



WATER QUALITY / QUANTITY COMMITTEE (QQ)

P.O. Box 2308 • Silverthorne, Colorado 80498
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QQ Quarterly Board Meeting

Thursday, July 16, 2015

Town Council Chambers, Crested Butte Town Hall
507 Maroon Ave.
Crested Butte, CO

AGENDA

- 10:00 Welcome and Introductions
- 10:05 *Presentation: Water Quality in Crested Butte: Standard Mine Superfund Clean Up, Mount Emmons inactive mine, and Coal Creek Watershed Coalition*
Steve Glazier, CCWC, and Julia Nania, High Country Conservation Alliance
- 11:00 *Presentation: Busk Ivanhoe court case update and SB 183*
Jason Turner, CO River District
- 11:30 Crystal River Wild & Scenic efforts- *Dorothea Farris & Chuck Ogilby.*
- 11:45 2015 Legislative Session- *Torie*
- 12:00 Lunch**
- 1:00 Member updates
- 1:15 Water Quality Updates
Lane, Barbara & Seth
- 2:00 Waters of the US Rulemaking - *Torie & Barbara*
- 2:15 CO Water Plan - *Torie, Lane & Barbara*
- 2:30 Other Updates
- 3:00 Adjourn

Bill No.	Description	Sponsor	Status	Calendared	Notes	Position
HOUSE BILLS						
HB 15-1006	Invasive Phreatophyte Management Grant	Reps. Coram & Vigil , Sens. Sonnenberg , Hodge, Roberts.	Signed by Governor		WRRC bill	Support
HB 15-1016	Incentives for Precipitation Harvesting	Reps. Coram , Mitsh Bush, Vigil, & Sens. Sonnenberg , Hodge, Jones, Roberts.	Signed by Governor		WRRC bill	Support
HB 15-1225	Federal Land Coordination	Reps. Rankin & Becker, K. & Sens. Roberts & Donovan	Signed by Governor			Support
HB 15-1252	Extending Healthy Rivers Fund	Rep. Mitsch Bush & Sen. Sonnenberg	Signed by Governor			Support
HB 15-1277	Species Conservation Trust Fund	Rep. Vigil & Sen. Sonnenberg	Signed by Governor			Recommended: Support
SENATE BILLS						
SB 15-008	Promote Water Conservation In Land Use Planning.	Sens. Roberts , Hodge, Jones & Reps. Vigil , Coram, Mitsch Bush	Signed by Governor		WRRC bill	Support
SB 15-121	Drinking Water Fund for Private Nonprofit Entities	Sen. Crowder	Signed by Governor			Oppose
SB 15-183	Concerning quantification of historic consumptive use of a water right	Sen. Hodge & Sonnenberg	Signed by Governor		RD- Oppose	Oppose
SB 15-198	Expanding eligible fallowing uses	Sen. Crowder & Rep. Vigil	Signed by Governor			Recommended: Support
SB 15-212	Regional Stormwater Detention Facilities	Sen. Sonnenberg & Rep. Winter.	Signed by Governor			Recommended: Support

Elements of the West Slope Concept for Grand Lake Clarity Standard

5/28/15

1. Utilize a control regulation structure.
2. Control regulation expires or sunsets in 5 years.
3. Duration = Assessment period is July through September 11, the latest possible Friday following Labor Day.
4. Metric = The CBT operations will be optimized through planning to achieve an assessment period average of all daily secchi depth measurements of 3.8 meters. CBT will not operate in a manner to cause or contribute to the reduction of daily secchi depth to less than 2.5 meters during the assessment period.
5. Sample Frequency = Secchi samples shall be taken at least twice per week during the assessment period.
6. Location = The seven sample sites identified in Dennis R. Helsel’s memo dated April 18, 2014 *Revised analysis of site network for Grand Lake secchi data.*

<u>STATION NAME</u>	<u>LONGITUDE</u>	<u>LATITUDE</u>	<u>X - Longitude</u>	<u>Y - Latitude</u>
GL-WEST	-105.8215	40.2419	-105° 49' 17.27" W	40° 14' 30.92" N
GL-NI	-105.8159	40.2473	-105° 48' 57.21" W	40° 14' 50.17" N
GL-MID	-105.8138	40.2434	-105° 48' 49.64" W	40° 14' 36.37" N
GL-ATW	-105.8050	40.2411	-105° 48' 18.14" W	40° 14' 27.84" N
GL-EI	-105.8047	40.2372	-105° 48' 17.06" W	40° 14' 13.98" N
GL-2009-A1	-105.8183	40.2435	-105° 49' 05.87" W	40° 14' 36.64" N
GL-2009-A5	-105.8212	40.2466	-105° 49' 16.25" W	40° 14' 47.58" N

7. Sampling method shall follow the procedure agreed upon in *GCWIN Secchi Manual: Training manual for all contractors and volunteers performing Secchi monitoring on Grand Lake, Shadow Mountain and Granby Reservoirs (or a new document drafted for this purpose, using the agreed-upon language)*, revised as of June 15, 2015.
8. Frequency of Excursions = Provisions shall be established in the control regulation that take into account the impossibility of achieving the standard under certain circumstances so that failure to achieve the standard is not seen as evidence of impairment and thereby triggering 303(d) listing (e.g. stop pumping is the only way to achieve the standard on a particular day, but cannot stop pumping for certain reasons).

For example:

- Granby spill or loss of project yield
- Significant maintenance that disrupts C-BT system
- When Shadow Mountain Reservoir water quality deteriorates below ___(to be determined).
- Other?



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May 29, 2015

VIA EMAIL: aimee.konowal@state.co.us

Ms. Aimee Konowal
Environmental Data Unit Manager
Colorado Department of Health and Environment
Water Quality Control Division
4300 Cherry Creek South Drive
Denver, CO 80202-1530

RE: *Windy Gap Firming Project Request for Clean Water Act Section 401 Water Quality Certification*
Northwest Colorado Council of Governments Comments

Dear Ms. Konowal:

Northwest Colorado Council of Governments ("NWCCOG") is the designated 208 Agency for the region of the state that includes the portions of the Upper Colorado River that will be impacted by the Windy Gap Firming Project ("WGFP"). NWCCOG has reviewed the 401 Water Quality Certification Technical Report ("401 Report") to determine if the proposed WGFP complies with the Areawide Water Quality Management Plan (208 Plan), and offers the following comments in response to the WGFP request for Clean Water Act Section 401 Water Quality Certification ("Request for Certification").

General Comments:

The 401 Report is well written and facilitates review of the information in the various appendices.

NWCCOG collaborated with Grand County in preparing comments on the Request for Certification. The County's comments are incorporated herein by reference.

The conclusion in the 401 Report that the proposed WGFP will not violate water quality standards relies on a complex package of agreements, MOUs, proposed mitigation and enhancement measures, and permits by local entities that are listed in Section 8 of the 401 Report. Compliance with the provisions of these agreements, MOUs, proposed mitigation and

Ms Aimee Konowal

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RE: Windy Gap Firing Project Request for Clean Water Act Section 401 Water Quality Certification

Northwest Colorado Council of Governments Comments

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enhancement measures and permits that are relevant to water quality should be a condition of the 401 Certification.

Specific Comments:

Manganese, Dissolved Oxygen ("DO") and Mercury

In the Colorado River water quality portion of the antidegradation analysis, manganese failed the significance test. Current concentrations of manganese are already at the water supply standard, so there is no assimilative capacity. The WGFP will exacerbate this situation.

Shadow Mountain Reservoir is on the 303(d) list for DO. The Three Lakes Model shows reductions in DO in Shadow Mountain Reservoir as a result of the WGFP.

Granby Reservoir is on the 303(d) list for mercury. Reservoir level fluctuations and associated DO shifts can enhance the methylation of mercury, releases from bottom sediment, and subsequent bioaccumulation in the aquatic food web. The 401 Report indicates that it is not possible to ascertain the direction of change for mercury in Three Lakes.

A monitoring plan for manganese, DO and mercury is necessary. The Grand County 1041 Permit requires that the Subdistrict submit for County review and approval a monitoring plan that includes monitoring for manganese, DO and mercury within six months of issuance of the last Record of Decision for the WGFP. The Grand County 1041 Permit further requires that the Subdistrict propose and implement a mitigation plan where the monitoring indicates worsening trends in water quality for these constituents. To ensure compliance, as part of the 401 Certification the Division should coordinate with Grand County to review and assess the monitoring plan, and the mitigation plan if that becomes necessary.

Three Lakes Water Quality

The results of the antidegradation analysis indicate that there are exceedences of the 15% significance test by TP, TN and chlorophyll a. Mitigation for potential impacts to Three Lakes water quality include the nutrient load reductions at the Fraser wastewater treatment plant and ranch irrigation practices for nonpoint source reductions. However, not all the measures necessary to achieve the 1:1 nutrient load reduction are identified in the 401 Report.

A monitoring plan to evaluate the effectiveness of the nutrient removal efforts is necessary. The 401 Report indicates that the Subdistrict initiated water quality monitoring on Willow

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Creek near the C-Lazy-U Ranch and on Church Creek near the E-Diamond H Ranch in 2010 to begin establishing a baseline for water quality prior to implementing nonpoint source mitigation measures. Similar monitoring will be established for other locations where nonpoint source nutrient reduction measures are identified.

The Grand County 1041 Permit requires the Subdistrict submit for County review and approval a robust monitoring plan to evaluate the nutrient reduction levels. To ensure compliance, as part of the 401 Certification the Division should coordinate with the County to review the Subdistrict's monitoring plan and identify additional measures necessary to provide for 1:1 nutrient removal.

Grand Lake Clarity

Changes in clarity have not been evaluated specifically and this is a shortcoming of the 401 Certification analysis. The FEIS indicates that clarity would worsen by 3.8% or 0.1 meter (401 Report, page 120). The 401 Report states that "efforts to examine the attainability of a Grand Lake clarity standard are underway and significant uncertainty remains regarding the outcome of this process, including the USBR-led NEPA process that will accompany the evaluation of possible alternatives to improve clarity in Grand Lake." The 401 Report states that reductions in nutrient loading required by the Fish and Wildlife Mitigation Plan should contribute to partially offsetting, and therefore minimizing, the decrease in clarity anticipated with the WGFP. Other cited "mitigation" associated with clarity includes a long list of agreements and ongoing efforts of the Northern Colorado Water Conservancy District, catalogued in the Request for Certification. It is not clear how these efforts and obligations will mitigate clarity impacts of the WGFP.

The agreements and on-going efforts should not be used in place of an antidegradation review for Grand Lake as part of the 401 Certification. Also, many of these agreements are obligations of the Northern Colorado Water Conservancy District, and not the Subdistrict. The 401 Certification should evaluate the potential impact of the WGFP on Grand Lake clarity and require mitigation if necessary.

