

## **DRAFT**

### **Summary Minutes and Record of Decisions**

#### **January 24 & 25, 2022 Board Meeting**

A regular meeting of the Colorado Water Conservation Board (CWCB) convened virtually on zoom. The meeting was called to order by Chair Jessica Brody. 8 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, Celene Hawkins, Steven Anderson, Jaclyn Brown, Jessica Brody, Heather Dutton, 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: Phil Weiser, Attorney General; Dan Prenzlou, Colorado Parks and Wildlife; Kate Greenberg, Department of Agriculture; Kevin Rein, State Engineer, and Rebecca Mitchell, 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 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: Gail Schwartz, Jessica Brody, Steven Anderson, Curran Trick, Robert Sakata, Greg Felt, Celene Hawkins, Jaclyn Brown, Heather Dutton, Jessica Brody, 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; Kevin Rein, State Engineer; and Rebecca Mitchell, Colorado Water Conservation Board Director. Counsel to the Board, Jen Mele, was also in attendance.

**Wednesday, January 24, 2022**

**1 Review /Approve Agenda**

A motion to approve the agenda was made by Celene Hawkins, which was seconded by Greg Felt. The motion was approved unanimously (8-0).

**2 Review and Approve November 17-18, 2021 Board Meeting Minutes**

A motion to approve the November 2021 Board minutes was made by Robert Sakata, which was seconded by Jackie Brown. The motion was approved unanimously (8-0).

**3 Approve and/or Remove Consent Agenda Items**

Director Robert Sakata disclosed for consent agenda item 3b that he is a member of the Rocky Mountain Farmers Union but does benefit monetarily from his membership.

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

**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. 21CW0005 (Water Division 5): Application of Summit Land Co.
- b. Case No. 21CW3087 (Water Division 5): Application of Merriman Living Trust dated August 27, 2007, as amended
- c. Case No. 21CW3125 (Water Division 5): Application of Mystery Ranch LLC
- d. Case No. 21CW3132 (Water Division 5): Application of Eagle-Vail Metropolitan District

**2. Flood Plain Designations**

*Watershed and Flood Protection Section*

- a. "Flood Insurance Study, Adams County and Incorporated Areas", by FEMA, dated December 2, 2021
- b. "Flood Insurance Study, Douglas County and Incorporated Areas", by FEMA, dated December 2, 2021
- c. "Flood Insurance Study, Rio Blanco County and Incorporated Areas ", by FEMA, dated December 2, 2021

- d. “Flood Hazard Area Delineation, Niver Creek, Tributary L, and Tributary M”, by Jacobs Engineering Group, dated August 2021

**3. Change to Existing Grants**

*Finance Section*

- a. Water Plan Grant - Change of Grantee - Colorado’s Rio Grande Basin Water Cooperative Project
- b. Technical Assistance for Federal Cost-Share Grant - Grant Increase - Rocky Mountain Farmers Union - Natural Working Land Climate Solutions Coordination for Water Resource Co-Benefits

**4. Technical Assistance for Federal Cost-Share Grant (TAFC)**

*Finance Section*

<b>4</b>	<b>Directors’ Reports</b>
<b>4a.</b>	DNR Executive Director/IBCC Director - Dan Gibbs
<b>4b.</b>	CWCB Director - Rebecca Mitchell
<b>4c.</b>	Agriculture Commissioner – Kate Greenberg
<b>4d.</b>	State Engineer - Kevin Rein
<b>4e.</b>	Colorado Parks and Wildlife Director – Robert Harris
<b>4f.</b>	Water Resource and Power Development Authority – Jim Griffiths
<b>5</b>	<b>Financial Matters – Construction Fund and Severance Tax Perpetual Base Fund</b>
	<i>Finance Section</i>
<b>5a.</b>	<b>Financial Projections and Cash Management Report</b>
	<b>Action:</b> Report by CWCB staff member Kirk Russell.
	<i>This is an informational item with no Board action required.</i>
<b>6</b>	<b>Water Project Loans</b>
	<i>Finance Section</i>
<b>6a.</b>	<b>Town of Dove Creek – Reservoir No. 2</b>

