

DRAFT

Summary Minutes and Record of Decisions

May 15 & 16, 2024 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the YMCA of the Rockies Snow Mountain Ranch in Granby 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, Brad Wind, Paul Bruchez, Barbara Vasquez, Jaclyn Brown, Lorelei Cloud, John McClow, Jessica Brody, 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: Robert Harris, Colorado Parks and Wildlife; Robert Sakata, Department of Agriculture; Jason Ullman, 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 Nathan Coombs. 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, John McClow, Barbara Vasquez, Brad Wind, Greg Felt, Lorelei Cloud, and Nathan Coombs. Non-voting ex officio members present or represented were: Phil Weiser, Attorney General, Robert Harris, Colorado Parks and Wildlife; Robert Sakata, Department of Agriculture; Jason Ullman, State Engineer, and Lauren Ris, Colorado Water Conservation Board Director. Counsel to the Board, Jen Mele was also in attendance.

Wednesday, May 15, 2024

1a	Election of Chair and Vice Chair
	<p>A motion to elect Nathan Coombs as Chair to the Board was made by Jessica Brody, which was seconded by Jackie Brown. The motion was approved unanimously (10-0).</p> <p>A motion to elect Lorelei Cloud as Vice Chair to the Board was made by Jessica Brody, which was seconded by Paul Bruchez. The motion was approved unanimously (10,0)</p>
1b	Review and Approve Agenda
	<p>A motion to approve the agenda was made by Jessica Brody, which was seconded by Paul Bruchez. The motion was approved unanimously (10-0).</p>
2	Review and Approve March 13 & 14, 2024 Board Meeting Minutes
	<p>A motion to approve the March 2024 Board minutes was made by Greg Felt, which was seconded by Jessica Brody. The motion was approved unanimously (10-0).</p>
3	Approve and/or Remove Consent Agenda Items
	<p>A motion to approve the Consent Agenda Items 1a, 3, & 5a-c was made by Jessica Brody, which was seconded by Lorelei Cloud. The motion was approved unanimously (10-0).</p>
4	Directors' Reports
4a.	DNR Executive Director - Dan Gibbs
4b.	CWCB Director – Lauren Ris
4c.	IBCC Director – Becky Mitchell
4d.	Agriculture Commissioner – Robert Sakata (presenting on behalf of Commissioner Greenberg)
4e.	State Engineer – Jason Ullman
4f.	Colorado Parks and Wildlife Director – Robert Harris
4g.	Water Resource and Power Development Authority – Jim Griffiths

5 Financial Matters – Construction Fund and Severance Tax Perpetual Base Fund
Finance Section

Action: Report by CWCB staff member Kirk Russell.

a. Financial Projections and Cash Management Report

This is an informational item with no Board action required.

6 Change to Existing Loans
Finance Section

a. Sanchez Ditch and Reservoir Company – Sanchez Reservoir Outlet Rehabilitation Project – Loan Payment Deferral Request

Action: Report by CWCB staff member Matt Stearns. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Brad Wind. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve the Sanchez Ditch and Reservoir Company's request for financial relief by granting three annual principal payment deferrals for Loan Contract CT 2015-012, totaling \$90,159. The interest portion of the payment will continue to be due on the annual payment date, which will be reflected in the amortization schedule. The loan terms shall remain 40 years at an interest rate of 2.00% per annum. The Company will return to making annual principal and interest payments in September 2027 with the balance paid over the remaining 32 years.

b. Ogilvy Irrigation and Land Company – Seely Reservoir Dredging – Loan Increase

Action: Report by CWCB staff member Joshua Godwin. A motion to approve the staff recommendation was made by Jessica Brody, which was seconded by Jackie Brown. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$3,284,520 (\$3,252,000 for Project costs and \$32,520 for 1% service fee) to the Ogilvy Irrigation and Land Company for costs related to Seeley Reservoir, from the Severance Perpetual Base Tax Fund. The loan term will remain 30 years at an interest rate of 1.70% per annum. This is an increase of \$1,010,000 (\$1,000,000 for Project costs and \$10,000 for the 1% service fee). Security for the loan shall be in compliance with CWCB Financial Policy #5.