Colorado River Temperature

The evaluation of temperature is quantitative and focused on antidegradation assessments of the numerical chronic (weekly average temperature or WAT) and acute (daily maximum or DM) standard. The analysis is complex and, in the end, only simulations were used. Many days modeled did not have any assimilative capacity. The 401 Report states that "Summer days of

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increased WAT and DM water temperatures in excess of 15% of the [Baseline Available Increment] are anticipated in four out of 15 years" (see 401 Report, p. 94), which are essentially the years when WGFP would pump. It could be that temperature impacts from the WGFP are coincidentally ameliorated to some degree by the 5,412 releases from Granby.

A summary of the temperature mitigation is outlined in the Fish and Wildlife Mitigation Plan and included in the FEIS. These temperature mitigation measures were modified under the Grand County 1041 Permit to simplify the definition of when the original Windy Gap Project or the WGFP are operating, and to remove the July 15 time constraint for the MWAT chronic threshold. In addition, provisions to require the Subdistrict to increase flushing flows are set forth in the Fish and Wildlife Mitigation Plan (see section 8.7.1 of the 401 Report) and the Grand County 1041 Permit (see section 8.8.2 of the 401 Report).

Page 124 of the 401 Report identifies new, additional mitigation: "because existing temperature data indicates that the critical reach for attainment of the acute temperature standard is just upstream of Hot Sulphur Springs (Figure 33), it is proposed that an additional (third) real-time station would be installed at this location. This would be the site that could trigger operational changes aimed at avoiding exceedances of the acute standard."

Temperature mitigation, including those requirements in the Grand County 1041 Permit, and the operational changes necessary to avoid exceedances of the acute standard upstream of Hot Sulphur Springs should be fully defined and required as a condition of 401 Certification.

Thank you for an opportunity to comment on this Request for 401 Certification.

Sincerely

Lane Wyatt, Watershed Services Program Manager

cc: Liz Mullen, NWCCOG
Grand County BOCC
Scott Garncarz
John Hranac
James F. Sanders
Rena Brand
Jeff Drager
Esther Vincent



CO L O R A D O

Water Quality Control Division

Department of Public Health & Environment

Temperature Issues

Resolution Plan

Outline

DRAFT

June 22, 2015

Version 0.1



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Attachments

Attachment A: Menu of Solutions Summary

Attachment B: Schedule for completing the guidance

Temperature Issues Resolution Plan

I. Introduction

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II. Problem Identification

In order to efficiently devise solutions that balance protection of the aquatic life resource with discharger concerns, it is important to understand the scope and magnitude of the problem that dischargers face in terms of compliance with effluent limits that are developed from water quality standards for temperature. Once the problems are grouped, strategies can be developed to address the problems. Not all solutions will be appropriate for all situations.

Currently, many dischargers are collecting temperature data at three locations: upstream of the outfall, downstream of the outfall (fully mixed) and effluent. The following sections provide guidance on how this data can be used to group the problems.

A. Effect of the Discharge on the Receiving Water

The first stratification is to assess the effects of the discharge on the thermal regime of the receiving water. This operation compares the upstream and downstream water temperature of the receiving water.

{For Matrix 1 - Compare the stream temperature downstream and upstream of the discharge. What is the average difference during the period?}

Matrix 1 Effects of the Discharge on Receiving Water (At current effluent flow and in-stream conditions) ¹				
Magnitude (downstream minus upstream ²)	July-Aug (Summer)	Nov-Dec (Fall Shoulder)	January (Winter)	Feb-Mar (Spring Shoulder)
Large Effect (>9 °C)				
Medium Effect (6-9 °C)				
Small Effect (3-6 °C)				
Minor Effect (0-3 °C)				
Cooling Effect				

¹ Current effluent flow may not approach design capacity and recent recorded stream flow may not approach low flow.

² Average

Example from the Regulation #38 2015 rulemaking, WQCD responsive statement:

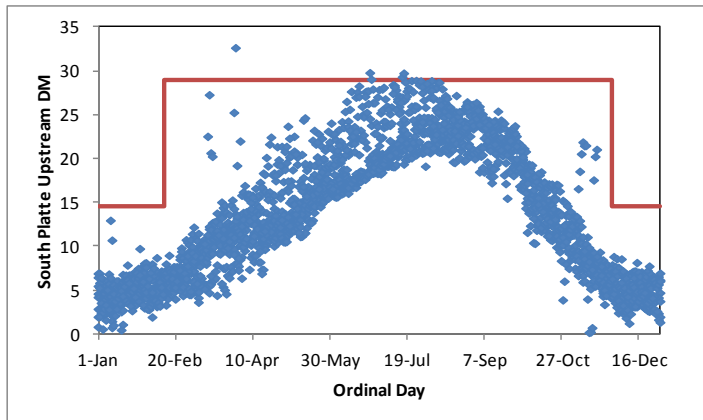


Fig 1 UPSTREAM Seasonal pattern of daily maximum temperature values for the South Platte upstream of Marcy Gulch. DM values submitted by Centennial for 2008-2015. All years plotted against ordinal day to highlight seasonal pattern

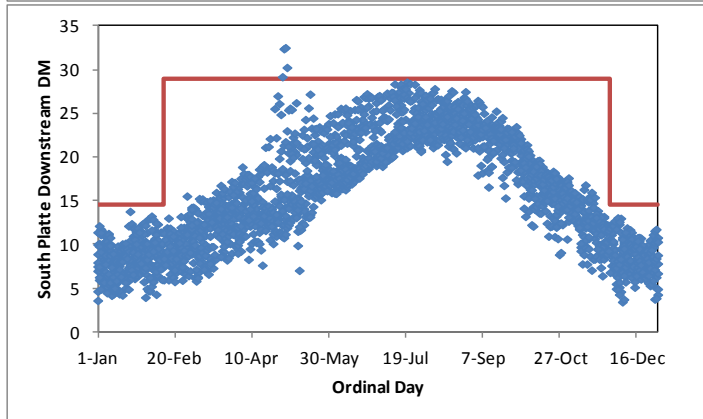


Fig 2 DOWNSTREAM Seasonal pattern of daily maximum temperature values for the South Platte downstream of Marcy Gulch at Mineral Ave. DM values submitted by Centennial for 2008-2015. All years plotted against ordinal day to highlight seasonal pattern

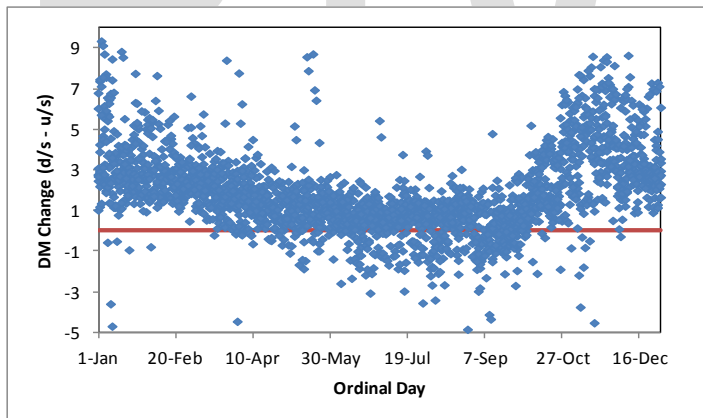


Fig 3 DIFFERENCE Difference between DM recorded in the South Platte upstream and downstream of the Marcy Gulch confluence on the same date. Differences are plotted against ordinal day to highlight seasonal patterns. DM values submitted by Centennial for 2008-2015

B. Comparison of Current Upstream Conditions to Temperature Standards

The second assessment compares the upstream stream temperature to the water quality standards to identify exceedances that are not caused by the discharger.

{Matrix 2 - Compare the stream temperatures upstream of the discharge to the standard. Did the temperature exceed the standard any time during the period?}

Matrix 2 Standards (MWAT) Exceedance in the Receiving Water Upstream of the Discharge (instream conditions) ³				
Magnitude ⁴	July-Aug (Summer)	Nov-Dec Fall Shoulder	January (Winter)	Feb-Mar Spring Shoulder
Large Exceedance				
Small Exceedance				

Example from the Regulation #38 2015 rulemaking, WQCD responsive statement:

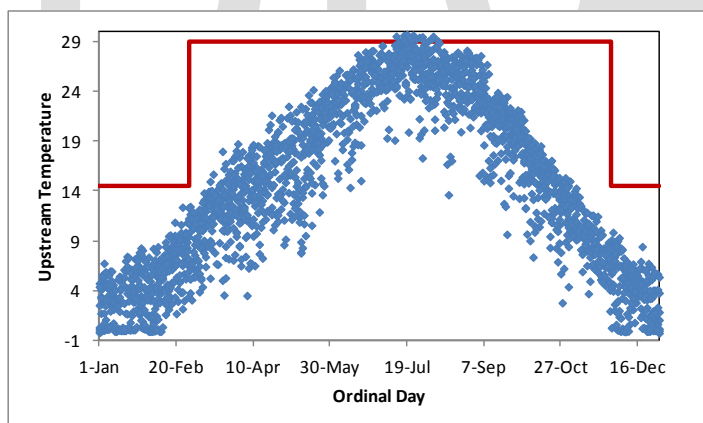


Figure 4 Seasonal pattern of daily maximum temperature values for East Plum Creek upstream of the PCWRA outfall. DM values submitted by PCWRA for 2006-2014. All years plotted against ordinal day to highlight seasonal pattern.

³ Current effluent flow may not approach design capacity and recent recorded stream flow may not approach low flow.

⁴ Maximum exceedance during the period

C. Comparison of Current Downstream Conditions to Temperature Standards

The third stratification seeks to group problems by the magnitude of the exceedance downstream of the discharge and the season of occurrence.

{Matrix 3: Compare the temperature of the downstream location (below the regulatory mixing zone) to the standard. What is the maximum exceedance during the period?}

Matrix 3 Standards (MWAT) Exceedance in the Receiving Water Downstream of the Discharge (At current effluent flow and instream conditions) ⁵				
Magnitude ⁶	July-Aug (Summer)	Nov-Dec Fall Shoulder	January (Winter)	Feb-Mar Spring Shoulder
Very Large Exceedance (>9 °C)				
Large Exceedance (6-9 °C)				
Medium Exceedance (3-6 °C)				
Small Exceedance (1-3 °C)				
Minor Exceedance (<1 °C)				
No Exceedance downstream				

Example from the Regulation #38 2015 rulemaking, WQCD responsive statement:

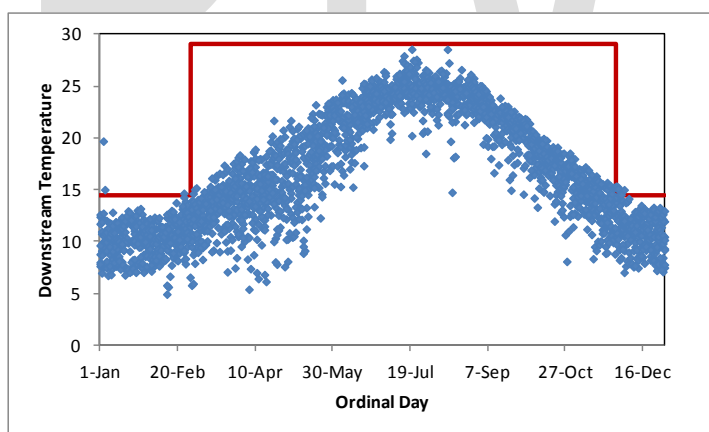


Figure 5 Seasonal pattern of daily maximum temperature values for East Plum Creek downstream of the PCWRA outfall. DM values submitted by PCWRA for 2006-2014. All years plotted against ordinal day to highlight seasonal pattern

⁵ Current effluent flow may not approach design capacity and recent recorded stream flow may not approach low flow.