	<p><b>Action:</b> Report by CWCB staff member Rachel Pittinger, Ken Curtis with DWCD addressed the Board. Public comment was given to the Board by Brett Martin and Dagan Chadd. A motion to approve the staff recommendation was made by Celene Hawkins, which was seconded by Heather Dutton. The motion was approved unanimously (8-0).</p> <p><b>Staff Recommendation:</b> Staff recommends the Board approve a loan not to exceed \$808,000 (\$800,000 for Project costs and \$8,000 for the 1% service fee) to the Town of Dove Creek, acting by and through its water activity enterprise, for costs related to the design and construction of Reservoir No. 2, from the Construction Fund. The loan term will be 30 years at an interest rate of 1.55% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.</p>
<b>6b.</b>	<p><b>Triview Metropolitan District – Stonewall Springs Reservoir Complex</b></p> <p><b>Action:</b> Report by CWCB staff member Rachel Pittinger. Public comment was given to the Board by Jim McGrady and Chris Cummins. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Robert Sakata. The motion was approved unanimously (8-0).</p> <p><b>Staff Recommendation:</b> Staff recommends the Board approve a loan not to exceed \$4,778,310 (\$4,731,000 for Project costs and \$47,310 for the 1% service fee) to the Triview Metropolitan District, acting by and through its water activity enterprise, for costs associated with the Stonewall Springs Reservoir Complex, from the Construction Fund. The loan term will be 30 years at an interest rate of 2.05% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.</p>
<b>7</b>	<p><b>Change to Existing Loan</b> <i>Finance Section</i></p>
<b>7a.</b>	<p><b>Platte River Recovery Implementation Program</b> <i>Interstate, Federal, and Water Information Section</i></p> <p><b>Action:</b> Report by CWCB staff member Cole Bedford. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Robert Sakata. The motion was approved unanimously (8-0).</p> <p><b>Staff Recommendation:</b> Staff recommends the Board approve a loan increase not to exceed a total loan amount of \$515,100 (\$510,000 for the Project costs and \$5,100 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. This is an increase of \$136,350 (\$135,000 for Project costs and \$1,350 for the 1% service fee). The loan terms shall remain 20 years at an interest rate of 1.25% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.</p>
<b>8</b>	<p><b>2022 Projects Bill Summary</b> <i>Finance Section</i></p> <p><b>Action:</b> Report by CWCB staff member Kirk Russell.</p>

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

**9 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..*

**10 Water Conservation and Drought Updates**

*Water Supply Planning Section*

**Action:** Report by CWCB staff member Kat Weismiller

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

**11 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.*

**12 WSRF – Change of Scope to the “Schaefer Farms Conservation Easement” Grant**

*Water Supply Planning Section*

**Action:** Report by CWCB staff member Ben Wade and AG staff members Jen Mele and Patrick Barker. John Peters addressed the Board. A motion to approve the staff recommendation was made by Heather Dutton, which was seconded by Greg Felt. The motion was approved unanimously (8-0).

**Staff Recommendation:** Staff recommends the CWCB Board approve the change in the project scope to assist the purchase of the LGM Farms Conservation Easement.

Applicant	Project	Grant Request Amount	Staff Recommendation
Rocky Mountain Field Institute	Enhancing Watershed Resiliency in the Pike National Forest through the Implementation of Multi-Year and Multi-Faceted Watershed Health Improvement Projects	\$250,000	\$100,000
River Science	Big Cottonwood Long-term Recovery & Restoration	\$99,344	\$99,344
Boulder Watershed Collective	Resilient Headwaters Planning Project	\$375,264	\$145,000
Left Hand Watershed Center	Multi-Benefit Projects and Tools for Increasing Watershed Resilience in the St. Vrain	\$490,000	\$75,000

	RiversEdge West	Grand Valley Fluvial Hazard Mapping and Riparian Coordination	\$157,434	\$80,000
	City of Glenwood Springs	Three Mile Creek Confluence Restoration Project	\$158,000	\$130,000
	Rio Grande Headwaters Restoration Project	Rio Grande Corridor Restoration Project at Alamosa National Wildlife Refuge	\$288,000	\$250,000
	Conservation Legacy	Dolores Restoration Project Implementation and Support	\$188,695	\$150,000
	Colorado Watershed Assembly	Development of High Resolution Wetland Maps for Colorado Using Machine Learning Techniques	\$177,200	\$177,200
	River Network	Stream Management Plan Peer Learning Network 2022-24	\$228,727	\$228,727
	Purgatoire Watershed Partnership	Purgatoire River Integrated Water Management Planning Phase 2	\$152,000	\$152,000
	Learning By Doing	Grand County Stream Management Plan Update Phase 1	\$207,725	\$207,725
	River Network	West Plum Creek Stream Management Plan Phase 1	\$220,787	\$220,787
	Mancos Conservation District	Mancos Watershed Stream Management Plan Phase 2	\$596,000	\$300,000
<b>13</b>	<b>Colorado Watershed Restoration Program, Grant Funding Recommendations</b>			
	<i>Watershed and Flood Protection Section</i>			
	<b>Action:</b> Report by CWCB staff members Chris Sturm, Andrea Harbin-Monahan, and Steven Reeves. A motion to approve the staff recommendation was made by Celene Hawkins, which was seconded by Heather Dutton. The motion was approved unanimously (8-0).			
<b>13a.</b>	<b>Rocky Mountain Field Institute – Enhancing Watershed Resiliency in the Pike National Forest through the Implementation of Multi-Year and Multi-Faceted Watershed Health Improvements Projects.</b>			
	<b>Action:</b> Report by CWCB staff member Andrea Harbin-Monahan.			
<b>13b.</b>	<b>River Science – Big Cottonwood Long-Term Recovery &amp; Restoration</b>			
	<b>Action:</b> Report by CWCB staff member Andrea Harbin-Monahan, Chelsey Nutter addressed the Board.			

