

# STATE OF COLORADO

## Colorado Water Conservation Board Department of Natural Resources

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### November 18-19, 2008 Agenda

A meeting of the Colorado Water Conservation Board (CWCB) will commence on Tuesday, November 18, 2008, at 8:00 a.m. and continue through Wednesday, November 19, 2008. This meeting will be held at The Timbers Hotel, 4411 Peoria Street, Denver, Colorado 80239, (800) 844-9404.

The CWCB posts notices of its meetings on the web site and on the door of its main office. Notices of regular meetings are in the form of an Agenda Item and are posted on the web site and the door of its main office not less than 30-days from the next regular meeting. Notices of special meetings are posted on the web site within five business days, and not less than 24-hours of such a meeting. Notices of regular and special meetings may also be received by email. To receive notices by email visit: <http://cwcb.state.co.us/Home/CWCBInsider/>.

Although dates and times are indicated in this notice and in the following agenda, the CWCB may address and take action on noticed items in any order. Known changes will be announced at the beginning of the meeting. This notice, any late notice (s) of additional items, and briefing memos prepared for the CWCB will be posted at 1313 Sherman Street, Suite 721, Denver, CO 80203, and on our Internet Website at: [www.cwcb.state.co.us](http://www.cwcb.state.co.us).

CWCB encourages citizens to express their views and provide information to the Board on every agenda item. This can be done by sending an email to [lisa.barr@state.co.us](mailto:lisa.barr@state.co.us), by sending a letter to the Board Director or its Chairman, or by attending the meeting. If you attend a meeting, simply fill out a comment sheet and give it to the Board Coordinator at the recording station. The Board will appreciate hearing your views when it reaches that agenda item. If you have any questions, need special accommodations as a result of a disability, or require further information on any CWCB activity, please contact Lisa Barr at 303-866-3441, Ext. 3244. All programs, services, and activities of the CWCB are operated in compliance with the Federal Americans with Disabilities Act (ADA).

### **Tuesday, November 18, 2008** **CWCB Call to Order – 8:00 a.m.**

1. Review and Approval of Agenda (8:00 – 8:05)
2. Review and Approval of Meeting Minutes (8:05 – 8:10)
  - a. September 16-17, 2008 Board Meeting
  - b. July 22-23, 2008 Board Meeting Minutes correction

Bill Ritter, Jr.  
Governor

Harris D. Sherman  
DNR Executive Director

Jennifer L. Gimbel  
CWCB Director

Dan McAuliffe  
CWCB Deputy Director

3. Approve and/or Remove Items from Consent Agenda (8:10 – 8:15)

4. Future Board Meeting Dates (8:15 – 8:20)

- a. January 27-28, 2009                      Hilton Garden Inn, DTC, Denver (in connection with Colorado Water Congress)
- b. March 17-18, 2009                      The Radisson Hotel & Conference Center, Longmont
- c. May 19-20, 2009                      Pueblo
- d. July 21-22, 2009                      The Elevation Hotel, Crested Butte (in Connection with the Colorado Water Workshop)
- e. September 15-16, 2009                      Steamboat Springs
- f. November 17-18, 2009                      Denver

5. Stream and Lake Protection Section – Notice of 2009 Instream Flow Recommendations in Water Divisions 2, 4, 5, and 6 – Pursuant to ISF Rule 5c., the CWCB is providing notice that the following streams are being considered for instream flow appropriations in 2009. At the January 2009 CWCB meeting, staff may request the Board to form its intent to appropriate ISF water rights on these streams. (8:20 – 8:35)

Division	Stream	County(ies)	Recommender(s)
2	Gibson Creek	Custer	CDoW
2	Huerfano River (lower)	Huerfano	CDoW
2	Huerfano River (upper)	Huerfano	CDoW
2	Maxwell Creek	Chaffee	CDoW
2	Rock Creek	Lake	CDoW
2	Cucharas River	Huerfano	CDoW
2	Purgatoire River	Las Animas	CDoW
2	South Fork Purgatoire River	Las Animas	CDoW
4	Bent Creek - <i>increase</i>	Hinsdale	BLM
4	Clear Fork, E. Muddy Cr	Gunnison	CDoW, TU
4	East Elk Creek – <i>increase</i>	Gunnison	BLM, CDoW
4	Grizzly Gulch	Hinsdale	BLM, TU
4	Henson Creek - <i>increase</i>	Hinsdale	BLM
4	Little Spring Creek	Gunnison	BLM
4	Schafer Gulch – <i>increase</i>	Hinsdale	BLM
4	Tabeguache Creek	Montrose	BLM
5	Buzzard Creek	Mesa	CDoW, TU
5	Corral Creek	Grand	BLM
5	Troublesome Creek (lower)	Grand	BLM

5	Troublesome Creek (upper)	Grand	BLM
6	Grizzly Creek	Routt	CDoW, TU
6	Moeller Creek	Rio Blanco	CDoW
6	South Fork Slater Creek	Routt	CDoW, TU
6	West Prong South Fork Slater Crk	Routt	CDoW, TU

