



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

Jared Polis
Governor

Dan Gibbs
DNR Executive Director

Rebecca Mitchell
CWCB Director

DRAFT

Summary Minutes and Record of Decisions September 16 & 17, 2020 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened virtually. The meeting was called to order by Chair Celene Hawkins. 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, Greg Felt, 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: Robert Harris, Colorado Parks and Wildlife; Jordan Beezley, 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 Celene Hawkins. 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, Greg Felt, and Heather Dutton. Ex-officio voting member Dan Gibbs, Executive Director of the Department of Natural Resources was not present. Non-voting ex officio members present or represented were: Phil Weiser, Attorney General, 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, September 16, 2020

1	Review and Approve Agenda A motion to approve the agenda was made by Steve Anderson, which was seconded by Heather Dutton. The motion was approved unanimously (10-0).
2	Review and Approve July 15 & 16, 2020 Board Meeting Minutes A motion to approve the July 2020 Board minutes was made by Greg Felt, 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 was made by Steve Anderson, which was seconded by Jim Yahn. The motion was approved unanimously (10-0). Item 1.a - Case No. 20CW3029 (Water Division 2); The Bar NI Corporation Summary of Water Court Application: Application for change of water rights and to amend plan for augmentation. Staff Recommendation: Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in August 2020 to protect CWCB’s instream flow water rights. Item 2 - Staff Recommendation – Action Items: WSRF Grant Amendment: Request by grantee to amend existing WSRF Grant to include additional infrastructure beyond approved Statement of Work and Budget. No change to the current total grant amount is proposed. Contract No.: CTGG1 2019-3492 Water Activity Name: Leroux Creek Reservoir System, Dam Outlet Rehabilitation Grantee: Leroux Creek Water Users Association Recommending Roundtable: Gunnison (original request and amendment) WSRF Grant Amount: \$50,000 Gunnison Basin Account \$150,000 Statewide Account \$200,000 Total Grant Amount
4	Directors’ Reports
4a.	DNR Executive Director - Dan Gibbs
4b.	CWCB Director - Rebecca Mitchell
4c.	IBCC Director - Russell George
4d.	Agriculture Commissioner – Jordan Beezley
4e.	State Engineer - Kevin Rein
4f.	Division of Parks and Wildlife Director - Robert Harris
4g.	Water Resource and Power Development Authority - Keith Laughlin
5	Request for Authorization to Initiate Formal Rulemaking to Revise Instream Flow Rules to Implement HB20-1157 <i>Stream and Lake Protection Section</i> Action: Report by CWCB staff member Linda Bassi. A motion to approve the staff recommendation was made by Jessica Brody, which was seconded by Heather Dutton. The motion was approved unanimously (10-0). Staff Recommendation: <ol style="list-style-type: none">1. Authorize staff to coordinate with the Attorney General’s Office to initiate the formal rulemaking process for revisions to the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program (“ISF Rules”) that would address the requirements of House Bill 20-1157, and update: (1) a

	<p>reference to the CWCB's website in ISF Rule 4c.; and (2) references to Colorado Parks and Wildlife (CPW) throughout the ISF Rules. The formal rulemaking process will include a hearing on the ISF Rules revisions that likely will be scheduled for January 2021.</p> <p>2. Appoint Deputy Attorney General Amy Beatie as Hearing Officer for the rulemaking hearing to oversee procedural matters, such as setting deadlines and submission of documents.</p>
6	<p>Lease of Ruedi Reservoir Water for Instream Flow Use on the Fryingpan River and 15-Mile Reach of the Colorado River (Water Division 5) <i>Stream and Lake Protection Section</i></p> <p>Action: Report by CWCB staff member Linda Bassi.</p> <p><i>This is an informational item with no Board action required. Pursuant to Rule 6b. of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program ("ISF Rules"), the Board's consideration of this proposal at this meeting will initiate the 120-day period for Board review. No formal action is required at this time. The initial presentation of this proposal provides an opportunity for the Board and the public to identify questions or concerns that Staff will address at this or a subsequent meeting.</i></p>
7	<p>Financial Matters – Construction Fund and Severance Tax Perpetual Base Fund <i>Finance Section</i></p>
7a.	<p>Financial Projections and Cash Management Report Action: Report by CWCB staff member Kirk Russell.</p> <p><i>This is an informational item with no Board action required.</i></p>
7b.	<p>2020 Wildfire Impact Loans</p> <p>Action: Report by CWCB staff member Kirk Russell. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Heather Dutton. Gail Schwartz asked to possibly amend the recommendation to allow flexibility that would address Director Hawkin's objective to look at statewide needs. Director Schwartz would like to see flexibility in the criteria being built in so the Board can revisit the criteria later. The motion was approved unanimously (10-0).</p> <p>Staff Recommendation: Staff recommends the Board make available \$10,000,000 for Wildfire and Flood Impact Loans. The 30-year term loans will be available at zero percent interest with no payments for three years followed by 27 years of repayment at the interest rate established by Financial Policy #7 for a 30 year loan. This loan funding opportunity is available to eligible applicants serving or receiving water from areas under a Governor's Emergency Declaration. Funding will be budgeted annually and remain available for applications until a modifying action by the Board is made.</p>
8	<p>Water Project Loans <i>Finance Section</i></p>
8a.	<p>Redlands Water and Power Company – Roller Gate Replacement</p> <p>Action: Report by CWCB staff member Cole Bedford. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Heather Dutton. The motion was approved unanimously (10-0).</p>