⁶ Maximum exceedance during the period

D. Predicted Exceedances of WQBEL

The fourth grouping of problems involves comparing the effluent temperature to the calculated WQBELs.

Matrix 4 <i>Place holder</i>												
Predicted Excedance of Temperature Water Quality Based Effluent Limits (at design flow and critical low flow)												
	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec
Large: Current effluent temperatures exceed predicted WQBEL by > 4 degrees C												
Medium: Current effluent temperatures exceed predicted WQBEL by 2 - 4 degrees												
Small: Current effluent temperatures exceed predicted WQBEL by <2 degree												
Small infrequent: Current effluent temperatures exceed predicted WQBEL by <2 degree infrequently in the month												
Reasonable Potential, but effluent temperature does not exceed predicted WQBEL												

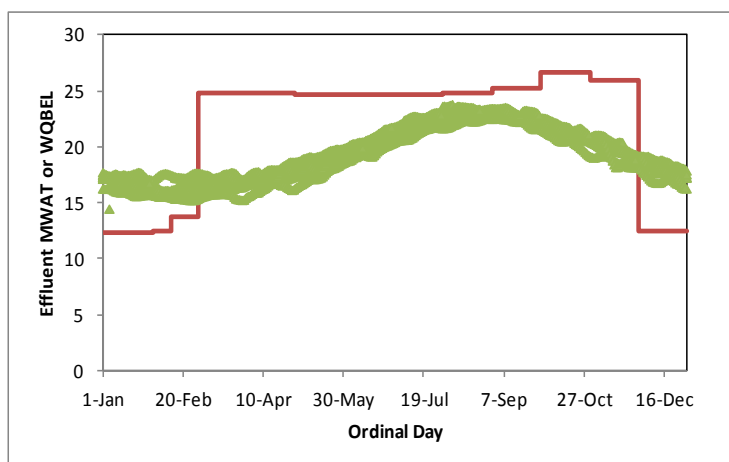


Figure 6 Comparison of Centennial's effluent temperature to potential WQBELs

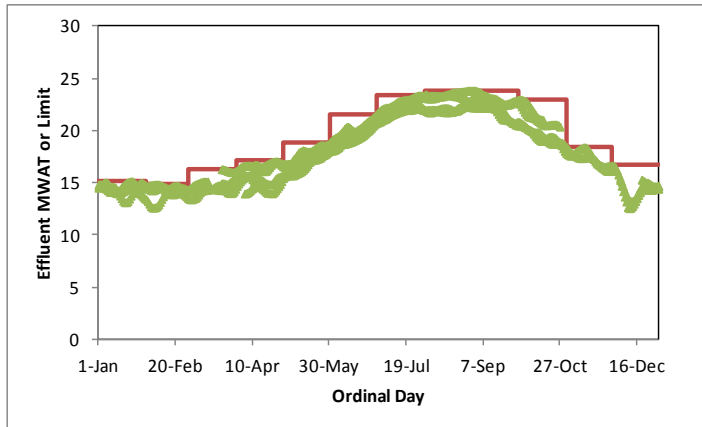


Figure 7 Comparison of Blackhawk Central City effluent temperature to potential WQBELs

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III. Menu of Solutions

- Update Criteria
- Streamline and clarify “Existing Quality” for temperature
- Review Reasonable Potential calculations
- Consider changes to Mixing Zone provisions to incorporate Heat Dissipation
- Consider flexibility in the shoulder seasons
- Consider tiered limits for temperature
- Consider re-rating the WWTF
- Work on Sector Specific DSV
- Monthly Effluent Limits
- Update Design Criteria

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IV. Guidance for Matching Problems to Solutions

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Attachment A

Temperature Issues Resolution Plan Menu of Solutions Summary

Menu of Solutions	Addressed via Standards	Addressed via Implementation (Permits, 303(d), TMDL, Engineering)
Update Wintertime Criteria	X (BSWG No. 9; PIF No.1)	
Streamline and clarify "Existing Quality" for Temperature	X (BSWG No. 7; PIF Nos. 3, 6 and 14)	
Consider changes to Mixing Zone provisions to incorporate heat dissipation	X	X
Consider flexibility in the shoulder seasons	X (BSWG No. 8; PIF No. 4)	
Consider tiered limits for temperature		X
Monthly limits and limits for partial months		X (PIF Nos. 5 and 9)
Consider re-rating the wastewater treatment facility		X
Work on Sector Specific DSV	X (BSWG No. 16)	X
Revisit Reasonable Potential Guidance		X (PIF No. 13)
Update Design Criteria		

Attachment B

Schedule for Completing the Guidance

Consider Water Quality Standards Solutions

Update Criteria	Basic Standard Proceedings
Shoulder Seasons	Basic Standard Proceedings
Existing Quality	Basic Standard Proceedings
Wintertime Criteria Update	Basic Standard Proceedings
Mixing zone provisions (regulatory)	Basic Standard Proceedings
Sector-based DSV	
Complete Problem Identification (see Section II, above)	
Complete Feasibility Study	(RFP process underway)
Define the sector(s)	
Develop AA(s)	
Develop flow chart to select AELs	
Propose Sector Based DSV	
Individual application to be covered by DSV	

Consider Implementation Solutions

Mixing zone provisions (implementation)

Tiered Limits

Sector-based DSV

- Complete Problem Identification
- Complete Feasibility Study
- Develop AA and ____
- Propose Sector Based DSV
- Individual application to be covered by DSV
- Incorporation into permits

Revisit Reasonable Potential Guidance

Monthly Limits

Update Design Criteria



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April 30, 2015

VIA EMAIL: COWaterplan@state.co.us
Colorado Water Conservation Board
Diane Hoppe, Chair

Re: Northwest Colorado Council of Governments Water Quality/ Quantity Committee
(QQ) Comments on December 2014 Draft of the Colorado Water Plan

Dear Chair Hoppe and Board Members,

The following are the Northwest Colorado Council of Governments Water Quality/ Quantity Committee (QQ) comments on December 2014 draft of Colorado's Water Plan.

As you know, QQ is a subcommittee of and the official water policy arm of the Northwest Colorado Council of Governments. QQ began more than 35 years ago and its members address a broad spectrum of water policy and land development matters facing headwater communities interested in protecting the region's water resources.

The purpose of QQ is to enable its member jurisdictions to protect and enhance the headwaters of Colorado while facilitating the responsible use of water resources for the good of all Colorado citizens and its environment. Its membership comprises municipalities, counties, and water and sanitation districts in Grand, Summit, Pitkin, and Eagle County, as well as Gunnison County, Park County and the Towns of Crested Butte and the City of Steamboat Springs. The Colorado River Water Conservation District is an associate member of QQ.

Thank you for your hard work in compiling this document and attention to QQ's earlier comments on draft sections of the Plan. We look forward to continuing to work with the CWCB on this process. Our comments are organized by chapter of the plan.

Chapter 5. Water Demands

The introductory material is helpful, especially the section on the “[s]tate of knowledge on water conservation.” In particular, this section states:

During the latest IBCC discussions, it was determined that Colorado should strive for a high conservation standard that recognizes that each water utility has unique opportunities and capacity for conservation. The IBCC is working to further define what this high conservation standard means.” (p. 76)

The draft Plan does not mention the IBCC’s interest in the “high conservation standard” anywhere else. Including this interest in the high conservation standard in other parts of the draft Plan may be helpful in driving commitments to higher conservation levels throughout the state. We recommend including this information in section 6.3.1, “Municipal Water Conservation.”

Municipal land use. This section focuses almost wholly on increased density as a water savings method. Increased density is one important land use tool. However, this section should identify the multitude of tools available to local governments. For example, counties have statutory authority to approve clustered subdivisions to reduce water consumption and infrastructure expenses. Local government consideration of adequate water supplies before approving development is another important tool statewide. We recommend this section stress the variety of tools available that can be tailored to individual community needs and circumstances. QQ’s white paper, *Response to Perceptions Influencing the Water Plan*, explains the land use planning and zoning authority that can have a significant impact on the rate of population growth and the ultimate population of the state.¹

Overview of environmental and recreational needs. Generally, this section does an excellent job of describing the measure of environmental and recreational needs around the state. We would like to reiterate one comment QQ voiced about an earlier draft of this section. On page 81, the CWP states:

The ability to decree water using instream flows and recreational in-channel diversions provides Colorado with important, effective tools for meeting environmental and recreational needs and for supporting state and federal values.

¹ QQ white paper is available at <http://www.nwccog.org/docs/qq/Response%20to%20Perceptions%20REVISED%2003.12.14.pdf>.

While QQ agrees that these are important and often effective tools for meeting environmental and recreational needs, they are not always effective. In many ways, these tools provide the minimum for meeting environmental and recreational needs, and do not take into account important ecological functions such as flushing flows, bank flows, water quality needs, and many other factors in overall stream health. Also, many instream and RICD flows regularly go unmet, especially in drier years, as they hold more junior water rights in most basins.

QQ recommends adding an additional sentence:

These tools can be supplemented in the future to be more effective; they are best implemented within the context of stream management plans that analyze the environmental and recreational needs of individual stream reaches.

Chapter 6. Water supply management

6.2 Meeting Colorado's water gaps

This section takes important first steps to begin identifying how each basin might meet its identified water gaps. QQ anticipates that this section will identify more refined action steps in upcoming drafts to ensure the Water Plan identifies ways to actually close Colorado's water gaps.

A summary of how each basin plans to meet water gaps would be an appropriate addition to this section. For example, on p. 98 this section describes how different BIPs approached meeting Colorado's municipal water needs through conservation and identified projects and processes. It states that "Every BIP discusses the importance of conservation," but does not mention the varying levels of conservation to which different BIPs commit. The differences among BIPs are worth mentioning in this brief introductory paragraph instead of just discussing commonalities.

Table 6.2-1 on p. 97 would be more useful with some indication of differences between the BIPs such as varying commitments to water conservation or varying attitudes towards utilizing land use planning tools to address future water demands.

Page 99 discusses BIP treatment of water quality management needs, saying:

Although water quality is not an issue traditionally studied by the basin roundtables, every BIP addresses water quality. Section 7.3 summarizes the BIP water quality efforts.

However, basin roundtables regularly approve grants for projects that improve water quality, either through a multipurpose project or as a stand-alone benefit. We recommend changing this wording to reflect that basin roundtables do regularly address water quality:

Every BIP addresses water quality. Section 7.3 summarizes the BIP water quality efforts.

