

MINUTES¹
SPECIAL JOINT MEETING OF THE BOARD OF DIRECTORS
OF THE COLORADO RIVER WATER CONSERVATION DISTRICT
AND OF THE COLORADO RIVER WATER CONSERVATION DISTRICT
ACTING BY AND THROUGH ITS COLORADO RIVER WATER PROJECTS ENTERPRISE

March 30, 2017

Pursuant to notice duly and properly given, a special joint meeting telephone conference of the Board of Directors of the Colorado River Water Conservation District (CRWCD) and of the Colorado River Water Conservation District acting by and through its Colorado River Water Projects Enterprise was held on Thursday, March 30, 2017, at the offices of the Colorado River District, 201 Centennial Street, Glenwood Springs, Colorado.

Directors participating during all or part of the meeting:

Tom Alvey, President	David H. Merritt, Vice President
Kathy Chandler-Henry	Karn Stiegelmeier
Tom Gray	Martha Whitmore
Doug Monger	Alden Vanden Brink
Mike Ritschard	

Directors not participating:

Steve Acquafresca	Rebie Hazard
Marc Catlin	William S. Trampe
John Ely	Stan Whinnery

Others participating during all or part of the meeting:

Dan Birch, Deputy General Manager, CRWCD
John Currier, Chief Engineer, CRWCD
Laurie DePaolo, Executive Assistant, CRWCD
Peter Fleming, General Counsel, CRWCD
Eric Kuhn, General Manager, CRWCD
Dave Kanzer, Deputy Chief Engineer, CRWCD
Jim Pokrandt, Director, Community Affairs, CRWCD
Chris Treese, Manager, External Affairs, CRWCD
Audrey Turner, Administrative Chief, CRWCD
Jason Turner, Senior Counsel, CRWCD
Torie Jarvis, Northwest Colorado Council of Governments, Q/Q Committee
Danny Williams, Williams+Simpson

Quorum.

President Alvey found a quorum and called the meeting to order at 12:04 p.m.

State Affairs:

SB 17-202 Species Conservation Trust Fund Projects

CONCERNING MEASURES TO CONSERVE NATIVE SPECIES IN COLORADO, AND, IN CONNECTION THEREWITH, MAKING APPROPRIATIONS FROM THE SPECIES CONSERVATION TRUST FUND FOR PURPOSES RECOMMENDED BY THE DEPARTMENT OF NATURAL RESOURCES.

This is the annual projects authorization bill for the Species Conservation Trust Fund. Its limited number and size of authorizations reflects the lack of severance tax revenues this year.

¹An audio recording has been made of the meeting. The motions described herein may not necessarily represent a verbatim transcription. The audio recordings are available for listening at the CRWCD offices during regular office hours. These minutes are the official record of the Colorado River Water Conservation District's meeting.

Director Monger moved, seconded by Director Whitmore, to **support SB 17-202**. Motion carried unanimously.

SB 17-235 Pilot Project Seaplanes Land in State Parks

CONCERNING AN AUTHORIZATION OF A PILOT PROGRAM TO ALLOW AMPHIBIOUS SEAPLANES TO OPERATE IN DESIGNATED STATE PARKS.

Chris Treese acknowledged that the advocates of the bill responded to expressed concerns with several provisions such as establishing a two-year pilot program that allows sea planes to land on “at least” two state park water bodies (to be determined by the DNR) and that the pilots be required to conduct self-enforced inspection and decontamination for aquatic nuisance species (ANS).

Mr. Treese reminded the board that the irreversible risks of ANS contamination is simply too great when weighed against the benefit to the few seaplane pilots seeking landings on Colorado waters.

Director Chandler-Henry moved, seconded by Director Stiegelmeier, to **oppose SB 17-235**. Directors voting in favor of the motion: Chandler-Henry, Monger, Ritschard, Stiegelmeier and Whitmore. Directors voting against the motion: Gray, Merritt and Vanden Brink. Motion carried.

SB 17-259 General Fund Transfers Protect Natural Resources

CONCERNING A TRANSFER OF MONEY FROM THE GENERAL FUND TO CASH FUNDS ADMINISTERED BY STATE DEPARTMENTS FOR THE PROTECTION OF THE STATE'S NATURAL RESOURCES.

Chris Treese noted that portions of this bill transfer money from the general fund to:

- The Forest Restoration and Wildfire risk mitigation grant program
- The Species Conservation Trust fund
- The Aquatic Nuisance Species funds (2 separate funds)

Director Monger moved, seconded by Director Whitmore, to **support SB 17-259**. Motion carried unanimously.

HB 17-1273 Real Estate Development Demonstrate Water Conservation

CONCERNING A REQUIREMENT THAT AN APPLICANT FOR A REAL ESTATE DEVELOPMENT PERMIT DEMONSTRATE WATER CONSERVATION MEASURES THAT WILL BE IMPLEMENTED IN THE DEVELOPMENT.

Chris Treese noted that current law requires a local government's finding of an adequate water supply for new, large real estate developments. Current law merely allows the inclusion of reasonable conservation measures and water demand management measures to account for hydrologic variability. HB 17-1273 would require that land use applications include reasonable conservation measures and water demand management measures to reduce water needs and account for hydrologic variability. Determination of compliance with this requirement as well as satisfactory demonstration of an adequate water supply for the development is at the “sole discretion” of the local government.

