

**MEMORANDUM OF UNDERSTANDING FOR WATER SUPPLY PROJECTS BETWEEN THE COLORADO  
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND THE COLORADO DEPARTMENT OF NATURAL  
RESOURCES  
June 2017**

This Memorandum of Understanding ("MOU") memorializes the understandings between the Colorado Department of Public Health and Environment ("CDPHE"), including the Water Quality Control Division ("WQCD") and the Colorado Department of Natural Resources ("CDNR"), including Colorado Parks and Wildlife ("CPW") and the Colorado Water Conservation Board ("CWCB").

**INTRODUCTION AND BACKGROUND**

Proponents of new water supply projects are required to follow a regulatory process to receive the necessary permits and approvals before beginning construction of the project. Among other federal and local requirements, there are two processes that may need to be completed at the state level related to water supply projects.

1. Colorado Revised Statute §37-60-122.2 (C.R.S.), known as the Fish and Wildlife Resources Fund and Authorization, declares that fish and wildlife resources are a matter of statewide concern, and that applicants proposing water diversion, delivery, or storage projects should reasonably mitigate impacts on such resources. Applicants must submit a proposed mitigation plan to the CPW Commission for review and approval. If the applicant and the CPW Commission reach a mutual agreement, the CPW Commission forwards the proposed plan to the CWCB for adoption as the official State position.
2. 401 Certification: Under Section 401 of the federal Clean Water Act, if an activity that requires a federal license or permit will result in a discharge to waters of the United States, the applicant for the federal license or permit must obtain a certification from the state that the discharge will not violate state water quality standards. The WQCD is required by Colorado statute (C.R.S., §25-8-302(1)(f)) to review federal licenses and permits under Section 401 of the CWA. Regulation No. 82 (5 CCR 1002-82) authorizes the division to certify, conditionally certify, or deny certification of federal licenses or permits.

In March 2016, a Lean event was held to begin examining the National Environmental Policy Act (NEPA) and permitting process related to water supply projects in Colorado. Lean is a set of principles and methods for identifying and eliminating waste for any process in order to improve the customer experience. The Lean team examined the initiation of NEPA and project scoping of water supply project permitting in Colorado. One of the recommended changes resulting from this event was to create an inter-agency MOU between CDNR and CDPHE to increase cooperation and coordination to streamline the state's role regarding water projects. This recommendation aligns with the Colorado Water Plan, which also advocates for effective and efficient permitting.

**PURPOSE**

The purpose of this MOU is to increase coordination between CDNR and CDPHE to streamline the state role in the water supply project permitting process.

### CDPHE RESPONSIBILITIES

1. CDPHE will coordinate with CDNR on its Environmental Impact Study ("EIS") document review, where applicable and as resources allow.
2. CDPHE will discuss methodology requirements for 401 Water Quality Certification during scoping, if possible, with CDNR and will provide updates as requirements change during the planning and permitting process.
3. CDPHE will coordinate, where applicable and as resources allow, with CDNR on water quality discussions during the fish and wildlife mitigation plan development.
4. CDPHE will coordinate, where applicable and as resources allow, with CDNR on water quality discussions during the development of the 401 Water Quality Certification conditions.
5. CDPHE will coordinate, where applicable and as resources allow, with CDNR on adaptive management or amendment discussions related to the approved 401 Water Quality Certification conditions.

### CDNR RESPONSIBILITIES

1. CDNR will coordinate with CDPHE on its EIS document review, where applicable and as resources allow.
2. CDNR will discuss methodology requirements for the fish and wildlife mitigation plan during scoping, if possible, with CDPHE and will provide updates as requirements change during the planning and permitting process.
3. CDNR will coordinate, where applicable and as resources allow, with CDPHE on water quality discussions during the fish and wildlife mitigation plan development.
4. CDNR will coordinate, where applicable and as resources allow, with CDPHE on water quality discussions during the development of the 401 Water Quality Certification conditions.
5. CDNR will coordinate, where applicable and as resources allow, with CDPHE on adaptive management or amendment discussions related to the approved fish and wildlife mitigation plan.

### CONFLICT RESOLUTION

CDNR and CDPHE agree to make reasonable efforts to resolve any conflicts related to the state's role regarding water projects in Colorado.

### GENERAL PROVISIONS

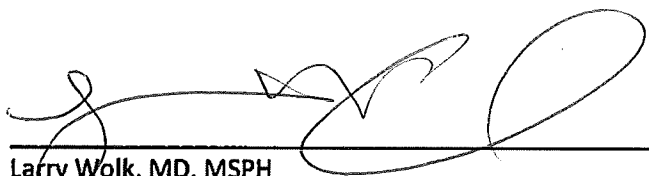
- A. Amendments. Changes to MOU may be proposed in writing by either party and will become effective upon the written approval and execution of both parties.
- B. Exchange of Information. Information and documents provided pursuant to this MOU may contain pre-decisional information. To the extent permissible under law, any recipient of pre-decisional information agrees not to disclose this information to the public or other parties.

C. Term. This MOU is intended as a basis for long-term cooperation between the CDPHE and CDNR related to streamlining the State role in the water supply project permitting process. Either party may terminate this MOU by providing a thirty (30) day written notice of termination to the other party.

SIGNED (see following pages for signatures):

Larry Wolk, MD, MSPH  
Executive Director and Chief Medical Officer  
Colorado Department of Public Health and Environment

Robert W. Randall  
Executive Director  
Colorado Department of Natural Resources



6/14/17

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Larry Wolk, MD, MSPH  
Executive Director and Chief Medical Officer  
Colorado Department of Public Health and Environment

Date

*Robert W. Randall*

Robert W. Randall  
Executive Director  
Colorado Department of Natural Resources

*6.13.2017*

Date