7 CWCB Communications Update

Action: Report by CWCB staff member Katie Weeman.

This is an informational item with no Board action required.

8 **FY2024/25 Water Plan Grant Funding by Category**
Administration and Operations Section

Action: Report by CWCB staff member Cole Bedford. A motion to approve the staff recommendation was made by Jessica Brody, which was seconded by John McClow. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends the Board set target allocations distributing the \$23.30M appropriated in Fiscal Year 24/25 to each of the Water Plan Grant categories as described in Table 1.

Table 1: Recommended Targeted Allocation by Category for FY 24/25

Category	Targeted Allocation
Agriculture	\$4,190,000
Conservation and Land Use	\$4,890,000
Engagement and Innovation	\$1,400,000
Water Storage and Supply	\$5,590,000
Watershed Health and Recreation	\$7,230,000
Total	\$23,300,000

The amounts listed are target numbers and the Board retains flexibility to award grants based on actual demand in each funding category.

9 **Dianne Hoppe Memorial Scholarship**
Administration and Operations Section

Action: Report by CWCB staff member Cole Bedford. A motion to approve the staff recommendation was made by Jessica Brody, which was seconded by Lorelei Cloud. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends the Board approve a \$2,000 scholarship to Student 1.

CA 4 **Clerical Update and Clarification on Water Plan Grant Guidelines**
Administration and Operations Section

Action: Report by CWCB staff member Cole Bedford. A motion to approve the staff recommendation with the changes that were suggested by Director McClow was made by John McClow, which was seconded by Greg Felt. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends the Board approve the updates, clarifications, and reformatting to the Water Plan Grant Program Guidelines as shown in the attached Redlined Water Plan Grant Program Guidelines (Updated May 2022) and the Water Plan Grant Program Guidelines (Updated and Reformatted May 2024). This recommendation does not represent a change to the way the Water Plan Grant Program is implemented.

10 Operational Planning Update

Water Supply Planning Section

Action: Report by CWCB staff members Anna Mauss, Russ Sands, and Jeff Rodriguez.

This is an informational item with no Board action required.

11 Water Supply Reserve Fund Applications

Water Supply Planning Section

a. Basin – Rio Grande

Applicant – Sanchez Ditch & Reservoir Company

Name of Water Activity – SDRC Dam & Infrastructure Design & Engineering Study

Action: Report by CWCB staff member Ben Wade, Mike Kester addressed the Board. A motion to approve the staff recommendation was made by Lorelei Cloud, which was seconded by Jackie Brown. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends approval of up to \$60,505 from the Rio Grande Basin Account and up to \$453,083 from the Statewide Account. Project approval is contingent upon the applicant's ability to resolve issues and additional needs identified by staff.

b. Basin – Yampa/White/Green

Applicant – Community Agriculture Alliance

Name of Water Activity – Nickell Diversion Upgrade

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

Staff Recommendation: Staff recommends approval of up to \$24,780 from the Yampa/White/Green Basin Account and up to \$161,070 from the Statewide Account. Project approval is contingent upon the applicants' abilities to resolve issues and additional needs identified by staff.

12 Instream Flow Appropriations

Stream and Lake Protection Section

Final Action on 2024 Instream Flow and Natural Lake Level Recommendations

Action: Report by CWCB staff member Rob Viehl. A motion to approve the staff recommendation was made by Barbara Vasquez, which was seconded by Jessica Brody. The motion was approved unanimously (10-0).

Staff Recommendation: Staff requests that the Board make the following determinations and take the following actions on each instream flow (ISF) water right listed in Table 1, and on the natural lake level (NLL) water right listed in Table 2. The information necessary to support these determinations is contained in this memo, the recommendation letters and documentation submitted by the Bureau of Land Management (BLM), Colorado Parks and Wildlife (CPW), and High Country Conservation Advocates (HCCA), and in staff's memo and oral presentation provided at the January 29, 2024, Board meeting.