This section also describes efforts to “protect and restore watershed health” on page 99 by citing several BIPs that focus on forest fire prevention, response, rehabilitation, and general forest health. The significant on-going watershed efforts throughout the state and BIP efforts other than forest health would be appropriate to identify here.

Meeting Colorado’s environmental and recreational (E & R) needs.

This section focuses on the number of stream miles with existing protections. The BIPs still identify needed projects on these stretches, indicating that these protections aren’t necessarily adequate. This section should at least acknowledge that even stream sections with some protection may need further protection.

Table 6.2-4, “Summary of how each basin meets its E & R gaps,” is confusing, especially when compared to information in the below text describing each BIP. The Table lists the “number of new projects with stream mile information” for each BIP. It’s unclear why this particular metric is important in the table, especially since those numbers are very small when compared to the actual number of E & R projects identified in each BIP. For example, Table 6.2-4 only lists three new projects in the Colorado BIP “with stream mile information,” but the text of this section points out that the Colorado BIP identifies 59 E & R projects. The introduction to the table would benefit from a separate column for total number of E & R projects identified in BIPs.

We also encourage the CWCB to highlight ongoing innovative work to address environmental and recreational issues in tandem with agricultural issues. The Colorado Ag Water Alliance has done considerable work around this issue. In addition, the Plan should highlight existing innovative projects, such as the recent Colorado Water Trust deal to agreement amongst farmers and ranchers to leave more water in the heavily diverted Little Cimarron River.²

6.3.1 Municipal Conservation

In general, this section should be clear about the differing water conservation levels recommended among the BIPs. Different roundtables commit to different levels of

² For more information on this project and its potential applicability around the state, see <http://www.postindependent.com/news/16089562-113/innovative-water-use-plan-could-help-crystal>.

conservation in their BIPs. While each basin’s commitments are mentioned later in this section in the description of each BIP, highlighting these differences more generally up front would be helpful.

This chapter only mentions the IBCC water conservation standard of low/medium as a baseline “no and low regret action.” In contrast, Chapter 5, page 76, says:

During the latest IBCC discussions, it was determined that Colorado should strive for a high conservation standard that recognizes that each water utility has unique opportunities and capacity for conservation. The IBCC is working to further define what this high conservation standard means.

This is an important statement and worthy of repeating in this section.

The plan should include the Eagle River Water and Sanitation District in the bulleted list of water conservation examples across the state on pages 145-146 to provide more examples from different regions of Colorado. We recommend including the below paragraph as an additional bullet point:

Eagle River Water and Sanitation District/Upper Eagle Regional Water Authority. *These water providers operate under a CWCB-approved water conservation plan whose goal is to preserve in-basin water resources for stream flows, recreation and future consumptive and non-consumptive needs, while still meeting their municipal water supply obligations. Tiered rates, first implemented in response to the drought of 2002, permanent year-round water use regulations and educational outreach to customers have reduced water sales per single family equivalent by 24 percent. Current efforts are focused on additional improvements to outdoor water use efficiency, which consumes resources that could serve future needs, reduces local stream flows and results in water quality impacts from landscaping runoff. These entities are developing water budgeting and working with land use authorities to coordinate water use and water quality approval criteria for new development and landscaping guidelines that support water use efficiency objectives.*

Recent legislation.

Please include legislation from this legislative session such as HB 15-1016, creating additional incentives for precipitation harvesting, HB 15-1259 which would allow for residential use of rain barrels, and SB 15-008 promoting water conservation in land use planning through free training opportunities.

IBCC no and low regrets actions. Chapter 5 states that:

During the latest IBCC discussions, it was determined that Colorado should strive for a high conservation standard that recognizes that each water utility has unique opportunities and capacity for conservation. The IBCC is working to further define what this high conservation standard means.

A similar statement should be included in this section as well as Chapter 5.

Actions.

Action 5. Stretch target discussion. This goal is particularly important because many of the BIPs advocate for a high level of conservation statewide. The Plan should identify the BIPs where a high level of conservation is recommended in support of this action point.

Action 9. Strengthen Partnerships. Please add “local governments” because of their role as land use regulators, water supply and treatment providers, and leaders in environmental protection and watershed health.

Action 12. Changing threshold for covered entities. This action should include an analysis of the benefits and burdens of this concept.

6.3.3 Land use

This is an important section of the Water Plan, but many people statewide may not understand why and how this connection is so important. The introductory language says on page 165, “The manner by which Colorado develops into the future will have a strong influence on Colorado’s future water supply gap and vice versa,” but provides no information on how that would occur.

This section would benefit from additional information on how local land use planning affects water demands and how water sensitive land use planning can reduce water demands, and thus the Gap, in the future.

Please add the following or similar introductory language:

Local governments can condition the approval of development applications on whether water is available to serve the new growth.³ In fact, local governments can deny development applications if sufficient water is not available for the proposed development.⁴ Local governments can also influence population growth patterns. For example, many counties have enacted regulations that encourage rural development to be clustered in a central area instead of spread out over

³ C.R.S. § 29-20-303 (1).

⁴ *P-W Investments, Inc. v. City of Westminster*, 655 P.2d 1365 (Colo. 1982).

a larger acreage to maximize water efficiency, to preserve agricultural land, and to promote open space and wildlife habitat.⁵ Clustered development is specifically identified in the Metro/South Platte BIP as a method for reducing the gap.

Control over the timing of development is another way that local communities can manage population growth. Municipalities and counties have the authority to require phased development in order to ensure adequate services will be available, such as water and sewer services, and to ensure that existing services will not be unduly burdened by new users.⁶ There also is ample authority to make sure that growth pays its own way. Local governments can condition the issuance of a building permit on making or paying for necessary public improvements⁷ and can assess impact fees to lessen adverse impacts from development.⁸ Ensuring that new development mitigates the impacts it causes is a long-standing concept in Colorado land use planning.⁹

The rate of population growth can be regulated through growth management systems.¹⁰ For example, municipalities and counties have successfully regulated population growth by establishing a set number of development permits available on a competitive basis,¹¹ a set number of water and sewer taps distributed to proposed developments on an as-available basis,¹² or a set rate of growth that limits the number of development permits issued per year.¹³ Local governments may even

⁵ Section 5: Land Preservation Subdivision Exemptions, Subdivision Regulations, Routt County, Colorado," Adopted 7 Mar. 1972 Amended and Reinstated 27 Sept. 2011

<http://www.co.routt.co.us/DocumentCenter/View/144>>; see also Zoning Regulations, Routt County, Colorado, Adopted 7 Mar. 1972 Amended and Reinstated 27 Sept. 2011
<<http://www.co.routt.co.us/DocumentCenter/View/145>>.

⁶ C.R.S. § 29-20-104 (1)(f).

⁷ *Bethlehem Evangelical Lutheran Church v. City of Lakewood*, 626 P.2d 668, 671 (Colo. 1981).

⁸ C.R.S. § 29-20-104 *et seq.*; C.R.S. § 30-28-133 (4)(a)(II); *Bd. of County Com'rs of Douglas County, Colo. v. Bainbridge, Inc.*, 929 P.2d 691, 698-99 (Colo. 1996).

⁹ *Bainbridge*, 929 P.2d at 698.

¹⁰ *Construction Industry Associate of Sonoma v. City of Petaluma*, 522 F.2d 897 (9th Cir. 1975), *cert. denied*, 424 U.S. 934 (1976).

¹¹ Chapter 6: Growth Management Quota System (GMQS) and Transferable Development Rights (TDR), Pitkin County Land Use Code, July 2006

<http://www.aspenpitkin.com/Portals/0/docs/county/countycode/chapter%2006.pdf>>; *Wilkinson v. Bd. of County Com'rs of Pitkin County*, 872 P.2d 1269, 1276 (Colo.App. 1993).

¹² Title 11 Chapter 3, Growth Management Program, Westminster Municipal Code, 1 Jan. 2011

<http://www.ci.westminster.co.us/CityGovernment/CityCode/TitleXI/3GrowthManagementProgram.aspx#8>>; see also *P W Investments, Inc. v. City of Westminster*, 655 P.2d 1365 (Colo. 1982).

¹³ Chapter 18.70, Residential Growth Management, City of Golden Municipal Code, updated through October

place a moratorium on new development while figuring out how to regulate population densities to protect sensitive environmental areas and other resources before new development is approved.¹⁴

Local governments also can control the intensity of development based on impacts to the community or surrounding lands,¹⁵ such as to prevent overcrowding or to avoid harmful concentrations of population, to encourage appropriate uses of land,¹⁶ or to protect wildlife and wildlife habitat.¹⁷

Land use regulations may also benefit water quality and overall stream health. For example, the Town of Winter Park attempts to purchase as much of the river corridor through town as possible to protect river health and water quality and to add recreation and tourist opportunities. Generally, a new annexation to Winter Park requires town ownership of the river corridor. The Town also does not allow outside irrigation anywhere in Town limits. Through a management plan, the Town of Eagle identified values in Brush Creek that should be protected and now requires new development to preserve those values in order to be approved for a development permit. Pitkin County regulates permissible areas of development within a property with an eye on riparian habitat protection, and imposes limits on landscaping outside of the design area.

This Land Use section discusses several example projects and initiatives on pages 165- 167, but would benefit from additional information on the success of these projects, the conveners and participants in these various initiatives plan to coordinate and work together in the future, and what on-the-ground changes or improvements have occurred through this work. It also would be useful to list additional resources regarding land use and water supply planning. QQ would be happy to work with the staff to develop this information.

This section is written with focus solely on the CWCB and what the CWCB can do regarding land use. However, an important part of the CWP is educating Colorado on all the different methods for closing future water gaps, not just from the CWCB perspective. Other state

2013 <<http://sitetools.cityofgolden.net/Code.asp?CodeID=728>>.

¹⁴ Droste v. Bd. of County Com'rs of the County of Pitkin, 159 P.3d 601 (Colo. 2007).

¹⁵ C.R.S. §29-20-104 (1)(g).

¹⁶ Nopro Co. v. Town of Cherry Hills Village, 504 P.2d 344, 349 (Colo. 1972).

¹⁷ Droste v. Bd. of County Com'rs of Pitkin County, 85 P.3d 585 (Colo. App. 2003); Colo. Springs v. Eagle County Bd. of County Com'rs, 895 P.2d 1105 (Colo. App. 1994).

agencies, special districts, and municipal and county governments all have a role in both driving and closing gaps.

More specifically, under the action item Strengthen Partnerships on page 170, the first listed partnership, Local Municipalities/ Local Water Providers, omits counties. Land use decisions made by county commissioners directly influence the timing, location, intensity and water demands of new growth. Likewise, the water use and supply decisions made by county commissioners affect the state as a whole: the way future water demands are addressed in one part of the state necessarily affects water availability and the capacity for future growth in other areas of Colorado. We recommend including counties as essential partners. Also missing are water conservation districts and water conservancy districts that have a strong influence on regional water policies.

