Notice

Third Regular Joint Quarterly Meeting of the Board of Directors of the Colorado River Water Conservation District and of the Colorado River Water Conservation District Acting by and Through Its Colorado River Water Projects Enterprise

July 21, 2020

8:30 a.m.*

PLEASE NOTE: The River District meeting will be a virtual meeting utilizing Zoom. To attend the meeting, please register at our website at www.coloradoriverdistrict.org.

The third regular joint quarterly meeting of 2020 of the Board of Directors of the Colorado River Water Conservation District and of the Colorado River Water Conservation District acting by and through its Colorado River Water Projects Enterprise will be held on Tuesday July 21, 2020 commencing at 8:30 a.m.

Agenda
Third Regular Joint Quarterly Meeting of the Board of Directors of the Colorado River Water Conservation District and of the Colorado River Water Conservation District Acting by and Through Its Colorado River Water Projects Enterprise

July 21, 2020
8:30 a.m.*

PLEASE NOTE: The River District meeting will be a virtual meeting utilizing Zoom. To attend the meeting, please register at our website at www.coloradoriverdistrict.org.

8:30 1. Review Meeting Agenda and Objectives.

8:30-8:35 2. Consent Agenda:
- a. Approval of Minutes and Actions Taken:
  - i. Minutes of Second Regular Joint Quarterly Meeting, April 21, 2020.
  - ii. Minutes of Special Joint Meeting, Teleconference, June 4, 2020.

8:35-10:15 3. General Counsel's Report:
- a. Matters Proposed for Executive Session:
  - i. Wolford Mountain Reservoir and Ritschard Dam Operations. (An Enterprise Matter.)
  - ii. Application of Ouray County, Ouray County Water Users Association, and Tri-County Water Conservancy District, Case No. 19CW3098, Water Division 4.
  - iii. CRCA Implementation Matters.
  - iv. Application of Colorado Springs Utilities, Case No. 15CW3019, Water Division 5.
  - v. Colorado River District Conditional Water Rights (Enterprise and General District Matters).
  - vi. Discussion of Potential Disposition of Land in Moffat County.
  - vii. Paradox Unit Salinity Control Status.
  - viii. Colorado River Compact, Interstate, International, and Intrastate Negotiation Matters, including Demand Management.

ix. Fair Campaign Practices Act and Potential Ballot Question.

10:15-10:25 Break

10:25-10:45 b. Public Session:
- i. Summary and Action Items from Executive Session.
- ii. Application of the United States of America for the Taylor Park Reservoir Refill, Case No. 11CW31, Water Division 4.
- iii. Discussion of Potential Disposition of Land in Moffat County.
- iv. Discussion of Other Items in General Counsel's Report.

10:45-1:45 4. General Manager's Report:
- a. Update on CRWCD Long Term Financial Condition, and Discussion and Possible Action Regarding Potential River District Ballot Question.
  - i. Presentation by Lori Weigel of New Bridge Strategy, re: Public Opinion Research Update.

12:00-12:45 Lunch

- b. Water Smart Grant Update:
  - i. Proposed Approval of Facilitator Contract for West Slope Demand Management Stakeholder Group
- c. Discussion of Draft Parental Leave Policy.
- d. Drought Contingency Planning and Demand Management Update.
- e. Colorado River Basin Hydrology.
- f. Phase III Risk Study Update:
  - i. Proposed Approval of Contract Amendment with Hydros Consulting.
- g. Water Bank Workgroup Update.
- h. Service Anniversaries Recognition.

1:45-2:15 5. Discussion with Jeff Rieker, Manager, Eastern Colorado Area Office, U.S. Bureau of Reclamation.

2:15-2:25 Break

2:25-2:55 6. Directors' Updates/Concerns.

2:55-3:10 7. Presentation of 2019 CRWCD Audit by Dan Cudahy of McMahan and Associates, LLC:
- a. Acceptance of 2019 CRWCD Audit.

3:10-3:20 8. Annual Policy Discussion:
- a. Funding/ Infrastructure.
- b. Colorado River Compacts/ Entitlements.
- c. Interstate Water Marketing.
- d. Transmountain Water Diversions.

3:20-3:35 9. External Affairs:
- a. Information and Outreach Update.
- b. State Affairs.
- c. Federal Affairs.

3:35-3:50 10. Project Operations and Updates: (Enterprise Matters).
- a. Wolford Mountain Reservoir:
- b. Elkhead Reservoir.

3:50-3:55 11. Future Meetings:
- a. CRWCD 2021 Budget Workshop, **Date and Location TBD.**
- b. CRWCD Annual Seminar/Webinar, **TBD**.
- c. Fourth Regular Joint Quarterly Meeting, **October 20-21, 2020, Glenwood Springs, CO.**
- d. Other Meetings:
  - i. CWC Summer Event, **TBD**.
  - ii. CRWUA Conference, **December 14-16, 2020, Las Vegas, NV.**

The Board may address the agenda in any order to accommodate the needs of the Board and the Audience.

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Persons with special needs due to a disability are requested to call the River District at 970-945-8522 at least three days prior to the meeting.

This agenda may be viewed and printed from our website at www.crwcd.org

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SECOND REGULAR JOINT QUARTERLY MEETING OF THE BOARD OF DIRECTORS OF THE COLORADO RIVER WATER CONSERVATION DISTRICT AND OF THE COLORADO RIVER WATER CONSERVATION DISTRICT ACTING BY AND THROUGH ITS COLORADO RIVER WATER PROJECTS ENTERPRISE

April 21, 2020

Pursuant to notice duly and properly given, the Second Regular Joint Quarterly Meeting of the Board of Directors of the Colorado River Water Conservation District (CRWCD) and of the Colorado River Water Conservation District acting by and through its Colorado River Water Projects Enterprise was held on Tuesday April 21, 2020 via Zoom.

Directors participating during all or part of the meeting:

David H. Merritt, President	Martha Whitmore, Vice President
Tom Alvey	Tom Gray
Steve Acquafresca	Rebie Hazard
John Ely	Doug Monger
Alden Vanden Brink	William S. Trampe
Karn Stiegelmeier	Kathy Chandler-Henry
Mike Ritschard	Marc Catlin

Directors not participating:
Stan Whinnery

Others participating during all or part of the meeting:
Andrew A. Mueller, General Manager, CRWCD
Peter Fleming, General Counsel, CRWCD
John Currier, Chief Engineer, CRWCD
Audrey Turner, Chief of Operations, CRWCD
Jason Turner, Senior Counsel, CRWCD
Laurie DePaolo, Executive Assistant, CRWCD
Jim Pokrandt, Director, Community Affairs, CRWCD
Ray Tenney, Deputy Chief Engineer, CRWCD
Dave Kanzer, Deputy Chief Engineer, CRWCD
Don Meyer, Sr. Water Resources Engineer, CRWCD
Ian Philips, Chief Accountant, CRWCD
Mike Eytel, Sr. Water Resources Specialist, CRWCD
Hunter Causey, Sr. Water Resources Engineer, CRWCD
Zane Kessler, Director of Government Relations, CRWCD
Luci Wilson, Accountant, CRWCD
Lorra Nichols, Paralegal, CRWCD
Alesha Fredrick, Director of Information & Outreach, CRWCD
Gracie Wright, Contract Administrator/Information Specialist, CRWCD
Eleanor Hasenbeck, Water Policy & Communications Fellow, CRWCD
Lyzzi Borkenhagen, Administrative Assistant, CRWCD
Lori Weigel, New Bridge Strategy
Jackie Brown, Tri-State Energy Transmission
Heather Sackett, Aspen Journalism
Chris Treese

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

Orla Bannon, Western Water Advocates
Maria Pastore, Colorado Springs Utilities
Steve Anderson, Uncompahgre Valley Water Users Association
Cara Sal
Roger Rash, Montrose County Commissioner
Ken Curtis, Dolores Water Conservancy District
Paul Bruchez
Abby Burk, Audubon Society
Fay Hartman, American Rivers
Josh Kuhn
Kirsten Kurath, Williams, Turner & Holmes, P.C.
Matthew Rice, American Rivers
Mely Whiting, Trout Unlimited
Sinjin Eberle, American Rivers
Tim Wohlgenant
Mike Melanson
Molly Mugglestone
Frank Kugel, Southwestern Water Conservation District
Laura Spann, Southwestern Water Conservation District

Quorum.
President Merritt found a quorum and called the meeting to order at 9:07 a.m.

Review Meeting Agenda and Objectives.
No changes were made to the agenda.

Consent Agenda.
Director Vanden Brink moved, seconded by Director Chandler-Henry, to approve the following consent agenda as presented. Motion carried unanimously.

a. Approval of Minutes and Actions Taken:
   i. Minutes of First Regular Joint Quarterly Meeting, January 21-22, 2020.
   ii. Minutes of Information and Outreach Committee Meeting, January 21, 2020.
   iii. Minutes of Special Joint Meeting, Teleconference, February 6, 2020.
   iv. Minutes of Special Joint Meeting, Teleconference, February 20, 2020.
   v. Minutes of Special Joint Meeting, Teleconference, March 5, 2020.
   vi. Minutes of Investment Committee Meeting, Teleconference, March 26, 2020.
b. Acceptance of Treasurer's Reports, Financials, and Check Registers for November and December 2019.
c. Approval of Designated Location for Posting of CRWCD Meeting Notices and Agendas.

General Counsel's Report – Executive Session.
Peter Fleming reported that the following matters qualify for discussion in Executive Session pursuant to C.R.S. §§ 24-6-402(4)(b)(legal advice) and (e)(negotiations):

i. Wolford Mountain Reservoir and Ritschard Dam Operations. (An Enterprise Matter).
ii. Colorado River Cooperative Agreement (CRCA) Implementation Matters.
iii. Colorado Springs Utilities, Application for Finding of Reasonable Diligence, Case No. 15CW3019, Water Division 5.
iv. Upper Colorado River Wild and Scenic Alternative Management Plan.
v. Colorado River District Conditional Water Rights.
vi. Fair Campaign Practices Act and Potential Ballot Question.

vii. Colorado River Compact, Interstate, International, and Intrastate Negotiation Matters, including Demand Management.

Director Whitmore moved, seconded by Director Stiegelmeier, to proceed into Executive Session pursuant to C.R.S. §§ 24-6-402(4)(b)(legal advice) and (e)(negotiations). Motion carried unanimously.

Peter Fleming stated that no further record of the Executive Session need be kept based on his opinion that the discussion will constitute privileged attorney-client communications.

President Merritt reconvened into Public Session at 11:01 a.m.

General Counsel's Report – Public Session.

Peter Fleming reported that during Executive Session, the Board provided guidance to staff and General Counsel on the following matters:

i. Wolford Mountain Reservoir and Ritschard Dam Operations. (An Enterprise Matter).
ii. CRCA Implementation Matters.
iii. Colorado Springs Utilities, Application for Finding of Reasonable Diligence, Case No. 15CW3019, Water Division 5.
iv. Upper Colorado River Wild and Scenic Alternative Management Plan.
v. Colorado River District Conditional Water Rights.
vi. Fair Campaign Practices Act and Potential Ballot Question.
vii. Colorado River Compact, Interstate, International, and Intrastate Negotiation Matters, including Demand Management.

Mr. Fleming also reported that President Merritt was not present during the discussion of agenda item 3.a.i.

Director Whitmore moved, seconded by Director Alvey, to authorize general counsel and staff to endorse a final draft Amended Restated Wild and Scenic Alternative Management Plan, as well as a subsequent final Amended Restated Wild and Scenic Alternative Management Plan, provided that no additional substantive changes are made that are potentially adverse to the West Slope's water users and resource-protection interests are made to the plan. Motion carried unanimously.

Director Whitmore moved, seconded by Director Catlin, to authorize counsel to stipulate in the Application of Roaring Fork Properties, LLC and South Canyon Ranch, LLC, in Case No. 2019CW3042, Water Division 5. Motion carried unanimously.

General Manager's Report.

Update on CRWCD Long Term Financial Condition and Discussion Regarding Potential Ballot Question:

Andy Mueller reminded the Board of its direction at the January 2020 quarterly meeting to conduct additional research on a potential ballot question in November to increase the River District's mill levy by .248 mills for a total mill levy of .500 mills. Mr. Mueller reported that staff has met or will meet with the River District's 15 boards of county commissioners seeking input on a ballot question. Additionally, Lori Weigel of New Bridge Strategy conducted polling of River District constituents. Ms. Weigel noted the results indicated a strong favorable response to the River District's mission and widespread support for a mill levy increase. However, economic impacts experienced by the West Slope resulting from the coronavirus pandemic could negatively impact a ballot question since the polling occurred in March 2020 prior to the pandemic.

Mr. Mueller directed the Board's attention to a draft fiscal implementation plan outlining potential uses of increased tax revenues to benefit and protect West Slope water uses. He also proposed conducting additional

constituent research with results being presented at the July 21, 2020 quarterly meeting. Board members indicated their concurrence with the proposal.

Request for Approval of Proposed Modification to Retirement Health Savings Plan:
Director Stiegelmeier moved, seconded by Director Whitmore, to approve the proposed modification to the Retirement Health Savings (RHS) Plan to eliminate the employee contribution provision for accrued vacation at separation of employment to be paid into the RHS plan. Motion carried unanimously.

Request for Approval of SB13-19 Conservation Plan: Evaluating Conserved Consumptive Use in the Upper Colorado River Project:
Director Stiegelmeier moved, seconded by Director Ritschard, to approve the Evaluating Conserved Consumptive Use in the Upper Colorado River Project conservation plan for calendar year 2020 pursuant to C.R.S. 37-92-103(2) and 37-92-305(3)(c)(II)(A). Motion carried unanimously.

Request for Approval of Crystal River Augmentation Study Contracts:
Director Monger moved, seconded by Director Whitmore, to approve the following contract and cost-share agreements related to the Crystal River Augmentation Study. Motion carried unanimously.

1) A $100,000 contract with Colorado River Engineering, Inc. to conduct the Crystal River Augmentation Investigation, subject to the cost-share provisions.

2) A purchase order or cost-share agreement (possibly two agreements) with the Colorado Water Conservation Board to receive $25,000 in Water Supply Reserve Fund grant money and $50,000 in Colorado Water Plan grant money as a portion of the cost-share agreement with West Divide Water Conservancy District.

3) A cost-share agreement with West Divide Water Conservancy District.

Directors Concerns/Updates.
Directors reported concerns throughout the District have centered on the coronavirus pandemic and subsequent economic impacts. It was also noted that snowpack has varied throughout the District with the southern portion of the District experiencing low snowpack.

Annual Policy Discussion.
Jim Pokrandt informed the Board that the District's State Funding: Water Projects and Programs Policy and Aging Infrastructure Policy have been combined as well as the Colorado River Compacts Policy with Colorado's Entitlement to Colorado River Basin Water Policy as directed by the Board at the January 2020 quarterly meeting.

Funding/Infrastructure;
Director Whitmore moved, seconded by Director Chandler-Henry, to list the River District's Funding/Infrastructure Policy on the July 21, 2020 quarterly meeting for adoption. Motion carried unanimously.

Colorado River Compacts/Entitlements:
Director Whitmore moved, seconded by Director Catlin, to list the River District's Colorado River Compacts/Entitlements Policy on the July 21, 2020 quarterly meeting for adoption. Motion carried unanimously.

Interstate Water Marketing:
Director Whitmore moved, seconded by Director Ritschard, to list the River District's Interstate Water Marketing Policy on the July 21, 2020 quarterly meeting for adoption. Motion carried unanimously.

Transmountain Diversions:
Director Alvey moved, seconded by Director Whitmore, to list the River District's Transmountain Diversions Policy on the July 21, 2020 quarterly meeting for adoption. Motion carried unanimously.

External Affairs.
Jim Pokrandt reported that several State of the River meetings are being planned utilizing virtual platforms.

Project Operations and Updates (Enterprise Matters).
Wolford Mountain Reservoir:
Request for Approval of Continuing Services Agreement with Grand Fence, LLC re: Fencing Service at Wolford Mountain Project:
Director Alvey moved, seconded by Director Ritschard, to approve a three-year continuing services agreement with Grand Fence, LLC in an amount not to exceed $50,000 for fencing services at Wolford Mountain Project. Motion carried unanimously.

Request for Approval of Contract with Grand Power and Plumbing, LLC, re: Miscellaneous Electrical Work at Wolford Mountain Project:
Director Alvey moved, seconded by Director Ritschard, to approve a three-year continuing services agreement with Grand Power and Plumbing, LLC in an amount not to exceed $35,000 for miscellaneous electrical work at Wolford Mountain Project. Motion carried unanimously.

Request for Approval of Contracts, re: Semi-Qualitative Risk Analysis Process Regarding Ritschard Dam:
Director Monger moved, seconded by Director Whitmore, to approve the following contracts for participation by three subject matter experts in the Probable Failure Modes/Risk Assessment Analysis regarding Ritschard Dam. Motion carried unanimously with Director Merritt abstaining from the vote.

a. A contract with John Cyganiewicz, P.E. in an amount not to exceed $48,000, and a waiver of the River District's professional liability insurance requirement .

b. A contract with Keith Ferguson, P.E. in an amount not to exceed $48,000.

c. A contract with Debora Miller, Ph.D., P.E. in an amount not to exceed $40,000,and to accept Dr. Miller's professional liability insurance at $1,000,000 as opposed to the River District's $2 million professional liability insurance requirement.

Director Alvey moved, seconded by Director Whitmore, to approve a contract with HDR Engineering, Inc. in an amount not to exceed $105,000 for facilitation of the Probable Failure Modes/Risk Assessment Analysis process including preparation of supporting materials, document handling, and preparation of draft and final reports among other support functions. Motion carried unanimously with Director Merritt abstaining from the vote.

Director Hazard moved, seconded by Director Catlin, to approve entering into a cost-share agreement with Denver Water to reflect Denver Water's agreement to pay 50% of the associated costs and to outline the expected process for the work on the Probable Failure Modes/Risk Assessment Analysis. Motion carried unanimously with Director Merritt abstaining from the vote.

Future Meetings.
a. Third Regular Joint Quarterly Meeting, **July 21-22, 2020, Glenwood Springs, CO**
b. CRWCD 2020 Budget Workshop, **September 10, 2020, Grand Junction, CO.**
c. CRWCD Annual Seminar, **September 11, 2020, Grand Junction, CO.**

d. Fourth Regular Joint Quarterly Meeting, **October 20-21, 2020, Glenwood Springs, CO.**
e. Board Fact Finding Mission to Lower Basin, re: Agricultural Fallowing and Augmentation Programs, **November 10-13, 2020.**
f. Other Meetings:
   i. CWC Summer Conference, **August 25-27, 2020, Steamboat Springs, CO.**
   ii. CRWUA Conference, **December 14-16, 2020, Las Vegas, NV.**

Adjourn.
There being no other business before the Board, President Merritt adjourned the meeting at 2:01 p.m.

David H. Merritt, President

ATTEST:

Andrew A. Mueller, Secretary/General Manager

Executive Session Attestations.
I hereby attest that the portions of the Executive Session that were not recorded constituted privileged attorney-client communications.

Peter Fleming, General Counsel

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MINUTES[1]
SPECIAL JOINT MEETING OF THE BOARD OF DIRECTORS OF THE COLORADO RIVER WATER CONSERVATION DISTRICT AND OF THE COLORADO RIVER WATER CONSERVATION DISTRICT ACTING BY AND THROUGH ITS COLORADO RIVER WATER PROJECTS ENTERPRISE

June 4, 2020

Pursuant to notice duly and properly given, a special joint meeting telephone conference of the Board of Directors of the Colorado River Water Conservation District (CRWCD) and of the Colorado River Water Conservation District acting by and through its Colorado River Water Projects Enterprise was held on Thursday, June 4, 2020.

Directors participating during all or part of the meeting:

David H. Merritt, President	Martha Whitmore, Vice President
Steve Acquafresca	Tom Alvey
Kathy Chandler-Henry	Stan Whinnery
Al Vanden Brink	Rebie Hazard
Karn Stiegelmeier	Doug Monger

Directors not participating:

Marc Catlin	John Ely
Mike Ritschard	William S. Trampe
Tom Gray	

Other participating during all or part of the meeting:

Andrew A. Mueller, General Manager, CRWCD
Peter Fleming, General Counsel, CRWCD
Audrey Turner, Chief of Operations, CRWCD
John Currier, Chief Engineer, CRWCD
Jason Turner, Senior Counsel, CRWCD
Zane Kessler, Director of Governmental Affairs, CRWCD
Dave Kanzer, Deputy Chief Engineer, CRWCD
Mike Eytel, Sr. Water Resources Specialist, CRWCD
Ian Philips, Chief Accountant, CRWCD
Laurie DePaolo, Executive Assistant, CRWCD
Eleanor Hasenbeck, Water Policy & Communications Fellow, CRWCD
Lorra Nichols, Paralegal, CRWCD
Alesha Frederick, Director of Information and Outreach , CRWCD
Gracie Wright, Contract Administrator, CRWCD

Quorum.

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

Revision to Agenda

Peter Fleming requested the addition of Matter Proposed for Executive Session: Windy Gap Firming Project as agenda item 5.a. and Public Session as agenda item 5.b. Director Vanden Brink moved, seconded by Director Monger to approve the agenda as revised. Motion carried unanimously.

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

Proposed Approval of Central Colorado Mountain River Basin Weather Modification Program (CCMRB Program) Program Extension.

Director Whitmore moved, seconded by Director Acquafresca, to authorize the General Manager to renew all pertinent contracts with cost share cooperators and contractors, subject to review and approval of the General Manager and General Counsel, to the enable the Colorado River District to act as fiscal agent and administrator for the CCMRB Program for three years (2020-2023) with relevant agreements to be subject to cost recovery rates or a minimum 3% management fee for the River District, subject to annual budgeting and appropriations and contingent upon receipt of sufficient cost-share partner funding. Motion carried unanimously.

Proposed Approval of River District Fiscal Agency Status for Upper Colorado Wild & Scenic Alternative Management Plan.

Director Stiegelmeier moved, seconded by Director Chandler-Henry, to authorize the Colorado River District to act as the fiscal agent for funding through 2021 of up to $99,999 from the Colorado Water Conservation Board (CWCB) for the Upper Colorado Wild & Scenic Alternative Management Plan and to authorize the General Manager to execute a purchase order for the funding with the CWCB. Motion carried unanimously.

External Affairs.

State Affairs:

Zane Kessler presented the following bills for consideration:

HB20-1403: CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION BOARD PROJECTS.

Recommended Position: Support.

Director Whitmore moved, seconded by Director Alvey, to **support HB20-1403.** Motion carried unanimously.

SCR20-001: CONCERNING REPEAL PROPERTY TAX ASSESSMENT RATES (GALLAGHER REPEAL).

Recommended Position: Support.

Director Monger moved, seconded by Director Acquafresca, to **support SCR20-001.** Motion carried unanimously.

DRAFT BILL: CONCERNING A PERMIT REQUIREMENT FOR THE DISCHARGE OF POLLUTANTS INTO STATE WATERS, AND, IN CONCNETION THEREWITH, ESTABLISHING A STATE DREDGE AND FILL PERMIT PROGRAM TO ADDRESS CHANGES IN FEDERALLAW.

Recommended Position: Oppose.

Director Whitmore moved, seconded by Director Vanden Brink, to **strongly oppose the draft bill.** Motion carried unanimously.

General Manager's Update.

John Currier reported that the River District recently received a water conservation program application from a water user near Maybell, Colorado for staff review and approval.

General Counsel's Update – Executive Session.

Peter Fleming reported that the following matter qualified for discussion in Executive Session pursuant to C.R.S. §§ 24-6-402(4)(b)(legal advice) and (e)(negotiations):

Windy Gap Firming Project.

Director Vanden Brink moved, seconded by Director Whitmore, to proceed into Executive Session pursuant to C.R.S. §§ 24-6-402(4)(b)(legal advice) and (e)(negotiations). Motion carried unanimously.

Peter Fleming stated that no further record of the Executive Session need be kept based on his opinion that the discussion will constitute privileged attorney-client communications.

President Merritt reconvened into Public Session at 1:00 p.m.

General Counsel's Update – Public Session.

Peter Fleming reported that during Executive Session, the Board provided guidance to staff and General Counsel on the following matter:

Windy Gap Firming Project.

Mr. Fleming also reported there were no action items as a result of Executive Session.

Adjourn.

There being no other business the Board, President Merritt adjourned the meeting at 1:01 p.m.

David H. Merritt, President

ATTEST:

Andrew A. Mueller, Secretary/General Manager

Executive Session Attestations.
I hereby attest that the portions of the Executive Session that were not recorded constituted privileged attorney-client communications.

Peter Fleming, General Counsel

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COLORADO RIVER DISTRICT
PROTECTING WESTERN COLORADO WATER SINCE 1937

ATTORNEY REPORT
JOINT QUARTERLY MEETING
GENERAL and ENTERPRISE
July 2020

TO: CRWCD BOARD OF DIRECTORS

FROM: PETER C. FLEMING, GENERAL COUNSEL
JASON V. TURNER, SENIOR COUNSEL

Dear Directors:

This report identifies matters for discussion at the July 21, 2020, joint quarterly meeting of the River District and its Enterprise. A separate Confidential Report addresses confidential matters. The information in this report is current as of July 9, 2020 and will be supplemented as necessary before or at the Board meeting.

I. EXECUTIVE SESSION.

The following is a list of matters that qualify for discussion in executive session pursuant to C.R.S. §§ 24-6-402(4)(a), (b), and (e).

A. Wolford Mountain Reservoir and Ritschard Dam Operations (an Enterprise Matter).
B. Application of Ouray County, Ouray County Water Users Association, and Tri-County Water Conservancy District, Case No. 19CW3098, Water Division 4.
C. CRCA Implementation Matters.
D. Colorado Springs Utilities, Application for Finding of Reasonable Diligence, Case No. 15CW3019, Water Division 5.
E. Colorado River District Conditional Water Rights.
F. Discussion of Potential Disposition of Land in Moffat County.
G. Paradox Unit Salinity Control Status.
H. Colorado River Compact, Interstate, International, and Intrastate Negotiation Matters, including Demand Management.
I. Fair Campaign Practices Act and Potential Ballot Question.

II. GENERAL MATTERS.

A. In Memory of Lee Leavenworth.

I neglected to report to the Board at its April Quarterly meeting that Lee Leavenworth, a longtime Glenwood Springs water and municipal lawyer, passed away in mid-February. Lee was a true friend of the River District and served as special counsel for many River District ventures over the years, including work related to Wolford Mountain Reservoir and the Elkhead Reservoir Enlargement. Lee had a "get it done" attitude and always seemed to find creative solutions to achieve his client's goals. Recently, Lee was involved in the Shoshone Permanency effort on behalf of Garfield County. You can find a well-written obituary for Lee at this link: https://www.postindependent.com/news/obituaries/obituary-loyal-leavenworth/.

B. *Colorado v. U.S. Environmental Protection Agency*, et al. C.A. No. 20-cv-1461-WJM-NRN, United States Dist. Ct. for the Dist. of Colo. (June 19, 2020) (WOTUS).

ACTION: Update only.

STRATEGIC INITIATIVE(S): 1.B (outreach and advocacy).

We previously reported that the State of Colorado filed in federal district court to stay the implementation of the Trump administration's Clean Water Act rule determining the scope of Waters of the United States ("WOTUS"). The Trump administration previously rescinded the Obama era WOTUS rule and directed the federal agencies to develop a rule consistent with late-Supreme Court Justice Antonin Scalia's opinion in the infamous *Rapanos* case. The new rule was to take effect on June 22, 2020.

On June 19, 2020, the Federal District Court for the District of Colorado granted the stay and enjoined the federal agencies from implementing the new rule in Colorado. Accordingly, Colorado will be governed by the 2008 rule (codified prior to the Obama administration's 2015 attempt to clarify the definition of WOTUS). However, the district court's decision has been appealed, and the Tenth Circuit Court of Appeals has set an expedited briefing schedule. We will continue to update the Board as this never-ending saga continues to unfold.

C. *County of Maui, Hawaii v. Hawaii Wildlife Fund*, 140 S.Ct. 1462 (2020).

ACTION: Update only.

STRATEGIC INITIATIVE(S): 1.B (outreach and advocacy).

The Clean Water Act precludes any addition of a pollutant from a point source to navigable waters without a permit. The Act defines pollutants quite broadly and defines a point source as "any discernable, confined and discrete conveyance from which pollutants are or may be discharged."

In April of 2020, the United States Supreme Court released an opinion defining Clean Water Act jurisdiction in the context of effluent discharges to ground water that eventually reaches navigable waters. Several environmental organizations brought an action against the County of

Maui alleging that its discharge of municipal effluent into ground water requires a discharge permit because the ground water eventually reaches the ocean. The County countered that a pollutant is from a point source only if the point source is the last conveyance conducting the pollutant to navigable waters. The County argued that no permit was required because the effluent is discharged into a non-navigable water (*i.e.*, ground water).

The federal district court and the Ninth Circuit Court of Appeals agreed with the environmental organizations that the county's operations constitute a discharge requiring a permit. The county appealed to the Supreme Court and the Court affirmed the lower courts' decisions but on narrower grounds. The Supreme Court held that the Clean Water Act requires a permit when there is a direct discharge from a point source or when there is the "functional equivalent of a direct discharge" into navigable waters. The Court stated that the relevant considerations as to whether the discharge is the "functional equivalent" are: (1) transit time, (2) distance traveled, (3) the nature of the material through which the pollutant travels, (4) the extent to which the pollutant is diluted or chemically changed as it travels, (5) the amount of pollutant entering the navigable waters relative to the amount of pollutant that leaves the point source, (6) the manner in which the pollutant enters the navigable waters, and (7) the degree to which the pollution at that point has maintained its specific identity. The Court further noted that time and distance will be the most important factors in most cases, and that lower courts would provide additional guidance through future decisions in individual cases.

D. General Counsel's 2020 Goals and Objectives.

ACTION: Update only.

STRATEGIC INITIATIVE(S): Identified in the individual goals and objectives.

I have set forth below the list of General Counsel Goals and Objectives for 2020 as identified in the General Counsel's January 2020 public report. In a minor departure from previous years, I have not provided separate updates within this section of the legal report. Instead, the status of many of the goals and objectives are updated in other sections of this memo or in the Confidential Report. I am happy to provide updates at the request of any Board member on any item not updated elsewhere in your Board material.

1. Continue Implementation of the Colorado River Cooperative Agreement (CRCA). *Strategic Initiatives: 5A (Shoshone Permanency), 5C (River District's TMD policy), and 7D (alternative funding for water infrastructure)*.

   a. Work with other Blue River Decree parties to push for successful adjudication of the Green Mountain Reservoir Administrative Protocol.

   b. Negotiate and recommend to the River District potential amendments to the CRCA to address relatively minor technical issues, as well as potential substantive matters that may warrant revision.

   c. Provide leadership on the West Slope investigation contemplated by the CRCA to fully explore all methods to preserve the Shoshone Call Flows.

d. Convene and implement the West Slope Fund Management Committee to manage the investments and disbursement criteria for income to the West Slope Fund.

2. Work to ensure satisfactory implementation of actions contemplated by the Windy Gap Firming Project IGA. *Strategic Initiatives: 5C (River District's TMD policy), 8E (consistent with IBCC Conceptual Framework), 9A (wise and efficient use of Colorado's water resources).*

a. Work with Northern Water's Municipal Subdistrict to amend the Windy Gap Water Rights to incorporate the terms of the IGA.

b. Work with all stakeholders to secure funding and authorizations necessary to implement the Windy Gap Connectivity Channel in a manner that protects overall West Slope interests and is consistent with applicable law.

c. Support permits for the Windy Gap Firming Project as necessary to secure and protect the West Slope's interests in the WGFP IGA.

3. Assist staff on development of a strategic water rights development plan. *Strategic Initiatives: 2A (outreach to assist constituents in consumptive and non-consumptive water needs), 3A (increase local storage), 4A (full use for benefit of River District's inhabitants without overdevelopment), and 7B (use of River District's conditional rights to meet identified needs).*

a. Advise River District staff and Board on legal strategy regarding development of River District's conditional water rights.

b. Assist staff's refinement of strategic plan on development of conditional water rights.

4. Advise staff and Board on all legal matters related to Wolford Mountain Reservoir and Ritschard Dam. *Strategic Initiatives: 12A (financial stability) and 13 (asset management).*

a. Proactively address risk management and consultant contract matters related to dam settlement and embankment issues, and other operational and maintenance matters.

b. Advise staff and Board on legal matters related to the upcoming transfer of forty-percent interest in Wolford Mountain Reservoir and Ritschard Dam to Denver Water by helping the Board and staff prepare for the orderly transfer of an ownership interest to Denver Water and proactively assisting staff to plan for a collaborative future ownership relationship with Denver.

5. Work with River District technical and external affairs staff to increase overall River District presence and outreach in Water Divisions 4 and 6. *Strategic Initiatives: 1C (inform community leaders on water matters), 1E (outreach), 2A (assist constituents with water needs), 2B (partnerships with local constituents), 6.D (agricultural water use).*

a. Participate in meetings in those locations and assist River District constituents on matters such as re-authorization of the 1975 Taylor Park Reservoir Exchange Agreement and renegotiation of the stipulation and decree in Taylor Park Reservoir exchange decree in Case No. 11CW31.

b. Engage with water users such as the UVWUA on demand management, provide input to RBWCD concerning the proposed Wolf Creek Reservoir, and other White River Basin water matters.

c. Protect interests of River District constituents related to water rights administration and instream flows. Provide leadership on resolution of the instream flows v. pre-existing uses dispute (CRS Section 37-92-102(3)(b)) by advising the Board and staff with respect to a legislative solution and, if necessary, potential litigation.

6. Advise the River District Board, and work closely with River District staff and other entities (including the State of Colorado and the Upper Colorado River Commission), on matters related to the Drought Contingency Plan, and renegotiation of the 2007 Interim Guidelines. Advise the River District Board and staff on Water Bank Work-Group tasks and contracts, and implementation of the State Water Plan. Maintain and protect the River District's positions regarding the development and implementation of a possible Colorado River basin demand management program. *Strategic Initiatives: 3 (hydrologic uncertainty), 4 (Colorado River supplies), 5 (TMDs), 6 (agricultural water use).*

a. Expand knowledge, participation, and advice to the Board on interstate compact matters and other matters related to interstate Colorado River negotiations.

b. Related to these items, advise the River District on the potential scope and extent of State Engineer rules and regulations related to the 1922 and 1948 Colorado River Compacts.

c. Protect the West Slope's interests by helping the River District proceed with caution on matters related to demand management as it impacts West Slope agriculture.

7. Assist River District technical staff and advise the Board on negotiations related to implementation of the Eagle River MOU. *Strategic Initiatives: 4A (full use without risk of overdevelopment), 5 (TMDs), 7 (project development), and 9 (wise and efficient use of water).*

8. Provide leadership and assist River District staff on implementation of RCPP Grants, including the Gunnison Basin Projects. *Strategic Initiatives: 2 (outreach), 3D (cost-effective water efficiency), 7D (aging infrastructure), 9A (efficient water use), 10B (water quality).*

9. Provide leadership and assist River District staff on achieving a resolution of the pending Colorado Springs Blue River System diligence case that provides the best possible result for the River District and its West Slope constituents. *Strategic Initiatives: 5.C (transmountain diversions).*

The above list should not necessarily be interpreted as a "priority" list for legal staff. There are numerous ongoing tasks and activities that command legal staff's time on an ongoing basis. Often, those items (such as the day-to-day litigation of water court cases, assisting staff on legislative matters, etc.) require substantial attention from legal staff. In addition, it should be anticipated that the goals and objectives may change throughout the year as priorities shift due to unforeseen circumstances or actions by others. Finally, it is possible that in some cases, General Counsel's goals and objectives should be discussed with the Board in executive session, if necessary, to protect the confidentiality of attorney-client communications and matters subject to negotiation.

III. RIVER DISTRICT WATER MATTERS.

A. Wolford Mountain Reservoir and Ritschard Dam Operations. (An Enterprise Matter).

ACTION: Update only.

STRATEGIC INITIATIVE(S): 13.A. (Operation and maintenance of District assets).

At the April Board meeting you authorized several contracts related to the Probable Failure Modes Analysis/Risk Assessment work regarding Ritschard Dam with Denver Water and the State Dam Safety Branch. The members of the expert panel are under contract, as is the facilitator. The panel held its first work session on July 7th.

You also approved a cost-share agreement with Denver Water for the work. We determined in conjunction with Denver Water's legal counsel that instead of a separate cost-share agreement, we would make Denver Water a joint-signatory to the contracts with the expert panelists and the facilitator. Thus, a separate cost-share agreement was not necessary. However, we did enter into a letter agreement with Denver Water's counsel to confirm that neither the River District or Denver Water waive any rights or obligations by entering into the contracts and risk assessment process. A copy of the letter agreement is included as Attachment A to this memo.

The Board may wish to discuss this matter in executive session.

B. Application of Ouray County, Ouray County Water Users Association, and Tri-County Water Conservancy District, Case No. 19CW3098, Water Division 4.

ACTION: We anticipate Board direction or action pending discussion of this matter in executive session.

STRATEGIC INITIATIVE(S): 2.A. (outreach in Water Div. 4), 3A (evaluate local storage), and 9A (wise and efficient use of water).

