

FINAL

Summary Minutes and Record of Decisions

January 29 & 30, 2024 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the Hyatt Conference Center in Aurora and virtually on zoom. The meeting was called to order by Chair Greg Felt. 10 voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Greg Felt, Robert Sakata, Paul Bruchez, Barbara Vasquez, Jaclyn Brown, Lorelei Cloud, Steven Anderson, Jessica Brody (arrived after the call to order), and Nathan Coombs, 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; Jeff Davis, Colorado Parks and Wildlife; Kate Greenberg, Department of Agriculture; Tracy Kosloff, Acting State Engineer, Becky Mitchell, IBCC Director, and Lauren Ris, Colorado Water Conservation Board Director. Counsel to the Board, Jen Mele, was also in attendance.

On the second day, the meeting was called to order by Chair Greg Felt. 9 voting members were present at the call to order, so a quorum was present (at least 6 required). The voting members present were: Paul Bruchez, Jessica Brody, Steven Anderson, Barbara Vasquez, Robert Sakata, Greg Felt, Lorelei Cloud, and Nathan Coombs. Non-voting ex officio members present or represented were: Robert Harris, Colorado Parks and Wildlife; Tracy Kosloff, Acting State Engineer, and Lauren Ris, Colorado Water Conservation Board Director. Counsel to the Board, Jen Mele was also in attendance.

Monday, January 29, 2024

1 Review and Approve Agenda

A motion to approve the agenda was made by Steve Anderson, which was seconded by Robert Sakata. The motion was approved unanimously (10-0).

2 Review and Approve November 15 & 16, 2023 Board Meeting Minutes

A motion to approve the November 2023 Board minutes was made by Robert Sakata, which was seconded by Steve Anderson. The motion was approved unanimously (10-0).

3 Approve and/or Remove Consent Agenda Items

A motion to approve the Consent Agenda Items was made by Barbara Vasquez, which was seconded by Jessica Brody. The motion was approved unanimously (10-0).

1. Statements of Opposition

Stream & Lake Protection Section

Staff recommends the Board ratify CWCB's filing of the following Statements of Opposition:

- a. Case No. 23CW3040 (Water Division 7): Application of Christopher M. Pickard and Heather L. Pickard
- b. Case No. 23CW3152 (Water Division 5): Application of Treasure Mountain Ranch Inc.

2. Water Supply Reserve Fund Grants

Water Supply Planning Section

- a. **Basin** - Yampa White Green
Applicant - Community Ag Alliance
Name of Water Activity - Norvell Infrastructure Improvement Project

3. Change of Grantee

Administration and Operations Section

- a. Bernhardt Reservoir Water Storage Project - Phase 1

4. Floodplain Designations

	<p><i>Watershed and Flood Protection Section</i></p> <ul style="list-style-type: none"> a. “Adobe Creek Channel Capacity Analysis, Mesa County, Colorado”, by Olsson Associates, dated September 1, 2009 b. "Flood Insurance Study, Weld County, Colorado, and Incorporated Areas", by FEMA, dated November 30, 2023 c. "Flood Insurance Study, Ouray County, Colorado, and Incorporated Areas", by FEMA, dated January 11, 2024
4	Directors’ Reports
4a.	DNR Executive Director/IBCC Director - Dan Gibbs
4b.	CWCB Director – Lauren Ris
4c.	IBCC Director – Becky Mitchell
4d.	Agriculture Commissioner – Kate Greenberg
4e.	State Engineer – Tracy Kosloff
4f.	Colorado Parks and Wildlife Director – Jeff Davis
5	<p>Attorney General’s Report, Legal Briefing, and Executive Session</p> <p>Action: Report by Attorney General staff member Phil Weiser and Counsel to the Board, Jen Mele. A motion to go into Executive Session was made by Steve Anderson, which was seconded by Barbara Vasquez. The motion was approved unanimously (10-0).</p>
6	Executive Session
6a	Potential Shoshone Power Plant Water Rights Acquisition, Water Court Change Case
6b	Colorado River Compact Interpretation Matters
7	Report from Executive Session