	<p>Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$404,000 (\$400,000 for Project costs and \$4,000 for the 1% service fee) to the Redlands Water and Power Company for costs related to the Roller Gate Replacement Project, from the Severance Tax Perpetual Base Fund. The loan terms shall be 20 years at a reduced blended interest rate of 1.50% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.</p>
8b.	<p>City of Grand Junction – Purdy Mesa Flowline Replacement</p> <p>Action: Report by CWCB staff member Cole Bedford. A motion to approve the staff recommendation was made by Gail Schwartz, which was seconded by Jessica Brody. The motion was approved unanimously (10-0).</p> <p>Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$7,070,000 (\$7,000,000 for Project costs and \$70,000 for the 1% service fee) to the City of Grand Junction acting by and through its Water Activity Enterprise for costs related to the Purdy Mesa Flowline Replacement Project, from the Severance Tax Perpetual Base Fund. The loan terms shall be 20 years at a reduced low-income municipal interest rate of 1.50% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.</p>
8c.	<p>Genesee Water and Sanitation District – Genesee Reservoir No. 1 Enlargement</p> <p>Action: Report by CWCB staff member Rachel Pittinger. A motion to approve the staff recommendation was made by Gail Schwartz, which was seconded by Steve Anderson. The motion was approved unanimously (10-0).</p> <p>Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$4,242,000 (\$4,200,000 for project costs and \$42,000 for the 1% service fee) to the Genesee Water and Sanitation District for costs related to the Genesee Reservoir No. 1 Enlargement, from the Construction Fund. The loan term will be 40 years at a high-income municipal interest rate of 2.50% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.</p>
9	<p>Loan Delinquency Action <i>Finance Section</i></p>
9a.	<p>Two Rivers Water & Farming Company, and Two Rivers Farms F-2, Inc.</p> <p>Action: Report by CWCB staff member Kirk Russell. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Jim Yahn. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends the Board approve the following schedule/actions towards collection and foreclosure on loan contract C150328A (CT2015-164) delinquency if no resolution by the Borrower has been reached by the following dates:</p> <ul style="list-style-type: none"> • October 1, 2020 - Notify Borrower via certified mail of Board’s intent to proceed with this collection and foreclose schedule. • November 2020 Board Meeting – Borrower’s last opportunity to address the Board prior to the Board’s decision to declare the entire loan obligation paid in full. • December 1, 2020 – staff will notify the Borrower that the entire loan obligation is due by March 1, 2021. This includes outstanding loan balance and late fees payable by March 1, 2021 in the amount of \$637,146.97 (\$621,637.50 Principal + \$3,800.54 Late fee + \$11,708.93 Accrued Interest).

	<ul style="list-style-type: none"> January 2021 Board Meeting – Staff and the Attorney General’s Office will present options available for foreclosure proceedings if loan is not paid in full by March 1. March 1, 2021 – CWCB will foreclose on the loan as directed by the Board.
10	<p>Demand Management Feasibility Investigation <i>Interstate, Federal, and Water Information Section</i></p> <p>Action: Report by CWCB staff member Amy Ostdiek. Paul Bruchez addressed the Board.</p> <p><i>This is an informational item with no Board action required.</i></p>
11	<p>Basin Fund MOA Reallocation Request – Dolores Project Pumping Plant Replacement <i>Interstate, Federal, and Water Information Section</i></p> <p>Action: Report by CWCB staff member Alexander Funk. Ken Curtis with the Dolores Water Conservancy District addressed the Board.</p> <p>Staff Recommendation: Staff recommends that the CWCB Board approve the proposed Dolores Project Pumping Plant Replacement MOA reallocation request.</p>
12	<p>Attorney General’s Report, Legal Briefing, and Executive Session</p> <p>Action: Report by Counsel to the Board, Deputy Attorney General Amy Beatie. A motion to go into Executive Session was made by Jessica Brody, which was seconded by Greg Felt. The motion was approved unanimously (9-0).</p>
13	<p>Executive Session</p> <ol style="list-style-type: none"> Lake Powell Pipeline Demand Management Chatfield Storage Reallocation Project Environment Pool Negotiations - Jessica Brody recused herself from the discussion.
14	<p>Report from Executive Session</p> <p>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 Jessica Brody. The motion was approved unanimously (9-0)</p>
15	<p>Basin Directors’ Reports</p>
15a.	North Platte River Basin Director’s Report – Curran Trick
15b.	South Platte River Basin Director’s Report – Jim Yahn
15c.	Arkansas River Basin Director’s Report – Greg Felt
15d.	City and County of Denver Director’s Report – Jessica Brody
15e.	Rio Grande River Basin Director’s Report – Heather Dutton
15f.	Yampa-White River Basin Director’s Report – Jaclyn Brown
15g.	Colorado River (Mainstem) Basin Director’s Report – Gail Schwartz
15h.	San Juan/San Miguel-Dolores River Basin Director’s Report – Celene Hawkins
15i.	Gunnison River Basin Director’s Report – Steve Anderson