Consistent with the Board's previous direction, we filed a statement of opposition (supporting the application) in Case No. 19CW3098. The existing conditional water right for the reservoir, and the claimed new conditional water rights for the reservoir, a pipeline, and rights of exchange will provide a source of augmentation supplies for Ouray County water users. We have discussed the application with the proponents of the Ramshorn Reservoir Project and recently

provided comments on the applicants' proposed decree. It is possible that the applicants may request that the River District re-align as a co-applicant in this case.

This matter is discussed in the Confidential Report. We request that the Board discuss this matter in executive session.

C. Colorado River Cooperative Agreement – Implementation Issues.

ACTION: We request that the Board authorize staff and counsel to execute the proposed Amendment to the Green Mountain Reservoir Administrative Protocol Agreement and file as a co-applicant an Amended Application for Determination of Water Rights for Confirmation of the Green Mountain Reservoir Administrative Protocol.

STRATEGIC INITIATIVE(S): 5A (Shoshone permanency), 5C (transmountain diversions), and 9A (wise and efficient water use).

We are happy to report that the parties to the Green Mountain Reservoir Administrative Protocol Agreement finally have agreed upon language to revise the Protocol Agreement and the pending Division 5 Water Court petition. The original GMR Administrative Protocol Agreement provided that only Articles I-III of the GMR Administrative Protocol would be adjudicated by the Colorado Division 5 Water Court, but that the entirety of the Protocol (Articles I-IV) would be confirmed by the Federal District Court as consistent with the Blue River Decree Consolidated Cases. Article IV of the Protocol concerns the complicated methodology for calculating the amount of water that Denver and Colorado Springs owe to Green Mountain Reservoir in years in which the reservoir does not achieve a "physical fill" (known as a Substitution Year). Some parties believed that Article IV should not be adjudicated by the Division 5 Water Court, so as a matter of compromise, the River District and other parties to the GMR Protocol Agreement agreed to file contemporaneous pleadings with the Colorado Division 5 Water Court (for Articles I-III), and in the Federal District Court pursuant to its retained jurisdiction over the Blue River Decree Consolidated Cases (for Articles I-IV).

However, in 2017, the federal court ruled in a separate matter in the Blue River Decree Consolidated Cases, that it was "discontinuing" the court's retained jurisdiction over the Blue River Decree Consolidated Cases. Although the 2017 ruling did not specifically address the 2013 Petition regarding the GMR Administrative Protocol, the parties determined that the appropriate course of action would be to assume that the Federal Court would not entertain further action related to the GMR Administrative Protocol Agreement and to renegotiate the terms of the GMR Protocol Agreement in order to provide for the water court's determination that Article IV of the Protocol is consistent with the Blue River Decree. The consistent position of the River District and other West Slope parties has been that Article IV must be confirmed by one court or the other as consistent with the Blue River Decree. The proposed Amended Protocol Agreement and Amended Division 5 Water Court Petition (if approved by the court) will achieve that goal. Copies of those documents are included as Attachments B and C to this memo.

We recommend that the Board authorize staff and counsel to execute the proposed Amendment to the Green Mountain Reservoir Administrative Protocol Agreement and execute and file as co-applicant an Amended Application for Determination of Water Rights for Confirmation of the Green Mountain Reservoir Administrative Protocol.

We continue to work with Denver Water and other West Slope parties on other CRCA implementation items, including proposed Shoshone Permanency and potential "clean-up" amendments to the CRCA itself. The parties are close to reaching agreement on the proposed "clean-up" CRCA Amendments, but we do not expect that final draft documents will be ready until the River District's October Quarterly meeting.

The Board may wish to discuss these issues in executive session.

D. Colorado Springs Utilities, Application for Finding of Reasonable Diligence, Case No. 15CW3019, Water Division 5.

ACTION: Update only.

STRATEGIC INITIATIVE(S): 5A (Shoshone permanency), 5C (transmountain diversions), and 9A (wise and efficient water use).

We continue to meet regularly with representatives of Colorado Springs Utilities to resolve West Slope concerns with its diligence application for the conditional components of its Upper Blue Continental/Hoosier Pass transmountain diversion project. As previously reported, those discussions have expanded to include Colorado Springs' proposed enlargement of Montgomery Reservoir, which is located on the eastern side of Hoosier Pass and stores water diverted by Colorado Springs through the Hoosier Pass Tunnel.

The settlement discussions are progressing in a manner generally consistent with the Board's previous direction, though there continue to be several problematic issues to tackle. We continue to exchange edits to the settlement documents. The next settlement meeting is scheduled for July 28th.

The Board may wish to discuss this matter in executive session.

E. Colorado River District Conditional Water Rights. (Enterprise and General Matters).

ACTION: We anticipate requesting Board action related to the conditional water rights discussed below, following discussion in executive session.

STRATEGIC INITIATIVE(S): 4.A. (Colorado River supplies) and 7.B. (River District conditional water rights).

1. Denver Water and Colorado River District Wolford Mountain Reservoir/Dillon Reservoir Exchange. (An Enterprise Matter).

An application for reasonable diligence is due by the end of August of 2020 for the conditional component of the Wolford Mountain Reservoir/Dillon Reservoir Exchange. In Case No. 09CW14, the Division 5 Water Court entered a decree finding that Denver Water and the River District, as co-applicants, had been reasonably diligent in perfecting the exchange and that 80 acre feet of the exchange at a rate of 25 cfs had been made absolute.

The Wolford/Dillon right of exchange was decreed as part of Denver Water's Wolford Mountain Reservoir Substitution Decree, with a maximum exchange rate of 200 cfs, not to exceed 26,000 acre feet in any given year. This exchange only operates when it is physically impossible for Denver Water, due to emergency conditions, to make exchange releases out of Williams Fork Reservoir.

2. Wolford Mountain Reservoir Second Enlargement. (An Enterprise Matter).

In 2003, the River District adjudicated a conditional second enlargement water right for Wolford Mountain Reservoir in the amount of 9,775 acre feet. An application for reasonable diligence is due by the end of October of 2020. If the River District wishes to maintain the conditional rights, it must file an application to make the rights absolute and/or another finding of reasonable diligence prior to the October 2020 deadline.

3. Basalt Project.

An application for reasonable diligence is due by the end of August for the remaining conditional components of the Basalt Project. The Basalt Water Conservancy District, pursuant to an agreement with the River District, has a significant interest in the remaining conditional components of the Basalt Project.

Failure to file timely diligence applications for the above conditional water rights, or failure to continue reasonable diligence in the completion of the appropriation of the subject water rights, will result in cancellation of the conditional rights.

These matters are discussed in the Confidential Report. We request that the Board discuss these matters in executive session.

F. Application of the United States of America for the Taylor Park Reservoir Exchange/Refill Right, Case No. 11CW31, Water Division 4.

ACTION: We request Board authorization to execute a stipulation to resolve a long-standing dispute in this matter.

STRATEGIC INITIATIVE(S): 7A (basin consumptive and non-consumptive needs).

Case No. 11CW31 involves an application by the United States to make absolute the remaining conditional portion of the Taylor Park Reservoir Refill Right, originally decreed in Case No. 86CW203 (sometimes called the Taylor Park Exchange). The River District has participated as an "objector in support" of the application. A stipulated consent decree was entered by the Division 4 Water Court in 2016. Unfortunately, a dispute occurred (primarily between the United States and Taylor Placer, Ltd./Cockrell) in the dry summer of 2018 regarding Taylor Park Reservoir operations under the stipulated decree. Since that time, we have actively participated in negotiations with the United States, the Upper Gunnison District, and Taylor Placer, Ltd. to resolve the dispute about how to operate the reservoir in very dry years like 2018.

The primary focus of the negotiations is how to adjust summer releases from the reservoir in dry years in order achieve set winter-season storage targets. The stipulated decree provides that the releases from the reservoir during the winter season are driven by the winter storage targets. In general, Taylor Placer would like to see higher winter season storage releases in order to protect the Taylor River fishery. While the other parties (including the River District) also wish to protect the fishery, they want to ensure sufficient operational flexibility to address other purposes of the reservoir, such as irrigation season demands and summer recreational flows. The parties have spent considerable effort negotiating detailed language for a proposed amendment to the existing stipulation and 2016 decree.

The parties have reached closure on the substantive terms of the proposed stipulation and decree amendment. We believe that the proposed amendment will address Taylor Placer's concerns about reservoir operations to protect the Taylor River fishery while also preserving the United States' flexibility to operate the reservoir to meet irrigation season demands, summer recreational flows, and other beneficial purposes.

A copy of the proposed amendment of the stipulation is included as Attachment D to this memo. It is possible that some minor editorial changes to the language may be made. *However, we do not expect changes to the substantive terms and therefore recommend that the Board authorize counsel to execute the proposed amended stipulation in Case No. 11CW31, Water Division 4.*

G. Discussion of Potential Disposition of Land in Moffat County. (An Enterprise and General Matter).

ACTION: The Board may wish to consider action regarding the potential disposition of land owned by the River District in Moffat County following discussion in executive session.

STRATEGIC INITIATIVE(S): 13(asset management).

The River District owns certain property in the vicinity of Elkhead Reservoir and has granted various easements or rights of way to other landowners. In certain cases, the River District has considered the sale of property that is not required for the operation and maintenance of its facilities. River District staff wishes to discuss the potential disposition of property at Elkhead Reservoir with the Board.

We recommend that the Board discuss this matter in executive session.

H. Paradox Unit Salinity Control Status.

ACTION: Update only.

STRATEGIC INITIATIVE(S): 10 (water quality).

The River District is a cooperating agency in the Bureau of Reclamation's NEPA analysis regarding the operation of the Paradox Injection Well Unit of the Salinity Control Program. A confidential memo regarding the status of the NEPA process is included in your Board material.

The Board may wish to discuss this matter in executive session.

I. Colorado River Compact, Intra-State, Interstate, and International Negotiation Matters, including Demand Management.

ACTION: Update only.

STRATEGIC INITIATIVE(S): 4 (Colorado River Water Supplies), 6 (Agricultural Water Use), and 8 (Colorado Water Plan – compact risk and conceptual framework).

The Bureau of Reclamation released its draft environmental impact statement for the State of Utah's proposed Lake Powell Pipeline in June. The proposed pipeline will deliver approximately 80,000 acre feet of water annually from Lake Powell to the St. George/Washington County area of Utah, which is located in the Colorado River System's Lower Basin. Comments on the draft EIS are due by September 9, 2020. We anticipate filing comments that focus on (1) the need for federal legislation and agreement by the other basin states for Utah to use a portion of its Upper Basin compact allocation within the Lower Basin, and (2) the need for detailed accounting so that Utah's Upper Basin allocation is properly tracked.

In a separate Utah water matter, there has been some activity in the long-dormant application filed by Water Horse Resources (*i.e.*, Aaron Million's Green River pump back project) for a Utah water right on the Green River that would pump water through a pipeline to Colorado's Front Range. Water Horse Resources filed a series of new documents (long past the then-current deadline) and announced that Water Horse Resources has new legal counsel (again) and is now being represented by Holland and Hart. The documents were accepted by the Utah State Engineer's Office. We are working with the Upper Yampa Water Conservancy District and our co-special Utah counsel, Graham Gilbert, to determine whether the new documents warrant comment.

River District technical and legal staff continue to be actively engaged in other interstate and intrastate compact-related matters, particularly regarding the study of a potential Demand Management Program within Colorado and the Upper Basin.

The Board may wish to discuss these, and other sensitive negotiation and legal issues related to compact and interstate matters in executive session.

J. Fair Campaign Practices Act and Potential Ballot Question.

Action: Update only. The Board may wish to take action following Andy Mueller's report.

Strategic Initiatives: 1 (outreach and advocacy) and 12 (financial sustainability).

Andy Mueller anticipates recommending that the River District propose a tax-increase and de-Brucing ballot question for approval by River District voters this November. We support Andy's recommendation. The firm deadline for a political subdivision to certify the content of a ballot question for the upcoming November election is September 4, 2020. However, the soft-deadline to notify the county clerks is July 24th, but only if the entity already has taken formal action to submit a ballot question to the voters. August 25th is the applicable deadline to enter an intergovernmental agreement with the county clerks for a multi-jurisdiction ballot question.

As a reminder to the Board and staff, the Fair Campaign Practices Act imposes certain restrictions on the activities and expenditures applicable to political subdivisions and staff members regarding ballot questions once a ballot question has been certified. In pertinent part, the FCPA provides that a Colorado governmental entity may not "expend any moneys from any source or make any contributions to urge electors to vote in favor of or against [most types of ballot questions]." Once the restrictions are triggered, the FCPA does allow certain exceptions. For example, Board and staff members:

A. May respond to unsolicited questions about the ballot measure, even during official work time.
B. May expend up to $50 of public money on activities related to expressing a public opinion.
C. May express their personal opinion (not work or Board duty) on an issue.
D. May spend personal funds, make contributions, or spend personal time regarding a ballot question.
E. May take action necessary to enable the public entity to adopt a resolution supporting or opposing the ballot question. Such resolution can be published through normal means, such as including it in a newsletter that is customarily published by the public entity.
F. May take action necessary to enable the public entity to prepare and distribute a factual summary of the ballot question, which must include arguments both for and against the measure.

The FCPA does not expressly state when the campaign restrictions are triggered but most case law and legal commenters agree that the restrictions become applicable immediately after a political subdivision (such as the River District) certifies the content of a ballot question and adopts a resolution to submit the ballot question to the voters.

The Board may wish to discuss these matters in executive session.

K. 2020 Division of Water Resources Abandonment List.

ACTION: Update only.

STRATEGIC INITIATIVE(S): 1.B. (outreach and advocacy).

Colorado law requires the State Engineer's Office to compile a list every ten-years of all absolute water rights that the State Engineer's Office believes to have been abandoned. The 2020 decennial abandonment list was released earlier this month and contains a number of West Slope water rights. We are in the process of reviewing the lists for Water Divisions 4, 5, and 6.

It is our understanding that the State Engineer had determined not to include any pre-compact water rights on the abandonment lists. However, it appears that alternate points of diversion for some pre-compact rights may have been included on the Water Division 6 abandonment list. Any protest to the inclusion of a water right on the abandonment list must be filed with the water court by July 2021.

Attachments:

A. CRWCD/Denver Water Letter Agreement, dated 6/15/2020.
B. GMR Amended & Restated Administrative Protocol Agreement (without signature pages), dated 06/22/2020.
C. WD5-13CW3077, GMR Administrative Protocol Amended Application (without signature pages), dated 06/22/2020.
D. WD4-11CW31, Redline Draft Stipulation, dated 07/05/2020.

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ATTACHMENT A TO
QUARTERLY ATTORNEY REPORT
JOINT - JULY 2020

COLORADO RIVER DISTRICT
PROTECTING WESTERN COLORADO WATER SINCE 1937

June 15, 2020

Jessica Brody, General Counsel
Denver Water
1600 West 12th Avenue
Denver, CO 80217

Dear Jessica:

This letter is meant to confirm the Colorado River District and Denver Water's understanding regarding the Probable Failure Modes Analysis/Risk Assessment ("Risk Assessment") of Ritschard Dam. The River District and Denver Water (referred to collectively as the "Parties") are jointly funding and participating in a Risk Assessment of the Ritschard Dam. In furtherance of the Risk Assessment work, the Parties plan to jointly contract with three subject matter experts for their technical expertise and an engineering firm, HDR, Inc., to provide process support and to facilitate the Risk Assessment and associated work sessions.

The Parties agree that their participation in the Risk Assessment and the contracting for technical expertise, process support, and facilitation does not alter the rights, obligations and authorities of the respective Parties, including those arising under that certain Rock Creek Reservoir Lease Agreement entered into by and between the same parties on or about March 3, 1987 ("Lease"), the amendment thereto entered into by and between the same parties on or about July 21, 1992 ("Amendment"), the Letter Agreement entered into by and between the same parties on or about July 24, 1993 ("Letter Agreement"), and the Supplemental Agreement to Agreement Between Colorado River Water Conservation District and City and County of Denver effective December 19, 1995 ("Supplemental Agreement"). Nor does the Parties' participation in the Risk Assessment constitute a waiver of their respective current or future rights, claims, causes of actions, counterclaims, or defenses under the Lease, the Amendment, the Letter Agreement, and the Supplemental Agreement.

Please signify Denver Water's agreement with the understanding provided herein by countersigning this letter. Please then email a copy back to me.

Sincerely,

Peter C. Fleming, General Counsel
on behalf of the Colorado River Water Conservation District,
and its Colorado River Water Projects Enterprise

970.945.8522 | 201 Centennial Street | PO Box 1120 | ColoradoRiverDistrict.org

Jessica Brody, General Counsel
Denver Water

Date: 6/16/2020

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ATTACHMENT B TO
QUARTERLY ATTORNEY REPORT
JOINT - JULY 2020

Amended and Restated Green Mountain Reservoir Administrative Protocol Agreement

THIS Amendment and Restatement to the Green Mountain Reservoir Agreement ("Amended and Restated Agreement") is made and entered into effective February 22, 2013, the effective date of the original Green Mountain Reservoir Administrative Protocol Agreement, by and among the United States of America ("United States"), the City and County of Denver, acting by and through its Board of Water Commissioners ("Denver Water"), the City of Colorado Springs, acting through its enterprise Colorado Springs Utilities ("CS-U"), the Colorado River Water Conservation District ("CRWCD"), the Northern Colorado Water Conservancy District ("NCWCD"), the Middle Park Water Conservancy District ("MPWCD"), the Grand Valley Water Users Association ("GVWUA"), the Orchard Mesa Irrigation District ("OMID"), the Grand Valley Irrigation Company ("GVIC"), the Palisade Irrigation District ("PID"), Climax Molybdenum Company ("Climax"), the Ute Water Conservancy District, acting by and through the Ute Water Activity Enterprise ("Ute"), and the State Engineer and Division Engineer for Water Division 5, Colorado Division of Water Resources ("SEO") (each individually, a Party and collectively, the Parties).

RECITALS

A. The United States is the owner and operator of Green Mountain Reservoir, an on-channel reservoir located on the Blue River in Summit County, Colorado, and is a party to the Findings of Fact, Conclusions of Law, and Final Judgment in Consolidated Cases No. 5016 and 5017 and the Findings of Fact and Conclusions of Law and Final Decree in Consolidated Cases Nos. 2782, 5016, and 5017 ("Consolidated Cases"), United States District Court for the District of Colorado ("Federal Court"), dated October 12, 1955 ("Blue River Decree"), which adjudicated water rights for Green Mountain Reservoir and the Green Mountain Powerplant (together "Green Mountain Water Rights").

B. Denver Water is a home rule municipal corporation created and existing under Article XX, section 1 of the Colorado State Constitution, the Charter of the City and County of Denver and other applicable Colorado law and is a party to the Blue River Decree.

C. The City of Colorado Springs is a home rule city and municipal corporation of the State of Colorado and is a party to the Blue River Decree.

D. CRWCD is a political subdivision of the State of Colorado pursuant to Colo. Rev. Stat. (C.R.S.) §§ 37-46-101 et seq. and is a party to the Blue River Decree.

E. NCWCD is a water conservancy district organized pursuant to C.R.S. §§ 37-45-101 et seq. and is a party to the Blue River Decree.

F. MPWCD is a water conservancy district organized pursuant to C.R.S. §§ 37-45-101 et seq. and is a party to the Blue River Decree.

G. GVWUA, GVIC, OMID, and PID are parties to the Blue River Decree.

H. Climax is a Delaware corporation that owns water rights adjudicated by the Summit County District Court in Civil Action 1710 ("C.A. 1710") for use at the mine and mill located near Leadville, Colorado (the "Climax C.A. 1710 Water Rights").

I. The Ute Water Conservancy District is a water conservancy district organized pursuant to C.R.S. §§ 37-45-101 et seq.

J. The SEO is responsible for the administration of water and water rights in the State of Colorado ("State") in Water Division No. 5. The SEO adopted an Interim Policy for the administration of the Green Mountain Water Rights under the Blue River Decree. Some of the Parties have disagreed with the Interim Policy.

K. In order to resolve numerous disputes over the years as to how various water rights should be administered pursuant to the Blue River Decree, the United States, Denver Water, CS-U, CRWCD, NCWCD, MPWCD, GVWUA, GVIC, OMID, and PID (the "Blue River Decree Parties"), Ute, and Climax negotiated an administrative protocol for the administration of the Green Mountain Water Rights and the Climax C.A. 1710 Water Rights ("Administrative Protocol"), a copy of which is attached hereto, which is intended and considered by them to be consistent with the terms of the Blue River Decree and the relative priorities of Green Mountain Water Rights and those water rights adjudicated in C.A. 1710, including the Climax C.A. 1710 Water Rights, and which is intended to reduce or eliminate the likelihood of expensive, protracted, and contentious litigation amongst the Parties.

L. The resolution of long-standing disputes regarding the proper administration of water rights pursuant to the Blue River Decree provides significant benefits for water users on both the east and west slopes of the State, including, but not limited to, optimum

utilization of the waters of the State, reducing litigation costs of the Parties, and providing clarity as to water rights administration.

M. The Blue River Decree Parties and Climax sought judicial confirmation that the Administrative Protocol is consistent with the Blue River Decree and that the Climax C.A. 1710 Water Rights can be administered as provided in the Administrative Protocol without injury to the Green Mountain Water Rights or other water rights.

N. On or about February 22, 2013, the Parties entered into the Green Mountain Reservoir Administrative Protocol Agreement ("Agreement") to resolve numerous disputes over the years as to how water rights should be administered pursuant to the Blue River Decree.

O. The Parties intended (1) that the Federal Court, consistent with its retained jurisdiction to interpret and implement the Blue River Decree, exercise such jurisdiction to determine whether the Administrative Protocol is consistent with the terms of the Blue River Decree; and (2) that all interested parties have notice and an opportunity to participate in such determination with regard to Sections I, II, and III, only, of the Administrative Protocol, pursuant to the procedures of the Colorado Water Right Determination and Administration Act of 1969, C.R.S. §§ 37-92-101 et seq. ("1969 Act"). To that end, the Parties agreed to the judicial proceedings described in the Agreement, including the application by the Federal Court of the 1969 Act procedures in determining whether Sections I, II, and III of the Administrative Protocol are consistent with the terms of the Blue River Decree, which is consistent with the Federal Court's prior practice of proceeding in consonance with the 1969 Act in matters regarding the Blue River Decree.

P. At paragraph 3 of the Agreement, the Parties agreed that the Blue River Decree Parties and Climax would file a Water Court application in State Water Court and a Petition in the Federal Court under its retained jurisdiction and pursuant to an August 1977 Order to determine that Sections I, II, and III of the Administrative Protocol are consistent with the Blue River Decree; and (2) in the Federal Court only, a determination that Section IV of the Administrative Protocol is consistent with the Blue River Decree.

Q. On November 15, 2013, the Blue River Decree Parties and Climax filed an Application for a determination of water rights: confirmation of administrative protocol for Green Mountain Reservoir and other water rights with the State Water Court seeking a determination from the Water Court that Articles I through III of the Green Mountain Reservoir Administrative Protocol ("Administrative Protocol") are consistent with the Blue River Decree..

R. On November 15, 2013, the Blue River Decree Parties filed a Petition seeking a determination from the Federal Court that Articles I through IV of the Administrative Protocol are consistent with the Blue River Decree.

S. The Federal Court expressed concern whether it had jurisdiction over the action filed and had the parties in that matter brief the issue of the Federal Court's jurisdiction over the Petition. Briefing was complete in February 2014.

T. On March 22, 2017, in a separate action brought in Consolidated Case Nos. 2782, 5016 and 5017, the Federal Court issued its Opinion and Order Granting, in part, Motion for Entry of Decree, Vacating Order Reserving Future Jurisdiction and Closing Case. The Federal Court determined, in part, that the merits of the August 4, 1977 Order are no longer operative, and vacated the 1977 Order thereby (1) "bifurcating the "companion cases" [Civil Nos. 5016 and 5017] from the underlying case [Civil Nos. 2782], and (2) discontinuing this Court's exercise of jurisdiction over issues of showing of due diligence or applications to make conditional decrees absolute. The Federal Court stated that the only future proceeding in the Consolidated Cases that the Federal Court would have jurisdiction would be those in which the United States asserts a claim under 28 U.S.C. § 1345. The Federal Court's March 22, 2017 Opinion and Order did not expressly address the Petition filed on November 15, 2013 or the briefing of the federal jurisdiction issue, but the Federal Court took no further action relating to the Petition and the action was administratively closed.

U. At paragraph 3.4 of the Agreement, the Parties agreed that in event that the Federal Court determines that it lacks jurisdiction, or otherwise declines to exercise jurisdiction, to adjudicate the Federal Court Petition in whole or in part, the Parties would confer and determine how to proceed on obtaining the participation and judicial confirmations contemplated herein.

V. Pursuant to paragraph 3.4 of the Agreement, the Parties have conferred and determined that the State Water Court has the authority to interpret the Blue River Decree and may proceed and adjudicate the Administrative Protocol pursuant to the terms set forth below under the original effective date of the Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. Purposes of the Amended and Restated Agreement. Due to the apparent refusal of the Federal District Court to exercise jurisdiction over the Petition filed in Federal District Court, the Parties have agreed that the Blue River Decree Parties and Climax will seek a determination from State Water Court as to the entirety of the Administrative Protocol. However, the intent of the Blue River Decree Parties, Ute, and Climax remains the same as in the Agreement, i.e. the Administrative Protocol is to clarify and implement certain

provisions of the Blue River Decree by (1) setting forth a protocol for, among other things: (a) the preparation, review, and modification of a fill schedule for Green Mountain Reservoir; (b) definition and administration of a fill season for exercise of the 1935 First Fill Storage right; (c) administration of water rights during the fill season; and (d) operation of the Green Mountain Water Rights and Denver Water and CS-U's (the Cities) water rights in response to downstream calls senior to the Cities' water rights; (2) making as much water as possible available for upstream use, including use by the Cities, without impairment of the fill of Green Mountain Reservoir and without impairment of legal calls of downstream water rights; (3) providing a clear definition of the Cities' replacement obligation operations; (4) ensuring that the administration of water rights does not allow the water rights of the Cities to "hide behind" or otherwise benefit from the Green Mountain Reservoir Water Rights; (5) reducing as much as possible or potentially eliminating the extent to which the Green Mountain Reservoir 60 c.f.s. bypass is accounted toward the fill of the green Mountain Reservoir Storage Rights, and assuring, to the extent possible, the refilling of Green Mountain Reservoir to the extent that such bypass is accounted toward the fill of the Green Mountain Reservoir Storage Rights; and (6) addressing the relative priority of the Green Mountain Water Rights, the Cities' water rights, and Climax's C.A. 1710 Water Rights in a manner agreed by the Blue River Decree Parties and Climax; all in a manner that is consistent with the Blue River Decree. The SEO has negotiated with the Blue River Decree Parties, Ute, and Climax regarding Sections I, II, and III of the Administrative Protocol and agrees to be bound by, and to administer, distribute, and regulate the water of the State in accordance with a final judgment and decree as to Sections I, II and III of the Administrative Protocol as provided below. As provided in Section 1.B.1 of the Administrative Protocol, the obligations of the Cities to hold water in storage and to provide replacement water, if necessary, are express conditions on the exercise of the Cities' water rights under the Blue River Decree and the Administrative Protocol. The determination, accounting, and operation of the Cities' Replacement Obligations under the Blue River Decree and Stipulations and Substitution Agreements are governed by the terms of those documents and of decrees providing for such substitution operations. The Blue River Decree parties agree that the methodology to calculate the volume of replacement water to be provided by the Cities to satisfy their replacement obligations in a manner consistent with the Administrative Protocol is set forth in Section IV of the Administrative Protocol.

2. Approval of Administrative Protocol by Blue River Decree Parties, Climax, and Ute. The Blue River Decree Parties, Climax, and Ute approve the Administrative Protocol attached hereto as Exhibit A and agree that the Administrative Protocol shall govern the matters set forth therein unless it is disapproved or materially modified as a result of the proceeding described in paragraph 3 and 4 below. In the event that the State Water Court does not approve or materially modifies the Administrative Protocol or refuses to rule on the proceedings filed by the Blue River Decree Parties and Climax, then paragraph 4 shall apply.

3. Judicial Proceedings. The Blue River Decree Parties and Climax shall seek a determination in the State Water Court that the entirety of the Green Mountain Reservoir Protocol is consistent with the Blue River Decree as follows:

3.1. Water Court Proceeding. The Blue River Decree Parties shall file an Amended Application in Case No. 2013CW3077 currently pending before the Water Court, adding a request for a determination, binding only on the Blue River Decree Parties, that Section IV of the Administrative Protocol is consistent with the Blue River Decree. Unless otherwise required by the Water Court, notice of the added claim concerning Section IV of the Administrative Protocol, shall be provided in the resume of applications filed in Water Division No. 5 in accordance with C.R.S. § 37-92-302(3)(a), and by newspaper publication in Summit, Grand, Garfield, Eagle, Pitkin, Routt, Gunnison, Rio Blanco, and Mesa Counties as well as in any other county in which publication is ordered by the water judge.

3.1.1. Upon expiration of the statutory time for filing statements of opposition to the Amended Application, the Blue River Decree Parties and Climax shall pursue a determination in the Water Court that Articles I, II, and III of the Administrative Protocol is consistent with the Blue River Decree. The Blue River Decree Parties will pursue a determination, binding only on the Blue River Decree Parties, that Section IV of the Administrative Protocol is consistent with the Blue River Decree.

3.2. [Intentionally deleted].

3.3. Participation in Judicial Proceedings.

3.3.1. It is the intent of the Parties that all persons and entities filing statements of opposition to the Water Court Application or Amended Application shall be entitled to participate fully in the judicial proceedings to determine whether Sections I, II, III and IV of the Administrative Protocol are consistent with the Blue River Decree. To that end, the Parties shall not challenge the standing of any person filing a timely statement of opposition with the Water Court, and shall not oppose any motion to intervene in proceedings regarding whether Sections I, II, III, and IV of the Administrative Protocol are consistent with the Blue River Decree that are filed prior to the due date for filing of the opposers' initial mandatory disclosures under the Rules of Civil Procedure applicable to the proceeding. The Blue River Decree Parties acknowledge that Climax has a direct, substantial and legally protectable interest relating to the subject matter of the Water Court Application that may be impaired or impeded if Climax does not have the ability to protect its interests as a party to the Water Court determination that Sections I, II, and III of the Administrative Protocol are consistent with the Blue River Decree. The Blue River Decree Parties therefore shall not oppose and shall consent to any motion to intervene by Climax in the Water Court Application for the limited purpose of determining whether Sections I, II and III of the Administrative Protocol are consistent with the Blue River Decree.

3.3.2. The Blue River Decree Parties, or their designated representative, shall serve the SEO and the First Attorney General of the Water Resources Unit of the Natural Resources and Environment Section of the Colorado Attorney General's Office (or such other attorney as designated in writing from time to time by the First Attorney General), with copies of all papers filed in the Water Court. The SEO shall not file a statement of opposition to, or otherwise file any documents opposing the determination in the Water Court that the Administrative Protocol is consistent with the Blue River Decree; provided that Sections I, II, and III of the Administrative Protocol are not materially modified during the course of, or as a result of, such proceedings in the Water Court. If those sections are modified, then the Blue River Decree Parties, Ute, Climax, and the SEO shall confer. If the Parties agree that the modification is material, the Blue River Decree Parties, Ute, and Climax shall not oppose upon any grounds, including timeliness, the intervention of the SEO either as an intervention of right or a permissive intervention under the applicable Rules of Civil Procedure in the original or any remanded judicial proceeding concerning Sections I, II, and III of the Administrative Protocol. If the Parties do not agree as to the materiality of the modification, their dispute shall be resolved by the presiding court in ruling upon any motion to intervene filed by the SEO. Upon intervention, the SEO shall limit its participation to matters raised by the material modification of Sections I, II, and III of the Administrative Protocol. The SEO may also move to intervene in the judicial proceedings in the event any provision of this Agreement is breached by any non-SEO Party, and the Parties shall not oppose such intervention upon any grounds. Subject to paragraph 4 below, the SEO shall not object to or appeal the entry of a final judgment and decree by the Water Court in response to the request for a determination that Sections I, II, and III of the Administrative Protocol are consistent with the Blue River Decree. Pursuant to C.R.S. §§ 37-92-301(1), -304(8), and -501(1), the SEO shall be bound by, and shall administer, distribute, and regulate the waters of the State in accordance with any final judgment and decree entered in response to the request for a determination that Sections I, II, and III of the Administrative Protocol are consistent with the Blue River Decree, subject to any appellate review. As to Section IV of the GMR Protocol, the Blue River Decree Parties will only seek a determination, binding only on the Blue River Decree Parties, that Section IV of the GMR Protocol is consistent with the Blue River Decree. If a dispute under Section IV arises between the Blue River Decree Parties, the Blue River Parties will not request that the SEO address or otherwise resolve such dispute.

3.3.3. In order to become a party to the Water Court Application, Ute filed a statement of opposition in support of a determination that Sections I, II, III, and IV of the Administrative Protocol are consistent with the Blue River Decree. Notwithstanding the fact that a pleading filed by Ute is captioned as a statement of opposition, all Parties recognize and agree that Ute's position in the judicial proceedings herein will be aligned with the position of the Blue River Decree Parties and Climax. The Statement of Opposition filed by Ute to the Water Court Application and the Common Interest Agreement entered between

the Blue River Decree Parties and Ute in this matter remain in full force and effect. The Parties agree that Ute does not need to file a statement of opposition to the Amended Application and its original statement of opposition will be treated as applying to the Amended Application.

3.4. Judicial Proceedings Inconsistent with the Intent of the Parties. In the event that the Water Court determines that it lacks jurisdiction, or otherwise declines to exercise jurisdiction, to adjudicate the Amended Application in whole or in part, the Parties will confer and determine how to proceed in obtaining the participation and judicial confirmations contemplated herein.

3.5. No Precedent. While the Parties have agreed to follow the procedures set forth in this Amended and Restated Agreement, and to request that the procedures set forth in this paragraph 3 be adopted and implemented by the Water Court, nothing in this Amended and Restated Agreement, or in the Parties' participation in those procedures in this instance, shall have the effect of precedent or preclusion on any Party in any other proceeding with respect to whether the Water Court or the Federal Court has primary jurisdiction over Blue River Decree subjects that are not the Administrative Protocol.

4. If a Party Believes a Judgment and Decree is Not Consistent With, Materially Modifies, or Does Not Approve the Administrative Protocol. Within 14 days of entry of any final judgment and decree or other court order in the proceedings contemplated in paragraph 3 of this Amended and Restated Agreement, any Party may notify the other Parties that it believes the judgment and decree or other court order(s) is not consistent with, materially modifies, or does not approve the Administrative Protocol. Such Party shall simultaneously file a motion under C.R.C.P. 59, or other appropriate rule seeking a stay of the proceedings pending the negotiations or mediation contemplated by this paragraph and requesting an enlargement of time to file additional motions as appropriate. The other Parties shall be deemed to have consented to any such motion. Upon such notification, the Parties will confer in good faith and endeavor to resolve the inconsistency, modification, or failure of approval in a manner consistent with the Administrative Protocol or in a manner that comes as close as possible to the intention of the Administrative Protocol. If the Parties are not able to reach a unanimous consensus resolution to any inconsistency, material modification, or failure of approval, then the Parties shall submit the disputed issue to a third-party mediator. If the disputed issue cannot be resolved through good faith mediation, then the Parties may pursue any available legal or administrative recourse, including but not limited to a motion for post-trial relief under C.R.C.P. 59, or for relief from judgment or order under C.R.C.P. 60 , as appropriate, to vacate the judgment and decree or to request another court order.

5. Administration of CBT Project Priorities and Climax C.A. 1710 Water Priorities.

5.1. The Parties agree that, pursuant to the Stipulation for Decree in the United States District Court for the District of Colorado, Consolidated Case Nos. 2782, 5016, and 5017 and District Court, Water Division No. 5, State of Colorado, Case No. 88CW382, dated August 7, 1992, and pursuant to the Findings of Fact, Conclusions of Law and Judgment and Decree in the same matter, dated November 10, 1992, the direct flow, storage and exchange water rights for the operation of the Colorado-Big Thompson Project shall be administered with a priority date of August 1, 1935 as though adjudicated in the first available adjudication following that date, with the exception of a subsequent state or federal court confirmation of the limited exception within Water District 36 that is explicitly stated in Section III.C of the Administrative Protocol, and further subject to the provisions of the Blue River Decree and the provisions of the Manner of Operation Section of Senate Document No. 80. Notwithstanding the provisions of paragraphs 9 and 10 below, this Paragraph 5.1 shall survive any partial or complete invalidation of the Administrative Protocol and shall survive the termination of this Amended and Restated Agreement.