13c.	<b>Boulder Watershed Collective – Resilient Headwaters Planning Project</b>
	<b>Action:</b> Report by CWCB staff member Andrea Harbin-Monahan, Maya MacHammer addressed the Board.
13d.	<b>Left Hand Watershed Center – Multi-Benefit Projects and Tools for Increasing Watershed Resilience in the St. Vrain</b>
	<b>Action:</b> Report by CWCB staff member Andrea Harbin-Monahan.
13e.	<b>RiversEdge West – Grand Valley Fluvial Hazard Mapping and Riparian Coordination</b>
	<b>Action:</b> Report by CWCB staff member Steve Reeves, Rusty Lloyd addressed Board.
13f.	<b>City of Glenwood Springs – Three Mile Creek Confluence Restoration Project</b>
	<b>Action:</b> Report by CWCB staff member Steve Reeves, Trent Hyatt addressed the Board.
13g.	<b>Rio Grande Headwaters Restoration Project – Rio Grande Corridor Restoration Project at Alamosa National Wildlife Refuge</b>
	<b>Action:</b> Report by CWCB staff member Steve Reeves, Daniel Boyes addressed the Board.
13h.	<b>Conservation Legacy – Dolores Restoration Project Implementation and Support</b>
	<b>Action:</b> Report by CWCB staff member Steve Reeves.
13i.	<b>Colorado Watershed Assembly – Development of High Resolution Wetland Maps for Colorado Using Machine Learning Techniques</b>
	<b>Action:</b> Report by CWCB staff member Steve Reeves, Paige Weil addressed the Board.
13j.	<b>River Network – Stream Management Plan Peer Learning Network 2022-24</b>
	<b>Action:</b> Report by CWCB staff member Chris Sturm, Nicole Seltzer addressed the Board.

13k.	<b>Purgatoire Watershed Partnership – Purgatoire River Integrated Water Management Planning Phase 2</b>
	<b>Action:</b> Report by CWCB staff member Chris Sturm, Julie Knudson addressed the Board.
13l.	<b>Learning By Doing – Grand County Stream Management Plan Update Phase 1</b>
	<b>Action:</b> Report by CWCB staff member Chris Sturm, Anna Drexler-Dreis addressed the Board.
13 m.	<b>River Network – West Plum Creek Stream Management Plan, Phase 1</b>
	<b>Action:</b> Report by CWCB staff member Chris Sturm, Nicole Seltzer addressed the Board.
13n.	<b>Mancos Conservation District – Mancos Watershed Stream Management Plan Phase II</b>
	<b>Action:</b> Report by CWCB staff member Chris Sturm, Gretchen Rank addressed the Board.
14	<b>Attorney General’s Report, Legal Briefing, and Executive Session</b>
	<b>Action:</b> Report by Attorney General Phil Weiser and Counsel to the Board, Jen Mele. A motion to go into Executive Session was made by Jackie Brown, which was seconded by Greg Felt. The motion was approved unanimously (8-0).
15	<b>Executive Session</b>
a.	South Platte River Matters
16	<b>Report from Executive Session</b>
	<b>Action:</b> Report by Counsel to the Board, Jen Mele. A motion to go out of Executive Session was made by Greg Felt, which was seconded by Jackie Brown. The motion was approved unanimously (8-0)
17	<b>Request for Authorization to Proceed to Trials in Stipulated Opposition Cases:</b> <i>Stream and Lake Protection Section</i>



**17b Case No. 19CW3061 (Water Division 2): Application of Thomas H. Smith**

**Action:** Report by CWCB staff member Colin Watson. A motion to approve the staff recommendation was made by Jackie Brown, which was seconded by Celene Hawkins. The motion was approved unanimously (-0).