16	<p>South Platte River Easement Application – City of Englewood – Agenda Item Cancelled <i>Watershed and Flood Protection Section</i></p>
17	<p>Status of BIP & Plan Update Efforts <i>Water Supply Planning Section</i></p> <p>Action: Report by CWCB staff members Russ Sands and Megan Holcomb.</p> <p><i>This is an informational item with no Board action required.</i></p>
18	<p>WSRF Criteria and Guidelines <i>Water Supply Planning Section</i></p> <p>Action: Report by CWCB staff member Russ Sands. A motion to approve the staff recommendation was made by Jessica Brody, which was seconded by Greg Felt. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of the proposed Criteria & Guideline changes. Move from a three-time annual (40%-30%-30%) distribution to one time per year on September 1. Move all deadlines up by one month, allowing two months before each board meeting (instead of one). Multiple changes are needed to update outdated references and enhance clarity of what is required.</p>
19	<p>WSRF Grant Applications <i>Water Supply Planning Section</i></p>
19a.	<p>Basin: South Platte and Metro Applicant: Neirbo Hydrogeology Name of Water Activity: South Platte River Salinity Study – Phase 2</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. Grady O’Brien with Neirbo Hydrogeology addressed the Board. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$45,000 from the South Platte Basin Account, \$45,000 from the Metro Account, and up to \$90,000 from the Statewide Account to help fund the project: South Platte Basin Salinity Study – Phase 2.</p>
19b.	<p>Basin: Arkansas Applicant: Lower Arkansas Valley Water Conservancy District Name of Water Activity: Headgate 199 Lining</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$18,000 from the Arkansas Basin Account, and up to \$180,000 from the Statewide Account to help fund the project: Headgate 199 Lining.</p>
19c.	<p>Basin: Arkansas Applicant: Pueblo County Name of Water Activity: Italian and Suburban Lateral Water Improvement Project</p>

	<p>Action: Report by CWCB staff member Kathryn Weismiller. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$46,400 from the Arkansas Basin Account and up to \$162,900 from the Statewide Account to help fund the project: Italian & Suburban Lateral Water Improvement Project.</p>
19d.	<p>Basin: Arkansas</p> <p>Applicant: Round Mountain Water and Sanitation District</p> <p>Name of Water Activity: Reservoir Feasibility Study & Design</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$15,500 from the Arkansas Basin Account, and up to \$155,000 from the Statewide Account to help fund the project: Reservoir Feasibility Study & Design.</p>
19e.	<p>Basin: Gunnison</p> <p>Applicant: Cimarron Canal and Reservoir Company</p> <p>Name of Water Activity: Fish Creek Reservoir #2 Repair and Conservation Project</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. A motion to approve the staff recommendation was made by Steve Anderson, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$50,000 from the Gunnison Basin Account, and up to \$88,900 from the Statewide Account to help fund the project: Fish Creek Reservoir #2 Repair & Conservation Project.</p>
19f.	<p>Basin: Metro</p> <p>Applicant: Lookout Mountain Water District</p> <p>Name of Water Activity: Upper Beaver Brook Reservoir SCADA System Project</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$50,000 from the Metro Account, and up to \$100,000 from the Statewide Account to help fund the project: Upper Beaver Brook Reservoir SCADA System Project.</p>
19g.	<p>Basin: Metro</p> <p>Applicant: Colorado Nonprofit Development Center</p> <p>Name of Water Activity: 10.10.10 Water & Climate Program</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$45,000 from the Metro Account to help fund the project: Water and Climate Program.</p>
19h.	<p>Basin: Metro</p> <p>Applicant: WaterReuse Colorado</p> <p>Name of Water Activity: Direct Potable Reuse WQCD Stakeholder Process Facilitation</p>