5.2. The SEO further agrees that the administration within Water District 36 that is explicitly stated in Section III.C of the Administrative Protocol is consistent with Colorado law and may be implemented without injury to vested water rights. In consideration of the settlement of the disputed issues of priority in Water District 36, the Blue River Decree Parties, Ute, and Climax agree to the administration specified in Section III.C of the Administrative Protocol contingent upon Climax and its successors complying with Section III.D of the Administrative Protocol. Notwithstanding the provisions of paragraphs 9 and 10 below, the provisions of Section III of the Administrative Protocol, and the foregoing provisions of this paragraph regarding Sections III.C and III.D of the Administrative Protocol, shall, to the extent consistent with any judicial rulings regarding Section III of the Administrative Protocol in the Water Court, survive (a) any partial or complete invalidation of Sections I and II of the Administrative Protocol, and (b) the termination of this Amended and Restated Agreement.

6. No Assertion that Protocol or Protocol Agreement Violates Senate Document No. 80 or Blue River Decree. The Blue River Decree Parties, Ute, and Climax agree that they will never assert, in any forum or for any purpose, that either the Amended and Restated Agreement or the implementation of the Administrative Protocol is a violation of any obligation of any of the Parties under Senate Document No. 80 or the Blue River Decree.

7. No Estoppel Except as Provided. The Blue River Decree Parties, Ute, and Climax agree that except as expressly provided in paragraphs 5 and 6 above, nothing herein shall ever give rise to any claim, defense, or theory of acquiescence, bar, merger, issue or claim preclusion, promissory estoppel, equitable estoppel, waiver, laches, unclean hands or any other similar position or defense concerning any factual or legal position regarding the Parties' respective positions regarding the operation of the Colorado-Big Thompson Project,

Senate Document No. 80, the 1938 Repayment Contract for the Colorado-Big Thompson Project, Reclamation Law, the Blue River Decree, the 1984 Green Mountain Operating Policy, or Colorado law.

8. Fees and Costs. The Parties shall each be responsible for their own attorneys' fees, engineering fees, and any other costs and fees associated with the Agreement and the Amended and Restated Agreement, and the Federal Court and Water Court proceedings discussed herein.

9. No Precedent in Other Matters. The Parties further agree that they do not intend this Amended and Restated Agreement or the Administrative Protocol to have the effect of precedent or preclusion on any factual or legal issue in any other matter.

10. No Precedent if Decree is Determined No Force or Effect. In the event that all or a portion of any decree confirming the Administrative Protocol is determined to be of no force or effect, neither the existence of such decree, nor the fact that any Party was willing to sign this Amended and Restated Agreement, or not to object to or otherwise challenge the decree or the Administrative Protocol, shall ever be used against any Party in any manner in any forum.

11. Reforming the Agreement. If any provision or part of this Amended and Restated Agreement is held to be void or unenforceable by a court with jurisdiction, the Parties will confer in good faith and endeavor to reform the Amended and Restated Agreement to replace such stricken provision with a new provision that comes as close as possible to expressing the intention of the void or unenforceable provision. The Parties acknowledge that such endeavors may not succeed in reforming the Amended and Restated Agreement.

12. Appropriation and Spending Limitations. In accord with the Colorado Springs City Charter, performance of CS-U's obligations under this Amended and Restated Agreement is expressly subject to appropriation of funds by the Colorado Springs City Council. In the event funds are not appropriated in whole or in part sufficient for performance of CS-U's obligations under this Amended and Restated Agreement, or appropriated funds may not be expended due to City Charter spending limitations, then CS-U will thereafter have no obligations in excess of CS-U's authorized appropriation for this Amended and Restated Agreement or the applicable spending limit, whichever is less. CS-U will notify the other parties as soon as reasonably practicable in the event of non-appropriation or in the event a spending limit becomes applicable. Any other Party subject to an appropriation or lawful expenditure limitation will likewise have no obligations in excess of its authorized appropriation for this Amended and Restated Agreement or the applicable spending limit, whichever is less, and shall notify the other Parties as soon as reasonably

practicable in the event of non-appropriation or in the event a spending limit becomes applicable.

13. Waiver. A waiver by any Party of a default by any other Party and/or of the performance of any other Party's obligations contained in this Amended and Restated Agreement shall not be deemed a waiver of the performance of any other obligations or of any subsequent default in the performance of the same or any other obligation contained in this Amended and Restated Agreement. Further, a waiver by any Party of a default by any other Party or of the performance of any other Party's obligations contained in this Amended and Restated Agreement shall not constitute a waiver by any other Party.

14. Captions. The captions of the paragraphs hereof are for convenience only and shall not govern or influence the interpretation hereof.

15. Construction. All Parties were represented by counsel and participated in the drafting of this Amended and Restated Agreement. Neither this Amended and Restated Agreement nor any provision of this Amended and Restated Agreement shall be construed against any Party, regardless of whether a Party drafted or participated in the drafting of any provision of this Amended and Restated Agreement.

16. Counterparts. This Amended and Restated Agreement may be executed in counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument.

17. Amendment. This Amended and Restated Agreement supersedes the Green Mountain Reservoir Agreement dated February 22, 2013, in its entirety.

18. Effective Date. The effective date of this Amended and Restated Agreement shall continue to be the February 22, 2013, effective date of the Agreement.

Dated this _____ day of _____, 2020.

SIGNATURE PAGES 12-24
INTENTIONALLY REMOVED
FOR INCLUSION WITH
JULY 2020 CRWCD BOARD PACKET

ATTACHMENT C TO
QUARTERLY ATTORNEY REPORT
JOINT - JULY 2020
(pages 2-5 and signature pages
intentionally removed for inclusion with
CRWCD Board packet)

June 22, 2020

Go back to Attachment List

DISTRICT COURT, WATER DIVISION NO. 5, COLORADO **Garfield Co. Courthouse** 109 8th Street, Suite 104 Glenwood Springs, CO 81601	Case Number: 2013CW3077 Division: Courtroom:
CONCERNING THE APPLICATION OF THE UNITED STATES OF AMERICA, THE CITY AND COUNTY OF DENVER, ACTING BY AND THROUGH ITS BOARD OF WATER COMMISSIONERS, THE CITY OF COLORADO SPRINGS, ACTING THROUGH ITS ENTERPRISE COLORADO SPRINGS UTILITIES, THE COLORADO RIVER WATER CONSERVATION DISTRICT, THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT, THE MIDDLE PARK WATER CONSERVANCY DISTRICT, THE GRAND VALLEY WATER USERS ASSOCIATION, THE ORCHARD MESA IRRIGATION DISTRICT, THE GRAND VALLEY IRRIGATION COMPANY, THE PALISADE IRRIGATION DISTRICT, AND CLIMAX MOLYBDENUM COMPANY FOR A DETERMINATION OF WATER RIGHTS IN SUMMIT, GRAND, GARFIELD, EAGLE, PITKIN, ROUTT, GUNNISON, RIO BLANCO, AND MESA COUNTIES	▲***COURT USE ONLY***▲

AMENDED APPLICATION FOR A DETERMINATION OF WATER RIGHTS: CONFIRMATION OF ADMINISTRATIVE PROTOCOL FOR GREEN MOUNTAIN RESERVOIR AND OTHER WATER RIGHTS

A. BACKGROUND.

1. On November 15, 2013, an APPLICATION was filed pursuant to C.R.S. §37-92-302(1)(a) of the Water Right Determination and Administration Act to obtain, in accordance with the holding of *Southern Ute Indian Tribe v. King Consolidated Ditch Company*, 250 P.3d 1226 (Colo. 2011), a determination that Sections I, II, and III of the Green Mountain Reservoir Administrative Protocol ("GMR Protocol") are consistent with the "Blue River Decree," being the Findings of Fact, Conclusions of Law, and Final Decree in Consolidated Civil Cases No. 5016 and 5017, and the Findings of Fact, Conclusions of Law, and Final Judgment in Consolidated Civil Cases No. 2782, 5016 and 5017, both entered on October 12, 1955 by the United States District Court, District of Colorado ("Federal Court"), and all amendments and supplemental orders, judgments, and decrees in said cases (collectively, the "Consolidated Cases"). The Applicants in this matter also contemporaneously filed a petition in Federal District Court (pursuant to that court's retained jurisdiction in the Consolidated Cases) seeking a similar determination from the Federal Court, including a request that the Federal Court determine that Section IV of the GMR Protocol is consistent with the Blue River Decree..

2. On or about March 22, 2017, in a separate action in the Consolidated Cases, the Federal Court issued its Opinion and Order granting, in part, Motion for Entry of Decree, Vacating Order Reserving Future Jurisdiction and Closing Case. The Federal Court determined, in part, that the merits of the August 4, 1977 Order are no longer operative, and vacated the 1977 Order thereby (1) "bifurcating the "companion cases" [Civil Nos. 5016 and 5017] from the underlying case [Civil Nos. 2782], and (2) discontinuing this Court's exercise of jurisdiction over issues of showing of due diligence or applications to make conditional decrees absolute. The Federal Court observed that the only future proceeding in the Consolidated Cases over which it would exercise jurisdiction are those in which the United States asserts a claim under 28 U.S.C. § 1345. This Opinion and Order did not expressly address the Petition filed on November 15, 2013, but the court took no further action relating to the Petition and the action was administratively closed pursuant to Local Court Rule 41.2.

3. As a result of the March 22, 2017 Order, the Applicants have determined to pursue relief in the State Water Court. As such, in addition to Sections I, II, and III of the GMR Protocol, the Applicants now also seek a determination that Section IV of the Green Mountain Protocol is consistent with the "Blue River Decree," being the Findings of Fact, Conclusions of Law, and Final Decree in Consolidated Civil Cases No. 5016 and 5017, and the Findings of Fact, Conclusions of Law, and Final Judgment in Consolidated Civil Cases

No. 2782, 5016 and 5017, both entered on October 12, 1955 by the United States District Court, District of Colorado ("Federal Court"), and all amendments and supplemental orders, judgments, and decrees in said cases (collectively, the "Consolidated Cases"). The Water Court has ancillary jurisdiction over Part IV because its resolution will directly affect the outcome of a water matter within the exclusive jurisdiction of the water court. *Crystal Lakes Water & Sewer Assn v. Blacklund*, 908 P.2d 534, 544 (1996). As provided in Section 1.B.1 of the Administrative Protocol, the obligations of the Cities to hold water in storage and to provide replacement water, if necessary, are express conditions on the exercise of the Cities' water rights under the Blue River Decree and the Administrative Protocol. The determination, accounting, and operation of the Cities' Replacement Obligations under the Blue River Decree and Stipulations and Substitution Agreements are governed by the terms of those documents and of decrees providing for such substitution operations. The Blue River Decree parties agree that the methodology to calculate the volume of replacement water to be provided by the Cities to satisfy their replacement obligations in a manner consistent with the Administrative Protocol is set forth in Section IV of the Administrative Protocol. The entirety of the GMR Protocol is attached hereto as Exhibit 1 and incorporated herein by this reference.

4. Names and addresses of Applicants:

United States of America ("United States")
Bureau of Reclamation
11056 West County Road 18E
(EC-1310)
Loveland, CO 80537-9711

City and County of Denver, acting by and through its Board of Water Commissioners ("Denver Water")
1600 W. 12th Ave.
Denver, CO 80204

City of Colorado Springs, acting through its enterprise Colorado Springs Utilities ("Colorado Springs Utilities")
c/o M. Pat Wells
P.O. Box 1103, Mail Code 930
Colorado Springs, CO 80947-0930

Colorado River Water Conservation District
Attention: General Manager
201 Centennial Street, Suite 200
P.O. Box 1120
Glenwood Springs, CO 81602

(970) 945-8522

Northern Colorado Water Conservancy District
Attention: General Manager
220 Water Avenue
Berthoud, CO 80513
(970) 532-7700

Middle Park Water Conservancy District
c/o Jack Buchheister
P.O. Box 145
Granby, CO 80446
(970) 887-3377

Grand Valley Water Users Association
Attn: Mark Harris, General Manager
1147 24 Road
Grand Junction, CO 81505
(970) 242-5065

Grand Valley Irrigation Company
668 26 Road
Grand Junction, CO 81506
(970) 242-2762

Orchard Mesa Irrigation District
Attn: Max Schmidt, Manager
668 38 Road
Palisade, CO 81526
(970) 464-7885

Palisade Irrigation District
777 35 3/10 Road
Palisade, CO 81526
(970) 464-4700

Climax Molybdenum Company
("Climax")
1742 County Road 202
P.O. Box 68
Empire, CO 80438
Attn: Bryce Romig

303-569-3221 ext. 1204

The United States, Denver Water, Colorado Springs Utilities, Colorado River Water Conservation District, Northern Colorado Water Conservancy District, Middle Park Water Conservancy District, Grand Valley Water Users Association, Grand Valley Irrigation Company, Orchard Mesa Irrigation District, and Palisade Irrigation District are parties to the Blue River Decree ("Blue River Decree Parties"). Applicant Climax is the owner of water rights decreed in Civil Action No. 1710, of the Summit County District Court entered on October 26, 1937 ("C.A.1710").

5. Description of Green Mountain Reservoir ("GMR") and the Green Mountain Reservoir Powerplant ("GMR Powerplant") Water Rights.

5.1. Location: GMR is located approximately sixteen miles southeast of the town of Kremmling, in Summit County, Colorado, and more particularly in all or parts of Sections 11, 12, 13, 14, 15, and 24, Township 2 South, Range 80 West, and Sections 17, 18, 19, 20, 21, 28, 29, 33, and 34, Township 2 South, Range 79 West of the 6th Principal Meridian. GMR is formed by the construction of Green Mountain Dam ("GMD") across the Blue River. The GMR Powerplant is located adjacent to the downstream toe of the GMD and is also adjacent to the Blue River channel, in Section 15, Township 2 South, Range 80 West of the 6th Principal Meridian.

5.2. Source: Blue River and all tributaries upstream of the GMD, and Elliott Creek by means of its diversion canal.

5.3. Date of Original Decree: October 12, 1955, Consolidated Civil Cases No. 2782, 5016 and 5017, United States District Court, District of Colorado.

5.4. Priority Date: August 1, 1935.

5.5 Amounts: a direct flow right in the amount of 1,726 c.f.s. for generation of electrical power at the GMR Powerplant; a storage right in the amount of 154,645 acre-feet with the right to refill to the extent of an additional 6,316 acre-feet.

5.6. Uses: As provided in "Manner of Operations of Project Facilities and Auxiliary Features" in Senate Document No. 80, 75th Congress, 1st Session, ("S.D. 80").

6. Description of Climax's C.A.1710 Water Rights.

6.1. <u>The Supply Canal No. 1</u>. The water rights for the Supply Canal No. 1 were decreed as follows on October 26, 1937 by the Summit County District Court in C.A.1710:

6.1.1. Sources: Humbug Creek, Mayflower Creek, Clinton Gulch Creek, and run-off, surface flow, and underground flow from the area above the Supply Canal No. 1, all of which are tributary to Tenmile Creek.

6.1.2. Points of diversion:

6.1.2.1. on the west bank of Humbug Creek at a point whence the Northwest corner of Section 2, Township 8 South, Range 79 West, 6th P.M., bears south 35°33' west 22,680 feet;

6.1.2.2. on the south bank of Mayflower Creek at a point whence the Northwest corner of Section 2, Township 8 South, Range 79 West, 6th P.M., bears south 35°17' west, 16,894 feet;

6.1.2.3. on the south bank of Clinton Gulch Creek at a point whence the Northwest corner of Section 2, Township 8 South, Range 79 West, 6th P.M., bears south 40°20'west 10,632 feet; and

6.1.2.4. runoff, surface flow, and underground flow of the area above the Supply Canal No. 1 as it runs between the above-described points of diversion and to the Climax Mine.

6.1.3. Amounts:

6.1.3.1. Humbug Creek: 20.0 cfs

6.1.3.2. Mayflower Creek: 30.0 cfs

6.1.3.3. Clinton Gulch Creek: 50.0 cfs

6.1.3.4. Run-off, surface flow, and underground flow of the area above the line of Supply Canal No. 1.

6.1.3.5. Storage in Robinson Reservoir of 3,136 acre-feet, with right of refill, as finally decreed by the Eagle County District Court in Civil Action Nos. 970 and 1193. Robinson Reservoir is a 3,136 acre-feet reservoir located in the drainage of the East Fork of the Eagle River in the Southwest ¼ of Section 34 and the Southeast ¼ of Section 33, all in Township 7 South, Range 79 West, 6th P.M.

6.1.3.6. Storage in Chalk Mountain Reservoir 204.1 acre-feet, with right of refill, as finally decreed by the Eagle County District Court in Civil Action No. 1193. Chalk Mountain Reservoir is a 205 acre-feet reservoir located in the drainage of

the East Fork of the Eagle River in the Southwest corner of Section 34, Township 7 South, Range 79 West, 6th P.M.

6.1.4. Appropriation date: August 15, 1935.

6.1.5. Historical use: mining, milling, manufacturing, and domestic purposes at the Climax Mine, depicted as Exhibit 1.

6.2. The Supply Canal No. 2. The water rights for the Supply Canal No. 2 were decreed on October 26, 1937 by the Summit County District Court in C.A.1710. In addition, the decreed points of diversion for Supply Canal No. 2 were changed on June 14, 1962 by the Summit County District Court in Civil Action No. 2122.

6.2.1. Sources: Searle Creek, Kokomo Creek, and run-off, surface flow, and underground flow of the area above the Supply Canal No. 2, all of which are tributary to Tenmile Creek.

6.2.2. Points of diversion:

6.2.2.1. on the west bank of Searle Creek at a point whence U.S.L.M. Kokomo bears South 45°58' east 3740 feet (located in the Southwest ¼ of the Southeast ¼ of Section 15, Township 7 South, Range 79 West, 6th P.M.);

6.2.2.2. on the south bank of Kokomo Creek at a point whence U.S.L.M. Kokomo bears North 39°36' East 2635 feet (located in the Southwest ¼ of Section 22, Township 7 South, Range 79 West, 6th P.M.); and

6.2.2.3. run-off, surface flow, and underground flow of the area above the Supply Canal No. 2 as it runs between the above-described points of diversion and to the Climax Mine.

6.2.3. Amounts:

6.2.3.1. Searle Creek: 35.0 cfs

6.2.3.2. Kokomo Creek: 25.0 cfs

6.2.3.3. Run-off, surface flow, and underground flow of the area above the line of Supply Canal No. 2.

6.2.3.4. Storage in Robinson Reservoir of 3,136 acre-feet, with right of refill, as finally decreed by the Eagle County District Court in Civil Action Nos. 970 and 1193.

6.2.3.5. Storage in Chalk Mountain Reservoir of 204.1 acre-feet, with right or refill, as finally decreed by the Eagle County District Court in Civil Action No. 1193.

6.2.4. Appropriation date: August 15, 1935.

6.2.5. Historical use: mining, milling, manufacturing, and domestic purposes at the Climax Mine. The amount and timing of the historical diversions and consumptive use of the water rights was determined by the Division 5 Water Court in Case Nos. 92CW233 and 92CW336. The water rights remain subject to said determinations and the terms and conditions of the 92CW233 and 92CW336 decree.

6.3. The Tenmile Diversion Ditch No. 1 and the Tenmile Diversion Ditch No. 2. The water rights for the Tenmile Diversion Ditch No. 1 and the Tenmile Diversion Ditch No. 2 were originally decreed on October 26, 1937 by the Summit County District Court in Civil Action 1710. On July 24, 1945, the Summit County District Court entered a decree in Civil Action 1830 changing the points of diversion of a portion of the water rights for the Tenmile Diversion Ditch No. 1 and all of the water rights for the Tenmile Diversion Ditch No. 2 to the Tailings Riser Line, described below:

Headgate No.	**Tailings Riser No.**		**Bearing**	**Distance**
1	20	NW Corner, Section 2, Township 8 South, Range 79 West	South 31°27' East	567.8 feet
2	37	NW Corner, Section 2, Township 8 South, Range 79 West	North 17°08' East	804.5 feet
3	38	NW Corner, Section 2, Township 8 South, Range 79 West	North 17°21' West	1275.2 feet
4	39	West ¼ Corner, Section 2, Township 8 South, Range 79 West	South 25°49' West	1502.8 feet
5	40	West ¼ Corner, Section 2, Township 8 South, Range 79 West	South 71°10' West	1066.1 feet

6	41	West ¼ Corner, Section 2, Township 8 South, Range 79 West	North 65°31' West	1592.8 feet

6.3.1. The Tenmile Diversion Ditch No. 1:

6.3.1.1. Sources: Tenmile Creek and the run-off, surface flow, and underground flow from the area above the line of the Tenmile Diversion Ditch No. 1.

6.3.1.2 Amounts:

6.3.1.2.1. 20.0 cfs from Tenmile Creek.

6.3.1.2.2. Run-off, surface flow, and underground flow from the area above the line of the Tenmile Diversion Ditch No. 1.

6.3.1.2.3. Storage in Robinson Reservoir of 3,136 acre-feet, with right of refill, as finally decreed by the Eagle County District Court in Civil Action Nos. 970 and 1193.

6.3.1.2.4. Storage in Chalk Mountain Reservoir of 204.1 acre-feet, with right of refill, as finally decreed by the Eagle County District Court in Civil Action No. 1193.

6.3.1.3. Appropriation date: June 4, 1936.

6.3.1.4. Historical use: mining, milling, manufacturing, and domestic purposes at the Climax Mine. The amount and timing of the historical diversions and consumptive use of the water rights was determined by the Division 5 Water Court in Case Numbers 92CW233 and 92CW336. The water rights remain subject to said determinations and the terms and conditions of the 92CW233 and 92CW336 decree.

6.3.2. The Tenmile Diversion Ditch No. 2:

6.3.2.1. Sources: Tenmile Creek and the run-off, surface flow, and underground flow from the area above the line of Tenmile Diversion Ditch No. 2.

6.3.2.2. Amounts:

6.3.2.2.1. 20.0 cfs from Tenmile Creek.

6.3.2.2.2. Run-off, surface flow, and underground flow from the area above the line of Tenmile Diversion Ditch No. 2.

6.3.2.2.3. Storage in Robinson Reservoir of 3,136 acre-feet, with right of refill, as finally decreed by the Eagle County District Court in Civil Action Nos. 970 and 1193.

6.3.2.2.4. Storage in Chalk Mountain Reservoir of 204.1 acre-feet, with right of refill, as finally decreed by the Eagle County District Court in Civil Action No. 1193.

6.3.2.3. Appropriation date: June 4, 1936.

6.3.2.4. Historical use: mining, milling, manufacturing, and domestic purposes at the Climax Mine. The amount and timing of the historical diversions and consumptive use of the water rights was determined by the Division Water Court in Case Nos. 92CW233 and 92CW336. The water rights remain subject to said determinations and the terms and conditions of the 92CW233 and 92CW336 decree.

6.4. McNulty Ditch (a.k.a. Ten Mile Diversion Ditch No. 1). The decreed point of diversion for the McNulty Ditch is a point on the north bank of McNulty Gulch Creek whence the North ¼ Corner of Section 2, Township 8 South, Range 79 West, 6th P.M., bears South 60°50' West 729.4 feet. The water right for the McNulty Ditch consists of 15.0 cfs, plus run-off, surface flow and underground flow, of the Ten Mile Diversion Ditch No. 1 water right, which was originally decreed on October 26, 1937 by the Summit County District Court in C.A.1710. The applicable portion of the Ten Mile Diversion Ditch No. 1 water right was transferred to the McNulty Ditch from the Ten Mile Diversion Ditch No. 1 pursuant to a decree entered by the Summit County District Court on July 24, 1945 in Civil Action No. 1829. As transferred, the McNulty Ditch water right is as follows:

6.4.1. Sources: McNulty Gulch Creek and run-off, surface flow, and underground flow from the area above the ditch.

6.4.2. Amounts:

6.4.2.1. 15.0 cfs from McNulty Gulch Creek.

6.4.2.2. Run-off, surface flow, and underground flow from the area above the McNulty Ditch.

6.4.2.3. Storage in Robinson Reservoir of 3,136 acre-feet, with right of refill, as finally decreed by the Eagle County District Court in Civil Action Nos. 970 and 1193.

6.4.2.4. Storage in Chalk Mountain Reservoir of 204.1 acre-feet, with right of refill, as finally decreed by the Eagle County District Court in Civil Action No. 1193.

6.4.3. Appropriation date: June 4, 1936

6.4.4. Historical use: mining, milling, manufacturing, and domestic purposes at the Climax Mine. The amount and timing of the historical diversions and consumptive use of the water rights was determined by the Division 5 Water Court in Case Nos. 92CW233 and 92CW336. The water rights remain subject to said determinations and the terms and conditions of the 92CW233 and 92CW336 decree.

7. Description of Colorado Springs Utilities' 1948 Blue River Water Rights:

7.1 Blue River Ditch.

471.1 Location: At a point from whence the East quarter corner of Section 2, Township 8 South, Range 78 West of the 6th Principal Meridian is South 80° 44' East a distance of 2,096 feet.

7.1.2 Source: Blue River.

7.1.3 Date of Original Decree: March 10, 1952 (CA 1806, Summit County District Court); October 12, 1955 (Consolidated Civil Cases Nos. 2782, 5016 and 5017, United States District Court, District of Colorado).

7.1.4 Priority Date: May 13, 1948.

7.1.5 Amount: 200 c.f.s.

7.1.6 Uses: By and for the benefit of the inhabitants of the City of Colorado Springs and adjacent areas for domestic uses, fire protection, sewage disposal, manufacturing and industrial uses, street sprinkling and flushing, and the irrigation of lawns, trees, gardens, flowers, and parks, and other municipal purposes.

7.2 Crystal Ditch.

7.2.1 Location: At a point from whence the Northwest corner of Section 2, Township 8 South, Range 78 West of the 6th Principal Meridian is South 19° 34' West a distance of 18,245 feet.

7.2.2 Source: Crystal Creek.

7.2.3 Date of Original Decree: March 10, 1952; October 12, 1955.

7.2.4 Priority Date: May 13, 1948.

7.2.5 Amount: 40 c.f.s.

7.2.6 Uses: By and for the benefit of the inhabitants of the City of Colorado Springs and adjacent areas for domestic uses, fire protection, sewage disposal, manufacturing and industrial uses, street sprinkling and flushing, and the irrigation of lawns, trees, gardens, flowers, and parks, and other municipal purposes.

7.3 Spruce Ditch.

7.3.1 Location: At a point from whence the Northwest corner of Section 2, Township 8 South, Range 78 West of the 6th Principal Meridian is South 23° 56' West a distance of 12,810 feet.

7.3.2 Source: Spruce Creek.

7.3.3 Date of Original Decree: March 10, 1952; October 12, 1955.

7.3.4 Priority Date: May 13, 1948.

7.3.5 Amount: 60 c.f.s.

7.3.6 Uses: By and for the benefit of the inhabitants of the City of Colorado Springs and adjacent areas for domestic uses, fire protection, sewage disposal, manufacturing and industrial uses, street sprinkling and flushing, and the irrigation of lawns, trees, gardens, flowers, and parks, and other municipal purposes.

7.4 McCullough Ditch.

7.4.1 Location: At a point from whence the Northwest corner of Section 2, Township 8 South, Range 78 West of the 6th Principal Meridian is South 28° 23' West a distance of 6,085 feet.

7.4.2 Source: McCullough Gulch Creek.

7.4.3 Date of Original Decree: March 10, 1952; October 12, 1955.

7.4.4 Priority Date: May 13, 1948.

7.4.5 Amount: 60 c.f.s.

7.4.6 Uses: By and for the benefit of the inhabitants of the City of Colorado Springs and adjacent areas for domestic uses, fire protection, sewage disposal, manufacturing and industrial uses, street sprinkling and flushing, and the irrigation of lawns, trees, gardens, flowers, and parks, and other municipal purposes.

7.5 East Hoosier Ditch.

7.5.1 Location: At a point from whence the Southwest corner of Section 6, Township 8 South, Range 77 West of the 6th Principal Meridian is South 57° 36' West a distance of 388.8 feet.

7.5.2 Source: East Hoosier Creek.

7.5.3 Date of Original Decree: March 10, 1952; October 12, 1955.

7.5.4 Priority Date: May 13, 1948.

7.5.5 Amount: 50 c.f.s.

7.5.6 Uses: By and for the benefit of the inhabitants of the City of Colorado Springs and adjacent areas for domestic uses, fire protection, sewage disposal, manufacturing and industrial uses, street sprinkling and flushing, and the irrigation of lawns, trees, gardens, flowers, and parks, and other municipal purposes.

7.6 Hoosier Ditch (Claim No. 1).

7.6.1 Location: (Hoosier Creek headgate): On the west bank of Hoosier Creek at a point from whence the Northeast corner of Section 12, Township 8 South, Range 78 West of the 6th Principal Meridian is North 64° 35' East a distance of 877.8 feet.

7.6.2 Source: Hoosier Creek.

7.6.3 Date of Original Decree: March 10, 1952; October 12, 1955.

7.6.4 Priority Date: May 13, 1948.

7.6.5 Amount: 40 c.f.s.

7.6.6 Uses: By and for the benefit of the inhabitants of the City of Colorado Springs and adjacent areas for domestic uses, fire protection, sewage disposal, manufacturing and industrial uses, street sprinkling and flushing, and the irrigation of lawns, trees, gardens, flowers, and parks, and other municipal purposes.

7.7 Hoosier Ditch (Claim No. 2).

7.7.1 Location: (Silver Creek headgate): On the west bank of Silver Creek where said ditch crosses Silver Creek at a point from whence the West Quarter corner of Sect. 1, T. 8 S., R. 78 W. of the 6th P.M. is N. 48° 33' W. a distance of 1,375.8 feet.

7.7.2 Source: Silver Creek.

7.7.3 Date of Original Decree: March 10, 1952; October 12, 1955.

7.7.4 Priority Date: May 13, 1948.

7.7.5 Amount: 20 c.f.s.

7.7.6 Uses: By and for the benefit of the inhabitants of the City of Colorado Springs and adjacent areas for domestic uses, fire protection, sewage disposal, manufacturing and industrial uses, street sprinkling and flushing, and the irrigation of lawns, trees, gardens, flowers, and parks, and other municipal purposes.

7.8 Ditch Inflow.

4.8.1 Location: Along the ditches between the points of diversion (described in paragraphs 4.1.1; 4.2.1; 4.3.1; 4.4.1; 4.5.1; 4.6.1; and 4.7.1) and delivery to the Hoosier Tunnel (described in paragraph 4.9.1).

7.8.2 Source: Water intercepted by the ditches.

7.8.3 Date of Original Decree: March 10, 1952; October 12, 1955.

7.8.4 Priority Date: May 13, 1948.

7.8.5 Amount: 50 c.f.s.

7.8.6 Uses: By and for the benefit of the inhabitants of the City of Colorado Springs and adjacent areas for domestic uses, fire protection, sewage disposal, manufacturing and industrial uses, street sprinkling and flushing, and the irrigation of lawns, trees, gardens, flowers, and parks, and other municipal purposes.

7.9 Hoosier Tunnel.

4.9.1 Location: The place of beginning of said tunnel is located at a point from whence the East Quarter corner of Sec. 2, T. 8 S., R. 78 W. of the 6th P.M. is N. 34° 33' E. a distance of 510.6 feet.

7.9.2 Source: Water seeping into and being intercepted by the tunnel.

7.9.3 Date of Original Decree: March 10, 1952; October 12, 1955.

7.9.4 Priority Date: May 13, 1948.

7.9.5 Amount: 20 c.f.s.

7.9.6 Uses: By and for the benefit of the inhabitants of the City of Colorado Springs and adjacent areas for domestic uses, fire protection, sewage disposal, manufacturing and industrial uses, street sprinkling and flushing, and the irrigation of lawns, trees, gardens, flowers, and parks, and other municipal purposes.

7.10 Upper Blue Lake.

7.10.1 Location: Across the channel of the Blue River with the initial point of survey at a point whence the Northeast corner of Section 3, Township 8 South, Range 78 West of the 6th Principal Meridian bears North 66° 30' East 3,728 feet.

7.10.2 Source: Blue River.

7.10.3 Date of Original Decree: March 10, 1952; October 12, 1955.

7.10.4 Priority Date: May 13, 1948.

7.10.5 Amount: 2,140 acre-feet.

7.10.6 Uses: Municipal, domestic, irrigation and other beneficial uses in the City of Colorado Springs.

7.11 Lower Blue Lake.

7.11.1 Location: The initial point of survey is at a point whence the Northeast corner of Section 3, Township 8 South, Range 78 West of the 6th P.M. bears North 54° East 503 feet.

7.11.2 Source: Blue River.

7.11.3 Date of Original Decree: March 10, 1952; October 12, 1955.

7.11.4 Priority Date: May 13, 1948.

7.11.5 Amount: 1,006 acre-feet.

7.11.6 Uses: By and for the benefit of the inhabitants of the City of Colorado Springs and adjacent areas for domestic uses, fire protection, sewage disposal, manufacturing and industrial uses, street sprinkling and flushing, and the irrigation of lawns, trees, gardens, flowers, and parks, and other municipal purposes.

7.12 Spruce Lake.

7.12.1 Location: The initial point of survey is at a point whence the Northeast corner of Section 22, Township 7 South, Range 78 West of the 6th P.M. bears North 12° 44' East 5,780 feet.

7.12.2 Source: Spruce Creek.

7.12.3 Date of Original Decree: March 10, 1952; October 12, 1955.

7.12.4 Priority Date: May 13, 1948.

7.12.5 Amount: 1,542 acre-feet.

7.10.6 Uses: By and for the benefit of the inhabitants of the City of Colorado Springs and adjacent areas for domestic uses, fire protection, sewage disposal, manufacturing and industrial uses, street sprinkling and flushing, and the irrigation of lawns, trees, gardens, flowers, and parks, and other municipal purposes.

7.13 Mayflower Lake.

7.13.1 Location: The initial point of survey is at a point whence the Northeast corner of Section 22, Township 7 South, Range 78 West of the 6th P.M. bears North 43° 44' East 4,770 feet.

7.13.2 Source: Spruce Creek.

7.13.3 Date of Original Decree: March 10, 1952; October 12, 1955.

7.13.4 Priority Date: May 13, 1948.

7.13.5 Amount: 618 acre-feet.

7.10.6 Uses: By and for the benefit of the inhabitants of the City of Colorado Springs and adjacent areas for domestic uses, fire protection, sewage disposal, manufacturing and industrial uses, street sprinkling and flushing, and the irrigation of lawns, trees, gardens, flowers, and parks, and other municipal purposes.

8. Description of Denver Water's 1946 Blue River Water Rights:

8.1 Location. The Blue River Diversion Project stores water in Dillon Reservoir and diverts water from the Blue River, the Snake River, and Ten Mile Creek and their tributaries through the Harold D. Roberts Tunnel, the west portal of which is located at a point whence the East quarter corner of Section 18, Township 5 South, Range 77 West of the 6th P.M. bears South 81°07' East 941.6 feet.

8.2 Source: The sources of water for the Blue River Diversion Project are the Blue River, the Snake River, and Ten Mile Creek, all of which are tributaries of the Colorado River; and the waters naturally tributary thereto.

8.3 Date of Original Decree: March 10, 1952, Summit County District Court; October 12, 1955, Consolidated Civil Cases Nos. 2782, 5016 and 5017, United States District Court, District of Colorado.

8.4 Appropriation date: June 24, 1946.

8.5 Amounts: The Blue River Diversion Project was decreed conditional priorities 139(c) and 366(c) for 788 cubic feet per second from the Blue River; conditional priorities 140(c) and 367(c) for 788 cubic feet per second from the Ten Mile Creek; and conditional priorities 141(c) and 368(c) for 788 cubic feet per second from the Snake River providing no more than 788 cubic feet per second shall be taken through any combination of the above described sources. In addition, Dillon Reservoir was decreed conditional reservoir priorities 80(c) and 8(c) for 252,678 acre-feet. To date, the Dillon Reservoir storage right has been confirmed absolute in the amount of 252,678 acre-feet and the Roberts Tunnel direct flow right has been confirmed absolute in the rate of 520 cfs. A claim is pending to make 654 cfs of the Roberts Tunnel direct flow right absolute in Case No. 2006CW255.

8.6 Use: All municipal uses including domestic use, mechanical use, manufacturing use, fire protection, street sprinkling, watering of parks, lawns and grounds as more fully described in the Second Amended Application filed in Case No. 06CW255.

B. DETERMINATION OF WATER RIGHTS.

9. Background.

9.1 Water Court Jurisdiction. This application seeks a determination of water right, in accordance with the holding of *Southern Ute Indian Tribe v. King Consolidated Ditch Co*. 250 P.3d 1226, 1233 (Colo. 2011), confirming that the GMR Protocol is consistent with the Blue River Decree, and an order directing that administration by the State Engineer be carried out in accordance with Articles I, II, and III of the GMR Protocol. As to Article IV of the GMR Protocol, the Blue River Decree Parties seek a determination binding only on the Blue River Decree Parties, that Article IV of the GMR Protocol is consistent with the Blue River Decree.

9.2 GMR Water Rights Adjudicated by the Blue River Decree. The United States has a priority date of August 1, 1935 for the Colorado-Big Thompson Project from the Blue River and its tributaries for a 1726 c.f.s. direct flow right for the generation of electrical power at the GMR Powerplant ("GMR Power Right"), and a storage right for 154,645 acre-feet in GMR ("1935 First Fill Storage Right") with the right to refill to the extent of an additional 6,316 acre-feet ("GMR Senior Refill Right"). The United States also operates exchanges involving GMR as of that priority, and the August 1, 1935 priority of the direct flow, storage, and exchange rights for the operation of the facilities at GMR is administered as though adjudicated in the first available adjudication following that date, i.e., "without postponement for any reason." Decree Consolidated Civil Nos. 2782, 5016 5017, 88CW382, ¶¶ 1 and 4, November 10, 1992. The GMR Senior Refill Right is exercised by subsequent storage after the release of water from the first fill.