(1) Determine, pursuant to section 37-92-102(3), C.R.S., that for the ISF and NLL appropriations identified in Tables 1 & 2:

(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 appropriation; and

(c) Such natural environment can exist without material injury to water rights.

(2) Pursuant to ISF Rule 5f., establish January 29, 2024 as the appropriation date for these water rights.

(3) Request staff to work with the Attorney General's office to file applications for these water rights in water court by the end of the calendar year.

Tabel 1. ISF Water Rights

Div	Stream	Watershed	County	Length Miles	Upper Terminus	Lower Terminus	Flow Rate cfs(dates)
1	Square Top Creek	Upper South Platte	Clear Creek	1.08	Outlet of Lower Square Top Lake	Inlet of Duck Lake	0.1 (09/01 - 03/31) 0.3 (04/01 - 04/30) 1.0 (05/01 - 05/31) 1.3 (06/01 - 06/30) 0.8 (07/01 - 07/31) 0.25 (08/01 - 08/31)
1	Williams Gulch	Cache la Poudre	Larimer	4.63	Headwaters	Confluence Cache la Poudre River	0.4 (11/01 - 03/31) 2.0 (04/01 - 07/31) 1.1 (08/01 - 08/31) 0.7 (09/01 - 10/31)
4	Deer Creek	East-Taylor	Gunnison	3.38	Headwaters	Beitler No. 1 headgate	0.35 (11/01 - 03/31) 0.9 (04/01 - 04/30)

							1.0 (05/01 - 08/31) 0.6 (09/01 - 10/31)
4	North Lobe Creek	Lower Dolores	Mesa	7.25	Headwaters	Highline Ditch headgate	0.35 (09/01 - 03/31) 7.0 (04/01 - 05/31) 5.0 (06/01 - 06/30) 1.0 (07/01 - 08/31)
4	Splains Gulch	East-Taylor	Gunnison	2.48	Headwaters	Confluence Coal Creek	0.35 (09/01 - 03/31) 7.0 (04/01 - 05/31) 5.0 (06/01 - 06/30) 1.0 (07/01 - 08/31)
6	Ways Gulch	Upper Yampa	Routt	2.25	Headwaters	BLM property boundary	0.2 (10/01 - 04/30) 1.3 (05/01 - 07/31) 0.5 (08/01 - 09/30)
6	Wheeler Creek	Upper North Platte	Jackson	3.22	Headwaters	Akers Ditch headgate	0.65 (11/01 - 02/29) 0.9 (03/01 - 04/30) 1.6 (05/01 - 06/30) 0.9 (07/01 - 10/31)

Table 2. NLL Water Right

Div	Lake	Watershed	County	Volume acre-feet	Location (Center-point) NAD 1983 Zone 13 North	Surface elevation feet above MSL
2	Titan Lake	Arkansas Headwaters	Lake	2.3	UTM-East: 377505.25 UTM-North: 4356622.28	11,560

13 Request for Authorization to Proceed to Trial in Stipulated Opposition Case:
Stream and Lake Protection Section

13a Case No. 10CW0036 (Water Division 3): Application of Timothy N. and Lori S. Lovato

Action: Report by CWCB staff member Colin Watson. 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: Pursuant to ISF Rule 8.j. Staff recommends that the Board authorize Staff to participate at trial, as necessary, to defend CWCB's stipulation in Case No. 10CW36, as identified in Table 1.

Item	Case No.	Applicant	Trial Date (No. of Days)	CWCB Stipulation Date	CWCB Statement of Opposition Date
13.a	10CW36 (Division 3)	Timothy N. and Lori S. Lovato	June 24, 2024 (5 days)	August 29, 2023	July 29, 2016

14 Wild and Scenic Rivers Fund Grant Program Guidelines Update

Interstate, Federal, and Water Information & Stream and Lake Protection Sections

Action: Report by CWCB staff members Brandy Logan and Andrew Rickert. A motion to approve the staff recommendation was made by Paul Bruchez, which was seconded by Jackie Brown. The motion was approved unanimously (10-0).