\*CDoW (Colorado Division of Wildlife), TU (Trout Unlimited) and BLM (Bureau of Land Management)

6. Stream and Lake Protection Section – Instream Flow Rules Revisions – *Staff will request authorization from the Board to initiate the formal rulemaking process.* (8:35 – 9:05)
7. Intrastate Water Management & Development Section – Water Supply Reserve Account Grant Applications (9:05 – 10:15)

**BREAK 10:15 – 10:30**

8. Intrastate Water Management & Development Section – Alternative Agricultural Transfer Grants – (10:30 – 11:15)
9. Intrastate Water Management & Development Section – Water Demands to 2050 (11:15 – 11:30)
10. Intrastate Water Management & Development Section – Water Supply Reserve Account Criteria and Guidelines (11:30 – 12:00)

**LUNCH 12:00 – 1:00**

11. Directors’ Reports (1:00 – 2:00)
  - a. DNR Executive Director
  - b. IBCC Director
  - c. Agriculture Commissioner
  - d. CWCB Director
  - e. State Engineer
  - f. Division of Wildlife
  - g. Water Resource and Power Development Authority
12. Water Supply Protection Section – Colorado River Banking Concept – Presentation by the Colorado River Water Conservation District and Southwest Water Conservation District - (2:00 – 2:20)
13. Water Supply Protection Section – Wild and Scenic River Alternative Processes (2:20-2:40)

**BREAK 2:40 – 2:55**

14. Attorney General’s Report, Legal Briefing and Executive Session – *This is a briefing on legal issues contained in the Attorney General’s written report and on items listed below that*

*the Board may refer for discussion in an Executive Session based upon attorney-client privilege. (2:55– 3:55)*

Executive Session Items:

- a) Case No. 07CW137; Application of the City of Golden
- b) Case No. 08CW72; Application of Eagle River Water & Sanitation District
- c) Case No. 08CW73; Application of the City of Breckenridge
- d) Case No. 1-07CW123; Application of Colorado Mountain Properties
- e) Case No. 7-06CW102; Application of Durango Commercial Development
- f) Case No. 6-06CW52; Application of D & S Development Group
- g) Case No. 6-03CW053; Application of Upper Yampa Water Conservancy District
- h) Case No. 4-99CW267 and 4-99CW268; Applications of the United States of America
- i) Case No. 5-06CW77; Application of the Town of Carbondale

15. Report from Executive Session (3:55 – 4:00)

16. Water Supply Protection Section – Litigation Account Expenditure Authorization (4:00 – 4:20)

17. Stream and Lake Protection Section – Authorization to Proceed to Trial – Case No. 1-07CW123; Application of Colorado Mountain Properties, Inc. – *Pursuant to ISF Rule 8j., the CWCB staff will seek authorization to proceed to trial in this application for a plan for augmentation including exchange.* (4:20 – 4:30)

18. Stream and Lake Protection Section – Authorization to Proceed to Trial – Case No. 7-06CW102; Application of Durango Commercial Development, LLC - *Pursuant to ISF Rule 8j., the CWCB staff will seek authorization to proceed to trial in this application for change of water rights and a plan for augmentation.* (4:30 – 4:40)

19. Stream and Lake Protection Section – Authorization to Proceed to Trial – Case No. 6-06CW52; Application of D & S Development Group, LLC - *Pursuant to ISF Rule 8j., the CWCB staff will seek authorization to proceed to trial in this application for a plan for augmentation.* (4:40 – 4:50)

20. Stream and Lake Protection Section – Authorization to Proceed to Trial – Case No. 6-03CW53; Application of Upper Yampa Water Conservancy District - *Pursuant to ISF Rule 8, the CWCB staff will seek; (1) ratification of a Statement of Opposition filed via a Motion to Intervene; and (2) authorization to proceed to trial in this application for a plan for augmentation.* (4:50 – 5:00)

**RECESS 5:00 p.m.**

**Wednesday, November 19, 2008**

**CWCB Call to Order**

**8:00 a.m.**

21. Water Supply Planning and Finance Section – Financial Matters – Construction Fund and Severance Tax Trust Fund Perpetual Base Account Annual Financial Statement (8:00 – 8:30)
22. Water Supply Planning and Finance Section – Estimate of Funds Available for New Projects in 2008 (8:30 - 9:00)
  - a. CWCB Construction Fund – Loans and Non-Reimbursable Investments
  - b. Severance Tax Trust Fund Perpetual Base Account
23. Report on the events/discussion of the October 28, 2008 Board Retreat (9:00 – 9:20)
24. Basin Directors' Reports (9:20– 10:20)
  - a. Colorado River (Mainstem) Basin Director's Report
  - b. Yampa-White River Basin Director's Report
  - c. San Juan/San Miguel-Dolores River Basin Director's Report
  - d. Gunnison River Basin Director's Report
  - e. North Platte River Basin Director's Report
  - f. South Platte River Basin Director's Report
  - g. Arkansas River Basin Director's Report
  - h. City and County of Denver Director's Report
  - i. Rio Grande River Basin Director's Report