9.3 Except as provided in the Blue River Decree, use by the United States through the GMR Powerplant of water that would otherwise be available for storage is an exercise of the GMR Power Right and not a bypass or failure to exercise any storage right. Case No. 88CW22, ¶ 10 at 3.

9.4 Denver Water's 1946 Blue River Water Rights. Denver Water has, *inter alia*, a priority date of June 24, 1946 from the Blue River and its tributaries for 788 c.f.s. of direct flow for the Roberts Tunnel and for 252,678 acre-feet of storage for Dillon Reservoir, both for municipal purposes.

9.5 Colorado Springs' 1948 Blue River Water Rights. Colorado Springs Utilities has, *inter alia*, a priority date of May 13, 1948 for 400 c.f.s. direct flow and 5,306 acre-feet of storage from the Blue River and its tributaries for the Continental-Hoosier Diversion System, both for municipal purposes.

9.6 Cities' Diversions. Notwithstanding their priority dates, and subject to the decision of the Secretary of the Interior that it will not adversely affect the ability of GMR to fulfill its function as set forth in the "Manner of Operations of Project Facilities and Auxiliary Features" contained in S.D. 80, except as to production of power, diversions by Denver Water and Colorado Springs Utilities (collectively, the "Cities") may be made as approved by the Secretary after the snow pack has been estimated by the United States and a determination has been made that it is reasonably probable that GMR will be filled during the season. Findings of Fact and Conclusions of Law, Consolidated Cases 2782, 5016, 5017 at p. 30 (Stipulation ¶ 4); Supplemental Decree Consolidated Cases 2782, 5016, 5017, February 9, 1978 ¶ 4(a).

10. Administrative Controversies

10.1 GMR Fill Administration. Since the adjudication of the GMR water rights in 1955, the administration of its fill has varied; this has adversely affected the rights of the Applicants. But for a temporary approval by the State Engineer consistent with the Protocol, GMR would be administered pursuant to an Interim Policy of the State and Division Engineers that some of the Blue River Decree Parties contend adversely affects their rights under the Blue River Decree. The disagreement regarding the Interim Policy and its effect on the rights and obligations of the Blue River Decree Parties has resulted in controversy and anticipated litigation among the Applicants and others.

10.2 Climax. In addition, since the Blue River Decree was entered in 1955, the administration of the priorities for Climax's C.A.1710 Water Rights vis-à-vis those adjudicated in the Blue River Decree for the GMR Water Rights, has varied, has resulted in litigation, and is likely to lead to additional litigation. In addition, Climax's C.A.1710 Water Rights are currently tabulated by the Colorado State Engineer as junior in priority to the water rights for GMR adjudicated in the Blue River Decree. As more particularly set forth in the GMR Protocol, the Applicants believe that Section III of the Administrative Protocol describes the relative priority of Climax's C.A.1710 Water Rights in a manner consistent with the Blue River Decree.

10.3 GMR Protocol. The Applicants have negotiated and agreed to the GMR Protocol in order to clarify and implement certain provisions of the Blue River Decree by (1) setting forth a protocol for, among other things, (a) preparation, review, and modification of a fill schedule for GMR; (b) definition and administration of a fill season for exercise of the 1935 First Fill Storage Right; (c) administration of water rights during the fill

season; and (d) operation of the GMR water rights and the water rights of the Cities in response to downstream calls senior to the Cities' water rights; (2) making as much water as possible available for upstream use, including use by the Cities, without impairment of the fill of GMR and without impairment of legal calls of downstream water rights; (3) providing a clear definition of the Cities' replacement obligation operations pursuant to the Blue River Decree; (4) ensuring that the administration of the GMR water rights does not allow the water rights of the Cities to benefit improperly; (5) reducing as much as possible or potentially eliminating the extent to which the bypass of 60 c.f.s. by GMR is accounted toward the fill of the GMR storage rights, and assuring, to the extent possible, the refilling of GMR to the extent that such bypass is accounted toward the fill of the GMR storage rights; and (6) addressing the relative priority of the GMR water rights, the Cities' water rights, and Climax's C.A.1710 Water Rights in a manner agreed by the Blue River Decree Parties and Climax; all in a manner that is consistent with the Blue River Decree.

11. Notice

11.1 Notice of the Application, including the full text of Sections I, II, and III of the GMR Protocol, was published in the resume of this Application, and by newspaper publication in Summit, Grand, Garfield, Eagle, Pitkin, Routt, Gunnison, Rio Blanco, and Mesa Counties in December, 2013.

11.2 Unless otherwise determined by the Court, the amended application including the full text of Section IV of the GMR Protocol shall be published in the resume of this Amended Application, and by newspaper publication in Summit, Grand, Garfield, Eagle, Pitkin, Routt, Gunnison, Rio Blanco, and Mesa Counties as well as in any other county in which publication is ordered by this Court.

11.2 Like the Application, this Amended Application does not involve any new diversion or storage structure, or modification to any existing diversion or storage structure or existing storage pool. Therefore, no notice is required to the owner of the land pursuant to C.R.S. § 37-92-302(2)(b)(II). Moreover, the owner of the land upon which GMR is constructed and in which water is stored is the United States, an Applicant herein.

WHEREFORE, Applicants seek a determination confirming that Sections I, II, and III of the GMR Protocol are consistent with the Blue River Decree and directing that administration be carried out in accordance with Sections I, II, and III of the GMR Protocol. The Blue River Decree Parties seek a determination binding only on the Blue River Decree Parties, that Article IV of the GMR Protocol is consistent with the Blue River Decree.

Date: _____

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ATTACHMENT D TO
QUARTERLY ATTORNEY REPORT
JOINT - JULY 2020

District Court, Water Division 4 Montrose County Justice Center 1200 North Grand Avenue, Bin A Montrose, CO 80401	~~Taylor Placer draft 8.8.19 w/ US/UGWCD edits 5.13.20~~ 07.05.20 Review Draft
CONCERNING THE WATER RIGHTS OF THE UNITED STATES OF AMERICA IN THE TAYLOR RIVER, A TRIBUTARY OF THE GUNNISON RIVER IN GUNNISON COUNTY, COLORADO	**Δ COURT USE ONLY Δ**
	Case No.: 11CW31 (C/R 86CW203 and 96CW224)

STIPULATION

Applicant, the United States of America, and the Objectors, Taylor Placer, Ltd. ("Taylor Placer"), the Colorado River Water Conservation District ("CRWCD"), the Upper Gunnison River Water Conservancy District (the "Upper Gunnison District"), and the City of Gunnison ("City") stipulate and agree as follows:

1. Applicant filed its Application on March 30, 2011, seeking to make absolute the conditional portion of the water right decreed by this Court in Case No. 86CW203 on September 18, 1990, and amended by an Order dated November 13, 1990 (the "Refill Decree"), for the refill of Taylor Park Reservoir.

2. Taylor Placer (through its predecessors), the CRWCD, the Upper Gunnison District, and the City filed timely Statements of Opposition to the Application.

3. Absolute and conditional water rights were adjudicated in the name of the Upper Gunnison District in the Refill Decree for a refill of Taylor Park Reservoir, in the amount of 106,230 acre-feet out of the Taylor River (the "Refill Right"). Of the Refill Right, 44,700 acre-feet were decreed absolute and 61,530 acre-feet were decreed conditional for recreation and fishery and wildlife beneficial uses, with a priority date of August 28, 1975. Of the total decreed amount of 106,230 acre-feet, 19,200 acre-feet were decreed for an additional use for increased and supplemental irrigation within the Upper Gunnison District. Of said 19,200 acre-feet, 13,777 acre-feet were decreed absolute (as part of the 44,700 acre-feet), and the remaining 5,423 acre-feet were decreed conditional (as part of the 61,530 acre-feet). The Upper Gunnison District assigned the Refill Right to the United States by an Assignment of Water Rights dated March 22, 1993 in accordance with a contract dated April 16, 1990 between the United States, the Upper Gunnison District, the Uncompahgre Valley Water Users Association and the Colorado River Water Conservation District.

4. The Refill Decree provides, *inter alia*, that:

> While the water is impounded in Taylor Park Reservoir, it shall be used for recreational purposes, including fishery and wildlife.
>
> The impounded water shall be released at times and in quantities calculated to enhance the fishery and recreational uses of the Taylor and Gunnison Rivers above Blue Mesa Reservoir.

The Refill Decree also included findings of fact quantifying the beneficial use of releases from Taylor Park Reservoir for the optimization of the fishery conditions and recreational uses in the Taylor and Gunnison Rivers:

> 22. The managed operation of the active storage capacity of the Taylor Park Reservoir has resulted in significant fishery benefits both within the Reservoir and downstream. Releases within the following flow rates have been beneficially used for the optimization of the fishery conditions and recreational uses in the Taylor and Gunnison Rivers downstream from the Reservoir:

Period	Optimum Flow	Purpose
October 16 – 31	100-150 c.f.s.	Spawning and incubation
November	100-150 c.f.s.	Spawning and incubation
December	100-150 c.f.s.	Spawning and incubation
January	100-150 c.f.s.	Spawning and incubation
February	100-150 c.f.s.	Spawning and incubation
March	100-150 c.f.s.	Spawning and incubation
April	300-500 c.f.s.	Hatching and fry emergence
May	300-500 c.f.s.	Hatching and fry emergence
June	300-500 c.f.s.	Hatching and fry emergence
July	500 c.f.s.	Adult habitat and flushing
August	500 c.f.s.	Adult habitat and flushing
September	500 c.f.s.	Adult habitat and flushing
October 1-15	500 c.f.s.	Adult habitat and flushing

5. Paragraph 26 of the Refill Decree provides that:

> The 1975 Agreement has resulted in legal benefit to irrigation water rights between Taylor Park Reservoir and Blue Mesa Reservoir. The evidence is in conflict as to whether

there were increased diversions by these irrigators after the construction of Blue Mesa Reservoir. However, prior to the 1975 Agreement, irrigation water rights could not lawfully divert water released from Taylor Park Reservoir, since they were subject to curtailment by the Division Engineer. On several occasions prior to 1975, the UVWUA attempted to curtail such diversions by notifying the Division Engineer. Subsequent to the 1975 Agreement, such diversions did not injure the UVWUA water right, for which full credit is given in the Aspinall Unit for all water which passes the gauge below Taylor Park Dam. By itself, this would be an exchange of Aspinall water upstream to the headgates of the diverting ditches, which the Gunnison District does not seek to adjudicate. However, the operations under the 1975 Agreement, including the accounting of a "paper fill" of Taylor Park Reservoir, have resulted in the second fill of Taylor Reservoir which is claimed by the Gunnison District in Case No. 86-CW-203. This has made water legally available to downstream irrigators which would not have been available in the absence of the 1975 Agreement.

6. On April 12, 2005, a finding of reasonable diligence for the conditional portion of the Refill Right was entered by this Court in Case No. 96CW244. The Court found, *inter alia*, that:

> 7. The Applicant and the Upper Gunnison District have made continuing steady efforts to complete the appropriation for recreation, fishery and wildlife. Consequently, the conditional refill right of 61,350 acre-feet for those beneficial uses should be continued in force.
>
> 8. Water released from Taylor Park Reservoir has continued to be applied to irrigation uses by irrigators downstream from Taylor Park Reservoir consistent with the September 18, 1990 Decree. Consequently, the conditional refill right of 5,432 acre-feet for irrigation should be continued in force.

7. The Application in this case states that:

> According to the Official Accounting Sheet (Gunnison River System) maintained by the Division 4 Engineer, Taylor Park Reservoir achieved its decreed refill by storing 106,230 acre-feet of water in priority in water years 2005, 2006, 2007, 2008 and 2009. In each of those water years, water stored in the reservoir under the Refill Right was used for recreational purposes, including fishery and wildlife, and was released at times and in quantities calculated to enhance the fishery and recreational uses of the Taylor and Gunnison Rivers in accordance with the Refill Decree.

The parties are not in agreement that releases that were made during the diligence period to the

Taylor River to accomplish the fishery and recreational uses of the Taylor and Gunnison Rivers in accordance with the Refill Decree.

8. The Application in this case also states that:

> As shown in Table 2 attached to this Application, in water year 2009 19,405 acre-feet of the Refill Right decreed for increased and supplemental irrigation by the Refill Decree was stored in priority in Taylor Park Reservoir and released in August, September and October for increased and supplemental irrigation use by 547 irrigation structures within the boundaries of the Upper Gunnison District. The location of said structures is shown in Figure 1 attached to this Application.

The parties are not in agreement that water released from Taylor Park Reservoir may be used for irrigation purposes at locations within the boundaries of the District that are not downstream of Taylor Park Reservoir in accordance with the Refill Decree.

9. An application for instream flow rights in the Taylor River and certain of its tributaries was filed in Case No. W-1991, Water Division No. 4, on September 13, 1973. The United States opposed the application. The decree was entered on February 11, 1975, confirming a date of appropriation of June 1, 1910 for absolute water rights including, *inter alia*, 445 c.f.s. in the Taylor River downstream of Taylor Park Dam and above the confluence of Lottis Creek and 225 c.f.s. in the Taylor River above Taylor Park Dam and below the confluence of Illinois Creek (collectively, the "W-1991 Rights"). The United States did not appeal the entry of the decree. The validity of the W-1991 Rights was upheld in Case No. 90CW92, Water Division No. 4, *affirmed sub nom. Board of County Commissioners of the County of Arapahoe v. City of Aurora*, No. 92SA71 (June 16, 1992), dismissing Arapahoe County's appeal based on the holding in *Board of County Commissioners of the County of Arapahoe v. Collard*, 827 P.2d 546 (Colo. 1992).

10. The W-1991 Rights are junior in priority to the original Taylor Park Reservoir irrigation right that was adjudicated for the benefit of the Uncompahgre Valley Water Users' Association ("UVWUA") in 1941 with a date of appropriation of August 3, 1904 (the "1904 right").

11. Under C.R.S. §37-92-306 (2011), the W-1991 Rights are senior in priority to the water rights and conditional water rights decreed to the Refill Right in Case No. 86CW203, for which the Upper Gunnison District filed an application on December 30, 1986. However, the ability of the W-1991 Rights to curtail storage in Taylor Park Reservoir under the Refill Right depends on the application of the following language in the W-1991 decree:

> As has been cited in companion cases to 1991, a claim such as this

> one must meet the requirement of being upstream and located above all other appropriations or existing rights so as not to adversely affect those rights or the administration of such rights.
>
> Portions of this claim do not meet the criteria established in other cases. The Taylor Dam on the Taylor River above its confluence with Lottis Creek is owned and operated by the Uncompahgre Valley Water Users Association and it is intended that nothing herein expressed will in any way alter the *historical operation* of Taylor Dam, either by agreement locally or by compact with the State Fish and Game Commission, the Upper Gunnison Conservancy District or any other State or Federal agency in such a manner not covered by decree of the Court so as to best serve the interests of those agencies or locale.

(Emphasis added.)

12. The Refill Right has a date of appropriation of August 28, 1975, which is the date of the Taylor Park Reservoir Operation and Storage Exchange Agreement (the "1975 Exchange Agreement") among the United States, the CRWCD, the Upper Gunnison District, and the UVWUA. The parties are not in agreement as to whether the "historical operation" of the Reservoir includes the current pattern of storage and releases under the 1990 decree in Case No. 86CW203 and whether the language in the W-1991 decree applies to the exercise of the Refill Right, which has an appropriation date of August 28, 1975.

13. The parties agree that the biological health of Taylor River and its fishery is an important objective of Taylor Park Reservoir operations.

14. Taylor Placer and its predecessors have performed and provided to the other parties biological studies of the Taylor River below Taylor Park Dam that address, *inter alia*, the importance to the biological health of the River of winter outflows at rates within the range specified in the Refill Decree, a spring flushing flow at the rate specified in the decree in Case No. W-1991, and stable flows during the brown trout spawning season in the fall.

15. For the purposes of: (1) a compromise and settlement of the issues in dispute concerning the administration of the W-1991 Rights and the Refill Right; (2) specifying terms and conditions in a water court decree granting the application in this Case No. 11CW31 in whole or in part; (3) specifying terms and conditions in a future water court decree governing a change in the uses of up to 106,230 acre-feet for augmentation purposes, as described in the following paragraph 17 (the "Future Change Decree"); and (4) the administration of any exchanges between or among the Wayne N. Aspinall Unit, Taylor Park Reservoir, and the

Gunnison Tunnel; the parties agree that the W-1991 Rights and all water stored in and released from Taylor Park Reservoir shall be administered according to the following procedures and criteria, which shall be incorporated verbatim into any decree presented to the Water Court in this case and into a decree changing the use of the Refill Right as provided above:

A. Taylor Placer shall be notified of each annual Taylor Park Reservoir operations meeting of the parties to the 1975 Exchange Agreement and may attend and provide written and oral information at each meeting.

B. The Taylor Local Users Group (TLUG – defined below) shall meet ~~at least~~ once per month in March, April, May, June, ~~and~~ July, and August of each year as soon as possible after the Forecasted Inflow is available for that month; provided, however, that if the Forecasted Inflow changes significantly from the previous forecast at any time during that period of the year, the TLUG shall meet as soon as possible after the significantly changed Forecasted Inflow is issued. Additional meetings may occur upon the call of the District or upon the request to the District of any three members of the TLUG. The Upper Gunnison District shall maintain accurate minutes of each TLUG meeting and shall promptly circulate drafts of the minutes for review, correction and approval by the members of TLUG, following which final meeting minutes shall be distributed. The meetings may be recorded.

C. The parties shall cooperate with one another to determine the amount and timing of releases from Taylor Park Reservoir in accordance with the terms and conditions of this Stipulation.

D. Subject to the terms of this Stipulation, and subject to the Secretary of the Interior's exercise of discretion pursuant to the laws governing operation of the Reservoir and Federal Reclamation projects generally, the rate and timing of releases from Taylor Park Reservoir shall be established by the United States, after consultation with Taylor Placer, the Taylor Local Users Group (if any), and the other parties to the 1975 Exchange Agreement, in a manner consistent with the following criteria:

(1) Definitions. As used in this Stipulation:

(a) "Forecasted Inflow" means the forecast for the Taylor River Basin issued by the Colorado Basin River Forecast Center or successor agency, and used by the Bureau of Reclamation for forecasts, of the most probable (50% chance of exceedence) unregulated April 1 through July 31 inflow to Taylor Park Reservoir. After consultation with the Colorado State Engineer and the Upper Gunnison River Water Conservancy District, the United States may adopt a different forecast methodology which uses the best scientifically accepted techniques to predict unregulated inflow to

Taylor Park Reservoir. Such different forecast methodology may utilize the forecast issued by the Colorado Basin River Forecast Center in combination with other scientifically accepted data, including without limitation data from other snotel and SnoLite stations maintained by the Upper Gunnison District or other public agency.

(b) "TLUG" consists of five citizen members appointed by the Board of Directors of the Upper Gunnison District and the representative selected by Taylor Placer. TLUG provides recommendations to the District regarding Taylor Park Reservoir operations. The members presently represent rafting or boating interests, flat water recreation interests in Taylor Park Reservoir, irrigation users along the Taylor and Gunnison Rivers, wade fishermen, and property interests along the Taylor and Gunnison Rivers. A representative selected by Taylor Placer shall be appointed to and shall serve on the TLUG and any successor entity that serves the same or a similar purpose. Taylor Placer shall provide to the Upper Gunnison District the name and contact information of Taylor Placer's selected representative. Actions of Taylor Placer's selected representative shall be binding on Taylor Placer.

(c) "Available Water" is water that is available for release from Taylor Park Reservoir in accordance with the Accounting Conditions of the Refill Decree and as determined using the criteria set forth below.

(2) Year types: The May 1 Forecasted Inflow to Taylor Park Reservoir shall be used to define year categories as specified in Table 1 below:

Table 1: Year Types

Year type	A year in which the Forecasted Inflow is:
Dry Year	Less than 75,000 acre-feet
Average Year	equal to or greater than 75,000 acre-feet but less than 110,000 acre-feet
Wet Year	equal to or greater than 110,000 acre-feet

(a) Provided, that the year type shall be finally determined based on the June 1 Forecasted Inflow. The year type shall not be altered based on Forecasted Inflows after the June 1 Forecasted Inflow.

(b) Provided further, that the volumetric criteria for the Dry, Average, and Wet year types (initially less than 75,000 acre-feet, 75,000 to 110,000 acre-feet, and equal to or greater than 110,000 acre-feet as set forth above) shall be recalculated prior to May 1 of each year so that the Dry Year, Average Year, and Wet Year Types each represent 1/3 of the years of actual unregulated April 1 through July 31 inflow to Taylor Park Reservoir during the 30 years preceding the year of such adjustment (the "Nominal 1/3 Volumetric Criteria");

(c) Provided further, that in each year the volumetric criteria to be used to determine the year type shall be the average of the Nominal 1/3 Volumetric Criteria that were calculated for the preceding five years in accordance with the foregoing subparagraph 15.D.(2)(b) (the "Adjusted Volumetric Criteria")[1]

(3) Storage objectives: In each year, Reservoir releases shall be established in order to meet or exceed the objective of a minimum Reservoir storage level (the "Minimum Storage Objective") of:

(a) 75,000 acre-feet as of October 31 in Wet Years; and

(b) 70,000 acre-feet as of October 31 in Average Years; and

(c) The storage levels specified in Table 2 below in Dry Years.

Table 2
Minimum Storage Objectives in Dry Years

May 1/June 1 Forecasted Inflows (acre-feet)	October 31 Minimum Storage Objective (acre-feet)
>=70,000<75,000	70,000
>69,000<70,000	70,000
>68,000<=69,000	69,000
>67,000<=68,000	68,000
>66,000<=67,000	67,000
>65,000<=66,000	66,000
>64,000<=65,000	65,000

[1] As of 2018, the Adjusted Volumetric Criteria were determined pursuant to the foregoing requirements to be less than 75,764 acre-feet for Dry Years, 75,764 to 107,228 acre-feet for Average Years, and equal to or greater than 107,228 acre-feet for Wet Years.

>63,000<=64,000	64,000
>62,000<=63,000	63,000
>61,000<=62,000	62,000
>60,000<=61,000	61,000
<=60,000	60,000, subject to subparagraph (f) below.

(d) The volume of Available Water during the period of May 1 through October 31 shall initially be determined based on the May 1 Forecasted Inflow and May 1 Reservoir storage level. Reservoir releases during May shall be established in order to meet or exceed the Minimum Storage Objective for the year type that is determined based on the May 1 Forecasted Inflow.

(e) ~~The volume of Available Water during the period of June 1 through October 31 shall be determined based on the June 1 Forecasted Inflow and June 1 Reservoir storage level. Reservoir releases during June through October shall be established in order to meet or exceed the Minimum Storage Objective for the year type that is determined based on the June 1 Forecasted Inflow. The Minimum Storage Objective shall not be altered based on Forecasted Inflows after the June 1 Forecasted Inflow.~~ Except as specifically provided in the following subparagraph 15.D.(3)(f):

(i) The volume of Available Water during the period of June 1 through October 31 shall be determined based on the June 1 Forecasted Inflow and June 1 Reservoir storage level;

(ii) Reservoir releases during June through October shall be established in order to meet or exceed the Minimum Storage Objective for the year type that is determined based on the June 1 Forecasted Inflow; and

(iii) The Minimum Storage Objective shall not be altered based on Forecasted Inflows after the June 1 Forecasted Inflow.

(f) ~~In certain years with May 1 or June 1 Forecasted Inflows below 60,000 acre-feet, it may be necessary to reduce the Minimum Storage Objective below 60,000 acre-feet; provided, however, that releases from the Reservoir shall be managed in order to avoid, to the greatest extent possible, an October 31 Reservoir content less than 60,000 acre-feet.~~ Notwithstanding paragraph 15.BD.(3)(e), ~~i~~In any year when the June 1 Forecasted Inflow is less than 60,000 acre-feet, the Minimum

Storage Objective shall be finally determined based upon actual April through July inflow; provided, however, that releases from the Reservoir shall be managed in order to avoid, if possible, an October 31 Reservoir content less than 60,000 acre-feet.

(4) Peak flows: Releases of Available Water will be made to achieve the following minimum peak flow rates for the minimum number of consecutive days each year specified below. The timing of such peak flow releases will be during the runoff period from May 1 through June 30, and will be coordinated with the other parties to the 1975 Exchange Agreement and Taylor Placer.

(a) Average Year (as defined in Table 1): Not less than 445 c.f.s. for 5 consecutive days.

(b) Wet Year (as defined in Table 1): Not less than 445 c.f.s. for 10 consecutive days.

(c) Releases shall be adjusted to avoid a Reservoir spill and flooding in the Taylor and Gunnison Rivers, with consideration given to projected East River flows.

(5) Rate and timing of other releases of Available Water:

(a) At times during the period of May 1 through October 31 when the foregoing peak flows are not being released from the Reservoir, the rate and timing of release of available water as determined pursuant to subparagraphs 15.D(3)(d) and (e) above shall be established based on the following multi-use considerations, which are not listed in any order of priority:

(i) Optimizing fish habitat in the Taylor and Gunnison Rivers;
(ii) Recreational fishing in the Taylor and Gunnison Rivers;
(iii) Recreational boating in the Taylor and Gunnison Rivers;
(iv) Fisheries management in Taylor Park Reservoir;
(v) Recreational boating and fishing in Taylor Park Reservoir;
(vi) Irrigation; and,
(vii) Any other purpose for which Taylor Park Reservoir is authorized to release water.

(b) The rate and timing of May 1 through October 31 releases shall be adjusted in accordance with the volume of Available Water as determined pursuant to subparagraphs 15.D(3)(d) and (e) above after consultation with the parties to the 1975 Exchange Agreement, and the TLUG.

(6) Winter operations (November – March): The rate of release of Available Water from the Reservoir from November 1 to March 31 will be established on or before November 1 based on the actual content of the Reservoir on October 31, as specified below:

(a) If the actual content of the Reservoir on October 31 is equal to or greater than 75,000 acre-feet, the release rate shall be 100 c.f.s.

(b) If the actual content of the Reservoir on October 31 is less than 75,000 acre-feet and greater than 70,000 acre-feet, the release rate shall be determined by the following formula:

85 + .003 x (actual October 31 content – 70,000) rounded to the nearest whole number.

(c) If the actual content of the Reservoir on October 31 is less than 70,000 acre-feet and greater than 60,000 acre-feet, the release rate shall be determined by the following formula:

75+.001 x (actual October 31 content – 60,000) rounded to the nearest whole number.

(d) These values are reflected in the following Table 3:

Table 3
November – March Release Rate

Oct. 31 content >= (acre-feet)	Release Rate (cfs)
75,000	100
74,000	97
73,000	94
72,000	91
71,000	88
70,000	85
69,000	84
68,000	83
67,000	82
66,000	81

65,000	80
64,000	79
63,000	78
62,000	77
61,000	76
60,000	75

(e) Provided, however, that notwithstanding the reservoir content and release rate schedule described above:

(i) subject to paragraph 15.D.(3)(f) above, the objective of reservoir operations shall be to achieve a minimum Reservoir storage level of 75,000 acre-feet as of October 31 in Wet Years, 70,000 acre-feet as of October 31 in Average Years, and the minimum storage levels specified in Table 2 above in Dry Years;

(ii) the rate of release from the Reservoir from November 1 to March 31 shall be no less than 100 c.f.s. in years in which the actual April through July inflow to the Reservoir is equal to or greater than that specified for a Wet Year type; and

(iii) the rate of release from the Reservoir in March may be decreased from the rate established pursuant to Table 3 (but in no event below 50 c.f.s.) if the Forecasted Inflow available during March indicates that the upcoming April 1 through July 31 period will be a Dry Year Type and may be increased if the March 1 Forecasted Inflow indicates that the upcoming April 1 through July 31 period will be an Average or Wet Year Type, The objective of such increase or decrease is to proactively manage Reservoir contents coming into the runoff period in anticipation of the indicated year type; and

(iv) If the adjustments described in paragraph 15.D.(2)(c) result in Adjusted Volumetric Criteria for a Wet Year Type with Forecasted Inflow of less than 105,000 acre-feet, the rate of release for Wet Year Type set forth in subparagraph 15.D.(6)(e)(ii) above shall be reduced proportionately according to the following formula and rounded to the nearest whole number:

Rate of release from November 1 – March 31 = 85 + .0005 x (Adjusted Volumetric Criteria for Wet Year Type – 75,000)

(f) The parties recognize that it may not be possible to set the release from the dam to the exact number and that the release rate may vary from the initial setting due to gage drift over time.

(7) Winter operations in certain years: In years when actual April through July inflow to the Reservoir is less than 70,000 acre-feet and, despite ~~notwithstanding~~ the provisions of paragraph 15.D.(3)(f), the Reservoir content on October 31 is less than 60,000 acre-feet (1977, 1981, 2002, 2012, and 2018 in the historical period of record), the rate of release from the Reservoir from November 1 to March 31 shall be reduced from 75 c.f.s. by 2.5 c.f.s. for every 1,000 acre-feet that the reservoir content is below 60,000 acre-feet, with a minimum release of 50 c.f.s.

(8) Reservoir operations during April. Reservoir operations during April shall be based on the most recent ~~April 1~~ Forecasted Inflow in order to proactively manage Reservoir contents at the beginning of the runoff period in anticipation of the year type indicated by the ~~April 1~~ Forecasted Inflow.

(9~~8~~) Ramping rates: The rate of change in releases ("ramping") shall be as follows: Ramping down shall be limited to no more than 100 c.f.s. per day from flows of 500 c.f.s. or greater, 50 c.f.s. per day from flows between 250 c.f.s. and 500 c.f.s., and 25 c.f.s. per day from flows of less than 250 c.f.s. The rate of ramping up shall generally be no more than 50 c.f.s. per day, but can occur at higher rates to mobilize sediments and other material in the stream. Exceptions to the foregoing ramping rates may be made for emergency operations.

C. The implementation of the foregoing release criteria shall be subject to the following limitations:

(1) The rate and timing of releases shall not interfere with the rights of the UVWUA under the 1975 Exchange Agreement or the impair the ability of the UVWUA to utilize the full amount of water stored in the exercise of the 1904 right in accordance with the Accounting Conditions of the decree in Case No. 86CW203.

(2) Nothing in this Stipulation shall prevent the United States from altering the rate and timing of releases if necessary to respond to emergency conditions, to accommodate maintenance and repair of the Reservoir, or comply with its non-discretionary obligations under federal law.

(3) In addition, and notwithstanding paragraph 15.C.(2) herein, the terms and conditions of this Stipulation are subject to the Secretary of the Interior's exercise of discretion pursuant to the laws governing operation of the Reservoir and Federal Reclamation projects generally.

D. A copy of the proposed operations of Taylor Park Reservoir established or modified in accordance with this Stipulation shall promptly be provided by the United States to Taylor Placer, the parties to the 1975 Exchange Agreement, and the Division Engineer.

E. For purposes of performing the terms of this Stipulation, Taylor Placer shall provide to the United States and the Upper Gunnison District the name, mailing address, and email address of the person authorized to represent Taylor Placer in matters related to this Stipulation.

F. Taylor Placer agrees that inflows to Taylor Park Reservoir not needed to meet the release schedule established or modified in accordance with this Stipulation may be physically stored in the Reservoir, provided that such water is released according to the terms of this Stipulation and allowed to flow though the decreed reach of the W-1991 Rights. The storage of such water shall occur under the priority of the 1904 right and the Refill Right, in accordance with the Accounting Conditions of the decree in Case No. 86CW203 as the same may be modified by the Future Change Decree.

G. The operation of Taylor Park Reservoir in accordance with the provisions of this Stipulation shall be considered to be consistent with the "historical operation" of the Reservoir, as that term is used in the decree in Case No. W-1991, and achieve the optimum use of such water for the purposes of the 1975 Exchange Agreement, as amended on July 9, 1979 and April 16, 1990; and the beneficial uses of the Refill Right as decreed in Case No. 86CW203 as the same may be modified by the Future Change Decree.

H. Releases from Taylor Park Reservoir (whether of first fill or second fill water stored in the Reservoir, or inflows to the Reservoir) shall be credited by the Division Engineer as an exercise of the 1904 right or the Refill Right of Taylor Park Reservoir, in accordance with the Accounting Conditions of the decree in Case No. 86CW203 as the same may be modified by the Future Change Decree, and also as an exercise of the W-1991 Rights, up to their decreed rate of flow.

I. Nothing herein shall be construed as a subordination of the W-1991 Rights to any water right, conditional water right, or appropriation. The terms of this Stipulation represent a compromise and settlement of a disputed issue as to the relative priority of the W-1991 Rights and the Taylor Park Reservoir water rights and an agreed interpretation of the

specific terms of the decrees in Case Nos. W-1991 and 86CW203. Nothing in this Stipulation shall limit or impair the exercise by Taylor Placer or administration by the State and Division Engineers of the W-1991 Rights as against any other water right, conditional water right, or appropriation, including without limitation exercise and administration as against diversions or depletions that would reduce inflows to Taylor Park Reservoir that are accounted under the Refill Right. This Stipulation does not include a selective subordination. The effectiveness of this Stipulation is contingent on approval by the Water Judge in accordance with the following paragraph 22, including specific approval of the terms of this paragraph 15.I. Nothing in this Stipulation constitutes any admission by any party as to the legality of selective subordination, or shall be used as precedent in any other case regarding any party's position on selective subordination.

J. This Stipulation was entered pursuant to agreement of the parties to address their interests and concerns and resolves them finally in this matter. However, because the issues addressed herein have not been litigated by the parties, the parties shall not be collaterally estopped from asserting any factual or legal issues in any other cases not involving these water rights. This Stipulation and any decree entered in this case shall not be used, considered, or cited as precedent in any other case except and only to the extent that the rights decreed herein are at issue.

16. Taylor Placer consents to the entry of a decree in this case making the Refill Right absolute in the amount of 106,230 acre-feet, as provided in the form of decree attached hereto as *EXHIBIT 1* and will not object to the entry of any modified form of decree ultimately entered by the Water Court, provided that any decree to be entered contains terms and conditions at least as restrictive on the United States as those set forth in Exhibit 1. The United States agrees that any Referee's Ruling and Decree of the Court entered in this matter will incorporate the terms of paragraph 15 of this Stipulation.

17. Taylor Placer shall not oppose the entry of a decree changing the Refill Right to allow use of up to 106,230 acre-feet of releases from water stored in Taylor Park Reservoir under the Refill Right for augmentation of the Taylor and Gunnison Rivers sufficiently to prevent curtailment of junior water rights within the Upper Gunnison District as a result of a shortage of physical supply at the point of diversion for the Gunnison Tunnel water right, in substantially the manner proposed in the application attached hereto as *EXHIBIT 2*, provided that the terms and conditions of the foregoing paragraph 15 are incorporated verbatim into such decree, such decree also provides that augmentation use of the Refill Right will not alter the rate or volume of releases that would otherwise occur from Taylor Park Reservoir under existing decrees and the 1975 Exchange Agreement, and such decree does not contain any terms inconsistent with such terms and conditions. Taylor Placer may file a statement of opposition to any application for such decree to ensure consistency with the terms of this Stipulation. The effectiveness of this Stipulation is not contingent on the filing or outcome of any such

application.

18. The United States shall move for dismissal of the application in Case No. 90CW164 with prejudice.

19. The parties may enforce the terms and conditions of this Stipulation in the District Court in and for Water Division No. 4, State of Colorado.

20. This Stipulation shall benefit and may be enforced by Taylor Placer and its successors in interest in all or any portion of the W-1991 Rights.

21. Taylor Placer shall remain on the mailing list in this case. Counsel for the United States shall provide Taylor Placer's counsel with a copy of any proposed Ruling or Decree submitted to the Water Referee or Water Court in this matter and agrees that Taylor Placer shall have a reasonable opportunity to object to any provisions that might impair the effectiveness of this Stipulation.

22. Counsel for the United States shall file this Stipulation and a motion for approval of this Stipulation with the Water Court, consistent with the provisions of the foregoing paragraph 15.I.

23. Each party will bear its own attorney's fees and costs in this case.

24. This Stipulation shall be binding on the parties, their successors and assigns.

Dated this ___~~31st~~ day of July, 2020~~15~~.

