

DRAFT

Summary Minutes and Record of Decisions

July 20 & 21, 2022 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the History Colorado Center in Denver and virtually on zoom. The meeting was called to order by Chair Jackie Brown. 9 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, 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: Scott Steinbrecher, Attorney General's Office; Robert Harris, Colorado Parks and Wildlife; Bethany Howell, 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 Jaclyn Brown. 9 voting members were present at the call to order, so a quorum was present (at least 6 required). The voting members present were: Jessica Brody, Steven Anderson, Curran Trick, Robert Sakata, Greg Felt, Celene Hawkins, Jaclyn Brown, and Heather Dutton. 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, July 20, 2022

1 Review /Approve Agenda

A motion to approve the agenda with the amendment of moving agenda item 20 to the end of day one was made by Greg Felt, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).

2 Review and Approve May 17 & 18, 2022 Board Meeting Minutes

A motion to approve the May 2022 Board minutes with the following corrections; missing 2nd vote on agenda item 9, should be Paul Bruchez and Jessica Brody. Agenda item 15c was an informational item on Spring Creek ISF appropriation, not Highland Investment Co. and agenda item 17 was presented by Kaylea White not Elizabeth Schroder; was made by Robert Sakata, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).

3 Approve and/or Remove Consent Agenda Items

A motion to approve the Consent Agenda Items 1a-b, 2a, and 3 was made by Greg Felt, which was seconded by Jessica Brody. The motion was approved unanimously (9-0).

4 Directors' Reports

4a. DNR Executive Director/IBCC Director - Dan Gibbs

4b. CWCB Director - Rebecca Mitchell

4c. Agriculture Commissioner – Bethany Howell

4d. State Engineer - Kevin Rein

4e. Colorado Parks and Wildlife Director – Robert Harris

4f. Water Resource and Power Development Authority – Jim Griffiths

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

Action: Report by Attorney General staff member Scott Steinbrecher and Counsel to the Board, Jen Mele. A motion to go into Executive Session was made by Greg Felt, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).

6 Executive Session

- 6a Colorado River Interstate Matters
- 6b Rio Grande Settlement
- 6c Best Practices for Boards and Commissions
- 6d Conflicts of Interest

Report from Executive Session

7

Action: 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 Steve Anderson. The motion was approved unanimously (9-0)

8 Colorado River Updates

Interstate, Federal, and Water Information Section

Action: Report by CWCB staff members Amy Ostdiek and Michelle Garrison. Bart Miller with the Western Resource Advocates addressed the Board during public comment.

This is an informational item with no Board action required.

9 Colorado Airborne Snow Measurements Group Update

Interstate, Federal, and Water Information Section

Action: Report by CWCB staff member Andrew Rickert. Jeff Deems with ASO, Inc., Taylor Winchell with Denver Water, and Ken Curtis addressed the Board.

This is an informational item with no Board action required.

10 Wild and Scenic Rivers Update and Fund Annual Review

Interstate, Federal, and Water Information Section

Action: Report by CWCB staff member Andrew Rickert. A motion to approve the staff recommendation was made by Jessica Brody, which was seconded by Celene Hawkins. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board: 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) Affirm that the existing Terms and Conditions for the Allocation of Funds from the Wild and Scenic Rivers Fund are adequate without revisions.

11 Fish and Wildlife Resources Fund – Criteria Update

Watershed and Flood Protection Section

Action: Report by CWCB staff member Chris Sturm.

This is an informational item with no Board action required.

12 American Recovery Plan Act Funded Programs Update

Operations Section

Action: Report by CWCB staff member Anna Mauss.

This is an informational item with no Board action required.

13 Infrastructure Investment and Jobs Act – Guidelines for Technical Assistance Grants

Operations Section

Action: Report by CWCB staff member Anna Mauss. A motion to approve the staff recommendation was made by Heather Dutton, which was seconded by Celene Hawkins. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve the Infrastructure Investment and Jobs Act Contract Technical Assistance and Local Capacity Grant Guidelines. Staff also recommends delegation of grant approval to the CWCB Director.

20 Perpetual Base Fund Transfer to the Water Supply Reserve Fund

Action: Report by CWCB staff member Lauren Ris. A motion to approve the staff recommendation was made by Celene Hawkins, which was seconded by Steve Anderson. The motion was approved unanimously (9-0).

Staff Recommendation: Pursuant to SB21-281, staff recommends the Board direct the State Treasurer to transfer \$17,000,000 from the Severance Tax Perpetual Base Fund to the Water Supply Reserve Fund upon approval.