Staff Recommendation:

1. Affirm that the need and purpose of the Wild and Scenic Rivers Fund still exists and is expected to continue in the future; and
2. Approve proposed changes to the Terms and Conditions for the Allocation of Funds from the Wild and Scenic Rivers Fund.

15 Colorado Weather Modification Program Update

Interstate, Federal, and Water Information Section

Action: Report by CWCB staff member Andrew Rickert.

This is an informational item with no Board action required.

16 Colorado Snow Survey Update

Interstate, Federal, and Water Information Section

Action: Report by CWCB staff member Andrew Rickert.

This is an informational item with no Board action required.

17 WEco Annual Allocation
Water Supply Planning Section

Action: Report by CWCB staff member Elizabeth Schoder and Jayla Poppleton with WEco. A motion to approve the staff recommendation was made by Jessica Brody, which was seconded by Greg Felt. The motion was approved unanimously (10-0).

Staff Recommendation: Staff recommends the Board approve the proposed Fiscal Year 2025 Scope of Work for Water Education Colorado (WEco).

Thursday, May 16, 2024

18 Basin Directors' Reports

- 18a** North Platte River Basin Director's Report – *Barbara Vasquez*
- 18b** South Platte River Basin Director's Report – *Brad Wind*
- 18c** Arkansas River Basin Director's Report – *Greg Felt*
- 18d** City and County of Denver Director's Report – *Jessica Brody*
- 18e** Rio Grande River Basin Director's Report – *Nathan Coombs*
- 18f** Yampa-White River Basin Director's Report – *Jackie Brown*
- 18g** Colorado River (Mainstem) Basin Director's Report – *Paul Bruchez*
- 18h** San Juan/San Miguel-Dolores River Basin Director's Report – *Lorelei Cloud*
- 18i** Gunnison River Basin Director's Report – *John McClow*

19 Attorney General's Report, Legal Briefing, and Executive Session

Action: Report by Attorney General Counsel Phil Weiser. A motion to go into Executive Session was made by Jessica Brody, which was seconded by Brad Wind. The motion was approved unanimously (9-0).

20 Executive Session

20a Demand Management

21 Report from Executive Session

Action: Report by Counsel to the Board, Jen Mele. A motion to come out of Executive Session was made by Jackie Brown, which was seconded by Paul Bruchez. The motion was approved unanimously (9-0).

22 Colorado River Updates
Interstate, Federal, and Water Information Section

Action: Report by CWCB staff members Amy Ostdiek & Brian McPhearson.

This is an informational item with no Board action required.

23 Litigation Fund Request
Interstate, Federal, and Water Information Section

Action: Report by CWCB staff member Amy Ostdiek. A motion to approve the staff recommendation was made by Lorelei Cloud, which was seconded by Jackie Brown. The motion was approved unanimously (9-0).

Staff Recommendation: CWCB Staff recommends that the Board authorize the expenditure of a total of \$1,992,000 for litigation-related activities in FY 2024-25 as follows:

- 1) Colorado River Basin: \$1,025,00
- 2) Republican River Basin: \$40,000
- 3) South Platte River Basin: \$155,000
- 4) Rio Grande Basin: \$492,000
- 5) Arkansas River Basin: \$280,000

Staff also recommends that the Board: 1) Direct the CWCB Director and staff to expend these funds consistent with the request by the Office of the Attorney General; and 2) Direct the CWCB Director, CWCB staff, and Office of the Attorney General to comply with the annual reporting requirements as specifically provided for in Section 37-60-121(2.5).

The Pint Room Special Use License*Watershed and Flood Protection Sections*

Action: Report by CWCB staff member Andrea Harbin Monohan. A motion to approve the staff recommendation was made by Jackie Brown, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends board approval of the Limited Use License for The Pint Room.

ADJOURN

A motion to adjourn the May 2024 Board Meeting was made by Jackie Brown, which was seconded by Lorelei Cloud. The motion was approved unanimously (9-0).