~~JOHN C. CRUDEN~~ PAUL E. SALAMANCA~~E~~
Acting Deputy Assistant Attorney General

_____
David W. Gehlert
U.S. Department of Justice
Environment and Natural Resources Division

_____
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~~Timothy J. Beaton, #10403~~

ATTORNEYS FOR CITY OF GUNNISON

COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: ANDY MUELLER, GENERAL MANAGER

SUBJECT: 2020 THIRD REGULAR QUARTERLY MEETING, GENERAL MANAGER'S REPORT

DATE: JULY 10, 2020

ACTIONS:

a. Staff recommends that the Board pass the attached resolution which: (1)Approves the proposed ballot language; (2) authorizes Board officers and the General Manager and General Counsel to certify the same to the Clerk and Recorders of all 15 counties within the Colorado River District Boundaries; and (3) adopts the attached fiscal implementation plan as a clear expression of the District's commitment as to how the additional tax payer funds will be spent if the voters approve said ballot question.

b. Staff will be reviewing and potentially selecting or recommending for selection a facilitator for the River District Stakeholder Demand Management process the week before the Board meeting. It is possible that we will be requesting authorization to enter into a contract with the facilitator.

c. Staff requests that the Board consider adopting a parental leave policy that allows a full-time, regular employee who has been employed for at least six months up to four weeks of paid time off for the birth, adoption, or foster care placement of a child. The parental paid time off allowance would be in addition to an employee's use of accrued vacation, sick or unpaid leave.

f. Staff requests Board authorization to amend the Risk Study Phase III contract CA18047 between the River District and Hydros Consulting to extend the expiration date by seven months from 12/31/2020 to 7/31/2021 and to increase the contract amount by $100,000 to a total of $273,652.

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a. Update on CRWCD Long Term Financial Condition and Discussion Regarding Potential River District Ballot Question. Go back to Agenda

ACTION: Staff recommends that the Board pass the attached resolution which: (1) Approves the proposed ballot language; (2) authorizes Board officers and the General Manager and General Counsel to certify the same to the Clerk and Recorders of all 15 counties within the

Colorado River District Boundaries; and (3) adopts the attached fiscal implementation plan as a clear expression of the District's commitment as to how the additional tax payer funds will be spent if the voters approve said ballot question.

STRATEGIC INITIATIVE(S):

12. Financial Sustainability: ***The above strategic initiatives cannot be achieved without financial sustainability. The River District enjoys a diversified tax base for its Governmental Funds, which helps to reduce the impacts of dramatic downturns in its overall assessed valuation. Over the long-term, the Enterprise Fund is intended to be self-sustaining, managing the River District's business-type activities.***

2. Outreach in All Basins: ***While we have not ignored or been unhelpful to needs in other basins, a significant amount of the River District's time, energy and resources in the recent past have been focused on the mainstem of the Colorado River and helping to address the long-term needs of the mainstem. A priority in the near-term will be to put significant focus on the needs of the other basins within the River District.***

> ***2. A. The River District will increase its outreach efforts with water organizations and other local organizations in the Gunnison, White and Yampa River basins. The goal will be to use River District resources to help those basins address their consumptive and non-consumptive water needs.***
>
> ***2. B. The River District will look for and focus on opportunities where the River District can act as a catalyst to create partnerships that work for these other basins. A recent example of this is the cooperatively funded Lower Gunnison Project, orchestrated by the River District.***

3. Climate and Hydrologic Uncertainty: ***Climate and hydrologic uncertainty should be a major driver of what the River District does in the mid- to long-term. The impacts to precipitation are not clear. However, the overwhelming evidence indicates a warming and increasingly variable climate. Hotter temperatures will certainly result in increased demands for agricultural and municipal water supplies due to longer and warmer growing seasons. Patterns of snowpack accumulation and runoff will change. Runoff is projected to occur earlier and quicker, and there will be an earlier return to possibly lower base flows after runoff. These factors will stress storage supplies. On a local and regional basis, storage supplies may prove inadequate.***

> ***3. A. The River District will continue to evaluate and pursue options to increase local water storage supplies and optimize and expand, where appropriate, existing water storage.***
>
> ***3. C. The River District will engage in and support water supply planning efforts, local and regional, which include adapting to climate change impacts.***
>
> ***3. D. The River District will work with water users to ensure practicable and cost-effective water use efficiencies in all sectors where appropriate for the local conditions.***

7. Water Needs/Project Development: ***Through Colorado's Water Plan and the Basin Implementation Plans, water needs within the River District have been, and will continue to be, refined and prioritized. The River District owns a large portfolio of conditional water rights that may be suitable for meeting a portion of the identified water demands. However, developments in judicial case law have made it more difficult for all water users, including the River District, to maintain conditional water rights.***

7. C. The River District will look for opportunities where its efforts are needed as a catalyst to help in-District interests plan for and meet their water needs in a manner that is consistent with the District's compact contingency planning goals and objectives.

7. D. The River District will actively pursue funding sources and provide financial assistance to be used for the refurbishment and modernization of the aging water supply infrastructure within the District in order to help preserve and improve existing supplies and operations.

<u>9. Water Efficiency and Conservation:</u> We are transitioning from an era emphasizing new supply development to an era which includes higher emphasis on wise use of our limited water resources, including higher water use efficiency and conservation of consumptive use. This is driven by both environmental imperatives, changing values, and increasing shortages of water resources available for development. The River District historically has supported efforts to increase water use efficiency and conservation. Examples of this are the number of grants the District has awarded for efficiency and conservation and the District's financial and staff support of the Orchard Mesa Irrigation District Efficiency Project and the Lower Gunnison Project.

9. A. The River District will continue to promote, encourage and support wise and efficient use of all of Colorado's water resources.

The Board has discussed the financial condition of the District many times over the last two-and-one half years. Recent in-depth discussions occurred in January of 2020 and February of 2019 and I will not reiterate all of the information discussed in those meetings but would encourage you to look back at memos in those packets if you desire to dive deeper into these complex issues.

The District revenue stream has been and will continue to be impacted by the declining tax revenues from the fossil fuel industry, the downward movement of the Residential Assessment Ratio caused by the Gallagher Amendment and the effects of the TABOR amendment. The most recent state predictions for 2021 indicate a decline in the Residential Assessment Ratio to 5.88% from the current 7.15%. Should this occur it will result in an approximately $425,000 decline in the District's General Fund revenue. Our flat and decreasing revenue led District management in the last 18 months to reduce the District work force by 4 positions or 15%, suspend our grant program, reduce the District vehicle fleet and implement across the board reductions in expenses. Even with these cost saving measures, our financial projections indicate that the District will have to continue to reduce its work force as soon as 2022. While the District to date has been able to restructure and successfully retain its ability to accomplish our core mission, our ability to do so in the future will be significantly compromised through the loss of additional staff positions, proper equipment, and resources to help our constituents with their water needs. Given the growing pressure on the Colorado River, both from within the state and the basin, having an adequate staff to advocate for the interests of Western Colorado is more critical than ever.

Additionally, as our communities face the dual challenges of increasing demand on the Colorado River and reduction in the flow of the river, it is clear that important West Slope priorities are not being accomplished because they are unfunded. West Slope communities through the Basin Roundtables have identified priority projects in every basin which are essential for water security in the District. The unfunded water priorities of our communities span the full range of needs;

there are important unfunded projects in all categories, including productive agriculture, infrastructure, healthy rivers, watershed health and water quality, conservation and efficiency. In the recent past, advocacy and creative problem solving by the District staff has enabled the District to serve as a catalyst for important projects, however, without the ability to bring money to the table we often find ourselves at the negotiating table with our hands out and very little ability to influence the selection and direction of projects. As the District and our water users are forced to turn empty handed to the federal or state government for funding, we find that it is the priorities of those entities that control the type, location and scope of projects.

The District was founded to lead in the protection, conservation, use, and development of the water resources of the Colorado River basin for the welfare of the District. In 1937, at the request of Western Slope leaders, the District was authorized to collect up to 2.5 mills in property tax. Today, due to a variety of reasons, the District's mill levy is capped at 0.252 and its current, effective mill levy is set at 0.235 mills . . . less than one tenth of its original authorization. The District's ability to fulfill its mission and protect the West Slope is significantly hampered by declining revenue.

You will recall that in January I recommended to the Board that it consider placing a question on the 2020 ballot asking voters to approve an increase of the District's taxing authority to up to 0.5 mills. The recommended increase is predicted to generate approximately $4.9 million in additional revenue per year at a cost of approximately $1.90 per $100,000 in residential value which is equivalent to a tax increase of $6.34 annually for the median home in the District.

Board members asked the staff to conduct additional outreach and public opinion research. We commenced that outreach through public forums and started discussions with boards of County Commissioners. We arranged for public opinion polling to take place in the second half of March before the April Board meeting. Unfortunately, by mid-March the Coronavirus pandemic swept through Colorado and shut down our communities wreaking economic havoc and interfering with our ability to conduct significant portions of our planned public outreach. As you will recall, our polling conducted in late March, after the closure of the ski areas and during the shut-down of the rest of the state came back showing strong public support for the recommended tax increase. Specifically, the poll indicated that 65% of the likely voters polled were in favor of the measure. The poll showed widespread support across the political spectrum and throughout the District. The poll showed incredibly strong support for the mission of the District indicating that projects that focus on water security in Western Colorado are funding priorities for residents throughout the District.

In April, society was beginning to come to terms with the long-term economic effects of the pandemic and the Board and staff expressed concern about moving ahead with any tax increase, no matter how small. The Board requested that staff continue to engage in outreach to the public and the constituent counties' leadership and requested that polling be conducted closer to the July quarterly meeting so that we would have a better, more current understanding of public support for this potential ballot measure.

The additional polling was conducted last week, and the report is still being finalized at the time of this writing. Preliminary reports from our research firm indicate that support in early July for

the District and the potential tax increase remain high. 63% of likely voters polled support the tax increase and when informed that the increase would be modest, i.e. $1.90 per $100,000 in residential value support for the measure climbed to 67%, identical to the informed support in March. As soon as I have the full report, I will forward it on to the Board and you can expect a presentation by Lori Weigel at the Board meeting on the 21st. We have continued our discussions with boards of county commissioners and there is generally widespread support with some concern being voiced by a few of our counties that have been harder hit by the downturn in the fossil fuel economy. I greatly appreciate the assistance and leadership of Board members who have been able to participate in these meetings. We have also engaged a number of civic leaders and general public on these issues and found widespread support for the District and the potential tax increase.

We have heard from the public, water user entities and elected officials that it is incredibly important that the District Board and staff publicly commit to how the funds will be spent by the District. Board members will recall that I provided a draft Fiscal Implementation Plan to the Board for review and comment at our April meeting. Several of you provided comments to me and I have incorporated many of those in the revised plan which is attached and can be accessed by clicking **HERE.** In summary, the plan calls for the District to allocate approximately 86% or $4.2 million of the anticipated revenue to partnership projects in the District, prioritizing multi-purpose projects that meet needs in one or more of the following five categories: **productive agriculture, infrastructure, healthy rivers, watershed health and water quality, conservation and efficiency**. The plan commits the District to expending funds in an equitable manner which, over time, disperses the benefits of the program geographically within the District boundaries and between the identified categories. The plan also commits the District to utilizing these funds to drive the initiation and completion of projects that are priorities for residents of the District by utilizing District funds as a catalyst for matching funds from state, federal and private foundation sources. The Fiscal Implementation Plan itself has greater detail. The remaining approximately 14% of the funds will be utilized by the District to fix the District's internal financial structural deficit caused by the cumulative impact of the Gallagher Amendment, the decline of tax revenue from the fossil fuel industry, and the Taxpayers' Bill of Rights revenue limitations. **The District will not utilize the new revenue to create additional staff positions** but will allocate the money to fund existing staff positions and business-related expenses. This allocation will help to ensure the financial integrity of the important work of the River District's Enterprise Fund by preserving enterprise reserves for anticipated capital expenses and critical maintenance and repair work on water supply assets owned by the District.

With this information, which will be presented in much fuller detail at the Board meeting, please accept this memorandum as a renewal of my recommendation to this Board that it place the following question on the ballot in all fifteen counties within the District:

> ***Shall Colorado River Water Conservation District, also known as the Colorado River District, taxes be increased by an amount up to $4,969,041 in 2021 (which increase amounts to approximately $1.90 in 2021 for every $100,000 in residential home value), and by such amounts as are generated annually thereafter from a property tax levy at a rate of one half of one mill to enable the Colorado River District to protect and safeguard Western Colorado water by:***

- ***Fighting to keep water on the West Slope;***
- ***Ensuring adequate water supplies for West Slope farmers and ranchers;***
- ***Ensuring sustainable drinking water supplies for West Slope communities; and***
- ***Protecting fish, wildlife, and recreation by maintaining river levels and water quality;***

with such expenditures reported to the public in an annually published independent financial audit; and shall all revenues received by the District in 2021 and each subsequent year be collected, retained and spent notwithstanding any limits provided by law.

It is my further recommendation that the Board pass a resolution adopting the Fiscal Implementation Plan as a demonstration of commitment to the public with respect to how the additional funds will be expended by the District.

I have prepared and attached a resolution taking both recommended actions and empowering Board officers and District staff to take the appropriate actions to place the question on the ballot in November 2020. The proposed Board resolution can be viewed by clicking **HERE**.

b. Water Smart Grant Update. **Go back to Agenda**

POSSIBLE REQUEST FOR ACTION: Staff will be reviewing and potentially selecting or recommending for selection a facilitator for the River District Stakeholder Demand Management process the week before the Board meeting. It is possible that we will be requesting authorization to enter into a contract with the facilitator.

APPLICABLE STRATEGIC INITIATIVE(S):
3. Climate and Hydrologic Uncertainty: Climate and hydrologic uncertainty should be a major driver of what the River District does in the mid- to long-term. The impacts to precipitation are not clear. However, the overwhelming evidence indicates a warming and increasingly variable climate. Hotter temperatures will certainly result in increased demands for agricultural and municipal water supplies due to longer and warmer growing seasons. Patterns of snowpack accumulation and runoff will change. Runoff is projected to occur earlier and quicker, and there will be an earlier return to possibly lower base flows after runoff. These factors will stress storage supplies. On a local and regional basis, storage supplies may prove inadequate.

4. Colorado River Supplies: Colorado may be closer to full use of its Colorado River supplies than commonly thought. Absent good planning, education, outreach, and mitigation measures to address regional water supply issues, Colorado risks overdevelopment of its Colorado River supplies to the detriment of existing water users. At some level of additional development, all existing uses junior to the compact (more than 500,000-acre feet) are at risk of curtailment under compact administration. The River District's will work on Colorado River Basin contingency planning and compact risk management, both related to low reservoir levels at Lake Powell that threaten power generation and the ability to meet Colorado River Compact obligations, be reflected in the Colorado Water Planning efforts.

6. Agricultural Water Use: Most West Slope agricultural water use is senior to the Colorado River Compact. As Colorado nears full development of its Colorado River system water there will be pressure for temporary and permanent conversion of senior agricultural water rights to other uses. The Colorado River Compact Water Bank may provide a mechanism to protect agricultural water uses.

As you will recall, pursuant to Board authorization, River District staff successfully applied for a WaterSmart Grant from the Bureau of Reclamation in 2019. While we received notice of the award in November of 2019, we did not receive a fully executed contract until last month. The grant provides up to $315,000 towards the District's efforts at studying demand management. Specifically, the grant application and contract provide for matching funds to further the District's work on three aspects of our study of demand management: The Risk Study, The Secondary Economic Impact Study and our River District Stakeholder process. Our progress on the Risk Study and the Secondary economic impact study is covered in other sections of this memorandum. This section of the memorandum will focus on the River District Stakeholder Process.

In January of 2019, shortly after the states had reached agreement on the terms of the Drought Contingency Plan documents and before Congress had acted to approve them, we discussed the need to create a Colorado River District centric stakeholder group for the purpose of bringing together a relatively small but diverse group of water users from throughout the District to study the potential structure and rules of a demand management program and provide recommendations to the District Board and staff and others such as the Colorado Water Conservation Board (CWCB) board members and staff who may be engaged in formulating state policy with respect to demand management. When we initially discussed this concept, I indicated that the Southwest Water Conservation District (SWCD) may be interested in pursuing a similar parallel process. SWCD has informed us that it is not interested in doing so. As we discussed at the time, it is and was my intention that this stakeholder group be formulated to bring additional voices and insight and grass roots perspective on the potential negative and positive aspects of a demand management program.

Much has transpired since we initially discussed this concept. The District and its partners have completed Phase III of the Risk Study and are about to complete the Secondary Economic Impact Study. The CWCB has convened and multiple demand management work groups on which many River District employees and Board Members served and which are all in the process of issuing (final?) status reports to the CWCB. The information generated by these various efforts will help inform a River District stakeholder group and give the stakeholders a solid basis on which to formulate their thoughts regarding the structure and rules for any potential demand management program, as it may roll out on the West Slope. Additionally, it is likely that the CWCB will move from its "feasibility study phase" to a discussion about the structure of such a program. Having a grass root group of stakeholders thinking through and making recommendations regarding potential structures, rules and implications of such rules on their various operations will be critical to informing District Staff, Board and other policy makers at the state level.

As you may recall from prior discussions, it is our plan that this stakeholder group will be comprised of approximately 30 to 35 individual water users who are geographically representative of our District (i.e. water users from the upper and lower basins of our primary drainage basins)

and reasonably representative of the various water users sectors within the District,(i.e. agriculture, municipal/rural domestic water providers, industry and recreation/environmental representatives). We plan to have a series of meetings facilitated by a professional facilitator (paid for with WaterSmart funds) which will result in a recommendation with respect to structure and function of any demand management program which operates on the West Slope. We will continue to be very clear that the District has not and does not endorse the operation of a demand management water market and that this exercise is being pursued because state and federal politics combined with continued drought may make a program like this inevitable and it is better for the District's water users for us to be proactive and not blindsided by proposals from others who do not have the same interests.

Given the level of interest in this subject, it is our intent to hold these meetings as open meetings with the selected stakeholders, District staff and the facilitators engaged in the discussion, potentially allowing time at the end of each meeting to allow for public comment. Any formal reports and summaries of the group's discussions will be done in a non-attribution fashion so that individual participants will be encouraged to speak freely and explore concepts without fear of attribution. It is not our intent that these meetings be recorded, but should more than two District Directors decide to be on the committee, we will be required by law to post notice of the meetings and potentially to record them. I look forward to hearing the Board's insight as to the structure and make up of the group.

We have a request for proposal out soliciting a facilitator for this group. We expect to have proposals early next week prior to the Board meeting. Should the winning proposal be more than the amount delegated to the General Manager, we will be bringing a recommendation to the Board.

c. Discussion of Draft Parental Leave Policy.

Please see attached memo (accessed in the electronic packet by clicking here).

d. Drought Contingency Planning and Demand Management Update. **Go back to Agenda**

ACTION: No requested action, just a status report

APPLICABLE STRATEGIC INITIATIVE(S):
4. Colorado River Supplies:
4. A. The River District will advocate for full use of its Colorado River Basin water supplies for the benefit of the District's inhabitants, without undue risk of overdevelopment.
4. B. The River District will advocate for full protection and preservation of water rights perfected by use prior to the effective date of the 1922 Compact and thereby excluded from curtailment in the event of compact administration.
4. C. The River District will continue to study mechanisms, such as a Compact Water Bank and Contingency Planning that include demand management, drought operations of CRSP reservoirs, and water supply augmentation to address the risk of overdevelopment.
4. D. The River District will work with the State Engineer's Office and other interested parties to develop an equitable mechanism for potential compact administration.

6. Agricultural Water Use:
6. A. The River District will continue to study the concept of a voluntary and compensated compact water bank in collaboration with other stakeholders to best preserve western Colorado agriculture.
6. B. The River District will explore alternative transfer methods that allow agricultural water users to benefit from the value of their water rights without the permanent transfer of the rights, and without adverse impacts to the local communities and the regional economy.
6. C. Although the River District recognizes that some reductions in demands of agricultural water rights may be necessary to protect existing water uses in the basin, the District will work to ensure that the burden of demand reduction is shared across all types of water use sectors, and that agricultural water rights, and agriculture itself, are not injured.
6. D. The River District will protect the integrity of senior agricultural water rights within Colorado's prior appropriation system, recognizing the potential risks to those rights posed by the constitution's municipal right of condemnation.

8. ***Colorado's Water Plan:***
8. B. The River District will work with the, Southwest Water Conservation District, the Southwest Basin Roundtable and the three Basin Roundtables that comprise the District to achieve a consistent West Slope perspective related to contingency planning and compact administration risk matters.
8. E. The River District will work to ensure that the IBCC Conceptual Framework is honored and fairly implemented.

The discussions regarding a potential Upper Basin demand management program continue at many levels and in many forums throughout the Upper Basin and particularly in the State of Colorado. The CWCB staff has wrapped up their 2019 work plan and provided a comprehensive report to the CWCB Board in the packet for their July 15-16 meeting. The report contains an excellent executive summary and reports from all of the state's demand management work groups. The executive summary and full report can be reached by clicking on this link: https://dnrweblink.state.co.us/cwcb/0/edoc/212695/8_Demand%20Management%20Update.pdf?searchid=a1d2b86a-6aab-4b53-b5dc-e3dd570b71fb I encourage board members to read at least the executive summary, but as a member of the Law and Policy work group I acknowledge that 200 plus pages of the work group reports can be a bit in the weeds. Staff will attend (via digital platform) the CWCB's meeting and we will update the Board at our meeting the following week. Additionally, it is our understanding that the CWCB will likely have a full day workshop discussing demand management in late August. We will keep you informed as we learn more.

The District continues its study of demand management and the potential impacts to western Colorado. As discussed elsewhere in this memo we are making progress with the Secondary Economic Impact study, the Risk Study and the River District Stakeholder process. We look forward to discussing all of this at the Board meeting.

e. Colorado River Basin Hydrology.

Please see attached memo (accessed in the electronic packet by clicking here).

f. Phase III Risk Study Update. Go back to Agenda

REQUESTED ACTION: Staff requests Board authorization to amend the Risk Study Phase III contract CA18047 between the River District and Hydros Consulting to extend the expiration date by seven months from 12/31/2020 to 7/31/2021 and increase the contract amount by $100,000 to a total of $273,652.

Note: Funding for this request will be reimbursed by the entities requesting the additional work or through by our WaterSmart grant.

APPLICABLE STRATEGIC INITIATIVE(S):
4. Colorado River Supplies:
4. A. The River District will advocate for full use of its Colorado River Basin water supplies for the benefit of the District's inhabitants, without undue risk of overdevelopment.
4. B. The River District will advocate for full protection and preservation of water rights perfected by use prior to the effective date of the 1922 Compact and thereby excluded from curtailment in the event of compact administration.
4. C. The River District will continue to study mechanisms, such as a Compact Water Bank and Contingency Planning that include demand management, drought operations of CRSP reservoirs, and water supply augmentation to address the risk of overdevelopment.
4. D. The River District will work with the State Engineer's Office and other interested parties to develop an equitable mechanism for potential compact administration.

6. Agricultural Water Use:
6. A. The River District will continue to study the concept of a voluntary and compensated compact water bank in collaboration with other stakeholders to best preserve western Colorado agriculture.
6. B. The River District will explore alternative transfer methods that allow agricultural water users to benefit from the value of their water rights without the permanent transfer of the rights, and without adverse impacts to the local communities and the regional economy.
6. C. Although the River District recognizes that some reductions in demands of agricultural water rights may be necessary to protect existing water uses in the basin, the District will work to ensure that the burden of demand reduction is shared across all types of water use sectors, and that agricultural water rights, and agriculture itself, are not injured.
6. D. The River District will protect the integrity of senior agricultural water rights within Colorado's prior appropriation system, recognizing the potential risks to those rights posed by the constitution's municipal right of condemnation.

8. *Colorado's Water Plan:*
8. B. The River District will work with the, Southwest Water Conservation District, the Southwest Basin Roundtable and the three Basin Roundtables that comprise the District to

achieve a consistent West Slope perspective related to contingency planning and compact administration risk matters.
8. E. The River District will work to ensure that the IBCC Conceptual Framework is honored and fairly implemented.

BACKGROUND and UPDATE
In October 2019 the Board extended the Phase III Risk Study contract through 2020 and increased the contract amount by $50,000 to a total of $173,652 with the funding to be provided primarily by water user entities within the various basins. The purpose was to complete the Risk Study Phase III scope of work and to allow the West Slope BRTs and other water user entities to conduct additional "down scaling" work to better answer basin and sub-basin specific questions arising from the general Phase III study results.

The Gunnison Basin initiated additional work. Upper Gunnison River Water Conservancy District (UGRWCD) requested additional analysis with focus on how a full or partial curtailment would specifically impact water users within the UGRWCD. The Gunnison Basin Roundtable (GBRT) requested similar work for the other sub-basins within the Gunnison River Basin. These tasks are complete though some additional outreach may still be required.

Since the April meeting additional Phase III work in the Yampa is nearing completion. The approximate $12,000 effort is being funded by the Upper Yampa Water Conservancy District (UYWCD). The primary task requested by UYWCD was to evaluate the "Yampa Doctrine" and determine how other basins would be impacted under the partial and full post-compact call scenarios evaluated in Phase III of the Risk Study. The "Yampa Doctrine," put simply, states that under a Colorado River Compact call no curtailment of water rights in the Yampa River Basin should occur unless or until the rolling 10-year annual flow of water past the Yampa River at Maybell Gage drops below 5.0 MAF. This has never occurred. The analysis has estimated the increased curtailment risk to other basins if the "Yampa Doctrine" were found to be valid. The secondary task requested by the UYWCD evaluated an alternative "equitable apportionment" for distributing post-compact curtailment among the West Slope basins. Once this report is finalized we will provide the Board with a copy for your review.

Additional work for the Southwest Basin is anticipated within the next several months and is the primary basis for the requested contract amendment. Though not fully scoped at this time, it is anticipated that the work will be similar to that done for the Gunnison Basin where the Phase III results were "down scaled" to determine the potential curtailment impact within specific sub-basins and on individual water rights. It is anticipated that the water users in the Southwest Basin will fund the additional basin specific work and that such work will likely add an additional $50,000.00 in expenditures under our current contract with Hydros Consulting.

We anticipate additional public outreach regarding Phase III and the additional work detailed above. As you will recall, we received a WaterSmart Grant from the Bureau of Reclamation which is designed to help us engage in that additional outreach effort. It is anticipated that the outreach work, which will be performed by both River District staff and personnel from Hydros will add up to an additional $50,000.00 in contract expenses over the next twelve months.

Go back to Agenda

The River District contract with Hydros currently expires on December 31, 2020. Staff is also requesting that this contract be extended in time to 7/31/2021 so that the additional work outlined above can be accomplished.

g. Water Bank Workgroup Update.

Please see attached memo (accessed in the electronic packet by clicking here).

h. Upper Colorado Wild and Scenic Alternative Management Plan Update

After 12 years of collaboration and negotiation by a very large and diverse group of stakeholders (including the Colorado River District), the Bureau of Land Management and the U.S. Forest Service recently formally accepted an Amended and Restated Upper Colorado River Wild & Scenic Stakeholder Management Plan. The River District has been an active member of the Upper Colorado River Wild and Scenic Management Plan Stakeholder Group (SG) working to develop and implement an alternative management plan that protects the Outstandingly Remarkable Values (ORVs) identified on the mainstem of the Colorado River from Gore Canyon to the lower portion of Glenwood Canyon. The SG's intention is to balance permanent protection of the ORVs, certainty for the stakeholders, water project yield, and flexibility for water users. In early June the SG submitted the Amended and Restated Upper Colorado River Wild & Scenic Stakeholder Group Management Plan to the federal agencies for review and acceptance of the updated Management Plan. Over the next couple years, the SG plans to continue ongoing monitoring, move towards long-term management structure possibly filing for non-profit 501-C status, and establishment of a permanent endowment fund with financial and in-kind contributions from major stakeholders.

i. Service Anniversaries Recognition.

We will be honoring and celebrating three employees for their dedicated years of service to the District:

- Kem Davidson for twenty-five years;
- Jim Pokrandt for fifteen years; and
- John Currier for ten years.

Go back to GM's Report

COLORADO RIVER DISTRICT
PROTECTING WESTERN COLORADO WATER SINCE 1937

Implementation Plan for Additional CRWCD Funding Acquired Through a Successful Ballot Question Authorizing a Mill Levy Increase
Updated July 8, 2020

WHAT:
Potential Ballot Question in November of 2020 requesting authority to raise CRWCD mill levy by .248 mills, increasing the total mill levy from .252 to .5 mills.

HOW MUCH:
Projected to raise $4.9 million in additional annual tax revenue for the District.

BEGINNING:
The tax increase will, if approved by the voters, commence with payment of taxes in 2021.

END:
Depending on whether there is a sunset provision in the question, the revenue will either continue for the foreseeable future or without further action by the voters, terminate in ten years.

TABOR:
The ballot question if approved by the voters, will eliminate the Spending/Revenue TABOR limitations on the District but not the tax rate cap. Meaning that the District will be able to keep and spend state and local grant funds and additional revenue generated by increased valuations greater than the TABOR revenue cap which is limited to inflation plus local growth. However, if this ballot question is approved by the voters, the District's annual mill levy will be capped at .5 mills and the District's tax revenue will be limited by this cap. This ballot question is a TABOR compliance question, meaning that it follows and respects the directives and requirements of TABOR with respect to seeking voter approval for the proposed tax increase and the retention and expenditure of additional revenue.

GALLAGHER:
The proposed question does not eliminate the potential adverse implications to the District revenue stream posed by the Gallagher Amendment. Meaning that if the state fails to resolve the problems posed by the declining Residential Assessment Rate, the District's entire revenue stream will be impacted.

HOW THE MONEY WILL BE EXPENDED:[1]

As stated in the proposed ballot question, the River District will utilize the entirety of the $4.9 million in additional revenue for the following purposes:

- Fighting to keep water on the West Slope;
- Ensuring adequate water supplies for West Slope farmers and ranchers;
- Ensuring sustainable drinking water supplies for West Slope communities; and
- Protecting fish, wildlife, and recreation by maintaining river levels and water quality.

More specifically, the Colorado River District will allocate approximately $4.2 million annually or approximately 86% of the amount raised, for partnerships with water users and communities within the District on projects identified as priorities by local communities and Basin Roundtables. The Board and staff of the Colorado River District will prioritize multi-purpose projects that meet needs in one or more of the following five categories: productive agriculture, infrastructure, healthy rivers, watershed health and water quality, conservation and efficiency. The District is committed to expending funds in an equitable manner which, over time, disperses the benefits of the program geographically within the District boundaries and between the identified categories. The District is also committed to utilizing these funds to drive the initiation and completion of projects that are priorities for residents of the District by utilizing District funds as a catalyst for matching funds from state, federal and private foundation sources. Bringing these funds to the table will allow the West Slope to strongly influence the type, scope and timing of important water supply projects within our District.

The categories of projects that the District will be looking to partner are more specifically described as follows:

(I) **Productive agriculture projects** which could include multiple-use storage that addresses regional priorities; developing innovative and functional water leasing; suitable agriculture efficiency and conservation approaches; technical assistance and technological innovation; and dedicated resources for increasing community literacy about irrigated agriculture and supporting agricultural market growth. The District will not utilize these funds to pay to fallow irrigated agriculture;

(II) **Infrastructure projects** which could include upgrading aging infrastructure while incentivizing new storage and delivery projects that collaboratively address multiple needs, such as improved flows to meet demands, stream and watershed health, and habitat quality; multi-purpose projects and storage

[1] The expenditures discussed in this section of the plan are stated in the affirmative "will." The District's ability to allocate and expend these funds is contingent upon a ballot question being placed on the ballot and voters approving the question, and is subject to constitutional limits on multi-year fiscal obligations and future governance determinations that are consistent with the authorizations provided by an approved ballot question.

methods that are supported in the Water Plan and the Basin Implementation Plans;

(III) **Healthy rivers projects** which could include those identified in stream management plans or similar projects, projects that support and sustain fish and wildlife, healthy aquifer conditions as they connect to healthy streams, economically important water-based recreation, wetland habitat, fish passage construction for new or revised water diversion structures, stream restoration projects, and environmental and recreational enhancements for new or revised water supply projects;

(IV) **Watershed health and water quality projects** which could include projects identified in collaborative and science-based watershed management plans that reduce the risk from and increase resilience to fires and/or floods, rehabilitate streams, or make landscapes resilient to climate change, including, but not limited to science-based mechanical forest treatments and prescribed fire, projects that address drinking water quality for under-resourced communities, and projects that address pollutants such as selenium, salts, and others, as well as mine remediation activities; and

(V) **Conservation and efficiency projects** which could include supporting agricultural water infrastructure that increases reliability and efficiency; municipal and industrial projects that promote efficiency, water conservation, green infrastructure, and outdoor landscaping to reduce consumptive use; increase leak detection for infrastructure repair and replacement; assisting communities with water-smart community development and water conservation programs; and targeting smaller, fast-growing, and communities with older infrastructure with strategic, incentive-based investments.

While the District cannot, at this time, commit funds to specific projects due to uncertainties associated with most projects related to permitting, litigation, additional funding and other third party actions, the following are projects endorsed by the Basin Roundtables in the Yampa/White/Green, Colorado and the Gunnison Basins which are representative of types of projects that the Colorado River District anticipates partnering on should voters approve the ballot question:[2]

Yampa/White/Green Basins representative projects:

Maybell ditch diversion structure and headgate rehabilitation and system efficiency improvements:

The modern headgate and additional system efficiency improvements will allow irrigators to better control the volume of water diverted from the Yampa, improving flows for non-consumptive users along 18 miles of the Yampa, as well as improving delivery for Maybell irrigators.

[2] By listing projects here, the Colorado River District does not intend to indicate any preference or priority of the listed projects over any other potential project.

Yampa River forest restoration and temperature mitigation:

The 2018 Yampa River Health Assessment and Streamflow Management Plan (aka The Stream Management Plan) found that the riparian forest is degraded on the reach of the Yampa River above the Chuck Lewis State Wildlife Area, through Steamboat and to the Wastewater Treatment Plant and that improving the quality of the vegetation, particularly the shading canopy cover, will lead to improvements in stream temperature and water quality on the Yampa River. By restoring the river forest, this 3-year project that was identified as a top priority action item in the Stream Management Plan, will also help to improve aquatic and terrestrial habitat and to stabilize the river channel thus making it more resilient to floods, droughts, or human impacts.

White River algae study and eventual mitigation:

High levels of Benthic algae have reached uncharacteristic and nuisance levels in the White River which have caused significant problems for consumptive and non-consumptive water users in the White River. The USGS study, which will be completed next year should shed light on contributing factors to the algae problem and will likely lead to identification and implementation of actions to address the problem.

White River Storage Project:

There has been significant work done to identify current and future water shortages for municipal, industrial, recreation and environmental purposes on the lower White River. Funds could be utilized to assist in the scoping, identification of locations, permitting and eventual construction of an appropriately sized storage project designed to address the myriad of needs identified by the local water conservancy district.

<u>Gunnison Basin representative projects:</u>

Cunningham Lake Reservoir Rehabilitation:

This project is located in the upper Gunnison River Basin and is representative of projects identified in the Stream Management Plan which identifies projects which will serve multi-beneficial purposes of maintaining water supplies for consumptive uses, stabilizing environmental flows and providing optimal temperatures. It is the rehabilitation of existing dam, which will improve delivery systems into and out of the reservoir, reduce irrigation shortages and improve Sage Grouse habitat.

Paonia Reservoir and Fire Mountain Canal Rehabilitation:

This project is located in the North Fork of the Gunnison and involves implementing a sediment control system and extending the enclosed conveyance network and constructing integrated telemetry-based measurement and control (SCADA) water storage and delivery facilities. It will improve water quality in the Gunnison River and enhance the ability of productive agriculture to thrive for generations to come.

Aspen Canal, Smith Fork Feeder and the Crawford Clipper Ditch:

This project is on the Smith Fork of the Gunnison River designed to more efficiently meet agricultural water needs while improving river flows and improving water quality in this water-short sub-basin system by extending enclosed conveyance network and constructing integrated telemetry-based measurement and control (SCADA) water storage and delivery facilities.

Uncompahgre Valley Water Users Association Westside Valley Infrastructure Improvements:

This project is part of the Lower Gunnison Project on the Lower Uncompahgre and is designed to modernize and improve off- and on-farm water diversion, delivery and application infrastructure in the Uncompahgre River to more efficiently meet agricultural water needs while improving river flows and improving water quality in this water-short sub-basin, and it includes extending enclosed conveyance network and constructing integrated telemetry-based measurement and control (SCADA) water storage and delivery facilities.

Upper Uncompahgre Augmentation Plan/Ramshorn Reservoir:

This proposed project involves a relatively small multi-purpose reservoir which will help maintain environmental flows and provide additional needed protection to agricultural irrigators and municipalities from a senior call in extremely dry years.

<u>Colorado River Basin representative projects:</u>

Maintaining flows secured by the Shoshone call:

The Shoshone Power Plant is owned and operated by Xcel Energy and is located on the mainstem of the Colorado River in Glenwood Canyon. When the power plant is operating, the Shoshone Call, as a non-consumptive water right, can command the flow in the Colorado River and "pulls" water from the headwaters through Glenwood Canyon westward to the Grand Valley. The viability of a 100+ year old infrastructure is always in question making the exploration of more permanent long-term solutions an integral component of maintaining the Colorado River's historical flow regime. Maintaining this historical stream flow regime provides significant administrative certainty for West Slope water users as well as several benefits for recreation, the environment, and water quality.

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Grand Valley Roller Dam Rehabilitation:

The Roller Dam on the Colorado River was constructed in 1913 and is the point of diversion for several large senior irrigation rights. These irrigation rights are the primary calling rights on the Colorado River during the irrigation season and remain a significant source of irrigation water, while at the same time ensuring a consistent flow from the headwaters during the summer months. Maintaining this infrastructure is not only vital for agricultural interests in the Grand Valley but also provides for reliable administration for other water users as well as recreational and environmental benefits from consistent stream flows.