Under the Education/ Training action item, the State, either through the CWCB or DOLA, might also consider facilitating interactive discussions about cross-basin land use goals and values. Work among local governments and water providers like the LULA model is important, but cross-basin discussions are essential to the success of the CWP process.

Finally, we encourage the CWCB to create more specific action points. For example, the education/ training action item could include goals for instituting the free trainings likely to be authorized in SB 15-008, and could get more specific about what would be needed for the state to help fund or facilitate “training based on the Land Use Leadership Alliance model.”

Chapter 7. Water resource management & protection

7.1 Watershed health & management

This section’s summary blue box refers to the development of “watershed master plans.” The “managing partnerships for healthy watersheds” section on page 249 talks about developing “watershed plans.” Chapter 9.2 refers to “watershed level master plans.” QQ and the Colorado Basin Roundtable have advocated for regional “stream management plans.” Other BIPs similarly advocate for a more holistic understanding of flow and water quality needs within a specific basin along with an identification of challenges and opportunities to restore or improve conditions for environmental and recreational uses.

It’s unclear whether the terms “watershed plans” and “stream management plans” are used interchangeably or are distinctly different. Other parts of this Chapter focus heavily on forest health and forestfire mitigation as “watershed management.” We are unclear if “watershed management” is meant to address forest fires, floods, and other extreme events, or if the terminology is meant to refer to holistic stream and river health.

QQ recommends clarifying what is meant by the above terminology. The Colorado Basin Roundtable offers an explanation of “stream management plan” in their BIP, and the CWCB should consider similarly providing information on whatever consistent term the Plan will use. We recommend including the language describing stream management plans from the Colorado BIP:

Well-developed stream management plans are grounded in the complex interplay of hydrology, channel morphology, alternative water use and management strategies, and include the flow dynamics needed to support both recreational uses and ecological function. Such plans serve a wide range of stakeholders and help resource managers better understand and manage stream flows. These plans provide a framework for decision making and project implementation around instream needs for the Basin Round Tables (BRTs).

Stream management plans utilize both existing and new data sources to analyze and identify necessary flows for habitat, water use, recreation, and water quality. The plans synthesize available data, ranging from stream gauges to model output (e.g., StateMod and Watershed Flow Evaluation Tool [WFET]) to identify baseline conditions and potential gaps in flow needs, and to ensure the protection of existing uses, and the long-term viability and resilience of river ecosystems. While recognizing the fundamental nature of the prior appropriation system, these baselines are crucial in evaluating how current and future uses will impact nonconsumptive values, and in identifying appropriate protection or restoration actions. Stream management plans should provide data-driven flow targets that have a high probability of protecting environmental and recreational values on streams and rivers across the state.

Critically, effective stream management plans must recognize the importance of accommodating existing and future human use needs while striving to maintain or improve the current state of aquatic ecosystem health and integrity. In anticipation of stakeholder conflicts associated with future water planning and use, stream management plans must aim to provide a scientific and socially supported foundation for negotiating non-consumptive water resource use protection issues as they arise.

Connectivity between stream reaches must also be considered. This is important not only from an environmental perspective but also from a

perspective that looks at all of the combined flow quantification needs along the length of a stream.

We suggest discussing watershed plans/ watershed master plans/ stream management plans in a separate heading to highlight their importance and separate them from the discussion of managing partnerships.

7.3 Water Quality

QQ appreciates the excellent work in this section and supports all of the actions listed in this draft. We note that the water quality/quantity integration goal that was articulated in drafts submitted by the Water Quality Control Commission do not appear in this draft. For the QQ region, integrating quality and quantity in water resource planning is essential and we believe that this is true for the state as a whole. We recommend that this critical goal be included in the draft CWP as written by the Water Quality Control Commission.

QQ believes that the description of current conditions is extremely important and recommends that Figure 7.3-4 be augmented with a discussion of the generally good water quality throughout the streams in Colorado. Of equal importance is a description of streams that are not meeting water quality goals. We recommend adding a description of the streams that are not meeting water quality standards. That information is available through the WQCD.

Chapter 8. Interbasin projects and agreements

The introduction to this section says that the reason for creating intrastate agreement is to “align key parties’ interests and understanding so that Colorado has a united voice when dealing with interstate and federal negotiations and litigation about water exiting the state.” Many of the example agreements listed do not pertain to water leaving the state or interstate agreements. Some of them are explicitly to provide water supply for a particular water provider while taking into account some of the concerns of the areas from which the water comes. These agreements are multi-purpose and have significant benefit to many regions of the state. This section should be clear that the focus of the examples listed was not to better situate the state in interstate negotiations, but to benefit particular stream sections, address stream- or segment- specific problems, and to benefit water users.

The summary box at the beginning of this chapter should be revised for additional clarity. Bullet “C” states that this chapter will “[u]se the Draft Conceptual Agreement as an integrated package of concepts” to address environmental resiliency, higher conservation commitments, and facilitate a possible transmountain diversion project in the future. QQ

members are concerned about any plans to facilitate a transmountain diversion project and would recommend a more general reference for future water projects, whether they are in-basin or cross-basin. Finally, we recommend that this chapter add additional language explaining how the conceptual agreement would be used and the roles of various stakeholders in any sort of conceptual agreement.

Existing stakeholder agreements and projects.

Windy Gap Firming Project.

The discussion states :

This water will be supplied via the Colorado-Big Thompson Project, so the BOR must approve a contract allowing use of federal facilities.

This sentence should be updated to refer to the Amendatory Contract that was finalized last year. QQ would be happy to provide this to the staff.

The description also does not explain that the Colorado-Big Thompson is a federal transmountain diversion project. QQ recommends the following changes to explain this to readers:

Chimney Hollow Reservoir would allow the Subdistrict to divert more water from the Colorado River because the Subdistrict can use it to make more room in Granby Reservoir. This water will be supplied via the federal Colorado-Big Thompson Project, so the Bureau of Reclamation must approve a contract allowing use of federal facilities.

The Water Plan states “[Windy Gap Firming Project] is operated by Northern Water’s Municipal Subdistrict.”

Please revise the statement to read as follows:

[Windy Gap Firming Project] is operated by Northern Water’s Municipal Subdistrict, and as a result Northern has unique obligations to mitigate impacts in the Colorado River basin imposed by statute

under the Water Conservancy Act.¹⁸

Please revise the next sentence as follows to be more accurate:

As part of the 1041 permit approved by Grand County, the Subdistrict has entered into agreements with the County, Middle Park Conservancy District, Northwest Colorado Council of Governments, and the Colorado River Water Conservation District that provide ecological enhancements to the Colorado River to offset some of the historical and projected impacts caused by diversions.

Draft IBCC Conceptual Agreement

The Table 8-1 captures the controversy surrounding new TMDs. It is also essential to be clear that the Conceptual Agreement was developed by the IBCC, not Basin Roundtables. We suggest additionally clarifying this in first couple of paragraphs, perhaps with the following addition:

The Draft IBCC Conceptual Agreement reflects consensus only of the members of the IBCC, not of the Basin Roundtables.

The Draft IBCC Conceptual Agreement does not include any discussion of the role of local governments. The list of seven points of consensus does not include the need to address socio-economic impacts of water projects, nor does it include the requirement for local approval of a proposed TMD. The key lesson learned from the CRCA and the WGFP process is that no water projects will be successful unless the project proponent begins the process by working with the locally affected communities and that local governments have approval of the projects. The CRCA and the WGFP agreements would never have been successfully negotiated unless approval of water projects by the affected conservancy district, conservation district, and municipal and county governments was included in the agreement.

¹⁸ C.R.S. 37-45-118 (b)(II):

Any works or facilities planned and designed for the exportation of water from the natural basin of the Colorado river and its tributaries in Colorado, by any district created under this article, shall be subject to the provisions of the Colorado river compact and the "Boulder Canyon Project Act". Any such works or facilities shall be designed, constructed, and operated in such manner that the present appropriations of water and, in addition thereto, prospective uses of water for irrigation and other beneficial consumptive use purposes, including consumptive uses for domestic, mining, and industrial purposes, within the natural basin of the Colorado river in the state of Colorado from which water is exported will not be impaired nor increased in cost at the expense of the water users within the natural basin. The facilities and other means for the accomplishment of said purpose shall be incorporated in and made a part of any project plans for the exportation of water from said natural basin in Colorado.

Chapter 9. Alignment of state resources & policies

9.1 Protecting Colorado's compacts & upholding Colorado water law

Actions. This section seems out of place at the beginning of a chapter, since all the other chapters close with particular “actions” addressing the issues from the chapter. We recommend changing this term to maintain consistency.

This section says on page 288 that the State will “continue to assure the proper balance between the State and Federal roles in Colorado’s water law and water management system.” While this statement alone is an acceptable goal for the Water Plan, the information that follows is concerning for several reasons. First, this paragraph lists several federal policies that have “called into question the balance in State and Federal roles,” but does not explain why or how these policies affect the State or water law and management. The Forest Service has withdrawn its directive on groundwater management. Resource management plans are not in any way a “new policy” and should not be included as such.

Second, this paragraph makes a concerning statement about bypass flows. The paragraph states:

...[T]he State has also had to grapple with the federal assertions of authority to mandate bypass flows as a resource management tool. To the extent they interfere with and potentially undermine water rights as decreed and administered within the State, Colorado maintains that bypass flows should not be a preferred method for managing water on federal lands. Rather, before federal agencies seek to impose bypass flows as a resource management tool, they should work with the State to identify how such use will comport with the water rights administration under Colorado law.

In the QQ region, bypass flows that require water to be releases to save a stream from dry up have been and continue to be a central method to protect watershed health as mitigation for transmountain diversions on federal lands. The federal government often imposes bypass flows as part of their special use permitting of a water project on federal land as part of the agency’s mandate to protect the health of the public lands. Courts have upheld bypass flows as part of the Forest Service’s special use permitting process. *See Trout Unlimited vs. U.S. Dep’t. of Ag*, 320 F. Supp. 2d 1090 (D. Colo. 2004), *appeal dismissed*, 441 F 3d 1214 (10th Cir. 2006).

The next action is that the State will “continue to work within Colorado’s local structure.” QQ appreciates this point and would like to stress that because of the significant role local

governments play in permitting water projects, this statement is of the utmost importance to this chapter. This paragraph points out that local governments have considerable authority “explicitly conferred to them by state law.” We recommend clarifying that local governments, especially home rule authorities, also have considerable *implied powers* under their police power to protect public health, safety and welfare.

9.2 Economics & funding

QQ does not support the use of state funds for a TMD except through existing programs available through the CWCB or the Water Resources and Power Authority. Page 294 of this section identifies the potential need for additional state funding to:

. . . support innovative water projects, such as multi-use, alternative agricultural transfers, or a new TMD with a sufficient back-up supply on the East Slope alongside significant environmental and recreational support that meet the criteria of the IBCC consensus . . .

Because the idea of state funding for a new TMD does not have consensus throughout the state, the CWP should not discuss the use of state funds for such a project as if it were a well-accepted proposal.