Director Chandler-Henry moved, seconded by Director Monger, to **support in concept HB 17-1273**. Directors voting in favor of the motion: Chandler-Henry, Gray, Merritt, Monger, Ritschard, Stiegelmeier and Vanden Brink. Director voting against the motion: Whitmore. Motion carried.

HB 17-1285 Refinance Water Pollution Control Program

CONCERNING THE FINANCING OF THE WATER POLLUTION CONTROL PROGRAM, AND, IN CONNECTION THEREWITH, MAKING APPROPRIATIONS.

Chris Treese reported that this comprehensive bill sets a few new and primarily increases old water quality-related fees and appropriates funds. Increases are substantial but reflect the fact that statutorily-set fees have not been increased for nearly ten years. This bill also establishes goals for future adjustments of the ratio of fee revenue to general fund contributions for each of the six administrative sections in the Water Quality Control Division.

Director Whitmore moved, seconded by Director Merritt, to **support HB 17-1285**. Motion carried unanimously.

HB 17-1289 State Engineer Rules Historical Consumptive Use

CONCERNING A REQUIREMENT THAT THE STATE ENGINEER PROMULGATE RULES THAT ESTABLISH AN OPTIONAL STREAMLINED APPROACH TO CALCULATE THE HISTORICAL CONSUMPTIVE USE OF A WATER RIGHT.

Chris Treese reported that this bill directs the state engineer to conduct a statewide rulemaking to establish a process that takes into account local conditions that an applicant can use to calculate historical consumptive use. The results of the calculation would carry no presumptive weight in any proceeding before the state engineer, water referee or water judge and that the rules may apply statewide or be for specific regions/basins/subbasins.

Director Whitmore moved, seconded by Director Gray, to **monitor (closely) HB 17-1289**. Motion carried unanimously.

HB 17-1291 Alternate Storage Not Change if Already Quantified

CONCERNING THE ABILITY TO STORE WATER AT AN ALTERNATE PLACE OF STORAGE IF THE HISTORICAL CONSUMPTIVE USE OF THE WATER RIGHT HAS ALREADY BEEN QUANTIFIED IN A PREVIOUS CHANGE OF THE WATER RIGHT.

Chris Treese noted that current law allows water to be stored only at a location that has been specifically identified in a decree. The bill allows a water right for which the historical consumptive use was previously quantified to be stored in any reservoir, without the necessity of adjudicating an additional change of water right, if: 1) the water will be diverted from a point of diversion that has already been decreed for that water right; 2) previous notice is given to the division engineer; 3) transit and ditch losses are assessed from the decreed point of diversion to the alternate place of storage; and, 4) the Division Engineer approves the proposed accounting of the storage.

Mr. Treese recommended the board oppose this bill for the same reasons the board opposed the “Flex” bills the last three years, as it doesn’t explicitly allow for a legal challenge, and the new “flexibility” only benefits the water right owner seeking to take advantage of this flexible opportunity at a potentially substantial cost to other water right owners.

Director Whitmore moved, seconded by Director Merritt, to **oppose HB 17-1291**. Motion carried unanimously.

Draft bill dated March 21, 2017

Chris Treese reported that this draft bill would allow for dedicated releases of water from a reservoir for environmental purposes. Specifically, Northern Water would like this legislation to address mitigation requirements associated with its proposed Northern Integrated Supply Project (NISP). They want to provide water in a reach of the Poudre River through Ft. Collins and ensure that the water is not exchanged upon or otherwise diminished throughout the entire identified reach.

Peter Fleming noted that we do not oppose Northern Water’s position to protect water through certain reaches. We have concerns this bill sets a requirement that all waters already released for environmental purposes must be contracted through the Colorado Water Conservation Board; a process could be extremely time-consuming and cumbersome. Mr. Fleming noted that we already provide water in numerous situations for environmental purposes, primarily for endangered fish, and we don’t want our current release practices implicated as non-compliant with current statutes. Our cooperative operations have allowed us to do the intended environmental good without having that water diminished by others. Accordingly, staff proposed language providing protection for existing releases for environmental purposes.

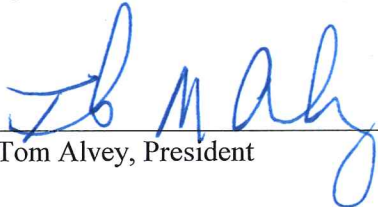
The board provided direction for staff to support in concept the draft bill and to ensure our interests and current practices are protected.

HB 17-1190 Limited Applicability of St. Jude's Co. Water Case
CONCERNING THE LIMITED APPLICABILITY OF THE COLORADO SUPREME COURT'S DECISION IN ST. JUDE'S CO. V. ROARING FORK CLUB, LLC, 351 P.3D 442 (COLO. 2015).

Chris Treese provided an update on the St. Jude's bill that has run into challenges. Senator Sonnenberg, the Senate sponsor, is not accepting grandfathering of applications that were pending as of the effective date of the ruling. He is also concerned with the potentially broad implications of paragraph (b). Mr. Sonnenberg is willing to consider allowing the municipal-recreational water contracts already in place if they are providing water for the endangered fish in the 15 Mile Reach.

Adjourn.

There being no other business before the Board, President Alvey adjourned the meeting at 1:15 p.m.



Tom Alvey, President

ATTEST:



R. Eric Kuhn, Secretary/General Manager