**Staff Recommendation:** Pursuant to ISF Rule 8j. Staff recommends that the Board authorize Staff to participate at trial, as necessary, to defend CWCB’s stipulation in the case identified in Table 1.

**Table 1**

Div.	Case No.	Applicant	Trial Date (No. of Days)	CWCB Stipulation Date	CWCB Statement of Opposition Date
1	19CW3061	Thomas H. Smith	March 7, 2022 (3 days)	October 28, 2021	November 25, 2019

**18 Proposed Temporary Acquisitions for Instream Flow Use**  
*Stream and Lake Protection Section*

**18a Proposed Lease of Ruedi Reservoir Water for Instream Flow Use on the Fryingpan River and the 15-Mile Reach of the Colorado River, Water Division 5 (2<sup>nd</sup> Meeting)**

**Action:** Report by CWCB staff member Pete Conovitz. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Robert Sakata. The motion was approved unanimously (8-0).

**Staff Recommendation:** The recommendation is for the Board to direct Staff to move forward with the proposed lease including: 1) authorizing Staff to execute an agreement with the Colorado River Water Conservation District for the lease of water, and 2) authorizing an expenditure of up to \$122,062.50 for this lease.

Pursuant to Rule 6b of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program (“ISF Rules”), the Board’s initial consideration of this proposal at the November 2021 meeting initiated the 120-day Board review period. No public requests to hold a hearing on the proposed lease have been received, and therefore the Board may take action and direct staff to “move forward” with the proposed lease at this January 2022 meeting.

**18b** Proposed Renewable Temporary Loan of Lake Avery (aka Big Beaver Creek Reservoir) Water for Instream Flow Use on Big Beaver Creek and The White River, Water Division 6 (2<sup>nd</sup> Meeting)

**Action:** Report by CWCB staff member Kaylea White. A motion to approve the staff recommendation was made by Jackie Brown, which was seconded by Greg Felt. The motion was approved unanimously (8-0).

**Staff Recommendation:** The recommendation is for the Board to direct Staff to move forward with the loan proposal including: (1) authorizing Staff to execute an agreement for the loan of water, and (2) to take any administrative action necessary to put the loaned water to ISF use, provided that the State Engineer determines that no injury will result from the proposed loan.

Pursuant to 37-83-105(2), C.R.S. (2020) and ISF Rule 6k(2), this meeting is the second of a two-Board meeting process to review, consider any public comment, and approve or reject a proposal for a temporary renewable loan of water. No requests for additional hearings were received following the initial presentation of this lease proposal at the November 2021 Board meeting. During this meeting, the Board may direct Staff to “move forward” with the loan proposal pursuant to 37-83-105(2), after which staff will work with the Applicant to file a request for approval of the loan with the Division of Water Resources (“DWR”), along with the appropriate public notices. Filing the notices and request for approval will initiate a 60-day public comment period for DWR’s review.

**18c** Proposed Renewable Temporary Lease of Stagecoach Reservoir Water for Instream Flow Use on the Upper Yampa River, Water Division 6 (1<sup>st</sup> Meeting)

**Action:** Report by CWCB staff member Kaylea White. Alyson Gould, Andy Rossi, and Ken Brenner addressed the Board.

**Staff Recommendation:** No formal action is required at this time. Pursuant to ISF Rule 6k(2), the Board will use a two-Board meeting process to review, consider public comment and approve or reject a proposal for a temporary renewable lease of water. The CWCB’s consideration of the lease at this meeting will initiate this process and begin a twenty day period in which any person may request the Board to hold a hearing on the proposed loan.

**18d** Proposed Renewable Temporary Lease of Water from Several Ditches for Instream Flow Use on Tomichi Creek, Water Division 4 (1<sup>st</sup> Meeting)

**Action:** Report by CWCB staff member Pete Conovitz. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Robert Sakata. The motion was approved unanimously (8-0).

**Staff Recommendation:** No formal action is required at this time. Pursuant to 37-83-105(2) C.R.S. (2020) and ISF Rule 6k(2), the Board will use a two-Board meeting

process to review, consider public comment and approve or reject a proposal for a temporary renewable lease of water. The Board’s consideration of the lease at this meeting will initiate this process and begin a twenty day period in which any person may request the Board to hold a hearing on the proposed loan. 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. After the second CWCB meeting, the Board may direct Staff to “move forward,” after which the Applicant shall file a request for approval of the lease with the Division of Water Resources (“DWR”), which will initiate a 60-day comment period for DWR’s review.