9.4 Framework on a more efficient permitting process

QQ continues to recommend that coordinated permitting for water projects be accomplished through something similar to a joint review process managed by DNR, and appreciates the attention the draft plan gives to this process. The CWCB and other state agencies are better suited to the neutral role of facilitating discussions among competing interests rather than advocating for or against projects in permitting, especially when the state may have a regulatory responsibility. QQ supports the idea of tying state funding to a set of criteria for what a “good project” looks like, but does not support extending this idea to state advocacy of a project through the permitting phase.

Additional stakeholder outreach. Table 9.4-2 includes NWCCOG as a stakeholder but does not show that QQ submitted written comments regarding permitting. Please revise to reflect that QQ submitted written comments along with meeting with the CWCB on this important issue. As you know, QQ member jurisdictions have issued permits for all of the existing major TMDs since the authority to do so was upheld by Colorado courts.

Summary of the process for each process within water permitting. The State of Colorado has a very limited role in water project permitting, which is primarily 401 certification by the WQCD (with oversight by EPA), and fish and wildlife mitigation recommendations by the CPW Commission. In actuality, local government permit processes, such as special use or 1041 permits address many more of the issues associated

with water projects and afford an opportunity for quasi-judicial proceedings where concerns of the project proponent and the area affected by the project can be aired, discussed, and resolved. The CWP should acknowledge this and encourage greater consultation with local governments in water project permitting rather than providing only cursory recognition of this situation.

Potential conceptual framework for state of Colorado support of a project. The proposed framework for a water project to receive a state endorsement (Figure 9.4-1) establishes additional factors and regulatory burdens to demonstrate consistency with those new factors for a project proponent instead of easing regulatory burdens.

These new factors also introduce new potential for intrastate conflict. For example, one factor is whether the proposed project is identified in a BIP. This raises the question of which basin's BIP controls, especially if a situation arises where an applicant wants a TMD identified in one BIP when the BIP from where the water would be diverted opposes a TMD. A similar conflict arises when a BIP of one basin opposes transfers from agricultural to municipal uses while another BIP supports a project to make such a transfer. Another factor is whether a project meets a SWSI-defined need. The factor is unclear both whether the factor is limited to an M&I need and what happens if fulfilling one need conflicts with another identified need such as a nonconsumptive need.

Another factor evaluates whether a project “[i]nvolves local government consultation.” QQ recommends that this factor be changed to read:

The project has been agreed to by the affected counties, conservancy districts and conservation districts in the area from which water would be diverted.

The CRCA never would have been agreed to by the west slope without this language. The need for local approval is supported by QQ and also by thirty local governments and the Colorado Basin Roundtable in the Headwaters Principles for the Colorado Water Plan.¹⁹ Moreover, agreements that led to the Moffat Expansion Project, and the Windy Gap Firing Project all rest on the ability of local governments to approve a proposed water project.

While many of these new factors, such as requiring a conservation plan to reduce demand and avoiding impacts on agriculture are laudable and important, they should be part of the front loaded discussion of projects among permitting agencies and affected interests and not included as new project factors necessary to attain state endorsement.

¹⁹ These Principles are available at <http://nwccog.org/docs/qq/waterplan/Principles%20w%20updated%20endorsement%20100614.pdf>.

This section recommends that the State be involved in early coordination in order to

. . . complete preliminary or contingent 401 certifications and wildlife mitigation plans before the final EIS.

QQ does not support the State issuing a preliminary 401 certification before a Final EIS is issued. Most projects and the analysis of their impacts change between the Draft and Final EIS in order to address comments received from agencies and the public, and so the final proposed project may differ from the state -endorsed project. Endorsement may limit flexibility to react to issues and concerns identified between draft and final stages of NEPA. Most importantly, draft EISs often do not contain mitigation plans at all since those are delayed until the FEIS is released. QQ supports the WQCD acting as a cooperating agency during the EIS process as long as its regulatory impartiality and authority is protected.

Instead of endorsing a project through new regulatory requirements outlined in the framework, state leadership and good governance would suggest that the State help community water projects work through the permitting system by balancing needs of the project proponent and those of the impacted citizens. A front loaded process that provides that balance early in project permitting would accomplish this and actually help, not hinder, new projects. Again we turn toward the idea of a joint review process to accomplish this objective.

State endorsement. This section still does not explain what state endorsement of a project means. The Water Plan should spell out exactly how the State would advocate for (or against) a project based on an endorsement. Being clear about the intentions up front will allow other stakeholders and permitting agencies to provide comment on this process of state endorsement.

This section states that:

Such state endorsement would allow the state to encourage completion of the final EIS and ROD.

This Section should provide additional information on how the state would proceed with such “encouragement” without being “predecisional.”

Quicker regulatory process. Our comments above explain our concern about “quicker” regulatory processes as a goal in and of itself.

We recommend Section 9.4 focus primarily on “frontloading” permitting processes through joint review such that significant issues, local concerns, information and data requirements, level of detail, agreement on mitigation concepts, etc. are addressed up front before a project gets mired in NEPA. The State could provide a valuable role in facilitating this up

front coordination of permit requirements among local, state, and federal permitting entities. This could result in such permitting improvements such as an applicant needing only one water quality impact analysis to adequately address fisheries assessment for CWP, NEPA needs, and state 401 permitting; clarity on the level of detail necessary for both local and NEPA socio-economic analysis; and identification of wetland issues for the ACOE and local permits. This coordination would be difficult but extremely helpful for the applicant.

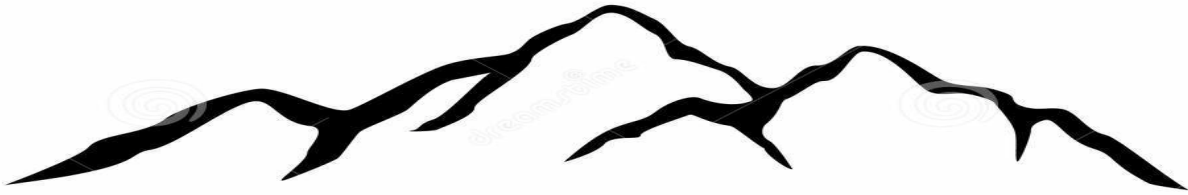
We look forward to continuing work with the CWCB on the Water Plan.

Thank you.

Sincerely,

Northwest Colorado Council of Governments Water Quality/ Water Quantity Committee

cc: James Eklund
Rebecca Mitchell
Jacob Bornstein
Kate McIntire



**Boulder County | City & County of Denver | City & County of Broomfield | Eagle County
Grand County | Pitkin County | Summit County**

To the Colorado Water Conservation Board,

We respectfully submit the following comments regarding the importance of integrating land use planning in the development of the Colorado’s Water Plan (CWP). Six boards of county commissioners, including Boulder, City & County of Denver, Eagle, Grand, Pitkin and Summit, are signatories to these comments. Mayor Randy Ahrens and city council member Sam Taylor from City & County of Broomfield are also signatories.

The local government perspective is essential to the CWP. The CWP uses growth projections that indicate that Colorado’s population may as much as double by 2050. Land use decisions made by county commissioners directly influence the timing, location, intensity and water demands of this new growth. Likewise, the water use and supply decisions made by county commissioners affect the state as a whole: the way future water demands are addressed in one part of the state necessarily affects water availability and the capacity for future growth in other areas of the state. Because of its structure, the CWP process does not easily allow for problem-solving engagement among local policy makers to address these statewide issues. Roundtables are largely technical and locally-focused; they are not designed to address the local land use issues connected to water planning across Colorado. CWCB comment opportunities are limited to short statements, or one-way written communication.

We believe that interactive discussions about cross-basin land use goals and values are essential to the success of the CWP process. Our interjurisdictional meetings and comments are one step toward assisting the CWCB to accomplish move in that direction.

We developed these comments during a series of five meetings held between commissioners from front range and west slope counties over several months. These meetings consisted of joint discussions about how Colorado can continue to thrive with adequate water resources for future needs while protecting the economy and environment that makes this state such a great place to live and visit.

At the first in the series of meetings, the commissioners developed a guiding statement that framed discussions over the next few months:

Every community can do better on water conservation and efficiency via locally determined measures such as but not limited to reinvestment in aging infrastructure, community education, enhanced building codes and water sensitive land use planning.

The below recommendations would help create a stronger Land Use Section of the Water Plan.

A. The Land Use subsection of the Water Plan (Ch. 6.3.3) should be elevated.

B. The Water Plan should include additional introductory language emphasizing the importance of local land use planning. As county commissioners, we respect the need for local control and therefore believe in supporting proactive and not reactive solutions that are appropriate for the varying needs and regions of the state. These solutions must address concerns related to current resident needs and future population growth. The following are examples of why water-sensitive land use planning should be stressed in the Water Plan.

Water sensitive land use planning can:

1. Decrease the water supply Gap. As Colorado’s population continues to grow, well thought out, effective, sustainable, and predictable land use planning is essential.
2. Provide low cost alternatives for meeting the Gap. Water sensitive land use often results in less stress on water systems, indoor and outdoor water savings, and reduction in expensive longterm capital outlay.
3. Protect the values of Colorado, including vibrant economies, agriculture, open space, and recreation. Local land use planning should be among the first points of consideration in order to protect and support all of Colorado’s values and economic drivers.
4. Create more predictability and reliability as well as reduce risk in water supply planning, in turn creating more sustainability for current and future residents.
5. Encourage shared solutions including best management practices, collaborative physical projects and practical land use models to address water quality and quantity challenges.
6. Result in benefits that reduce infrastructure and service costs, and enhance a community’s quality of life.

C. The Land Use section of the Water Plan should coalesce common elements in various Basin Implementation Plans (BIPs) into policy recommendations, and should more substantively outline the existing and ongoing tools/ best management practices available to date.

1. The current draft of Section 6.3.3 on Land Use Planning includes summaries of four ongoing studies regarding water planning and land use planning. While this is useful, we believe it is more useful to explain how the studies are consistent or where they differ, what their recommendations are, and how their recommendations may be used in the future.

The Water Plan should collect ongoing studies and other data from local governments, associations, and state agencies related to water and land use planning. Section 6.3.3 of the Water Plan could also serve as a clearing house for other resources on the subject of water sensitive land use planning, such as Model Land Use Codes or case studies.

2. The current draft of Section 6.3.3 recaps land use planning recommendations from different BIPs, with many of the Basins sharing similar recommendations. We hope that the CWCB will gather the recommendations from various BIPs and produce some suggested action points to better integrate land use planning and water planning.

3. Water sensitive land use planning is a statewide issue. As such, it is proper for the CWCB and DOLA to have a role in coordinating and encouraging that integration while honoring Colorado's proud history of local control.

D. We recommend potential "Action Steps" in the Water Plan be more specific.

The action items could be broken into steps best-suited for various communities based on various factors, including geography, demography, population, expected rate of growth, etc. Because we believe that Colorado should move forward quickly to consider land use planning practices that take into account water usage and supply, we suggest that two additional steps be included in the Plan:

1. **Evaluate potential impacts on the Gap of land use planning and water planning integration.** We suggest that CWCB include an analysis of the impact of land use planning practices on the Gap in the next update of the Statewide Water Supply Initiative.
2. **Establish goal timelines for implementation, including funding, of identified actions.** Goals relating to land use planning must be a high priority for the Water Plan, on equal pace for successful project development and funding as any other part of the Plan.

