) to the Logan Irrigation District for costs related to the Prewitt Reservoir Rehabilitation Project, from the Construction Fund. The loan terms shall be 30 years at an interest rate of 0.70% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

19d. North Sterling Irrigation District – North Sterling River Diversion Replacement

Action: Report by CWCB staff member Cole Bedford. A motion to approve this item was made by Robert Sakata, 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 \$3,532,980 (\$3,498,000 for Project costs and \$34,980 for the 1.0% service fee) to the North Sterling Irrigation District for costs related to the North Sterling River Diversion Replacement, from the Severance Tax Perpetual Base Fund. The loan terms shall be 20 years at an interest rate of 0.85% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

19e. Grand Valley Water Users Association – Vinelands Power Plant

Action: Report by CWCB staff member Mathew Stearns. Mark Harris addressed the Board. A motion to approve this item was made by Gail Schwartz, which was seconded by Celene Hawkins. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$1,076,660 (\$1,066,000 for Project costs and \$10,660 for the 1.0% service fee) to the Grand Valley Water Users Association for costs related to the Vinelands Power Plant, from the Severance Tax Perpetual Base Fund. The loan terms shall be 20 years at an interest rate of 2.00% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Staff additionally recommends the following loan contract conditions:

- 1. Prior to the disbursement of funds, the Association shall provide an executed Lease of Power Privilege, and Power Purchase Agreement.
- 2. Prior to disbursement of funds, the Association shall provide documentation that all non-CWCB funding is secured and adequate to cover the Project cost estimate.

19f. Orchard Mesa Irrigation District – Vinelands Power Plant

Action: Report by CWCB staff member Mathew Stearns. Max Schmidt addressed the Board. A motion to approve this item was made by Gail Schwartz, which was seconded by Robert Sakata. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$1,076,660 (\$1,066,000 for Project costs and \$10,660 for the 1.0% service fee) to the Orchard Mesa Irrigation District for costs related to the Vinelands Power Plant, from the Severance Tax Perpetual Base Fund. The loan terms shall be 20 years at an interest rate of 2.00% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Staff additionally recommends the following loan contract conditions:

- 1. Prior to the disbursement of funds, the District shall provide an executed Lease of Power Privilege, and Power Purchase Agreement.
- 2. Prior to disbursement of funds, the District shall provide documentation that all non-CWCB funding is secured and adequate to cover the Project cost estimate.

19g. The Tunnel Water Company – Rawah Ditch Tunnel Rehabilitation

Action: Report by CWCB staff member Rachel Pittinger. Don Frick with The Tunnel Water Company. A motion to approve this item was made by Robert Sakata, which was seconded by Greg Felt. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$2,171,500 (\$2,150,000 for Project costs and \$21,500 for the 1% service fee) to The Tunnel Water Company for costs related to the Rawah Ditch Tunnel Rehabilitation, from the Construction Fund. The loan terms shall be 30 years at the interest rate of 1.70% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

19h. The Tunnel Water Company – Headgate Improvements (Wildfire Impact Loan)

Action: Report by CWCB staff member Rachel Pittinger. A motion to approve this item was made by Robert Sakata, which was seconded by Gail Schwartz. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$1,218,060 (\$1,206,000 for Project costs and \$12,060 for the 1% service fee) to The Tunnel Water Company for costs related to the Headgate Improvements Project, from

20	the Construction Fund. The loan terms shall be 3 years of zero-interest and no payments followed by 27 years of repayment at an interest rate of 1.70% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Spring Drought and Flood Climate Report
20	Water Supply Planning Section & Watershed and Flood Protection Section
	Action: Report by CWCB staff members Megan Holcomb and Kevin Houck.
	This is an informational item with no Board action required.
21	Wildfire Watershed Recovery Update
	Watershed and Flood Protection Section
	Action: Report by CWCB staff members Kevin Houck and Chris Sturm and Jeff Sickles with Enginuity Engineering Solution.
	This is an informational item with no Board action required.
22	Program Guidance for Special Release of Colorado Watershed Restoration Program
	Watershed and Flood Protection Section
	Action: Report by CWCB staff member Chris Sturm. A motion to approve this item was made by Gail Schwartz, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).
	Staff Recommendation : Staff recommends that the Board Approve the Program Guidance for the Special Release of the Colorado Watershed Restoration Program.

ADJOURN

A motion to adjourn the March 2021 Board meeting was made by Robert Sakata, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).