**19 2022 Instream Flow Appropriations in Water Divisions 4, 5, and 6**

*Stream and Lake Protection Section*

**Action:** Report by CWCB staff member Rob Viehl. A motion to approve the staff recommendation was made by Celene Hawkins, which was seconded by Jackie Brown. The motion was approved unanimously (8-0).

**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 direct staff to publicly notice the Board's declaration of its intent to appropriate.

**Table 1.**

Div	Stream	Water-shed	County	Length (miles)	Upper Terminus	Lower Terminus	Flow Rate cfs/Timing
4	Italian Creek (Increase)	East-Taylor	Gunnison	2.42	Confluence South Italian Creek	Confluence Taylor River	0.7 (04/01-10/31)
4	Lottis Creek (Increase)	East-Taylor	Gunnison	10.33	Headwaters	Confluence Taylor River	2.1 (04/01-10/31)
4	Spring Creek	San Miguel	Montrose	7.47	Headwaters	Crabtree Ditch Headgate	1.1 (03/15-05/31)
5	Kinney Creek (Increase)	Colorado headwaters	Grand	6.31	Headwaters	Confluence McQueary Creek	0.7 (05/01-07/15)
5	Spruce Creek (Increase)	Blue	Grand Summit	3.54	Headwaters	Hoagland Canal Headgate	0.4 (04/15-06/30)
6	Deep Creek	Upper Yampa	Routt	2.45	Headwaters	Confluence Steamboat Lake	0.3 (10/01-04/30) 2.5 (05/01-07/31) 0.95 (08/01-09/30)
6	Watson Creek	Upper Yampa	Routt	5.86	Confluence Moody Creek	Hardscrabble Ditch Headgate	1.1 (08/16-03/31) 1.9 (04/01-06/21)

**Tuesday, January 25, 2022**

**20 Basin Directors' Reports**

**20a.** Gunnison River Basin Director's Report – *Steve Anderson*

**20b.** North Platte River Basin Director's Report – *Curran Trick*

**20c.** South Platte River Basin Director's Report – *Robert Sakata*

**20d.** Arkansas River Basin Director's Report – *Greg Felt*

**20e.** City and County of Denver Director's Report – *Jessica Brody*

**20f.** Rio Grande River Basin Director's Report – *Heather Dutton*

**20g.** Yampa-White River Basin Director's Report – *Jackie Brown*

**20h.** Colorado River (Mainstem) Basin Director's Report – *Gail Schwartz*

**20i.** San Juan/San Miguel-Dolores River Basin Director's Report – *Celene Hawkins*

**21 A Problem for All Takes All to Solve. Leaders from the Rocky Mountain Restoration Initiative Share Landscape-Level Accomplishments and Program Updates**

**Action:** Report by CWCB staff Lauren Ris. Kate McIntire, National Wild Turkey Federation and Tara Umphries, Shared Stewardship and RMRI for the USFS presented to the Board.

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

**22 2022 Species Conservation Trust Fund Eligibility List Approval**

*Interstate, Federal, and Water Information Section*

**Action:** Report by CWCB staff member Amy Ostdiek. A motion to approve the staff recommendation was made by Robert Sakata, which was seconded by Celene Hawkins. The motion was approved unanimously (9-0).

**Staff Recommendation:** Staff recommends that the Board:  
(1) concur with the DNR Executive Director's proposed recommendations to the General Assembly to approve a total expenditure of up to \$6 million from the Species Conservation Trust Fund (SCTF) for FY 2022-23, including up to \$3 million for the Colorado Water Conservation Board (CWCB) priorities outlined herein; and

(2) forward a statement of concurrence to the Colorado Parks and Wildlife (CPW) Commission.

A final decision on the amount authorized for new projects in the 2022 legislation will be made following the March 2022 revenue forecast.

**23** **Colorado Water Plan Workshop**  
*Water Supply Planning Section*

**Action:** Presentation by CWCB staff members Russell Sands and Kat Weismiller and facilitators Stacey Beough and Matt Lindburg. Catherine Moravec, Ken Brenner, and Abby Burk gave public comment to the Board.

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

**ADJOURN**

A motion to adjourn the January 2022 Board meeting was made by Steve Anderson, which was seconded by Celene Hawkins. The motion was approved unanimously (8-0).