Windy Gap Reservoir Connectivity Channel:

> *Windy Gap Reservoir is an on-channel reservoir located on the Colorado River in Grand County that is owned and operated by the Municipal Subdistrict of the Northern Colorado Water Conservancy District. The Subdistrict, with the support of the River District, Grand County, Colorado Water Conservation Board, Colorado Parks and Wildlife, Trout Unlimited, the Upper Colorado River Alliance, and other parties, intends to construct and operate the Windy Gap Connectivity Channel. The Connectivity Channel, once constructed, will provide a channel through the current footprint of the Windy Gap Reservoir, allowing the reconnection of the Colorado River. Based upon studies completed to date, the Connectivity Channel is expected to provide significant environmental benefits for the Colorado River by enhancing sediment transport, reducing streambed armoring, moderating elevated water temperatures, providing connectivity for aquatic life and fish passage, and enhancing aquatic habitat.*

The remaining approximately 14% of the funds will be utilized by the District to fix the District's internal financial structural deficit caused by the cumulative impact of the Gallagher Amendment, the decline of tax revenue from the fossil fuel industry, and the Taxpayers' Bill of Rights revenue limitations. **The District will not utilize the new revenue to create additional staff positions** but will allocate the money to fund existing staff positions and business-related expenses. This allocation will help to ensure the financial integrity of the important work of the River District's enterprise fund by preserving enterprise reserves for anticipated capital expenses and critical maintenance and repair work on water supply assets owned by the District.

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COLORADO RIVER DISTRICT
PROTECTING WESTERN COLORADO WATER SINCE 1937

RESOLUTION 2020-1

A. ***WHEREAS***, the mission of the Colorado River Water Conservation District is to lead in the protection, conservation, use and development of the water resources of the Colorado River Basin for the welfare of the District and to safeguard for Colorado all waters of the Colorado River to which the state is entitled; and

B. ***WHEREAS,*** the waters of the Colorado River which originate within the boundaries of the District are under increasing pressure at the same time that the flow of the river is decreasing due to long term drought; and

C. ***WHEREAS,*** in order to protect the water resources of the District in these increasingly contentious times, the people of the District need the District to be a strong and effective advocate and to lead in the identification and implementation of multi-purpose water projects in all areas of water use in western Colorado including areas such as productive agriculture, infrastructure, healthy rivers, watershed health and water quality, conservation and efficiency; and

D. ***WHEREAS,*** the Colorado River Water Conservation District revenues have been and are projected to continue to be negatively impacted due to declining revenues from the energy sector, the impacts of the Gallagher amendment and the revenue limitations of the Taxpayer Bill of Rights; and

E. ***WHEREAS,*** The Board of Directors of the Colorado River Water Conservation District believe that it is appropriate to ask the voters of the District to authorize an increase in taxes to fund the District's critical work; and

F. ***WHEREAS,*** The Board of Directors of the Colorado River Water Conservation District believe that it is their obligation to voters to indicate their commitment as to how any such new tax revenue will be spent by the District.

NOW THEREFORE, BE IT RESOLVED that the Board of Directors of the Colorado River Water Conservation District officially certify and direct that the following ballot question be placed on the ballot in all fifteen of the counties within the District:

> ***Shall Colorado River Water Conservation District, also known as the Colorado River District, taxes be increased by an amount up to $4,969,041 in 2021 (which increase amounts to approximately $1.90 in 2021 for every $100,000 in residential home value), and by such amounts as are generated annually***

thereafter from a property tax levy at a rate of one half of one mill to enable the Colorado River District to protect and safeguard Western Colorado water by:

- ***Fighting to keep water on the West Slope;***
- ***Ensuring adequate water supplies for West Slope farmers and ranchers;***
- ***Ensuring sustainable drinking water supplies for West Slope communities; and***
- ***Protecting fish, wildlife, and recreation by maintaining river levels and water quality;***

with such expenditures reported to the public in an annually published independent financial audit; and shall all revenues received by the District in 2021 and each subsequent year be collected, retained and spent notwithstanding any limits provided by law.

BE IT FURTHER RESOLVED, that the Board of Directors of the Colorado River Water Conservation District hereby authorizes Board officers and District staff to take any and all necessary steps to place the above question lawfully on the ballot in all fifteen counties in the next general election which shall take place on November 3, 2020; and

BE IT FURTHER RESOLVED, that the Board of Directors of the Colorado River Water Conservation District also adopts the Fiscal Implementation Plan as a statement of its commitment to the public as to how any revenue generated by the above identified ballot question will be expended by the District.

The Board of Directors of the Colorado River Water Conservation District indicated its consent to Resolution 2020-1 by motion on July 21, 2020.

COLORADO RIVER WATER CONSERVATION DISTRICT

By: _____
David H. Merritt, President

Attested to by:

_____
Andrew A. Mueller, Secretary/General Manager

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COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: **BOARD OF DIRECTORS, CRWCD**
ANDY MUELLER, GENERAL MANAGER

FROM: **AUDREY TURNER, CHIEF OF OPERATIONS** AT

SUBJECT: **DRAFT PARENTAL LEAVE POLICY**

DATE: **JULY 2, 2020**

ACTION:
Staff requests that the Board consider adopting a parental leave policy that allows a full-time, regular employee who has been employed for at least six months up to four weeks of paid time off for the birth, adoption, or foster care placement of a child. The parental paid time off allowance would be in addition to an employee's use of accrued vacation, sick or unpaid leave.

STRATEGIC INITIATIVE(S):
11. River District Staff Resources: ***For the River District to successfully fulfill its mission and meet strategic initiatives of the organization, it is imperative to attract and retain a highly qualified staff. The River District values each employee and their contributions and recognizes that the success of the organization depends heavily on the success of its employees.***

11. A. The River District will seek to be an attractive and competitive employer in the region, state, and water community. This includes maintaining, to the best of its ability, a highly competitive compensation package and supporting the work-life balance that is valued by the District and its employees.

The River District Board of Directors last reviewed its leave policy related to paternity/maternity and medical leave in 2013, when the guidelines were modified to allow for the use of up to 8 weeks of accrued sick leave (previously 4 weeks) to be used for parental leave and removed the limit of accrued sick leave to be used for other medical leave purposes.

Over the years, we have had several employees who have become parents and have had a limited ability to take adequate time off to care for a new child or care for themselves, and while doing so have depleted balances of sick and vacation time.

The River District Board has adopted a strategic plan that highlights the importance of supporting a work-life balance and also maintaining a competitive compensation package. Staff believes that supporting parents is important and mutually beneficial for the employees and the District.

Employees accumulate sick leave at 8 hours per month. We believe that to be a fair accrual rate and is usually sufficient for typical medical absences. New employees begin accruing vacation at 8 hours per month as well. So, for an employee to utilize 8 weeks of sick leave time for maternity/paternity leave, they would need to work for the District for over three years while never taking a sick day. The River District does not want to develop a culture where employees do not take sick leave when they are ill or utilize vacation days to rest and rejuvenate in order to build up a balance of time off in the event of becoming a parent. It also becomes difficult for employees to take time off for other purposes such as medical leave for self or family illness or vacations once an employees accrued balances are depleted after a baby.

Paid parental leave is not a new concept but is becoming more common amongst other government organizations and businesses. In 2019, the Federal Employees Paid Parental Leave Act (H.R. 626) was passed and will allow most federal employees to be eligible for up to 12 weeks of paid parental leave in connection with the birth, adoption or foster care placement of a child. This new law applies to leave taken after October 1, 2020. In a survey conducted by Employers Council in 2018, out of 502 employers 16% of respondents offered a parental leave policy separate from other paid time off policies. The average number of paid days was 23.

Staff is proposing that the Board adopt a new policy which would allow a full-time, regular employee up to 4 weeks, or 20 days, of paid parental leave for the birth, adoption, or foster care placement of a child. We recommend that a service requirement of 6 months of employment before employees are eligible for this paid leave. Employees may still be eligible to extend that parental leave by utilizing other types of accrued paid time off (i.e., accrued vacation or up to 40 days of accrued sick leave) or requesting leave without pay, subject to the existing limits in the River District's Employment Guidelines.

ATTACHMENT A: Proposed Redline of Employment Guidelines

4.06 PARENTAL LEAVE

The District values a work-life balance and recognizes that employees may need additional time above what vacation and sick leave accruals they may have for the birth, adoption or placement of a foster care child. After a full-time, regular employee has completed at least six months of service, they are eligible to utilize up to four weeks of paid parental leave for the birth, adoption or placement of a foster care child.

4.0~~6~~7 LEAVES OF ABSENCE

The District recognizes there may be circumstances when employees require periods of time away from work. These periods may be either paid or unpaid, depending upon the appropriate benefits which the employee has accrued. Employees who have completed six months~~one~~ or more ~~years~~ of service with the District or as pre-approved by the Secretary, may be eligible for a leave of absence. Requests should be made in writing, directed to supervisors, and include the start date, an explanation of the circumstances and anticipated return date of the leave. Where possible, at least 30 days advance notice is requested.

Eligible employees may request a leave of absence for the following reasons:

Medical Leave

- Employees' serious health condition or pregnancy complications making them unable to work

Family or Parental Leave

- Parent's ~~Father's~~ attendance at birth of a ~~his~~ child
- Parent's care of a child after birth
- Placement of a child with an employee for adoption or foster care
- Illness or serious health condition of dependent child
- Serious health condition of an employee's immediate family member *(see "Bereavement" policy for definition of immediate family)*

Personal Leave

Compelling personal reasons other than medical or family circumstances

A medical provider's certification is required in cases of an employee's or family member's serious health condition. A second opinion by a District-designated medical provider or subsequent recertification from the employee's physician may also be required.

Maximum Time Available

The maximum time allowed for Medical and/or Family Leave is 39 weeks (195 working days) in a 12-month period, regardless of the type of leave or pay status. The maximum time allowed for a Personal Leave is 5 weeks (25 working days) in a 12-month period. The 12-month period is measured forward from the date any leave begins. In the case of Family Leave for the purposes of "maternity or paternity leave", the start date of the Family leave is the day the child is born regardless of whether or not additional hospital care is required for either the mother or child. Although most leave is taken in a single block of time, intermittent leaves or reduced work schedules may also be considered and approved where circumstances support such requests. Modified or restricted duty programs for a period of time may also be considered.

All insurance benefits continue while employees are on approved leaves and remain in a "paid" status (i.e., utilizing vacation, sick leave, compensatory time etc. while on leave). While on

extended unpaid Leaves of Absence that cross into the next health insurance premium payment period, all insurance benefits cease and the employee is allowed to utilize COBRA. While on COBRA, the employee is responsible for the monthly premium payments. Upon returning to full work status, all insurance benefits would resume on the first of the month following the completion of appropriate enrollment paperwork. Also while on unpaid leave of absences, employees are not eligible for holiday pay, possibly 457 matching and/or pension contributions and do not continue to earn vacation and sick leave benefits.

Pay Continuation During Leaves
Pay statuses are determined by the type of leave requested.

Sick Leave Benefits – employee may request utilization of accrued sick leave.

Family Leave Benefits - employee may request utilization of accrued sick leave (up to a maximum of 8 weeks for maternity or paternity leave)

Parental Leave Benefits – employee may request utilization of up to four weeks of paid parental leave for the birth, adoption or foster care placement of a child. The paid parental leave benefits are separate from employees other accrued paid time off.

Elective Use of Vacation - employees may elect to use remaining vacation benefits to continue pay while on a medical or family leave.

Unpaid (Personal) Leave - Additional leave time is considered without pay. Those on medical leave of absence may be eligible for benefits through Short Term and Long Term Disability.

Returning From Leave
At least two weeks prior to the scheduled return from leave, employees must contact their supervisors to discuss returning to work. Employees will be reinstated in their former positions upon return from approved leave. Employees unable to return to work at the expiration of approved leave may be terminated.

FMLA
To help employees balance the demands of the workplace with personal and family needs, Congress enacted the Family Medical Leave Act (FMLA). Under the FMLA, if a business has 50 or more employees who work within a 75 mile radius, it may be required to give employees up to 12 weeks of unpaid leave for certain family and medical reasons. Since the District does not have 50 or more employees, District employees are not entitled to the leave provisions of the Act. As such, leave will be permitted as stated above.

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COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS

FROM: DAVE "DK" KANZER, P.E. & DON MEYER, P.E.

SUBJECT: COLORADO RIVER BASIN WATER SUPPLY CONDITIONS AND OUTLOOK

DATE: JULY 3, 2020

NO ACTION: Informational status report on water supply conditions for Colorado River Basin, its sub-basins and related River District water enterprise operations

STRATEGIC INITIATIVE(S):
3. B. The River District will engage in support efforts aimed at understanding climate change and how it may affect water supplies.
3. C. The River District will engage in and support water supply planning efforts, local and regional, which include adapting to climate change impacts.

Colorado River Basin Hydrology Dries Considerably, Water Supply Outlook Dims

After a very dry spring and early summer, water supply conditions have worsened considerably in the Upper Colorado River Basin. The seasonal runoff volumes are much smaller than originally forecasted, especially in the southern basins. This follows up a mostly near-average snow accumulation season,

In fact, as we near the end of the April-July runoff season that typically makes up about 80% of our water supplies in western Colorado, we find ourselves with about half the long term average water availability across the basin, while we are facing a dry and warm outlook for this summer.

Specifically, except for the Upper Yampa watershed, the Colorado Basin River Forecast Center (CBRFC) is reporting that the seasonal runoff volume for every sub basin within the Upper Colorado River Basin is near or below 50% of the 30 year average, for example:

McPhee Reservoir inflow	31%
Navajo Reservoir inflow	48%
Blue Mesa Reservoir inflow	58%
Dolores River at Cisco	27%
San Juan River at Bluff	50%
Gunnison River near GJ	46%
Lake Powell Inflow	55%

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Despite early season optimism, these below average water supply forecasts are now impacting reservoir operations and late season baseflows. Reservoir storage conditions across the River District are now at, or a little below average, protected in part by good carry over storage from the previous year. Very few reservoir facilities projected to fill (those located north of I-70 are faring better, as discussed later in this memo), and water supply conditions are worse at smaller reservoirs that don't benefit from carry over capacity.

Looking back over the water year, winter precipitation in the Upper Colorado River Basin had been close to, or slightly below the long-term average. However, since mid-April, precipitation has been very much below average. **Figure 1** spatially illustrates the seasonal precipitation to date, as a percent of average, (CBRFC, July 2, 2020); this is overlain with color-coded water supply forecast points. Most of the Upper Basin portion of the map is red and orange, signifying water year precipitation to date is near 70% or less of the long term average.

With these drying conditions across the region, the projected April through July unregulated inflow volume into Lake Powell has fallen to 3.9 MAF or 55% of the long-term average. This is a significant decrease from early season projections and a fraction of the above average runoff conditions of 2019.

Operational projections for Lakes Powell are consistent with a 'normal' 8.23 MAF planned release from Glen Canyon Dam for Water Year 2020, as governed by the Interim Guidelines. With diminished inflows and projected balancing releases, storage levels are projected to drop by 40-50 feet from last year's high, by late next year. These projected operations are based upon Lake Powell being above 3575 feet above mean sea level (in the "Upper Balancing Tier") and with Lake Mead above 1075 feet above mean sea level (in the normal or Intentionally Created Surplus" (ICS) operational tier"). However, Drought Contingency Plan (DCP) operations persist in the Lower Basin with lowered deliveries (approximately 200,000 acre-feet) to the Central Arizona Project and Southern Nevada.

These forecasts and related operational information are subject to change and will be updated when they become available, and relevant updated planning study information may be provided at the Board meeting, as appropriate.

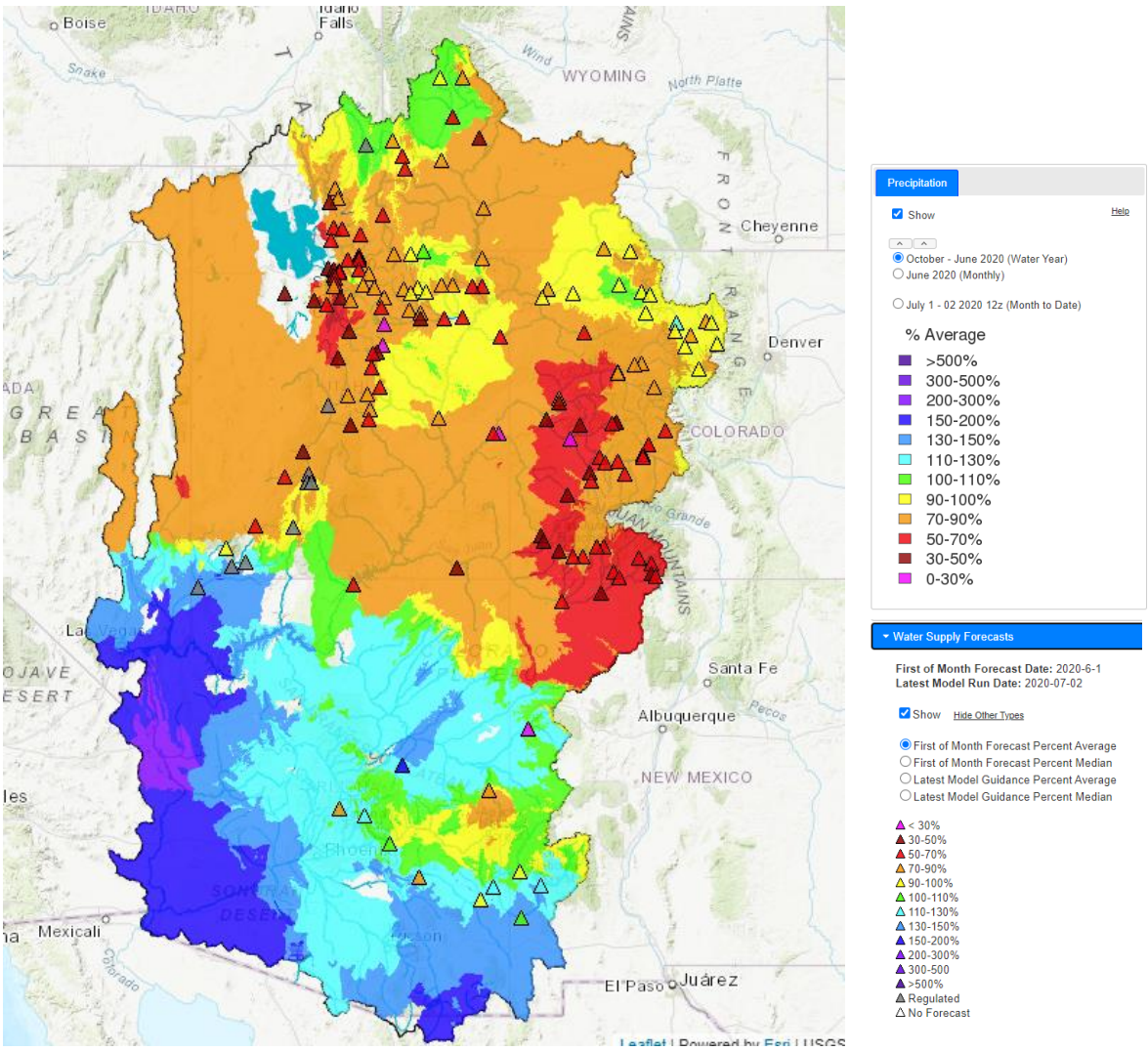

Figure 1: Colorado Basin River Forecast Center (CBRFC) October to June Precipitation as a percent of long-term average with water supply forecast points, showing significant variation

Furthermore, looking forward, the three-month outlook shown in **Figure 2** is not favorable, with warmer and dryer than average conditions forecasted in the upper Colorado River Basin, according to the Climate Prediction Center (published June 19th – updated, monthly).

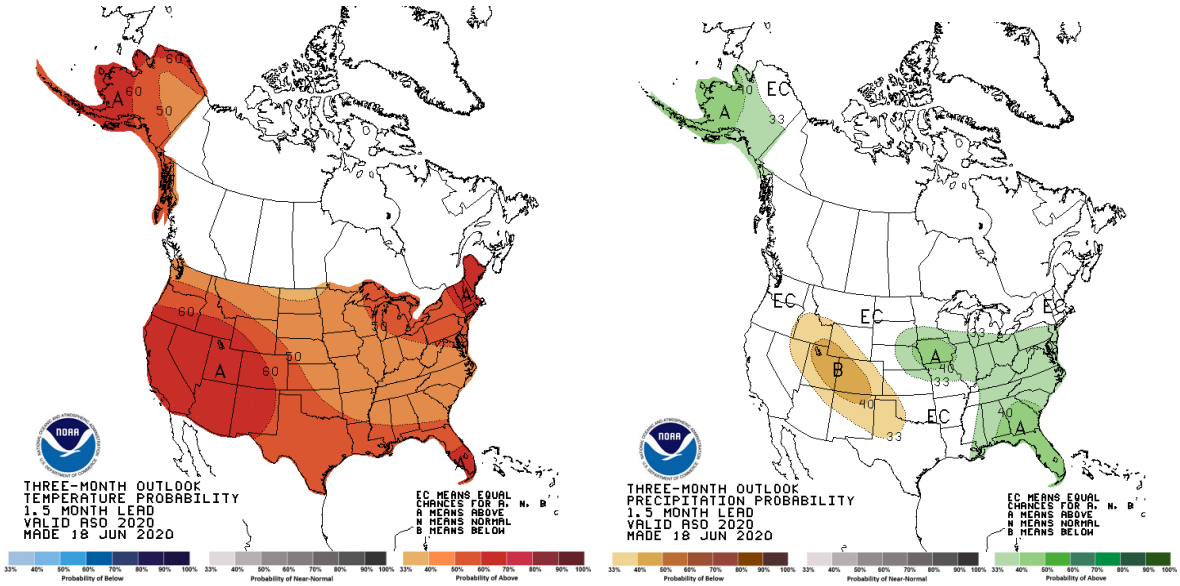

Figure 2: NOAA Three Month Temperature and Precipitation Outlook (Climate Prediction Center, June 18, 2020)

This combination of factors has caused an expansion of moderate to severe drought conditions throughout much Colorado, the Upper Colorado River Basin and in Northern California, according to the U.S. Drought Monitor shown in **Figure 3**.

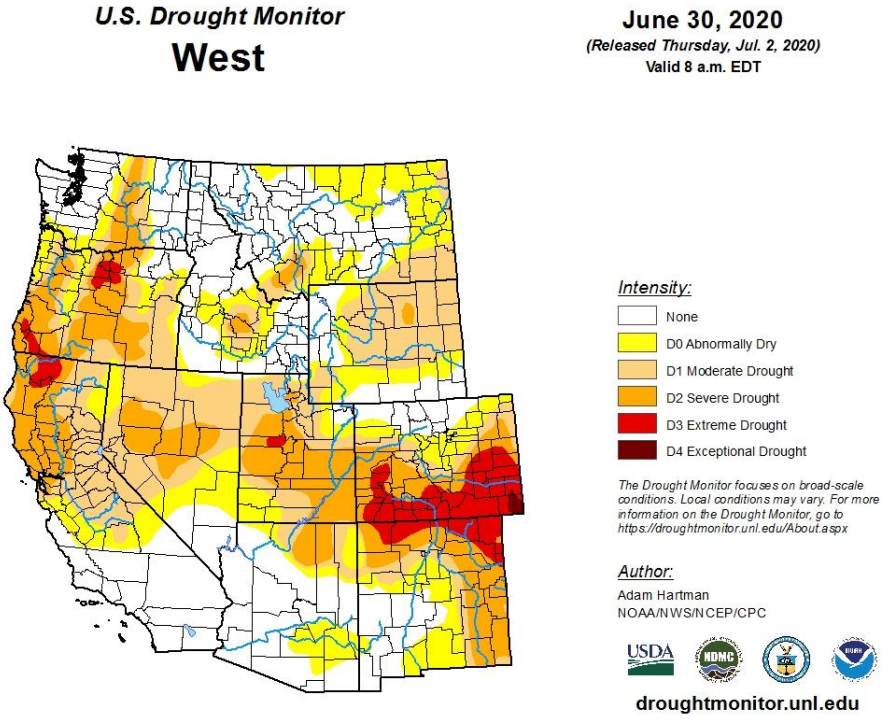

Figure 3: Western U.S. Drought Monitor published June 30, 2020

Upper Colorado River Basin within Colorado and Wolford Operations

As a significant illustration of declining water supply forecasts, **Figure 4** graphically compares early season projections to recent forecasts for selected Upper Colorado Basin locations within Colorado, (March 1 versus July 1 prediction). It can be seen how dramatically runoff volume forecasts have decreased due to the very dry conditions. Wolford is the only current forecast of those selected with runoff above average at 118 percent, while the forecast for Plateau Creek draining the Grand Mesa is a paltry 29 percent of average. Below average runoff forecasts in the Blue, Eagle and Roaring Fork River Basins worsen as one proceeds downstream. Green Mountain, Granby, Williams Fork, Dillon and Homestake Reservoirs have, or are expected to fill, however Ruedi Reservoir is currently 6,500 af short of and is no longer expected to fill.

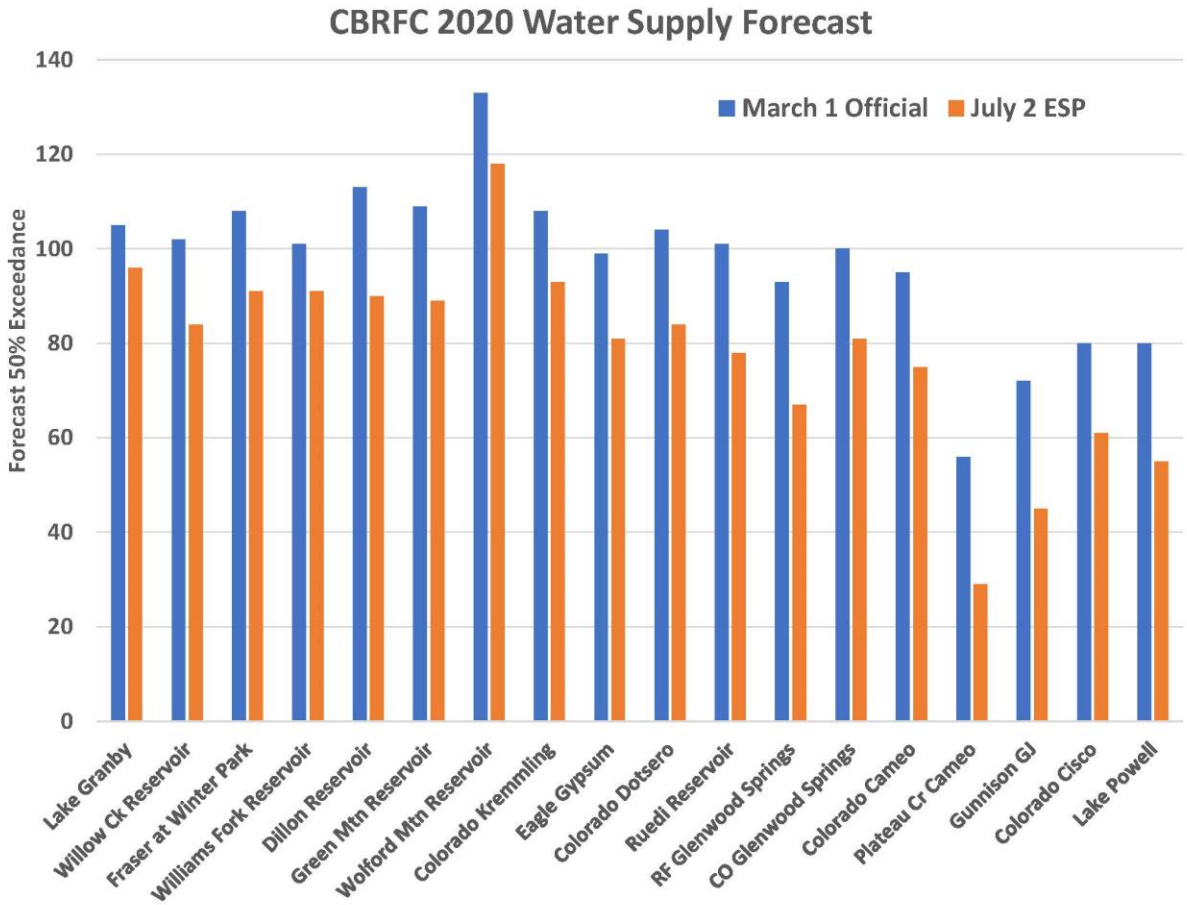

Figure 4: Chart of Colorado River Basin Forecast Center (CBRFC) March 2020 and July 2020 water supply forecasts for Upper Colorado River mainstream locations

Operationally, the Shoshone Power Plant has been off-line since February 13, 2020 when icing conditions occurred at the hydro-electric plant. Repairs are expected to be completed mid-July, coincident when flows are expected to drop to levels that will require water rights administration. If the Shoshone Power Plant does not come back online by mid-July, the River District along with other major facilities operators will participate in the Shoshone Outage Protocol (ShOP) to maintain streamflow conditions as if the Plant were operating.

Additionally, lack of persistent high elevation snow and hot and dry climatological forecasts are driving expectations for an earlier than normal Cameo Call, possibly as early as August 1st. **Figure 5** shows recent and predicted streamflow at the USGS gage Colorado River at Cameo.

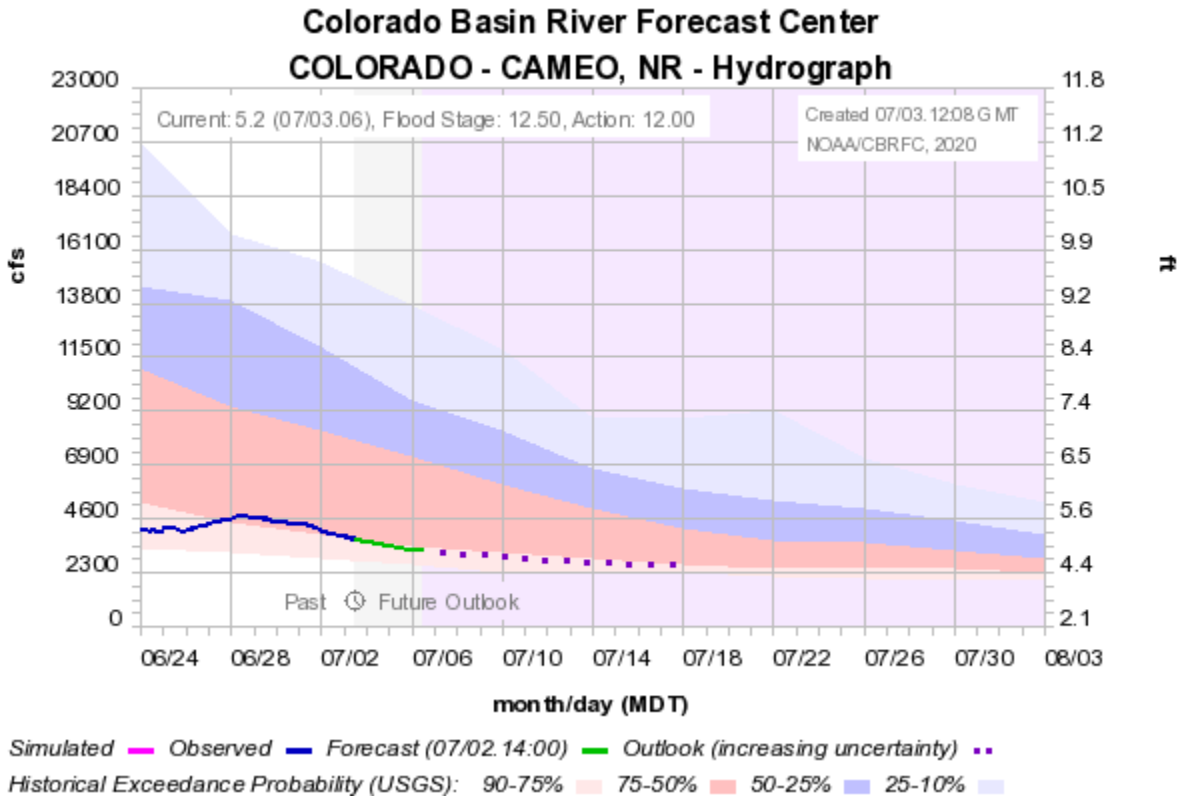

Figure 5: Chart of recent and projected streamflow conditions at Colorado River at Cameo, reflecting 25 percent of average streamflow conditions (CBRFC, July 3, 2020)

Coordinated Reservoir Operations (CROS) to enhance the peak flow in the Grand Valley for the benefit of the Endangered Fish occurred in late May. Reclamation (Green Mountain and Willow Creek Reservoirs), Denver Water (Dillon, Williams Fork and the Moffat System) and the River District (Wolford) all participated with increased releases for several days to one week to assist in creating flushing flows in critical habitat. Given dry spring and decreasing water supply forecasts, reservoir operators were tentative as the peak approached. The decision was made to augment flows despite some uncertainty that CROS would push Colorado River flows at Cameo above the lower desired threshold target of 12,900 cfs. Fortunately, CROS operations succeeded in augmenting Cameo to just above the minimum target on June 3rd for half a day. The USFWS reported that, in part due to CROS operations, a significant number of large Colorado Pikeminnow were observed during recent sampling and a successful spawn is anticipated in critical habitat from the 15 Mile Reach and downstream into Utah.

Recent Wolford Mountain Reservoir operations are shown in **Figure 6**. Wolford began filling mid-April and filled May 11th while bypassing 250 cfs. The spill was purposefully managed with part of the anticipated spill being bypassed through the outlet works, at times up to 500 cfs, to minimize non-native fish escapement. Northern Pike have reportedly been caught by anglers in the stilling basin and in Muddy Creek below the reservoir.

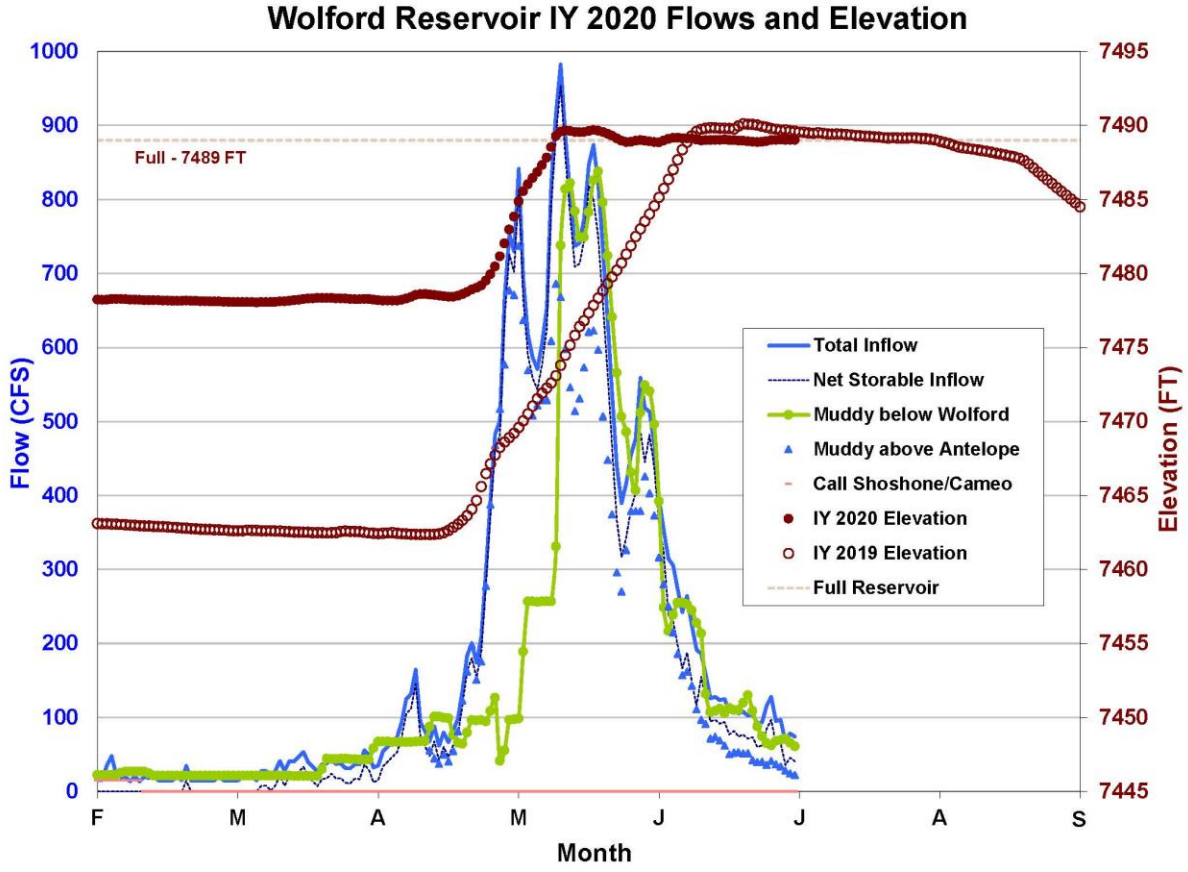

Figure 6: Chart of 2020 operations for Wolford Mountain Reservoir in comparison to 2019

Currently the reservoir is releasing 50 cfs through the conduit with an additional 15 cfs spilling. Operational changes are anticipated with water rights administration from downstream senior rights, like the Shoshone hydro power plant. Even if Shoshone does not come back online by mid-July, as planned, it is expected that the Shoshone Outage Protocol (ShOP) will be invoked to maintain streamflow conditions as if the Plant were operating, causing increased augmentation and replacement releases to occur from upstream reservoir facilities.