Thursday, July 21, 2022

14 Basin Directors' Reports

14a Yampa-White River Basin Director's Report – *Jackie Brown*

14b Colorado River (Mainstem) Basin Director's Report – *Paul Bruchez*

14c San Juan/San Miguel-Dolores River Basin Director's Report – *Celene Hawkins*

14d Gunnison River Basin Director's Report – *Steve Anderson*

14e North Platte River Basin Director's Report – *Absent*

14f South Platte River Basin Director's Report – *Robert Sakata*

14g Arkansas River Basin Director's Report – *Greg Felt*

14h City and County of Denver Director's Report – *Jessica Brody*

14i Rio Grande River Basin Director's Report – *Heather Dutton*

15 2022 ISF Appropriations

15a Final Action on Deep Creek (Water Division 6)

Action: Report by CWCB staff member Rob Viehl. A motion to approve the staff recommendation was made by Heather Dutton, which was seconded by Celene Hawkins. The motion was approved unanimously (9-0).

Staff Recommendation: Staff requests that the Board make the following determinations and take the following actions on the Deep Creek instream flow (ISF) appropriation identified in Table 1. The information necessary to support these determinations are contained in this memo, the recommendation letter and documentation submitted by the Bureau of Land Management, and in staff's memo and oral presentation provided at the January 24, 2022 Board meeting. (1) Determine, pursuant to section 37-92-102(3), C.R.S. (2022), that for the Deep Creek ISF appropriation identified in Table 1: (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 24, 2022 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.

Table 1.

Div	Stream	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus	Flow Rate cfs/ Timing
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)

15b Cancellation of the Intent to Appropriate ISF Water Rights on Spring Creek (Water Division 4)

Action: Report by CWCB staff member Rob Viehl. A motion to approve the staff recommendation was made by Celene Hawkins, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board cancel its intent to appropriate an instream flow (ISF) water right on the following reach of Spring Creek in Water Division 4:

Div	Stream	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus	Flow Rate cfs/Timing
4	Spring Creek	San Miguel	Montrose	7.47	headwaters	Crabtree Ditch headgate	1.1 (03/15-05/31)

16 Proposed One-Year Implementation of Previously Approved Garfield County Water Lease Agreement to Use Ruedi Reservoir Water For Instream Flow Use on the 15-Mile Reach (Water Division 5)

Stream and Lake Protection Section

Action: Report by CWCB staff member Pete Conovitz. A motion to approve the staff recommendation was made by Paul Bruchez, which was seconded by Celene Hawkins. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board approve: (1) a one-year implementation of the previously approved Water Lease Agreement for up to 350 acre-feet of water stored in Ruedi Reservoir from Garfield County at a cost of \$45.90 per acre-foot, and (2) an expenditure of up to \$16,065 from the Species Conservation Trust Fund, subject to the following conditions:

1. Implementation of the Water Lease Agreement shall not cause releases out of Ruedi Reservoir to exceed 300 cfs and shall not cause flows in the Fryingpan River below Ruedi Reservoir to exceed 350 cfs. Staff shall coordinate with the Bureau of Reclamation to ensure meeting this condition.
2. CWCB staff shall consult and coordinate with Colorado Parks and Wildlife staff on the proposed releases to minimize any impacts to the fishery on the Fryingpan River below Ruedi Reservoir.

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

17a. Financial Projections and Cash Management Report

Action: Report by CWCB staff member Kirk Russell.
This is an informational item with no Board action required.

18 Water Project Loans

18a Grand View Irrigation Company – Siphon Repair Project

Action: Report by CWCB staff member Cole Bedford. A motion to approve the staff recommendation was made by Celene Hawkins, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$353,000 (\$350,000 for project costs and \$3,500 for the 1% service fee) to the Grand View Irrigation Company for costs related to the Siphon Repair Project, from the Severance Tax Perpetual Base Fund. The loan term will be 30 years at an interest rate of 2.25% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

18b Sunnyside Park Ditch Company – Sunnyside Park Ditch Piping Project

Action: Report by CWCB staff member Cole Bedford. Nancy Roberts addressed the Board. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Paul Bruchez. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$654,480 (\$648,000 for project costs and \$6,480 for the 1% service fee) to the Sunnyside Park Ditch Company for costs related to the Sunnyside Park Ditch Piping Project, from the Severance Tax Perpetual Base Fund. The loan term will be 10 years at an interest rate of 1.00% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

19 Water Plan Update
Water Supply Planning Section

Action: Report by CWCB staff member Russ Sands. Don Baumgardt and Alec Fleischer addressed the Board during public comment.

This is an informational item with no Board action required.

ADJOURN

A motion to adjourn the July 2022 Board meeting was made by Steve Anderson, which was seconded by Greg Felt. The motion was approved unanimously (9-0).