	<p>Action: Report by Counsel to the Board, Jen Mele. A motion to come out of Executive Session was made by Steve Anderson, which was seconded by Lorelei Cloud. The motion was approved unanimously (10-0).</p>
8	<p>Financial Matters – Construction Fund and Severance Tax Perpetual Base Fund <i>Finance Section</i></p> <p>Action: Report by CWCB staff member Kirk Russell.</p> <ul style="list-style-type: none"> a. Financial Projections and Cash Management Report b. Two Rivers Water & Farming Company, and Two Rivers Farms F-2, Inc. – Loan Delinquency <p><i>This is an informational item with no Board action required.</i></p>
9	<p>Water Project Loans <i>Finance Section</i></p> <ul style="list-style-type: none"> a. Grandview Canal Irrigation Company – Grandview Canal Improvements <p>Action: Report by CWCB staff member Joshua Godwin. A motion to approve the staff recommendation was made by Steve Anderson, which was seconded by Barbara Vasquez. The motion was approved unanimously (10-0).</p> <p>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 Grand View Canal Irrigation Company for costs related to the Grandview Canal Improvements, from the Severance Tax Perpetual Base Fund. The loan term will be 30 years at an interest rate of 2.00% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.</p>
10	<p>2024 Projects Bill <i>Finance Section</i></p>
10a	<p>2024 Projects Bill Summary Sheet</p> <p>Action: Report by CWCB staff member Kirk Russell.</p> <p><i>This is an informational item with no Board action required.</i></p>
10b	<p>Floodplain Risk Management – NRI Funding Increase</p>

Action: Report by CWCB staff member Kevin Houck. A motion to approve the staff recommendation was made by Jessica Brody, which was seconded by Jackie Brown. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends the Board approval of a *one-time increase* in allocation from a refresh of \$500,000 to a refresh of \$1,000,000 for the FY24 Non-Reimbursable Project Investment (NRI) as part of the 2024 Projects Bill, to allow continued assistance with the preparation of revised and improved floodplain studies and maps for communities throughout Colorado and to participate in federally sponsored floodplain Risk Mapping, Assessment and Planning (Risk MAP) activities.

10c Shoshone Water Right Permanency – NRI Funding Request

Action: Report by CWCB staff member Rob Viehl, Amy Moyer and Peter Fleming with the Colorado River District presented to the Board. Public comment list attached. A motion to approve the staff recommendation was made by Paul Bruchez, which was seconded by Steve Anderson. Jessica Brody recused herself from the vote. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the CWCB authorize \$20,000,000 from the Severance Tax Perpetual Base Fund to partially fund the Colorado River Conservation District's purchase of the Shoshone Hydro Plant water rights. The language identified below is recommended to be included in the 2024 Project's Bill, but it is not the intent of this language to create additional conditions at the time of the transactions' closing.

Section X. Colorado River Water Conservation District Shoshone water rights acquisition – appropriation (1) For the 2024-25 state fiscal year, \$20,000,000 is appropriated to the Department of Natural Resources for use by the Colorado Water Conservation Board. This appropriation is from the Colorado Water Conservation Board (CWCB) construction fund created in section 37-60-121, C.R.S. To implement this section, the CWCB may use this appropriation to partner with the Colorado River Water Conservation District (CRWCD) in the purchase of the water rights owned by the Public Service Company of Colorado (PSCo) and currently used for the operation of the Shoshone Hydropower Plant. The funds will be released to the CRWCD per an approval vote by the CWCB confirming closing conditions of the purchase and sale agreement between CRWCD and PSCo have been met and the funds should be released.

(2) The money appropriated in subsection (1) of this section remains available until June 30, 2031.

11 Water Supply Reserve Fund Applications *Water Supply Planning Section*

- a. **Basin** – Arkansas
 - Applicant** – Lake County
 - Name of Water Activity** – Lake County Water Resource Assessment

Action: Report by CWCB staff member Ben Wade, Sarah Mudge and Bryce Ehrlich with Lake County addressed the Board. A motion to approve the staff recommendation was made by Steve Anderson, which was seconded by Barbara Vasquez. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends approval of up to \$20,140 from the Arkansas Basin Account and up to \$130,910 from the Statewide Account. Project approval is contingent upon the applicants' abilities to resolve issues and additional needs identified by staff.

b. Basin – Gunnison

Applicant – Colorado River Water Conservation District

Name of Water Activity – Airborne Snow Observatory Mapping in the North Fork of the Gunnison River System

Action: Report by CWCB staff member Ben Wade. A motion to approve the staff recommendation was made by Steve Anderson, which was seconded by Barbara Vasquez. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends approval of up to \$50,000 from the Gunnison Basin Account and up to \$100,000 from the Statewide Account. Project approval is contingent upon the applicant's abilities to resolve issues and additional needs identified by staff.

c. Basin – Gunnison

Applicant – Highline Ditch & Enlargement Company

Name of Water Activity – Highline Ditch Pipe Project

Action: Report by CWCB staff member Ben Wade. A motion to approve the staff recommendation was made by Steve Anderson, which was seconded by Barbara Vasquez. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends approval of up to \$40,000 from the Gunnison Basin Account and up to \$80,000 Statewide Account. Project approval is contingent upon the applicants' abilities to resolve issues and additional needs identified by staff.