Thank you for your consideration of our comments in the formation of Colorado's Water Plan,



Commissioner Deb Gardner
Boulder County Board of Commissioners



Commissioner Merrit Linke
Grand County Board of Commissioners



Mayor Michael B. Hancock
City & County of Denver



Commissioner Stephen F. Child
Pitkin County Board of Commissioners



Commissioner Kathy Chandler-Henry
Eagle County Board of Commissioners



Commissioner Dan Gibbs
Summit County Board of Commissioners

Randy Aherns
Mayor, City & County of Broomfield

Sam Taylor
Town Council Member, City & County of
Broomfield



COLORADO

**Oil & Gas Conservation
Commission**

Department of Natural Resources

1120 Lincoln Street, Suite 801
Denver, CO 80203

**Governor’s Task Force Rulemaking
Outreach Meetings Schedule**

The Commission is beginning the rulemaking process to implement Recommendation Numbers 17 and 20 from the Governor’s Oil and Gas Task Force. COGCC will be holding outreach meetings across the state hosted by local governments and other interested stakeholders. The tentative schedule for these meetings is as follows, which will be updated as needed. For more information about any meeting, please contact the Host.

Date & Time	Host	Location
Tuesday, July 7, 2015 1:00-3:00 p.m.	COGA, CPA, API	Encana Oil and Gas 370 17 th Street Suite 1700 Denver, CO
Wednesday, July 22, 2015 9:30 a.m. -12:00 p.m.	City and County of Broomfield Julie Moser 303-438-6382 jmoser@broomfield.org	The Chateau at Fox Meadows 13600 Xavier Lane Broomfield, CO
Tuesday, July 28, 2015 1:30-4:00 p.m.	City of Brighton	Brighton City Hall, 6 th Floor City Council Study Session Rm. 500 S. Fourth Ave Brighton, CO
Wednesday, July 29, 2015 1:30-4:00 p.m.	Garfield County Kirby Wynn, LGD 970-625-5905 kwynn@garfield-county.com	Grand River Health Conference Facility 501 Airport Road Rifle, CO
Monday, August 3, 2015 5:30-8:00 p.m.	Weld County Troy Swain, LGD 970-353-6100 x3579 tswain@co.weld.co.us	Greeley Administration Building 1150 O Street Greeley, CO
Thursday, August 6, 2015 TBD	La Plata County Joanne Spina, Asst. Cnty Mgr. 970-382-6211 joanne.spina@co.laplata.co.us	La Plata County Administration Building 1101 E. 2nd Avenue Durango, CO





COLORADO

Oil & Gas Conservation
Commission

Department of Natural Resources

1120 Lincoln Street, Suite 801
Denver, CO 80203

June 16, 2015

The Colorado Oil and Gas Conservation Commission is beginning the rulemaking process to implement Recommendation Nos. 17 and 20 from the Governor's Oil and Gas Task Force. Recommendation No. 17 addresses local government collaboration with oil and gas operators concerning locations for "Large Scale Oil and Gas Facilities" in Urban Mitigation Areas. Recommendation No. 20 would require oil and gas operators who are registered with the COGCC to also register with municipalities in which they operate and, at the request of the municipality, provide certain information about current and planned drilling operations in the municipality.

COGCC staff will be conducting outreach meetings across the state to hear from local governments and other interested stakeholders about how Recommendation Nos. 17 and 20 can be implemented most effectively. COGCC is planning meetings along the Front Range to be hosted by the City of Brighton, the City and County of Broomfield, and a Weld County municipality. Additional meetings will be held on the West Slope and in La Plata County. COGCC will begin drafting proposed rules after these initial outreach meetings and will conduct formal stakeholder meetings in late summer or early fall.

Copies of Recommendation Nos. 17 and No. 20 are attached. Other final Task Force Recommendations pertaining to the COGCC were acted upon by the General Assembly or can be implemented without formal rulemaking. The COGCC will not conduct rulemaking related to proposed recommendations that did not receive two thirds majority support from the Task Force and, therefore, those recommendations will not be discussed during the outreach meetings.

Brief descriptions of Recommendation Nos. 17 and 20 and questions or issues of interest for stakeholder input during the outreach meetings follow.

Recommendation No. 17

Process for Local Government Consultation

Recommendation No. 17 contemplates that the COGCC adopt a consultation process for enhancing local government participation during COGCC's permitting process if an oil and gas operator proposes to locate a "Large Scale Oil and Gas Facility" in an Urban Mitigation Area. The consultation process is intended to be a collaboration by which the local government and the operator agree on the site location and operational practices for such a facility. Under the Recommendation, the operator is required to offer to consult with the local government before selecting the facility location. One objective of the outreach meetings is to discuss how to create an effective and efficient local government consultation process.



Defining “Large Scale Oil and Gas Facilities”

A second objective of the outreach meetings is to discuss the metrics for determining what should constitute a “Large Scale Oil and Gas Facility,” taking into account factors such as the scale and intensity of operations and proximity to people. Developing unconventional oil and gas formations, such as the Niobrara Shale, using horizontal drilling and hydraulic fracturing is generally leading to higher volume production from larger scale facilities compared to conventional production. At some point, the scale and intensity of a facility warrant differentiation as a Large Scale Oil and Gas Facility.

At present, “Large Scale Oil and Gas Facility” is not defined in COGCC Rules. Some metrics by which scale and intensity might be quantified include:

1. The anticipated time required to drill and complete the wells proposed for a multi-well location;
2. The total volume of on-site storage capacity necessary to support initial (“flush”) production;
3. The anticipated time during which multiple drilling and completion operations would be occurring simultaneously (“simultaneous operations”) on a proposed facility;
4. Whether an oil and gas facility would be categorized as a “Major” or “Synthetic Minor” source under Colorado Department of Public Health and Environment Regulation No. 7.

COGCC is seeking stakeholder input on these and possible other metrics to help define what constitutes a Large Scale Oil and Gas Facility.

Siting Tools and Mitigation

Recommendation No. 17 also proposes that COGCC address the authority of the Director to regulate the siting of Large Scale Oil and Gas Facilities and to require mitigation measures to reduce impacts on neighboring communities. This could include siting tools to locate such facilities away from residential areas when feasible. A third objective of the outreach meetings is to discuss potential additional mitigation requirements, considering COGCC’s existing Rules. Issues of interest to COGCC include:

1. Are there specific mitigation measures beyond those currently required under COGCC Rule 604.c.(2) and (3) that should be considered or required for Large Scale Oil and Gas Facilities?
2. What specific criteria should trigger additional mitigation measures?

Recommendation No. 20.

Recommendation No. 20 proposes to require oil and gas operators to register with municipalities in which the operator has current or planned operations and, at the request of the local government, to submit certain information regarding the operator’s drilling plans within the municipality for the next five years.

Recommendation No. 20 was proposed to provide a framework to incorporate oil and gas operators’ drilling plans into municipal comprehensive planning. Better coordination between oil and gas

development plans and a municipality's Comprehensive Plan, as proposed by Recommendation No. 20 is intended to reduce conflicts between planned oil and gas development and a municipality's goals and aspirations related to transportation, utilities, land use, open space, recreation, and housing.

COGCC welcomes stakeholder input on effective means of implementing Recommendation No. 20. Potential issues to be considered include:

1. Is a municipality's request for drilling plans from an operator a "one time" event, or is an operator required to submit periodic updates?
2. What constitutes a "material alteration" of a five year drilling plan, such that an update is required?
3. If a municipality identifies a potential conflict with a proposed drilling location, when is mediation required and who may request or compel mediation?
4. What happens if a municipality does not provide a Comprehensive Plan Map overlaid with future drilling and production sites to a registered operator, or provides a map but fails to identify a significant conflict between proposed drilling and other current and planned future uses that subsequently arises?
5. What consequences, if any, arise if either the operator or a municipality fails to timely update their respective plans or maps?

The Commission and COGCC staff look forward to creating rules that enhance collaboration between local governments and industry and ensure Colorado's oil and gas resources continue to be developed responsibly.

Task Force Recommendations

The following nine recommendations have been approved by the Colorado Oil and Gas Task Force as its final recommendations to the Governor. Each recommendation included in the Task Force Recommendations exceeded the two-thirds voting threshold established by the Governor.

RECOMMENDATION TO FACILITATE COLLABORATION OF LOCAL GOVERNMENTS, COLORADO OIL AND GAS CONSERVATION COMMISSION AND OPERATORS RELATIVE TO OIL AND GAS LOCATIONS AND URBAN PLANNING
(Recommendation #17)

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

Agency: Colorado Oil and Gas Conservation Commission (COGCC)

Recommendation: *Recommend COGCC rulemaking to address Local Government collaboration with Operators concerning locations for "Large Scale Oil and Gas Facilities" in "Urban Mitigation Areas," as defined in COGCC rules. The COGCC should initiate a rules making that would address three related issues:*

First, it would define and adopt a process for enhancing local government participation during the COGCC Application for Permit to Drill ("APD") process concerning location(s) of Large Scale Oil and Gas Facilities in Urban Mitigation Areas, consistent with the proposal.

Second, the rulemaking would also define what constitutes "Large Scale Oil and Gas Facilities" taking into consideration scale, proximity, and intensity criteria.

Third, address the authority of, and procedures to be used by the Director of the COGCC to regulate the location when permitting Large Scale Oil and Gas Facilities for the purpose of reducing impacts to and conflicts with communities. This shall include siting tools to locate facilities away from residential areas when feasible. Where siting solutions are not possible, the Director would require mitigations to limit the intensity and scale of the operations, as well as other mitigations, to lessen the impacts on neighboring communities.

Process: This process is intended to provide interested local governments a defined and timely opportunity to participate in the siting of such large-scale multi-well oil and gas production facilities,

before an Operator finalizes such locations. This would also provide an opportunity to address location of right-of-way for pipelines, facility consolidation, access routes, and to otherwise mitigate impacts within the Urban Mitigation Area. The purpose of this new rule would be to create an incentive for early resolution of concerns about siting in urban areas, and could be done as part of an Operator's permitting process at the COGCC. Unless an agreement was already in place with an interested affected local government concerning locations within its boundaries, an Operator must obtain local government consultation during the Operator's COGCC APD approval process concerning such facilities in Urban Mitigation Areas. Other local governments may continue to use the current local government designee ("LGD") comment, permit condition and hearing process.

Nothing in this recommendation is intended to or shall be interpreted to alter any existing land use authority local government may have over oil and gas operations.

As set forth, this process would not apply in cases where the Operator and the local government have already negotiated an MOU, site plan review, comprehensive development plan or have otherwise agreed on the location of a multi-well production facility.