**BREAK 10:20 – 10:35 a.m.**

25. Water Supply Planning and Finance Section – Changes to Existing Loans (10:35 – 11:50)
  - a. Southeastern Colorado Water Conservancy District – Arkansas Valley Conduit Project (2 year time extension)
  - b. Bijou Irrigation District – Diversion Structure Rehabilitation Project
  - c. Bijou Irrigation District – Empire Reservoir East Embankment Dam Repair
  - d. Silt Water Conservancy District – Rehabilitation of System Infrastructure
  - e. Silt Water Conservancy District – De-authorization of Pump Plant Transformer Project

**LUNCH 11:50 – 12:50 p.m.**

26. Water Supply Planning and Finance Section – Construction Fund and Severance Tax Trust Fund Perpetual Base Account - New Loans (12:50 – 2:50)
  - a. Center of Colorado Water Conservancy District – James Tingle Reservoir
  - b. New Salida Ditch Company – Ditch Pipeline Project
  - c. Weldon Valley Ditch Company – Cottonwood Draw Flume Project
  - d. Yuma County Water Authority Public Improvement District – North Fork Water Rights Purchase
  - e. Republican River Water Conservation District – North Fork Water Rights Lease
  - f. Boulder White Rock Ditch & Reservoir Company – Panama Reservoir Outlet

27. Water Supply Planning and Finance Section – En-bloc Non-Reimbursable Investment Recommendations. *The Finance Committee reviewed the following projects on September 16, 2008. The Committee recommends approval by the Board. No presentation will be made unless requested by a Board member. An opportunity for public comment may be provided.* (2:50 – 3:05)

- a. Division of Water Resources/CWCB – Satellite Linked Monitoring System & Flood Hardening Program
- b. CWCB – Instream Flow Engineering and Technical Support Services
- c. CWCB – Water Planning Studies
- d. CWCB – Weather Modification Permitting Program
- e. CWCB – NOAA Atlas 2 Precipitation Atlas Update
- f. CWCB – Colorado Dust in Snow Program
- g. CWCB – Colorado Floodplain Map Modernization
- h. CWCB – Colorado Watershed Restoration Program
- i. CWCB – Floodplain Technical Services
- j. CWCB – Flood Response Program Refreshed
- k. CWCB – Water Resource Info. Center & Data Harvesting Initiative
- l. CWCB – Modflow Enhancement for CDSS
- m. CWCB – South Platte DSS
- n. Colorado Water Education Foundation – Annual Appropriation

**BREAK      3:05 - 3:20**

28. Water Supply Protection Section – Native Species Conservation Trust Fund (3:20 – 3:50)

29. Water Supply Planning and Finance Section – Referred Non-Reimbursable Investments (*The Finance Committee reviewed the following projects on September 16. The Committee asked for more information about the following projects and requested the projects be referred for consideration by the entire Board. An opportunity for public comment may be provided.*) (3:50 – 5:15)

- a. CWCB – Agricultural Water Transfer Methods Grant Program
- b. CWCB – Colorado River Water Availability Study – Phase 2
- c. CWCB – Water Adaptation Partnership Projects
- d. CWCB – Arkansas River Surface Water Rules Technical/Financial Assistance
- e. CWCB – Litigation Account Increase

**ADJOURN    5:15 p.m.**

CWCB Consent Agenda  
September 16-17, 2008

Matters may be placed on the Consent Agenda when the recommended action follows established policy or precedent, there has been a negotiated settlement, or the matter is uncontested and non-controversial. Staff provides memos to CWCB members explaining the matters on the Consent Agenda. Matters on the Consent Agenda are noticed for hearing in the same manner as other agenda items. If a member of the CWCB requests further consideration of an item on the Consent Agenda, the item will be withdrawn from the Consent Agenda and discussed at the end of the meeting or at the next meeting. The Consent Agenda may be voted on without reading or discussing individual items. Any CWCB member may request clarification about any matter on the Consent Agenda.

1. Stream and Lake Protection Section – Statements of Opposition – *The Board will be asked to ratify Statements of Opposition that have been filed by staff to protect instream flow and natural lake level water rights in the following cases:*
  - a. Case No. 1-08CW163; Application of City of Boulder
  - b. Case No. 3-08CW010; Application of Gregg Sease
  - c. Case No. 4-08CW081; Application of U.S. Energy Corp.
  - d. Case No. 7-08CW049; Application of El Dorado Ranch, LLC
  
2. Watershed Protection and Flood Mitigation Section – Designation and Approval of 100-year Floodplain Information
  - a. Flood Insurance Study, Montezuma County, and Incorporated Areas, September 2008
  - b. Letters of Map Revision, Multiple Communities, En-bloc