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Request to Form Intent to Appropriate Instream Flow and Natural Lake Level Water Rights in Water Divisions 1, 2, 4, and 6

Stream and Lake Protection Section

Action: Report by CWCB staff member Brandy Logan. A motion to approve the staff recommendation was made by Barbara Vasquez, which was seconded by Jackie Brown. 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 instream flow (ISF) water right on each stream segment listed in Table 1, and a natural lake level (NLL) water right on the lake listed in Table 2, and direct staff to publicly notice the Board's declaration of its intent to appropriate.

13 Colorado River Updates

Interstate, Federal, and Water Information Section

Action: Report by CWCB staff members Amy Ostdiek and Michelle Garrison.

This is an informational item with no Board action required.

14 Operational Planning Update

Anna Mauss

Action: Report by CWCB staff member Anna Mauss.

This is an informational item with no Board action required.

Tuesday, January 30, 2024

15 Basin Directors' Reports

15a Arkansas River Basin Director's Report – *Greg Felt*

15b City and County of Denver Director's Report – Jessica Brody

15c Rio Grande River Basin Director's Report – *Nathan Coombs*

15d Yampa-White River Basin Director's Report – Absent

15e Colorado River (Mainstem) Basin Director's Report – *Paul Bruchez*

15f San Juan/San Miguel-Dolores River Basin Director's Report – *Lorelei Cloud*

15g Gunnison River Basin Director's Report – *Steve Anderson*

15h North Platte River Basin Director's Report – *Barbara Vasquez*

15i South Platte River Basin Director's Report – *Robert Sakata*

16 **2024 Species Conservation Trust Fund Eligibility List Approval**
Interstate, Federal, and Water Information Section

Action: Report by CWCB staff member Kara Scheel and Natalie Day with USGS presented to the Board. A motion to approve the staff recommendation was made by Barbara Vasquez, which was seconded by Jessica Brody. The motion was approved unanimously (8-0).

Staff Recommendation: Staff recommends, contingent upon available revenues, that the Board:
(1) Concur with the Department of Natural Resources Executive Director's proposed recommendations to the General Assembly to approve an expenditure of up to \$5 million from the Species Conservation Trust Fund for fiscal year 2024-2025, including up to \$2.5 million for the Colorado Water Conservation Board priorities outlined herein; and
(2) Forward a statement of concurrence to the Colorado Parks and Wildlife Commission.

17 **Water Plan Scenarios, Water Quality & Land Use Modeling**
Water Supply Planning Section

Action: Report by CWCB staff members Russ Sands and Kat Weismiller.

This is an informational item with no Board action required.

18 **Turf Replacement & Landscape Change Updates**
Water Supply Planning Section

Action: Report by CWCB staff members Russ Sands and Kat Weismiller.

This is an informational item with no Board action required.

19 **Stormwater Analysis Update**

Action: Report by CWCB staff member Kevin Reidy and Shannon Spurlock with the Pacific Institute.

This is an informational item with no Board action required.

20 **One Water Update**
Water Supply Planning Section

Action: Report by CWCB staff member Kevin Reidy.

This is an informational item with no Board action required.

21 Drought Resilient Project Selection Overview
Water Supply Planning Section

Action: Report by CWCB staff member Nora Flynn and Greg Peterson with CAWA.

This is an informational item with no Board action required.

ADJOURN

A motion to adjourn the January 2024 Board meeting was made by Steve Anderson, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).

Public Comments for Agenda Item 10c.

In-Person

1. Troy Waters w/Waters Farm LLC – in favor
2. Shelley Kaup w/City of Glenwood Springs – in favor
3. Merrit Linke w/Grand County – in favor
4. Ed Moyer w/Grand County – in favor
5. Tina Bergonzini w/Grand Valley Water Users Association – in favor
6. David Taussig w/Grand County – in favor
7. Jackie Fisher w/Orchard Mesa Irrigation District – in favor
8. Michael Daugherty w/Eagle River Water & Sanitation District – in favor
9. Sean Norris w/Grand Valley Irrigation Company – in favor
10. Ty Jones w/Clifton Water District – in favor
11. Larry Clever w/Ute Water Conservancy District – in favor
12. Ken Lansford
13. Nathan Keever w/Palisade Irrigation District – in favor
14. Joseph Bernal w/Grand Valley Water Association and Bernal, Farms, and Agricultural producer in Colorado – in favor

Virtual

1. Kirsten Kurath w/Williams, Turner & Holmes, P.C. – in favor
2. Joseph Bernal w/ Grand Valley water association. I am also representing Bernal, Farms, and Agricultural producer in Colorado - in favor
3. Bobbie Daniel w/Mesa County
4. Kathy Chandler-Henry w/Eagle County – in favor
5. Christopher Geiger w/Garfield County – in favor