	<p>Action: Report by CWCB staff member Kathryn Weismiller. Laura Belanger with Western Resource Advocates addressed the Board. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$50,000 from the Metro Account and up to \$49,800 from the Statewide Account to help fund the project: Direct Potable Reuse WQCD Stakeholder Process Facilitation.</p>
19i.	<p>Basin: North Platte Applicant: Owl Mountain Partnership Name of Water Activity: Jackson County Water Structure Improvement Project #3</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. A motion to approve the staff recommendation was made by Curran Trick, which was seconded by Jim Yahn. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$66,612 from the North Platte Basin Account to help fund the project: Jackson County Water Structure Improvement Project #3.</p>
19j.	<p>Basin: Rio Grande Applicant: Colorado Rio Grande Restoration Foundation Name of Water Activity: Conejos River Partnership Project – Phase 1</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. Daniel Boyes with Colorado Rio Grande Restoration Foundation addressed the Board. A motion to approve the staff recommendation was made by Heather Dutton, which was seconded by Jim Yahn. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$25,000 from the Rio Grande Basin Account, and up to \$225,000 from the Statewide Account to help fund the project: Conejos River Partnership Project – Phase 1.</p>
19k.	<p>Basin: South Platte Applicant: Colorado State University Name of Water Activity: Sustaining Plains Aquatic Ecosystems Using an Integrated Ecological and Social Approach</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$40,000 from the South Platte Basin Account and up to \$94,015 from the Statewide Account to help fund the project: Sustaining Plains Aquatic Ecosystems using an Integrated Ecological and Social Approach.</p>
19l.	<p>Basin: Southwest Applicant: Fort Lewis College Name of Water Activity: Dolores River Adaptive Management Project</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. Gigi Richard with Fort Lewis College addressed the Board. Celene Hawkins disclosed that her employer TNC is providing funding on this project. 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).</p>

	<p>Staff Recommendation: Staff recommends approval of up to \$25,000 from the Southwest Basin Account and up to \$140,617 from the Statewide Account to help fund the project: Dolores River Adaptive Management Project.</p>
19m.	<p>Basin: Southwest Applicant: Morrison Consolidated Ditch Company Name of Water Activity: Railroad Siphon Replacement Project</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. 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).</p> <p>Staff Recommendation: Staff recommends approval of up to \$25,000 from the Southwest Basin Account, and up to \$33,875 from the Statewide Account to help fund the project: Railroad Siphon Replacement.</p>
19n.	<p>Basin: Southwest Applicant: Montezuma Orchard Restoration Project Name of Water Activity: Innovations in Irrigation To Support Heritage Apple Orchards in SW Colorado</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. Jude Schuenemeyer with Montezuma Orchard Restoration Project. Celene Hawkins disclosed that her employer TNC is providing funding on this project. 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).</p> <p>Staff Recommendation: Staff recommends approval of up to \$25,000 from the Southwest Basin Account, and up to \$39,900 from the Statewide Account to help fund the project: Innovations in Irrigation to Support Heritage Apple Orchards in SW Colorado.</p>
19o.	<p>Basin: Southwest Applicant: Red Mesa Reservoir and Ditch Company Name of Water Activity: Red Mesa Reservoir Project</p> <p>Action: Report by CWCB staff member Kathryn Weismiller. Jordan Dimick, Mardi Gebhardt, and Trent Taylor with Red Mesa Reservoir & Ditch Company addressed the Board. 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).</p> <p>Staff Recommendation: Staff recommends approval of up to \$25,000 from the Southwest Basin Account, and up to \$250,000 from the Statewide Account to help fund the project: Red Mesa Reservoir Enlargement (Final Design and Permitting).</p>
20	<p>Water Project Loan/Grant <i>Finance Section</i></p>
20a.	<p>Florida Consolidated Ditch Company – Florida Canal Diversion Replacement</p> <p>Action: Report by CWCB staff member Matt Stearns. Justin Catalano with Florida Ditch and Pete Foster with Wright Water Engineers addressed the Board. Celene Hawkins disclosed that her employer TNC has provided a letter of support for this project. A motion to approve the staff recommendation was made by Heather Dutton, which was seconded by Gail Schwartz. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff Recommendation for CWCB Loan:</p>

Staff recommends the Board approve a loan not to exceed \$757,500 (\$750,000 for Project costs and \$7,500 for the 1% service fee) to the Florida Consolidated Ditch Company for costs related to the Florida Canal Diversion Replacement Project, from the Severance Tax Perpetual Base Fund. The loan terms shall be 30 years at a blended interest rate of 1.30% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

Staff Recommendation for WSRF Grant:

Staff recommends approval of up to \$250,000 from the Statewide Fund and \$25,000 from the Southwest Basin Fund to the Florida Consolidated Ditch Company for costs related to the Florida Canal Diversion Replacement Project.

ADJOURN

A motion to adjourn the September 2020 Board meeting was made by Heather Dutton, which was seconded by Gail Schwartz. The motion was approved unanimously (9-0).