When an Operator intends to permit an oil and gas location that meets the criteria for the process, the following steps would be involved:

1. If a local government has in place a comprehensive plan or master plan that specifies locations for oil and gas operations, and if an application would be consistent with the terms of that plan, the COGCC shall include a provision in its rules that provides for expedited consideration of the application.
2. Prior to selecting an oil and gas location, the Operator must offer to meet with the LGD and a designated representative of the COGCC to seek location government consultation concerning locations for such large-scale facilities. Such consultation, based on the local government planning perspectives, would be designed to anticipate community concerns. Should the local government decide to use this process, the first meeting begins a collaboration by which the Operator and the local government, and recognizing the requests and concerns of the surface owner on whom such facilities may be located, can agree on site location and operational practices. These agreements can be documented in:
 - a. Memorandum of Understanding (MOU)
 - b. Best Management Practices (BMP's) on the COGCC permit
 - c. Comprehensive Drilling Plan (CDP)
 - d. Unconventional Resource Units
 - e. Local Government Land Use Permit
 - f. Or any other mechanism in which agreement is established
3. Operator and local government are required to work towards a compromise concerning locations, and the Operator is required to submit the agreement reflected in paragraph 1 upon submittal of an Oil and Gas Location Assessment ("OGLA"; Form 2A) to the COGCC, or otherwise indicate whether the local government has approved the location for the multi-well production facility.

The COGCC staff and local government liaison would be charged, if necessary, with convening meetings of the local government, Operator, and COGCC staff to consider alternative locations

for multi-well production facilities and to encourage locations that consider distances between building units and/or high occupancy units

4. A local government's request concerning location must be based on a set of established set of reasonable standards or criteria addressing land use and surface related issues resulting from the proposed oil and gas operation, balanced with consideration of responsible development, production, and utilization of the natural resources of oil and gas in the state of Colorado in a manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources, and include consideration of surface and mineral owner wished.
5. If a compromise cannot be reached concerning proposed locations within reasonable time frame (to be determined during rulemaking) after the first meeting, but before the OGLA is submitted, the Operate shall offer to engage in mediation with the local government. If the local government agrees to mediation, they shall jointly select a mediator or mediators and shall share in the cost of mediation. Upon selection of a mediator(s), the process shall conclude within 45 days unless the two parties jointly agree to an extension. The parties may request the assistance of COGCC staff, and if they do so the COGCC Director shall exert his or her best efforts to provide the requested technical assistance. If mediation does not occur, the Operator may submit its OGLA and APD for processing and approval.
6. If the parties reach agreement, they may memorialize that agreement in any of the forms outlined above.
7. If the parties are unable to reach agreement, on their own or with the mediation, and the timing process of mediation has lapsed, the Operator will finalize its OGLA with its settled location and then will be required to present its OGLA to the full COGCC at an expedited hearing. The COGCC will hear evidence from the local government, the Operator and the COGCC staff before the OGLA can be approved. In no case will the hearing on the OGLA be greater than 90 days from the first meeting with the local government.

In order to approve the OGLA, the COGCC must weigh the data and information presented from both parties as the proposed location(s), including the standards discussed in paragraph 4.

Rationale: The Task Force heard concerns from numerous parties about the location of large multi-well production facilities in close proximity to urbanized areas. The scale and intensity of multi-well production facilities that are in close proximity to neighborhoods has led to a need for local governments to represent their constituents to a greater degree than in the past. Local governments have expressed the need for more involvement earlier in the process of permitting oil and gas locations, in particular, to the siting of large-scale multi-oil and gas well production facilities in order to represent land use impacts and community concerns (such as those of nearby homeowners, schools, etc.). The above outlined process allows for local governments to get advance notice from Operators and begin discussions with Operators prior to locations being selected. It provides a mechanism for local governments to influence locations prior to permitting at the COGCC and establishes a mechanism for

collaboration among local governments, oil and gas Operators, and the COGCC. This recommendation is consistent with COGCC Director Matt Lepore's suggestion, and that of other Task Force members, including Matt Sura, that the Task Force considers scale, proximity, and intensity in addressing location of multi-well production facilities.

**RECOMMENDATION TO INCLUDE FUTURE OIL AND GAS DRILLING AND PRODUCTION FACILITIES IN
EXISTING LOCAL COMPREHENSIVE PLANNING PROCESSES
(Recommendation #20)**

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

Agency or General Assembly: Colorado Oil & Gas Conservation Commission (COGCC)

Description: Proposal to require operator registration with certain Local Government Designees (“LGD”), and upon the request of a municipal LGD, submission of operational information for the purpose of incorporating potential oil and gas development into local comprehensive plans. Key elements of this recommendation include:

1. Beginning on January 1, 2016, all operators registered with the COGCC shall also register with the LGD of each municipality in which it has current or planned oil and gas operations. Upon the request of a municipal LGD, the operator shall provide the following information, with a copy to the COGCC Local Government Liaison (“LGL”):
 - a. Based on the current business plan of the operator, a good faith estimate of the number of wells (not including non-operated wells) that such operator intends to drill in the next five years in the municipal jurisdiction, corresponding to the operator’s internal analysis of reserves classified as “proved undeveloped” for SEC reporting purposes.
 - b. A map showing the location of the operator’s existing well sites and related production facilities; sites for which operator has, or has made application for, COGCC permits; and, sites identified for development on the operator’s current drilling schedule for which it has not yet made application for COGCC permits.

The plan provided to the LGD is acknowledged to be subject to change at the operator’s sole discretion, and shall be updated by the operator if materially altered.
2. The Planning Department of participating municipalities will prepare a comprehensive map of the potential future drilling and production sites within its jurisdiction, overlaid on the existing Comprehensive Plan Map.
3. Beginning on July 1, 2016, and upon material alteration, the municipality will provide the Comprehensive Plan Map, overlaid with future drilling and production sites to each of the registered operators and to the LGL. On such map, the municipality will identify sites that it considers compatible with the current and planned future uses of the area; sites where it anticipates minor

issues to be resolved by negotiation with the operator; and, sites where it anticipates significant conflicts with current and planned future uses as indicated in the Comprehensive Plan.

4. Disputes between local governments and operators will be resolved through mediation as more thoroughly described in Recommendation 13b.

Rationale: Local governments throughout the state have complicated and lengthy processes to develop Comprehensive Plans. The plan ultimately reflects the community's goals and aspirations in terms of land development and preservation. The plan guides public policy in terms of transportation, utilities, land use, open space, recreation and housing.

Oil and gas development is within the purview of the State of Colorado, and long-term planning to the extent it is performed, is often disjointed and not coordinated with local governments, most acutely in municipalities. Accordingly, when oil and gas development comes to a municipality, it can result in conflict with the existing, documented, community goals and aspirations. This proposal is to recommend the framework which will facilitate incorporation of drilling plans into municipal comprehensive planning.

**Protocol for
Local Government Interest Group**
Concerning the
Upper Colorado River Wild and Scenic Stakeholder Group Plan (January 2012) (SG
Plan)

1. PURPOSE

- a. This protocol sets forth the process and procedures for inclusion in the Local Government Interest Group and for the selection and responsibilities of its members, consistent with the Governance Section VI of the SG Plan.
- b. The Local Government Interest Group is one of six Interests Groups and represents local government interests on the Governance Committee for the SG Plan. The purposes of the Governance Committee are outlined in Section VI. C. of the SG Plan.

2. MEMBERSHIP

- a. Members. The current members of the Local Government Interest Group are Eagle County, Grand County, Summit County and the Northwest Colorado Council of Governments Water Quality/ Quantity Committee (QQ), (collectively “Members”).
- b. Procedures for Membership. The Members are also participating members of the SG Plan and have committed to funding pursuant to Section 5 of this Protocol.
 - i. Any additional Members must be participating members of the SG Plan as determined by the GC and must commit to funding pursuant to Section 5 of this Protocol.
 - ii. The unanimous consent of all existing members is required to admit an additional member.
 - iii. This Protocol will be adjusted as appropriate for any changes to membership.
- c. Eagle River entities. As outlined in footnote 15 of Section VI. D. 1. of the SG Plan, it was anticipated that the Eagle River entities¹ would be included in either the Local Government Interest Group or the West Slope Water Conservancy/ Conservation District Interest Group. The Eagle River entities currently have determined their preference to join the West Slope Water

¹ The Eagle River entities consist of Vail Associates, Inc., Upper Eagle Regional Water Authority, Eagle River Water and Sanitation District, and Eagle Park Reservoir Company.

Conservancy/ Conservation District Interest Group instead of the Local Government Interest Group. The West Slope Water Conservancy/ Conservation District Interest Group anticipates accepting the Eagle River entities for inclusion in their group, which is also acceptable to the Members.

3. VOTING REPRESENTATION

- a. Eagle, Grand and Summit Counties will each designate one primary voting representative (“Representative”) and one alternate (“Alternate”) to the Governance Committee for a total of three voting Representatives and three Alternates.
 - i. Representatives and Alternates are expected to use best efforts to attend all regular, annual, and special meetings of the Governance Committee, and to coordinate among each other in preparation for such meetings.
 - ii. QQ will advise and staff the work of the Members as determined by the Members and will periodically update and advise other local governments in the region on the activities of the group as appropriate. QQ’s role may be further defined by the Members.
- c. Terms. For initial appointments, Grand County’s Representative and Alternate will serve a three-year term; Eagle County’s Representative and Alternate will serve a two-year term; Summit County’s Representative and Alternate will serve a one-year term. Subsequent terms for each appointment will be for three-year terms.
- d. Replacement. Each Member may replace a Representative or Alternate at its discretion.
- e. Members may use staff or consultants to participate in SG Plan committees and workgroups and make recommendations within that context.

4. DECISION MAKING

- a. Voting procedures for the Governance Committee are outlined in Section VI. of the SG Plan.
- b. Voting by the Members will proceed according to Figure 1 of this Protocol, taken directly from Section VI.H.3. of the SG Plan.

Figure 1. Section VI. H. 3 of SG Plan.

VOTING WITHIN INTEREST GROUPS	
Number of Interest Group GC Members Present at Meeting	Affirmative Votes required to pass Measure within Interest Group
3	2 of 3
2	2 of 2
1	1

c. As provided in Section VI.H.4, no vote by the Governance Committee or by some of the Members can commit the rights, authorities, resources, finances, or operations of any other Member without that Member's approval.

5. FUNDING ASSESSMENTS

a. Annual assessments levied to the Members pursuant to Section VIII.B.2 of the SG Plan shall be divided among the Members and subject to annual appropriations by Members. Grand, Eagle and Summit Counties will each pay 30% of the assessment and QQ will pay 10%.

b. If any one of the Members wishes to revisit this funding structure in the future, the other Members will develop an alternative that works.

Adopted this _____ day of _____, 2015, by the original charter Members.

Kathy Chandler-Henry
Chair, Eagle County Board of County Commissioners

Merrit Linke
Chair, Grand County Board of County Commissioners

Dan Gibbs
Chair, Summit County Board of County Commissioners

James Newberry
Chair, Northwest Colorado Council of Governments