Yampa River Basin and Elkhead Reservoir

Runoff is expected to be about 90 percent of average in the Yampa River Basin, and 96 percent of average in the Elkhead Creek drainage. Elkhead Reservoir operations are shown in **Figure 7**. Spring operations were altered to delay spill due to concerns that lingering ice on the reservoir could damage the fish net. The reservoir spilled May 2nd as inflow peaked at about 1800 cfs.

Outflow was maintained through the outlet works equal to inflow, and the reservoir elevation dropped below the spillway crest June 16th hastened by unusually high evaporation brought about by dry and windy conditions.

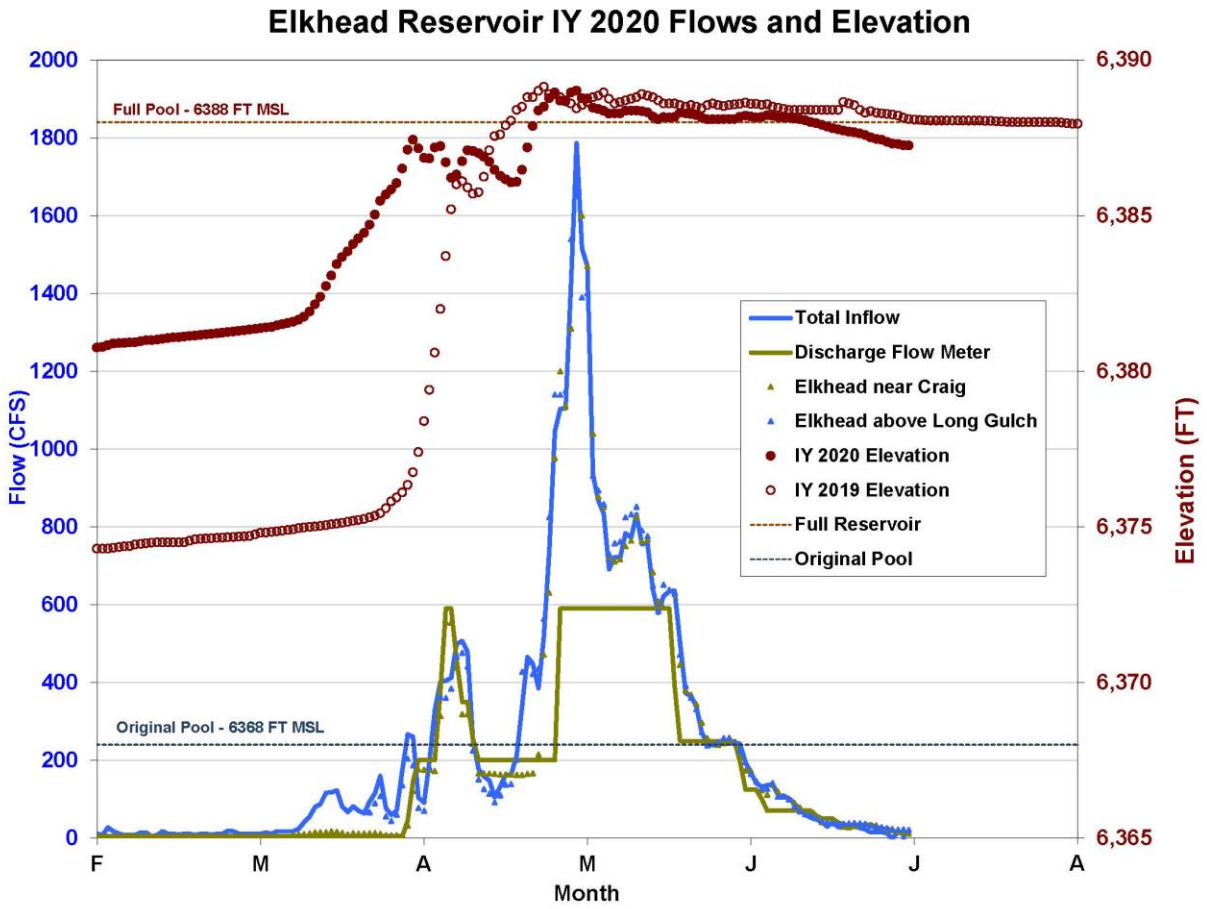

Figure 7: Chart of 2020 Elkhead Reservoir Operations as compared to 2019

Gunnison River Operations

The dry spring and summer have eviscerated the near normal snow accumulation conditions that were recorded on April 1 in the Gunnison River sub basin. The time series accumulation of snowpack as represented as snow water equivalent (SWE) over time for an index of Gunnison Basin snow measurement stations (Snotel) for 2018, 2019 and 2020 are shown in **Figure 8**.

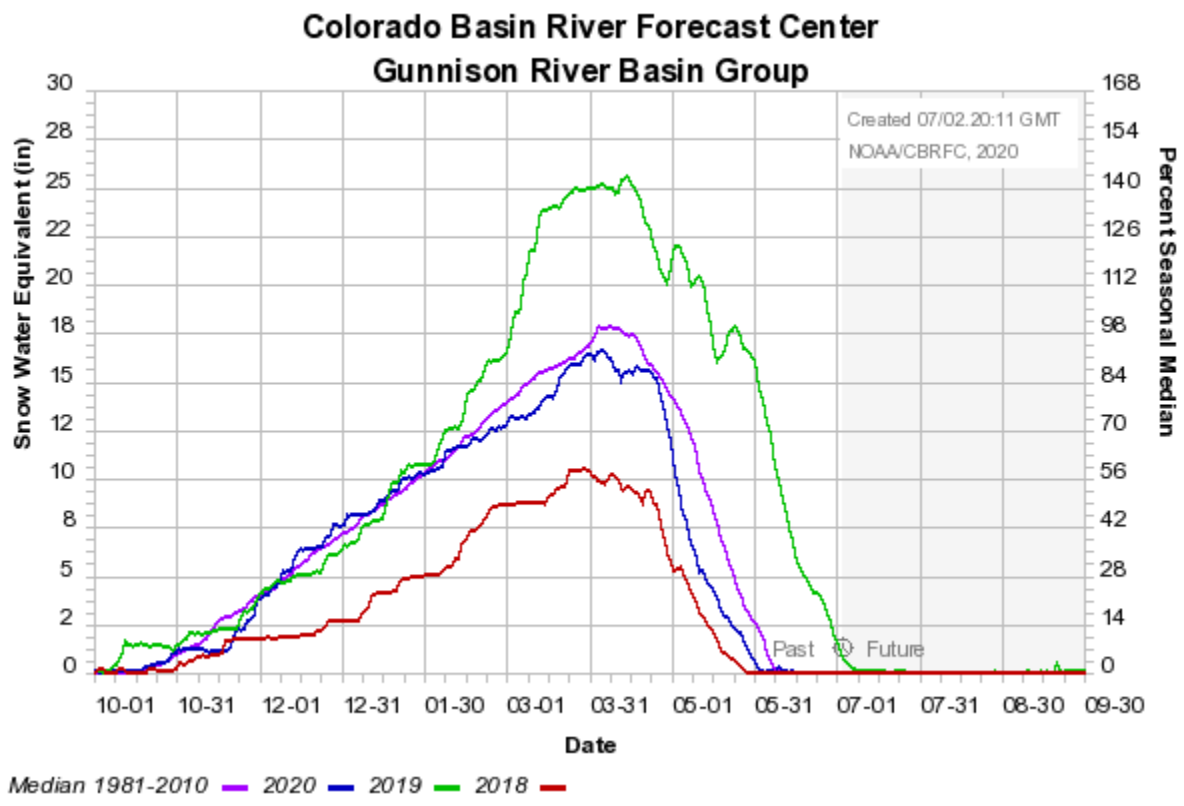

Figure 8: Chart of **s**nowpack conditions for 2020 in in the Gunnison River Basin above Grand Junction (shown in dark blue) as compared to the long-term average and recent years of 2018 and 2019

Although snowpack for 2020 (blue trace) reached about 90 percent of average of the seasonal maximum, the associated water supply volume forecasted and observed water supply volume was only 43 percent of long term average as of July 1, this is shown in **Figure 9**.

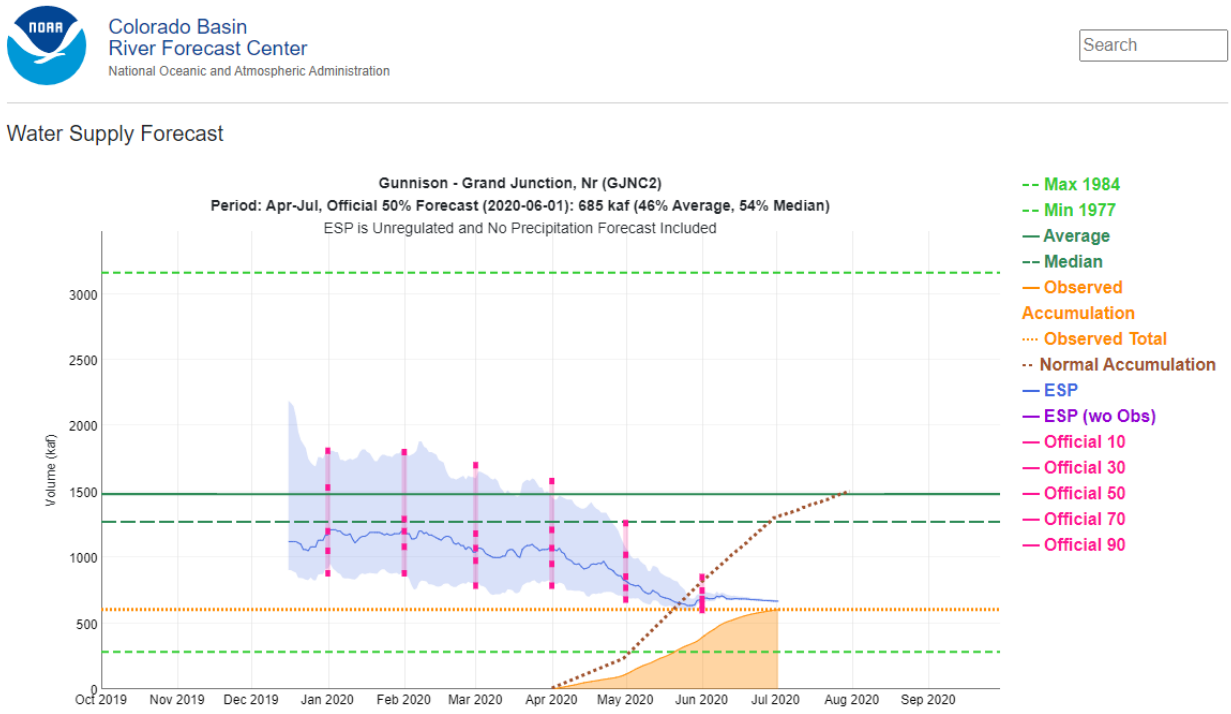

Figure 9: Chart of the unregulated water supply volume forecast over time, for Gunnison River above Grand Junction, as of July 1, 2020, showing below average conditions (0.685 MAF or 46% of the long-term average)

With these conditions and with Reclamation's operations that endeavored to meet Black Canyon and Whitewater flow targets, Blue Mesa, the state's largest reservoir will only reach 76% of capacity Likewise, other Gunnison Basin facilities will not fill, with Taylor Park storage peaking at 89% of capacity and Ridgway Reservoir (storage peaked at 86%). Demands are now reaching seasonal high levels for important agricultural and domestic uses in the Upper Gunnison and Uncompahgre sub basins. There should be sufficient water supplies but dry conditions will stress reservoirs and carry-over storage for next year may be adversely impacted.

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COLORADO RIVER DISTRICT
PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS

FROM: MIKE EYTEL, SR WATER RESOURCE SPECIALIST

SUBJECT: UPDATE ON WATER BANK WORKGROUP ACTIVITIES RELATED TO THE SECONDARY ECONOMIC IMPACTS OF DEMAND MANAGEMENT STUDY

DATE: JULY 7, 2020

ACTION: No Action Required.

STRATEGIC INITIATIVE(S):
4.C.) Colorado River Supplies - Continue to study mechanisms, such as Compact Water Bank and Contingency Planning that include demand management…
6.A) Agricultural Water Use – Continue to study the concept of a voluntary and compensated water bank in collaboration with other stakeholders to best preserve western Colorado agriculture.
6.B) Agricultural Water Use – Explore alternative transfer methods that allow agricultural water users to benefit from the value of their water rights with the permanent transfer of the rights, and without adverse impacts to the local communities and regional economy.
6.C) Agricultural Water Use – Work to ensure that the burden of demand reduction is shared across all types of water use sectors, and that agricultural water rights, and agriculture itself, are not injured.

Background:

The Colorado River District is currently managing the Colorado River Water Bank Work Group's (WBWG) 2019 Cost Share Agreement in support of a *Study of Secondary Economic Impacts Associated with a Potential Upper Basin Demand Management Program with BBC Research & Consulting*.

Update:

While it is still unclear whether Western Colorado will support a temporary, voluntary, and compensated demand management program, the BBC Secondary Economic Impact Study convened Stakeholder groups (SG) from each of the four major river basins in Western Colorado. Over the last year the study team met with each basin SG twice. The SG's were comprised of representatives from the ranching community, agricultural support businesses, recreation and tourism, banking and finance, and local governments to discuss data and data sources, assumptions and methodology, and preliminary study findings. Input from these stakeholders helped BBC identify key issues and refine the study approach and results. The second round of basin focus group meetings were held virtually in early May. BBC's final report is currently going through Steering Committee Review and should be finalized in the coming weeks. Based on SG input BBC

developed two scenarios to evaluate a potential demand management program involving Western Colorado agricultural water users.

Scenario 1, the "Moderate" demand management" scenario was based on the Demand Management Storage Agreement signed by the Upper Basin states in 2019. This scenario assumes 125,000 AF of consumptive use reductions from Western Colorado irrigated lands over a five-year period. This equates to 25,000 AF annual reduction in consumptive use from Western Colorado, or roughly one in every 60 irrigated acres currently in hay or corn production. Scenario 1 would support a 500K AF demand management program.

Scenario 2 the "Aggressive" demand management scenario was developed to examine the potential effects from a larger or regional demand management program. This scenario prescribes an annual reduction of 25,000 AF in consumptive use from each of the four major river basins. This equates to a 100,000 AF annual reduction in consumptive use from Western Colorado. Scenario 2 would potentially support a 2 million AF demand management program within the Upper Colorado River Basin.

In order to convey the BBC Secondary Economic Impact Study conclusions to various entities the River District contracted an additional "Task 5" with BBC for outreach to major stakeholders and regional agencies. Utilizing funding from our recently awarded Bureau of Reclamation WaterSmart Grant. BBC will deliver study results over the next few months to the River District Board, Colorado Water Conservation Board, Water Bank Workgroup, Demand Management Workgroups, Basin Roundtables, along with several other focused presentations to various participating agencies.

As Colorado moves forward evaluating, developing, and possibly implementing a demand management program, the BBC Secondary Economic Impacts Study conclusions will help irrigators/ranchers and water providers determine if they would like to voluntarily participate in a fallowing program. Let's be honest, both scenarios clearly show there is potentially an economic benefit for individuals to participate in a fallowing program as well as real economic impacts to the basins participating in the program both positive and negative. Payments for participation in the program need to offer economic incentive in order to be viable financially. Depending on whether funding for the program comes from within or outside of the basin of participation is truly key to the success of the program. There are numerous factors which all weigh into this equation. For instance, variations in hydrology, crop types, crop yield, and market conditions will vary annually and will have a direct impact on potential financial compensation to participants. Decreases in crop production/forage could have adverse impacts to livestock production economies. The two scenarios BBC evaluated really are sideboards to the demand management discussion as they evaluate a range of possible outcomes and economies of scale. While the jury is still out on the development of a temporary, voluntary, and compensated demand management program, the River District intends to utilize the BBC report results to inform our constituency and regional agencies of the pros and cons of fallowing on the agricultural economy of Western Colorado. Stay tuned and look forward to seeing you at the upcoming BBC's presentation of the Secondary Economic Impact Study.

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5. Discussion with

Jeff Rieker, Manager

Eastern Colorado Area Office

U.S. Bureau of Reclamation

NO MATERIAL AVAILABLE

Go back to Agenda

6. Directors' Updates/Concerns

NO MATERIAL AVAILABLE

McMahan and Associates, L.L.C.
Certified Public Accountants and Consultants

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E-mail: mcmahan@mcmahancpa.com

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To the Board of Directors
Colorado River Water Conservation District

We have audited the financial statements of Colorado River Water Conservation District (the "District") for the year ended December 31, 2019. Professional standards require that we provide you with the following information related to our audit.

Qualitative Aspects of Accounting Policies

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the District are described in the Notes to the financial statements. The District implemented Governmental Accounting Standards Board Statement No. 84, Fiduciary Activities. The statement impacted both the Fiduciary Statement of Financial Position and the Statement of Changes in Fiduciary Net Position. No other new accounting policies were adopted and the application of existing policies was not changed during the year. We noted no transactions entered into by the governmental unit during the year for which there is a lack of authoritative guidance or consensus. There are no significant transactions that have been recognized in the financial statements in a different period than when the transaction occurred.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimate affecting the financial statements was:

> Estimated useful lives for depreciation on capital assets: Management's estimate of is based on industry practice and experience. We evaluated the key factors and assumptions used to develop the useful lives used in determining depreciation and found that it is reasonable in relation to the financial statements taken as a whole.
>
> Estimated allowance for uncollectible receivables at December 31, 2019, which management has based on industry practice and experience, including actual collections since year-end.

Difficulties Encountered in Performing the Audit

We encountered no difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements prior to audit procedures being performed. None of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to the financial statements taken as a whole.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

As is required in an audit engagement we have requested certain representations from management that are included in the management representation letter.

Governmental Accounting Standards Board Statement 87:

Financial reporting standards for the District are promulgated by the Governmental Accounting Standards Board ("GASB"). GASB has issued Statement 87, *Leases* ("GASB 87"), which requires recognition of certain lease assets and liabilities for leases that previously were classified as operating leases and recognized as inflows of resources or outflows of resources based on the payment provisions of the contract. GASB 87 is effective for reporting periods beginning after June 15, 2021 so the District's financial statements as of and for the year ending December 31, 2022 must reflect the changes imposed by this new reporting standard.

We will work with you to support implementation of this new standard and the related presentation considerations over the coming years.

Changes to the Uniform Guidance

The U.S. Office of Management and Budget's (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (commonly called the "Uniform Guidance") has made changes to the required framework for grants management. The Uniform Guidance is an authoritative set of rules and requirements for Federal awards that applies to all organizations that receive Federal awards. These changes were required to be documented by December 31, 2019. The District should modify some of its governing and operating policies to incorporate the following compliance documentation:

- Allowable Costs – policies and procedures will generally require timesheets or time and effort logs to track salary costs charged to grants. The policy will also require that the District maintain documentation supporting the allocation of indirect costs or election of the de minimis cost rate.
- Cash Management – documented procedures should specify that only minimal time is to occur between grant receipts and grant expenditures.
- Procurement – There are significant new requirements for organizational procurement policies. Policies should include guidance on procurement of goods and services that are funded by grant awards. Policies must specify that the organization will utilize an authorized procurement method, as defined in the Uniform Guidance, and include written standards of conduct, and contractor oversight.
- Reporting – procedures must be defined, in order to ensure proper preparation of federal reports.
- Eligibility – procedures must be detailed to verify eligibility is properly determined for grant expenditures.
- Subrecipient monitoring – policies for subrecipient monitoring can require on-site visits, limited scope audits, and a review of internal controls to provide reasonable assurance over funds being disbursed to subrecipients.

Additional information can be obtained at https://www.gpo.gov/fdsys/pkg/CFR-2017-title2-vol1/pdf/CFR-2017-title2-vol1-part200.pdf

This report is intended solely for the information and use of the Board of Directors, management, and others within the organization and is not intended to be, and should not be, used by anyone other than those specified parties.

Sincerely,

McMahan and Associates, L.L.C.

McMahan and Associates, L.L.C.
June 25, 2020

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Colorado River Water Conservation District

Financial Statements

December 31, 2019

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Colorado River Water Conservation District
2019 Board of Directors

Name	Position	County
Dave Merritt	President	Garfield
Martha “Marti” Whitmore	Vice President	Ouray
Thomas M. Alvey	Director	Delta
Kathy Chandler-Henry	Director	Eagle
Mike Ritschard	Director	Grand
William S. Trampe	Director	Gunnison
Stan Whinnery	Director	Hinsdale
Steve Acquafresca	Director	Mesa
Tom Gray	Director	Moffat
Marc Catlin	Director	Montrose
John M. Ely	Director	Pitkin
Alden “Al” Vanden Brink	Director	Rio Blanco
Doug Monger	Director	Routt
Rebie Hazard	Director	Saguache
Karn Stiegelmeier	Director	Summit

Colorado River Water Conservation District
General Background

GENERAL BACKGROUND AND TRANSMITTAL

A. BACKGROUND

The Colorado River Water Conservation District was created by the Colorado General Assembly in 1937. The River District boundary includes all or parts of 15 West Slope counties and encompasses all or parts of the Colorado River main-stem, Yampa, White, Green, Gunnison, Uncompahgre and Dolores River drainages within the state of Colorado.

Under the 1937 legislation, the River District included Summit, Eagle, Garfield, Mesa, Pitkin, Delta, Gunnison and Montrose Counties. In 1955, Grand, Moffat, Routt, Rio Blanco and Ouray Counties joined the District and in 1961, the portions of Hinsdale and Saguache Counties within the Colorado River Basin became a part of the River District.

Within Colorado, there are three other water conservation districts, the Southwestern Water Conservation District which was created in 1941, the Rio Grande Water Conservation District, created in 1961, and the Republican River Water Conservation District, created in 2004.

B. GENERAL POWERS AND MISSION

The River District's general powers and mission are described in its legislative charter. The legislative declaration states:

> **37-46-101. Legislative declaration.** "In the opinion of the general assembly of the state of Colorado, the conservation of the water of the Colorado river in Colorado for storage, irrigation, mining, and manufacturing purposes and the construction of reservoirs, ditches, and works for the purpose of irrigation and reclamation of additional lands not yet irrigated, as well as to furnish a supplemental supply of water for lands now under irrigation, are of vital importance to the growth and development of the entire district and the welfare of all its inhabitants and that, to promote the health and general welfare of the state of Colorado, an appropriate agency for the conservation, use, and development of the water resources of the Colorado river and its principal tributaries should be established and given such powers as may be necessary to safeguard for Colorado, all waters to which the state of Colorado is equitably entitled under the Colorado river compact."

The statute gives the River District broad powers to carry out its declaration. These powers are described in detail in § 37-46-107 (a) and through (l). In general, the River District can appropriate water rights, litigate water matters, enter into contracts, hold real property, operate projects and perform other functions as needed to meet the present and future water needs of the District.

Mission Statement

To lead in the protection, conservation, use and development of the water resources of the Colorado River basin for the welfare of the District, and to safeguard for Colorado all waters of the Colorado River to which the state is entitled.

C. BOARD OF DIRECTORS

The District's legislation states that the District shall be managed and controlled by a board of fifteen directors, one from each of the 15 member counties. Board members are appointed by the board of county commissioners from each county and serve three year terms. Each January five board members are up for appointment. In January 2020 those counties are Mesa, Moffat, Pitkin, Routt, and Saguache Counties.

The Board elects a president and vice president and appoints a secretary (normally the General Manager) and treasurer. In 2002, the Board adopted a two term limit commencing in 2003, for its president and vice president.

The Board utilizes committees as necessary. The duties of the officers and procedures for committee meetings are further described in the District bylaws.

Regular Board meetings are held in Glenwood Springs beginning on the third Tuesday of January, April, July and October and run one or two days. For 2020 the start dates are:

January 21, 2020
April 21, 2020
July 21, 2020
October 20, 2020

The Board also holds special meetings and tours as necessary, including a budget workshop typically scheduled in mid-September.

D. RESOURCES

The available River District resources include its water resources (projects, contracts, absolute and conditional water rights), staff resources and budget resources.

The River District owns and operates two reservoir projects, Wolford Mountain Reservoir, located on Muddy Creek in the Colorado River Basin north of Kremmling and Elkhead Reservoir, located on Elkhead Creek in the Yampa River basin near Craig. It also has contracted interests in water through its shares in the Grand County Mutual Ditch and Reservoir Company, Eagle Park Reservoir, the Homestake Reservoir exchange, water from the Twin Lakes Reservoir and Canal Co. enlargement decree, contracts with the Bureau of Reclamation for Ruedi Reservoir water and a contracted interest in the Taylor Park Reservoir second fill.

The River District financial statements are divided into "Governmental Activities" and "Business-Type Activities". The Governmental Activities are financed through the Board's authority to levy taxes as provided in:

> **37-46-109. Authority of board to levy taxes.** (1) (a) In addition to other means of providing revenue for the district, the board of directors has the power to fix the amount of an assessment upon the property within the district, not to exceed two and one-half mills for every dollar of valuation for assessment therein as a level or general levy to be used for the purpose of paying the expenses of organization, for surveys and plans, to pay the salaries of officers and the per diem allowed to directors and their expenses, for the costs and expenses of construction or partial construction of any project designed or intended to accomplish the utilization of water, by storage or otherwise, for any beneficial uses or purposes, and for other incidental expenses which may be incurred in the administration of the affairs of the district.

The Governmental Funds are further divided into a "General Fund" and a "Capital Projects Fund".

The River District's Business-Type Activities are managed by an enterprise formally named the Colorado River Water Projects Enterprise of the Colorado River Water Conservation District. The Board of Directors of the River District is the Board of Directors of its Enterprise. The River District and its Enterprise share the same staff.

The Enterprise is a "government-owned business" as referred to in Colorado Constitution Article X, § 20, a/k/a "TABOR (Taxpayer Bill of Rights)" or "Amendment One". Therefore, it is subject to judicial interpretations of TABOR and the provisions of the Water Activity Enterprise Act.

The Enterprise develops and operates the District's water supply assets. The Enterprise's water supplies are contracted for beneficial use pursuant to a water marketing policy. The Enterprise currently markets three basic supplies: (1) Colorado River Supply, which is provided from the Enterprise's Wolford Mountain Reservoir Project and the Enterprise's Ruedi Reservoir (Bureau of Reclamation) water contracts; and (2) Eagle River Supply, which is provided from the Enterprise's interest as a shareholder in Eagle Park Reservoir Company and that Company's sources of supply (Eagle Park Reservoir and a Homestake Reservoir exchange supply), and (3) the Elkhead Reservoir, in the Yampa River basin.

A full-time staff of 22 consisting of managers, general and associate counsels, water resource engineers and specialists, project caretakers, public affairs, legal and administrative support personnel carries out the activities of the District as directed by the Board. Personnel costs are split between the Enterprise and General Funds based on estimated percentage of time spent.

REGIONAL / ECONOMIC CONDITIONS AND OUTLOOK

A. REGIONAL SETTING

The River District covers a large and diverse area. There are four major river basins within the district; the Yampa, the White, the Gunnison and the Colorado main-stem. The River District's economics are also quite diverse. It includes areas that are highly dependent on energy production, agriculture and others that are dependent upon winter and summer recreation and a second home market. Resort development in Summit County, Aspen, Gore Creek and Eagle River Valleys, Winter Park, Steamboat Springs and Crested Butte areas have resulted in a significant increase in the District's tax base in the last decade.

In the summer of 2008, the national economic slowdown began impacting most areas within the District. This slowdown impacted the rate of growth in the energy and second home sectors. The River District's assessed valuation peaked in 2009. It dropped significantly in 2010, 2011 and 2013. This can be attributed to a dramatic decrease in Oil and Gas development and related foreclosures. There were slight improvements in 2015 and 2019. The 2019 valuations are 18% off of the 2009 peak.

The primary agricultural areas within the District include the Uncompahgre Valley, Grand Valley, Gunnison River Basin, Upper White River Basin and the Lower Yampa River Basin.

The major urban center within the River District is Grand Junction. Other towns with populations of over 10,000 include Montrose, Craig, Delta, Rifle, Steamboat Springs and Glenwood Springs. There are numerous other smaller towns and cities within the District.

B. POPULATION TRENDS

The population of the 15 River District counties is in the following table:

From 1980 to 2018, the population of the River District increased by 101.65%. This is a greater rate of growth than the six counties in the Denver Metro area, which increased from 1,618,461 to 2,872,399 (77.5%) or the state of Colorado which increased from 2,889,964 to 5,694,311 (97%).

County	1980	1990	2000	2010	2018	% Chg.1980-2018
Delta	21,225	20,980	27,834	30,889	30,935	45.75%
Eagle	13,320	21,928	41,659	52,057	54,863	311.88%
Garfield	22,514	29,974	43,791	56,150	59,812	165.67%
Grand	7,475	7,966	12,445	14,790	15,481	107.10%
Gunnison	10,689	10,273	13,956	15,309	17,173	60.66%
Hinsdale	408	467	790	843	807	97.79%
Mesa	81,530	93,145	116,225	147,155	153,629	88.43%
Moffat	12,133	11,357	13,184	13,806	13,178	8.61%
Montrose	24,352	24,423	33,432	41,188	42,263	73.55%
Ouray	1,925	2,295	3,742	4,446	4,804	149.56%
Pitkin	10,338	12,661	14,872	17,156	17,882	72.97%
Rio Blanco	6,255	5,972	5,986	6,617	6,308	0.85%
Routt	13,404	14,088	19,690	23,439	25,680	91.58%
Saguache	3,935	4,619	5,917	6,144	6,840	73.82%
Summit	8,848	12,881	23,598	28,073	30,974	250.07%
TOTALS	238,351	273,029	377,121	458,062	480,629	**101.65%**

Management believes that the most recent population trends both within the District and within Colorado as a whole have grown at rates above the historical average. Growth rates are likely to continue to increase in the near future. Meeting the water needs of the District population, which includes the maintenance of stream flows necessary for a thriving recreation based economy, will continue to challenge the District's financial and personnel resources. Continued growth along the Colorado Front Range will continue to create significant pressure for the diversion of additional Colorado River water to the Front Range resulting in more demands on District staff and Board.

C. DISTRICT TAX BASE AND TAX REVENUES

Since the mid 1990's the River District's tax base has grown at a significant rate. A graph of the District mill levy and the total property taxes collected are shown in Figure A and Figure B. Certain provisions of the Colorado constitution (commonly referred to as TABOR), limit the increase in tax revenues and expenditures to the rate of inflation plus new growth.

Consequently, the mill levy changes as an inverse relationship to the change in the assessed valuation.

FIGURE A: ASSESSED VALUATION VS. MILL LEVY

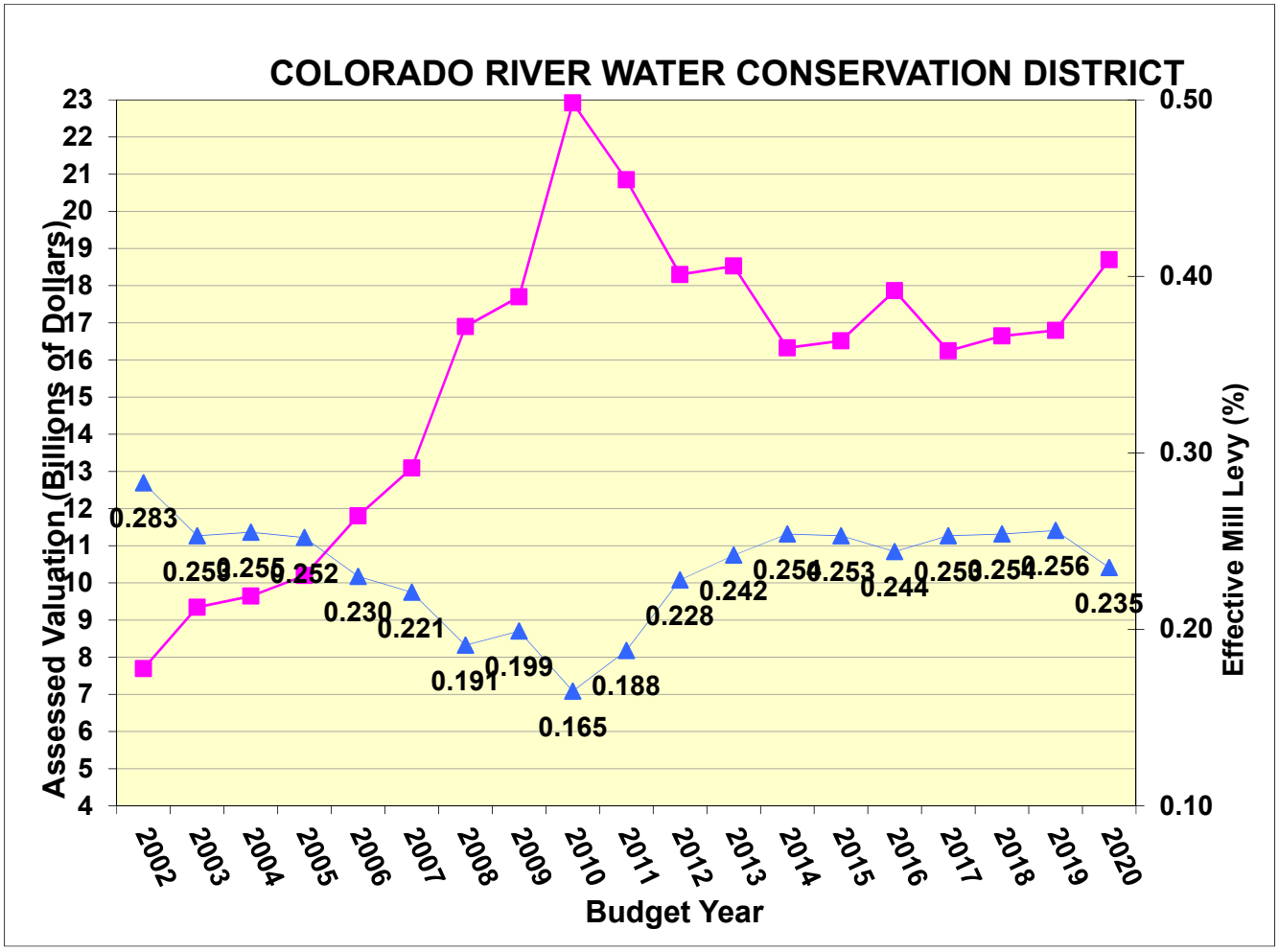
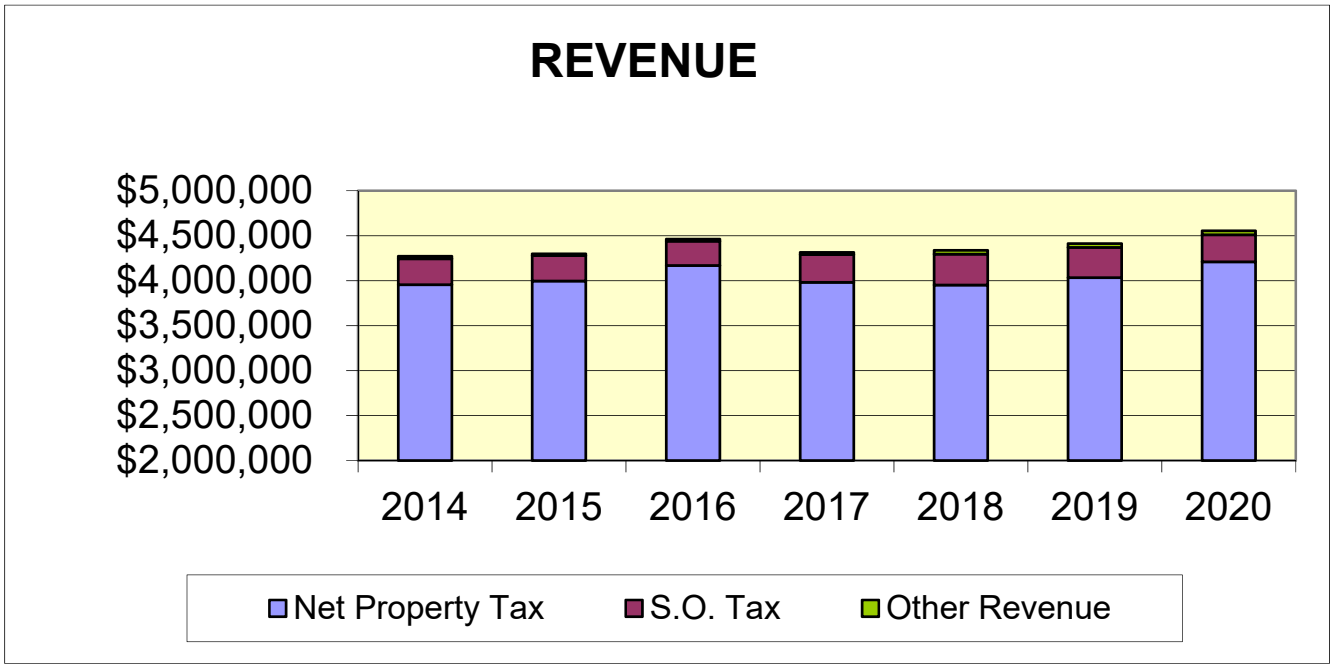


FIGURE B: BUDGETED GENERAL REVENUES



In addition to the property taxes, the River District has revenues from the specific ownership tax and interest. In 2019 the River District collected $346,430 in specific ownership taxes (an increase of 1% from 2018).

River District management believes that the River District tax base will be relatively flat to declining. Growth will probably increase as population increases, however, the anticipated potential lowering of the Residential Assessment Rate due to the Gallagher Amendment will likely have negative impacts to the General Fund revenue budget. Additionally, decreasing oil, gas and coal production is likely to have negative impacts on the General fund revenue budget over the next ten years.

Collections of the specific ownership (S.O.) tax, which make up 7.5% of the District's total General Fund revenues, are highly dependent on the purchase of new personal vehicles and business equipment. The S.O. tax collection is quite variable and difficult to predict from year to year. Interest earnings only make up a small portion of District's General Fund revenues (less than 1.0%).

D. ENTERPRISE REVENUES

The District's Enterprise revenues are primarily based on water sales and lease revenues. The primary source of income to the Enterprise is a $3 million dollar per year lease payment from the Denver Water Board. Denver Water holds a 40.0% interest in the capacity and water storage of the Enterprises' primary asset – Wolford Mountain Reservoir. The Denver water lease payments will end in 2020, after which Denver Water will pay a 40.0% share of the actual costs of operating, maintaining and repairing the Wolford Mountain Reservoir.

The concept of the River District-Denver Water agreement for Wolford Mountain Reservoir was that the Denver Water's lease revenues provide the Enterprise with a revenue stream that exceeds the actual cost of the project's construction. These excess revenues would then provide a source of "seed money" to assist with the development of additional Enterprise assets and to build and maintain a significant capital reserve should significant maintenance and/or repair work be needed on the Enterprise Assets.

In addition to the Denver Water lease revenues, the Enterprise receives revenue from its water marketing programs. Under the water marketing program, the Enterprise has 8,100 acre feet of Wolford Mountain Reservoir water, 432 acre feet of Eagle River Projects water, 2,457 acre feet of Elkhead Reservoir water, and 11,413 acre feet of Ruedi Reservoir water.

Each year the water marketing contract pricing is analyzed and recommendations are presented to the Board. Any increases are subject the following contractual parameters: Pre-2006 water contracts can be adjusted for the operation and maintenance component every five years. The adjustment is limited by the 'Denver-Aurora-Lakewood' (formerly the 'Denver-Boulder-Greeley') Consumer Price Index. Post-2006 contracts can be adjusted on an annual basis. In January of 2015, the River District sold Tri-State Generation & Transmission Associates, Inc. 1250 acre feet of permanent storage capacity in Elkhead Reservoir for $4,800,000. This is not reflected on the 2014-15 line of the table below. It is reflected in the available acre feet of Elkhead Reservoir water noted above (3,707-1,250=2,457). In January 2020, the Board approved an adjustment to the post 2006 water contracts by 1.9%.

The following table shows the total water sold through contracts and water sales revenues received or billed for water project years for 2002-2019.

Water Project Year	Water Under Contract	Revenue Received
2002/2003	3603 a.f.	$488,612
2003/2004	4178 a.f.	$415,597
2004/2005	4106 a.f.	$737,643
2005/2006	3758 a.f.	$782,440
2006/2007	4131 a.f.	$825,631
2007/2008	4428 a.f.	$719,347
2008/2009	5406 a.f.	$719,804
2009/2010	4884 a.f.	$832,590
2010/2011	6105 a.f.	$952,206
2011/2012	6129 a.f.	$1,086,718
2012/2013	7207 a.f.	$1,330,562
2013/2014	7226 a.f.	$1,501,421
2014/2015	7229 a.f.	$1,572,562
2015/2016	6608 a.f.	$1,342,903
2016/2017	6075 a.f.	$1,212,065
2017/2018	5155 a.f.	$1,187,170
2019/2020	5646 a.f.	$1,438,987

There is not a direct correlation between the acre feet of water under contract and revenue received. The table reflects a pricing strategy that ended in 2007. The strategy allowed water users to pay the Capital Recovery fee up front in their contract period with only the Operation and Maintenance fee (O&M) in subsequent contract years. A significant number of water users took advantage of this pricing strategy. Management expects that the demand for Enterprise water will continue to hold steady. While the water supply available for purchase in certain areas will be limited, the River District continues to take advantage of opportunities to increase its inventory.

Operating successful water projects will present new challenges to both management and the Board. Enterprise projects will need to be carefully analyzed and pricing strategies developed to cover, on a long term basis, the full costs of operating the Enterprise's various projects and to provide a source for financing additional projects to meet future water needs.

MAJOR INITIATIVES AND ISSUES

A. REGIONAL HYDROLOGIC CONDITIONS

Beginning in the summer of 2000, the entire state of Colorado including the District, began a period of extended and severe drought. Drought conditions prevailed through 2004. There was some relief from the drought from 2005 through 2011. Wolford Mountain Reservoir filled and spilled each year from 2006-2011. 2012 saw a return to drought conditions. Throughout Colorado, the spring of 2019 started out very wet, and stayed wet well into June, which allowed both Wolford Mountain Reservoir and Elkhead Reservoir to fill and spill. However, hot and arid summer conditions caused river levels to crash in late August. Any additional extension of drought conditions may require the River District to redirect resources to help mitigate drought related problems.

The following graph (Figures C) show storage levels in the District's Wolford Mountain Reservoir from January, 2005 through January, 2020. The significant drawdown in Wolford Mountain Reservoir during 2018 was due in large part to scheduled construction on the Ritschard Dam. The second graph (Figure D) shows reservoir levels at Lake Powell, a large reservoir operated by the United States Bureau of Reclamation. The drop in storage at Lake Powell is indicative of the multi-year drought conditions throughout the Upper Colorado River region, in addition to overuse throughout the Lower Colorado River region.

FIGURE C: WOLFORD MOUNTAIN RESERVOIR STORAGE

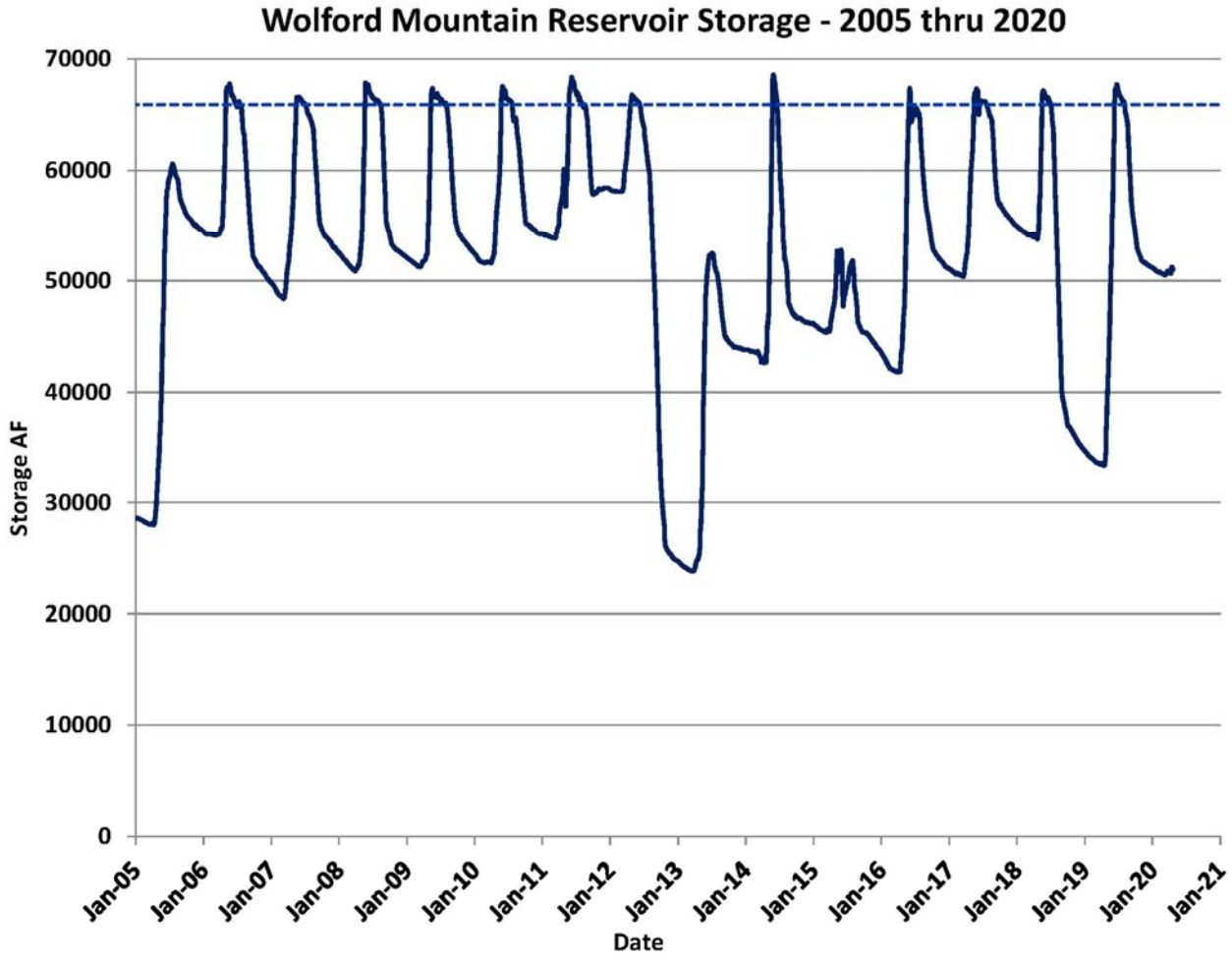
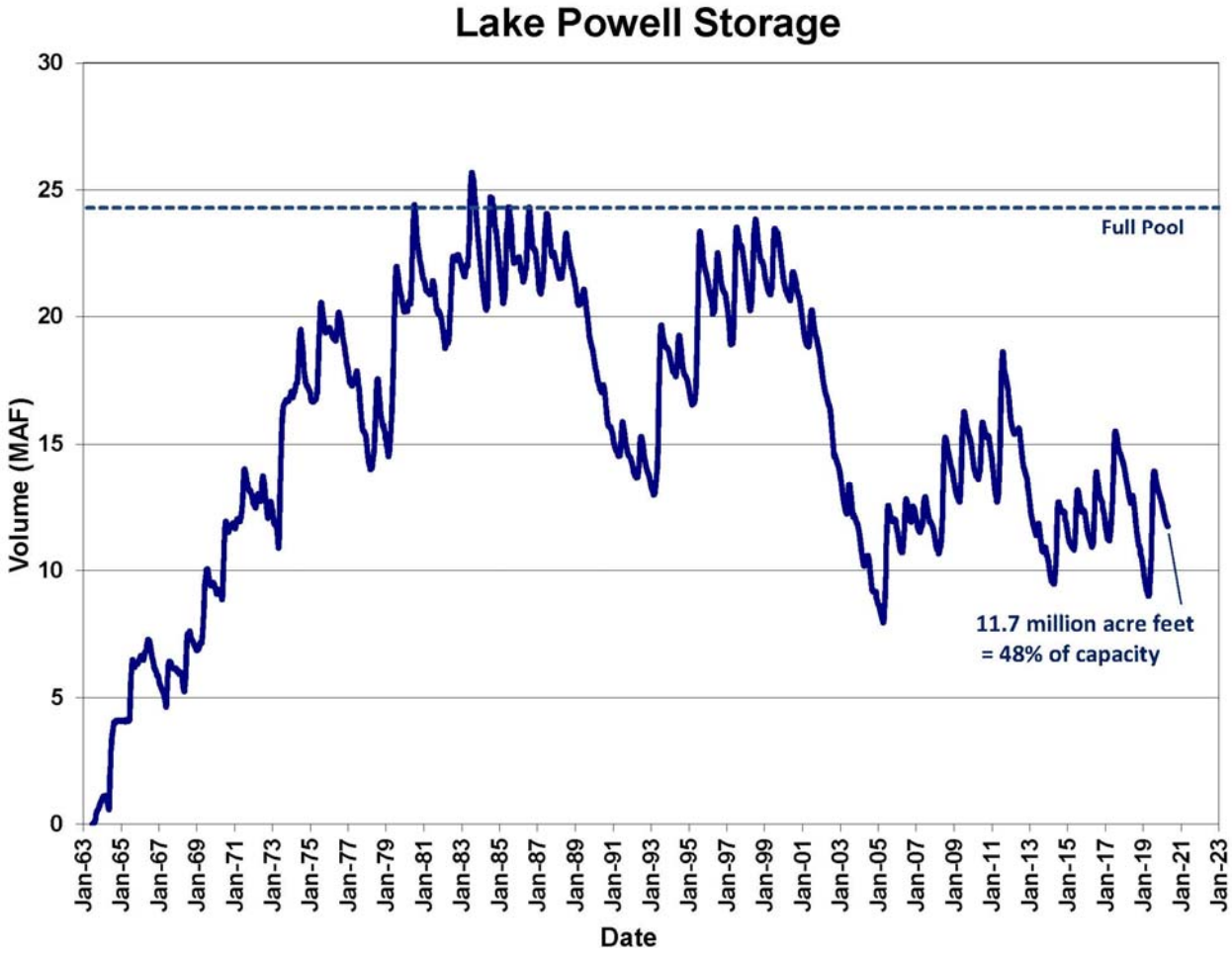


FIGURE D: LAKE POWELL STORAGE



B. LITIGATION AND LEGAL FUNDING

The River District's General Counsel is responsible for the management of all of the legal matters of the River District and its Enterprise. The River District is involved in a wide-variety of legal matters that include litigation related to water rights, the negotiation and mediation of litigation settlements, the negotiation of contractual relationships, governmental compliance, and legislative proposals. Budgeting for litigation related matters is very difficult because of the uncertain nature of the litigation schedule and possible settlement options. Occasionally unanticipated financial liability results from pending litigation.

In addition to in-house counsel, the River District has retained special counsel for advice on a variety of matters. Generally, those matters involve anticipated complex-litigation, issues beyond the particular expertise of in-house counsel, and "overflow" work delegated to special counsel on an as-needed basis. The River District expended $103,054 on special counsel, mediation and expert consultants related to pending and anticipated litigation during the year 2019. Those costs are expected to increase in 2020 due to pending litigation and the retention of counsel and consultants to work on a special project.

McMahan and Associates, L.L.C.
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INDEPENDENT AUDITOR'S REPORT

To the Board of Directors
Colorado River Water Conservation District

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the Colorado River Water Conservation District (the "District"), as of and for the year ended December 31, 2019, and the related notes to the financial statements, which collectively comprise the District's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the Colorado River Water Conservation District as of December 31, 2019, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter

As discussed in Note 1 to the financial statements, in the year ended December 31, 2019, the District adopted Governmental Accounting Standards Board Statement No. 84, Fiduciary Activities. Our opinion is not modified with respect to this matter.

Other Matters

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis on pages 15 - 22 and the General Fund Budgetary Comparison Schedule on page 48 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

The statements and schedules on pages 50 - 52 are not a required part of the basic financial statements but is supplementary information required by accounting principles generally accepted in the United States of America. Such information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statement or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the District's financial statements as a whole. The accompanying introductory section, as listed in the table of contents, is presented for purposes of additional analysis and is not a required part of the basic financial statements. This information has not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we do not express an opinion or provide any assurance on them.

Additionally, the Schedule of Expenditures of Federal Awards included in the Single Audit section is presented for purposes of additional analysis as required by the Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* ("Uniform Guidance") and is not a required part of the District's financial statements. Such information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying account and other records used to prepare the financial statements, or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepting in the United States of America. In our opinion, the Schedule of Expenditures of Federal Awards is fairly stated in all material respects in relation to the financial statements taken as a whole.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards,* we have also issued our report dated June 25, 2020 on our consideration of the District's internal control over financial reporting and on our tests of its compliance with provisions of laws, regulations, contract, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Governmental Auditing Standards* in considering the District's internal control over financial reporting and on compliance.

McMahan and Associates, L.L.C.

McMahan and Associates, L.L.C.
June 25, 2020

Colorado River Water Conservation District
Management's Discussion and Analysis

The Management's Discussion and Analysis (MD&A) is designed to provide an easy-to-read discussion of the District's financial condition and operating results and to disclose to the reader important financial activities and issues related to the District's basic operations and mission. The MD&A should be read in conjunction with the detailed Background and Transmittal letter which precedes this MD&A and the District's basic financial statements.

The District has two separate financial categories or activities - government-type activities and those covered or referred to as business type activities. Within the government type activities, the Board has designated two separate budgets; a General Fund and a Capital Projects Fund. The government type activities are funded through the District's ad-valorem property tax. The business type activities are managed through the District's Colorado River Water Projects Enterprise (Enterprise). The Enterprise is funded through water sales contracts and leases.

- **DESCRIPTION OF FINANCIAL STATEMENTS**
  This annual report consists of three parts – *management's discussion and analysis* (this section), the *basic financial statements*, and *required supplementary information*. The basic financial statements include two kinds of statements that present different views of the District:

  The first two statements are *government-wide financial statements* that provide both *long-term* and *short-term* information about the District's overall financial status.

  The remaining statements are *fund financial statements* that focus on *individual parts* of the District government, reporting the District's operations *in more detail* than the government-wide statements.

  The financial statements *Notes* explain some of the information in the financial statements and provide more detailed data. The statements are followed by *required supplementary information and supplementary information sections* that further explains and supports the information in the financial statements.

Government-wide Statements
The government-wide statements consist of the Statement of Net Position and the Statement of Activities. These statements report information about the District as a whole and include *all* assets, liabilities, and deferred inflows of resources using the accrual basis of accounting, which is similar to the accounting used by most private-sector companies. All of the current year's revenues and expenses are taken into account regardless of when cash is received or paid.

These two statements report the District's *net position* and changes in them. The District's net position – the difference between assets, liabilities, and deferred inflows of resources – are one way to measure the District's financial health, or *financial position*. Over time, increases or decreases in the District's net position are one indicator of whether its financial health is improving or deteriorating. Other non-financial factors, however, such as changes in the District's property tax base are needed to assess the overall health of the District.

In the Statement of Net Position and the Statement of Activities, the District is divided into two kinds of activities:

- **Governmental Activities** – The activity of the River District for its General and Capital Projects funds are reported here. Property taxes, specific ownership taxes, and interest income finances most of these activities.
- **Business-Type Activities** – The District manages an enterprise formally named the Colorado River Water Projects Enterprise of the Colorado River Water Conservation District which develops and operates the District's water supply assets. The activity of this Enterprise is reported here.

Fund Financial Statements
The fund financial statements provide more detailed information about the District's funds, focusing on its most significant funds – not the District as a whole. The District's two kinds of funds – *governmental and proprietary* – use different accounting approaches.

Governmental fund – The River District's activity of its General and Capital Project funds are reported as a governmental fund, which focuses on how money flows into and out of the General fund and the balances left at year-end that are available for transfer to its Capital Projects fund. This fund is reported using an accounting method called modified accrual accounting, which measures cash and all other financial assets that can readily be converted to cash. The governmental fund statement provides a detailed short-term view of the District's general governmental operations and the basic services it provides. Governmental fund information helps to determine whether there are more or fewer financial resources that can be spent in the near future to finance the District's programs.

Proprietary (Enterprise) fund – The activity of the River District's Enterprise fund is reported in the same way that all activities are reported in the Statement of Net Position and the Statement of Activities. In fact, the District's enterprise fund is the same as the business-type activities reported in the governmental-wide statements but provide more detail and additional information, such as cash flows.

The other financial statements include notes that explain some of the information in the financial statements and provide more detailed data.

HIGHLIGHTS for fiscal year 2019

Governmental Activities

- As of December 31, 2019, the District's governmental activities held $18,379,421 in total assets.

Business-Type Activities

- As of December 31, 2019, total Enterprise assets were $90,891,685 a 1% decrease from the prior year.
- In 2019, revenues from water sales increased 21% to $1,438,987.
- Total Business-type activities liabilities increased 15% to $1,267,528.

HIGHLIGHTS for fiscal year 2018

Governmental Activities

- As of December 31, 2018, the District's governmental activities held $17,409,599 in total assets.

Business-Type Activities

- As of December 31, 2018, total Enterprise assets were $91,632,221 a 1% decrease from the prior year.
- In 2018, revenues from water sales decreased 2.3% to $1,191,196.
- Total Business-type activities liabilities increased 29.1% to $1,106,344.

STATEMENT OF NET POSITION

The following table is a year-to-year summary of the District's net position:
Net Position (In Thousands)

	Governmental Activities		Business-Type Activities		Total	
Years ended December 31,	2019	2018	2019	2018	2019	2018
Assets:						
Current Assets	$ 11,764	$ 10,721	$ 30,164	$ 28,880	$ 41,928	$ 39,601
Capital assets, Net	6,540	6,538	55,045	55,317	61,585	61,855
Other Assets	76	151	5,686	7,436	5,762	7,587
Total Assets	$ 18,380	$ 17,410	$ 90,895	$ 91,633	$ 109,275	$ 109,043
Liabilities:						
Current Liabilities	423	494	1,268	1,106	1,691	1,600
Deferred inflows of resources, unavailable revenue-property taxes	$ 4,390	$ 4,298	$ -	$ -	$ 4,390	$ 4,298
Net Position						
Net Investment in Capital Assets	6,540	6,538	55,045	55,317	61,585	61,855
Restricted for emergencies	121	133	-	-	121	133
Unassigned	6,906	5,947	34,583	35,209	41,489	41,156
Total Net Position	$ 13,567	$ 12,618	$ 89,628	$ 90,526	$ 103,195	$ 103,144

STATEMENT OF ACTIVITIES

The following table reflects a year-to-year change in the District's Net Position:

Years ended December 31,	Governmental Activities 2019	Governmental Activities 2018	Business-Type Activities 2019	Business-Type Activities 2018	Total 2019	Total 2018
Program Revenues:						
Charges for Services	$ -	$ -	$ 1,786	$ 1,802	$ 1,786	$ 1,802
Grants/Contributions	-	-	2,067	1,161	2,067	1,161
Total Program Revenues	$ -	$ -	$ 3,853	$ 2,963	$ 3,853	$ 2,963
General Revenues:						
Property Taxes	4,244	4,094	-	-	4,244	4,094
Specific Ownership Taxes	346	344	-	-	346	344
Interest/Investments	171	96	755	246	926	342
Miscellaneous	14	17	-	-	14	17
Total General Revenues	$ 4,775	$ 4,551	$ 755	$ 246	$ 5,530	$ 4,797
Total Revenues	$ 4,775	$ 4,551	$ 4,608	$ 3,209	$ 9,383	$ 7,760
Program Expenses						
General Government	494	476	-	-	494	476
Projects & Engineering	570	713	5,505	4,207	6,075	4,920
Professional & Legal	2,665	3,000	-	-	2,665	3,000
Other Administration	53	54	-	-	53	54
Unallocated Depreciation	45	54	-	-	54	54
Total Expenses	$ 3,827	$ 4,297	$ 5,505	$ 4,207	$ 9,341	$ 8,504
Increase(decrease) in Net Position	$ 948	$ 254	$ (897)	$ (998)	$ 42	$ (744)

The year to year change in the Governmental revenues is primarily due to property taxes. The year to year change in the Business-Type revenues is primarily due to the change in water contracts, the change in Elkhead Reservoir reimbursements, and the change in project contributions.

GOVERNMENTAL FUNDS

BALANCE SHEET
(In Thousands)

Years ended December 31,	2019	2018
Total Assets - General Fund	$ 7,680	$ 6,825
Total Assets - Capital Fund	4,159	4,047
Total Assets	$ 11,839	$ 10,872
Total Liabilities - General Fund	179	210
Total Liabilities - Capital Fund	3	8
Total Liabilities	$ 182	$ 218
Deferred inflows of resources, unavailable revenue-property taxes	$ 4,390	$ 4,298
Fund Balance		
Restricted (approx. TABOR 3%)	121	133
Assigned (3 months expenses)	1,007	1,097
Assigned (Capital Projects Fund)	4,156	4,039
Unassigned	1,984	1,087
Total Fund Balance	$ 7,268	$ 6,356

The increase in Total Fund Balance is primarily due to an increase in assets.

REVIEW OF EXPENSES - BUDGETARY COMPARISON - GOVERNMENTAL FUNDS
(In Thousands)

Years ended December 31,	2019 Actual	2019 Budget
County Treasurer's Fees	$ 152	$ 166
Director's Fees, Salary & Expenses	53	60
Professional and Legal	2,700	3,054
General Government	215	266
External Affairs	121	203
Project Expenses	554	635
Emergency and Contingency	-	121
Capital Outlay	71	75
Total Expenses	$ 3,866	$ 4,580

BUDGETARY HIGHLIGHTS

Changes between actual expenditures and budgeted amounts were primarily due to efforts to reduce salary and overhead expenses. Additionally, the District has not spent emergency and contingency budgeted amounts. In 2019, actual expenses were less than budgeted by approximately $659,000 for the General Fund and $61,000 for the Capital Projects Fund.

PROPRIETARY FUND (Enterprise Fund)

STATEMENT OF NET POSITION

(In Thousands)

Years ended December 31,	2019	2018
Current Assets	$ 30,164	$ 28,880
Capital Assets (Net)	55,045	55,317
Other Assets	5,686	7,436
Total Assets	$ 90,895	$ 91,633
Current Liabilities	1,268	1,106
Total Liabilities	$ 1,268	$ 1,106
Net Position		
Net Investment in Capital Assets	55,045	55,317
Unrestricted	34,583	35,209
Total Net Position	$ 89,628	$ 90,526

REVIEW OF REVENUES AND LEASE RECEIPTS

(In Thousands)

Years ended December 31,	2019	2018
Water Sales & Leases	$ 4,439	$ 4,191
Interest Income (Loss)	756	250
Management Fee	6	13
Elkhead Operations Reimbursements	129	311
Grants & Contributions	1,938	851
Miscellaneous & Others	100	177
Total Revenues	$ 7,368	$ 5,793

The overall increase in revenue for the Proprietary Fund are due primarily to the reimbursement funding of project efforts in the Gunnison basin, as well as interest income resulting from higher yields.

CAPITAL ASSETS AND DEBT ADMINISTRATION - DISTRICT WIDE

(In Thousands)

Years ended December 31,	**2019**	**2018**
Governmental Type Activities:		
Land	$ 115	$ 115
Building	1,219	1,201
Equipment, Furniture & Fixtures	381	367
Total Governmental Assets	1,715	1,683
Accumulated Depreciation	(982)	(953)
Net Governmental Assets	$ 733	$ 730
Business Type Activities:		
Land	$ 3,091	$ 3,091
Building	1,505	1,499
Dam Project	66,154	65,481
Recreation Area	1,222	1,152
Vehicles & Other Equipment	451	432
Total Business Type Activity Assets	72,423	71,655
Accumulated Depreciation	(17,379)	(16,338)
Net Business Type Assets	$ 55,044	$ 55,317
Other Assets:		
Contracts & Shares	5,651	5,931
Total Business Type & Other Assets (Net)	$ 60,695	$ 61,248

The changes in 2019 are primarily due to the work being done at Wolford Reservoir. In particular, the installation of the new Ritschard Dam outlet gate, improvements to other outlet works infrastructure, and additions to the Recreation Area. Please see figure 9 for more details.

DEBT OUTSTANDING

The District does not have any Business-Type long term debt. The River District paid off the Elkhead Reservoir loan in 2016. The River District paid off the Wolford Mountain Reservoir loan in 2012. This business decision was approved by the District's Board since the interest on the loan was far greater than our investment income.

The District has four long-term contracts with the United States Bureau of Reclamation for water from Ruedi Reservoir. These contracts are legally subject to annual appropriations by the Board of Directors. The capital costs under these contracts were paid in full in 2016, the District continues to pay annual Operation and Maintenance costs with these contracts.

ECONOMIC AND OTHER FACTORS

The economic outlook of the 15 county regions, comprising the District, is generally pointed in an upward direction, rebounding nicely from the recession thanks to a diversification of the economy. The State of Colorado's Demographer is predicting that the Western Slope will grow by two-thirds by 2050. From 2004 to 2009, the District's increase in assessed valuations was primarily due to the development of natural gas and oil resources in Western Colorado. Due to a number of factors affecting the oil and gas market, District management believes that the assessed valuations will be flat or declining in the near term. Additional information is included in the Background and Transmittal letter.

CONTACTING THE DISTRICT'S FINANCIAL MANAGEMENT

This financial report is designed to provide the general public with a general overview of the District's finances and to show the District's accountability for the money it receives. If you have any questions regarding this report or need additional financial information, please contact:

General Manager
Colorado River Water Conservation District
P. O. Box 1120
Glenwood Springs, CO 81602
Tel: (970) 945-8522
Fax: (970) 945-8799

Statement of Net Position

December 31, 2019	Governmental Activities	Business-Type Activities	Total
Assets			
Current Assets			
Cash and cash equivalents	$ 6,215,140	$ 14,904,433	$ 21,119,573
Investments	1,000,000	13,313,508	14,313,508
Property taxes receivable	4,476,889	-	4,476,889
Internal balances	(11)	11	-
Current portion of lease contract receivable	-	1,451,028	1,451,028
Accrued interest	9,405	104,605	114,010
Other current assets	62,426	390,649	453,075
Total Current Assets	11,763,849	30,164,234	41,928,083
Noncurrent Assets			
Investments in reservoir stock and contracts	-	5,650,999	5,650,999
Notes receivables, net	75,776	34,872	110,648
Capital Assets			
Nondepreciable	5,921,604	3,091,477	9,013,081
Depreciable	1,599,841	69,332,139	70,931,980
Less accumulated depreciation	(981,649)	(17,379,091)	(18,360,740)
Total Noncurrent Assets	6,615,572	60,730,396	67,345,968
Total Assets	$ 18,379,421	$ 90,894,630	$ 109,274,051
Liabilities			
Current Liabilities			
Accounts payable	$ 182,097	$ 331,087	$ 513,184
Accrued salaries and payroll taxes	-	8,544	8,544
Compensated absences	240,516	107,469	347,985
Unearned revenues	-	820,428	820,428
Total Liabilities	422,613	1,267,528	1,690,141
Deferred Inflows of Resources			
Property taxes	4,389,942	-	4,389,942
Net Position			
Investment in capital assets	6,539,796	55,044,525	61,584,321
Restricted for:			
Emergencies	120,806	-	120,806
Unrestricted	6,906,264	34,582,578	41,488,842
Total Net Position	13,566,866	89,627,103	103,193,969
Total Liabilities, Deferred Inflows of Resources and Net Position	$ 18,379,421	$ 90,894,631	$ 109,274,052

See Notes to the Basic Financial Statements

Statement of Activities

December 31, 2019

Functions/Programs	Expenses	Program Revenues: Charges for Services	Program Revenues: Operating Grants and Contributions	Change in Net Position: Governmental Activities	Change in Net Position: Business-Type Activities	Change in Net Position: Total
Governmental Activities						
County treasurers' fees	$ 152,062	-	-	$ (152,062)	-	$ (152,062)
Directors' fees, salary & expense	52,697	-	-	(52,697)	-	(52,697)
Professional and legal	2,664,946	-	-	(2,664,946)	-	(2,664,946)
General government	220,692	-	-	(220,692)	-	(220,692)
External affairs	121,001	-	-	(121,001)	-	(121,001)
Project expense	570,175	-	-	(570,175)	-	(570,175)
Depreciation - unallocated	45,474	-	-	(45,474)	-	(45,474)
Total Governmental Activities	3,827,047	-	-	(3,827,047)	-	(3,827,047)
Business-Type Activities						
Water Supply & Project Mgmt.	5,505,818	1,785,552	2,066,599	-	(1,653,667)	(1,653,667)
Total Business-Type Activities	5,505,818	1,785,552	2,066,599	-	(1,653,667)	(1,653,667)
Total District	$9,332,865	$1,785,552	$2,066,599	($3,827,047)	($1,653,667)	(5,480,714)
General Revenues						
Taxes						
Property taxes				$ 4,243,514	$ -	$ 4,243,514
Specific ownership taxes				346,430	-	346,430
Interest and investment earnings				171,410	754,894	926,304
Miscellaneous				14,476	-	14,476
Total General Revenues				4,775,830	754,894	5,530,724
Changes in Net Position				948,783	(898,773)	50,010
Net Position - Beginning of the Year as Restated				12,618,083	90,525,876	103,143,959
Net Position - End of the Year				$ 13,566,866	$ 89,627,103	$ 103,193,969

See Notes to the Basic Financial Statements

Governmental Funds Balance Sheet

December 31, 2019	General Fund	Capital Projects Fund	Total Governmental Funds
Assets			
Cash and cash equivalents	$ 3,265,275	$ 2,949,865	$ 6,215,140
Investments	-	1,000,000	1,000,000
Property taxes receivable	4,476,889	-	4,476,889
Due from other funds	(200,011)	200,000	(11)
Accrued Interest	-	9,405	9,405
Other current assets	62,426	-	62,426
Notes receivable (net of allowance of $96,000)	75,776	-	75,776
Total Assets	$ 7,680,355	$ 4,159,270	$ 11,839,625
Liabilities and Fund Balances			
Liabilities			
Accounts payable	$ 179,128	$ 2,969	$ 182,097
Deferred inflows of Resources			
Unavailable revenue-property taxes	4,389,942	-	4,389,942
Fund Balances			
Restricted for emergencies	120,806	-	120,806
Assigned (3 months expenses)	1,006,713	-	1,006,713
Assigned for Capital Projects	-	4,156,301	4,156,301
Unassigned	1,983,766	-	1,983,766
Total Fund Balances	3,111,285	4,156,301	7,267,586
Total Liabilities, Deferred Inflows of Resources and Fund Balances	$ 7,680,355	$ 4,159,270	$ 11,839,625

See Notes to the Basic Financial Statements

Reconciliation of the Governmental Funds Balance Sheet to Net Position of Governmental Activities

December 31, 2019

Total Fund Balances - Governmental Funds	$	7,267,586
Amounts reported for governmental activities in the statement of net position are different because:		
Capital assets used in governmental activities are not financial resources and therefore are not reported as assets in governmental funds		6,539,796
Certain liabilities are not due and payable in the current period and therefore are not reported in the funds: Compensated absences		(240,516)
Total Net Position - Governmental Activities	$	13,566,866

See Notes to the Basic Financial Statements

Statement of Revenues, Expenditures and Changes in Fund Balances – Governmental

December 31, 2019	General Fund	Capital Projects Fund	Total Governmental Funds
Revenues			
Property taxes	$ 4,243,514	$ -	$ 4,243,514
Specific ownership taxes	346,430	-	346,430
Investment income	39,582	121,457	161,039
Property tax interest	10,371	-	10,371
Miscellaneous	8,976	5,500	14,476
Total Revenues	$ 4,648,873	$ 126,957	$ 4,775,830
Expenditures			
Current Operating			
County treasurers' fees	152,062	-	152,062
Directors' fees, salary and expense	52,697	-	52,697
Professional and legal	2,700,244	-	2,700,244
General government	197,967	22,725	220,692
Project expenses	430,937	16,533	447,470
External affairs	121,001	-	121,001
Capital Outlay	-	47,977	47,977
Grant program	-	122,705	122,705
Total Expenditures	$ 3,654,908	$ 209,940	$ 3,864,848
Excess of Revenues Over (Under) Expenditures	993,965	(82,983)	910,982
Other Financing Sources (Uses)			
Operating transfers in	-	200,000	200,000
Operating transfers out	(200,000)	-	(200,000)
Total Other Financing Sources (Uses)	(200,000)	200,000	-
Net Change in Fund Balance	$ 793,965	$ 117,017	$ 910,982
Fund Balance			
Fund Balances - Beginning of Year	2,317,320	4,039,284	6,356,604
Fund Balances - End of Year	$ 3,111,285	$ 4,156,301	7,267,586

See Notes to the Basic Financial Statements

Reconciliation of Governmental Funds Statement of Revenues, Expenditures and Changes in Fund Balances with the Statement of Activities

December 31, 2019

Total Change in Fund Balances - Governmental Funds	$ 910,982
Amounts reported for governmental activities in the statement of activities are different because:	
Capital outlays to purchase or build capital assets are reported in governmental funds as expenditures. However, for governmental activities those costs are shown in the statement of net position and allocated over their estimated useful lives as annual depreciation expense in the statement of activities. This is the amount by which capital outlays exceed (are less than) depreciation expense in the period:	
Capital Outlay	47,977
Depreciation Expense	(45,474)
Some expenses reported in the Statement of Activities do not require the use of current financial resources and, therefore, are not reported as expenditures in governmental funds:	
Increase (decrease) in compensated absences	35,298
Change in Net Position of Governmental Activities	$ 948,783

See Notes to the Basic Financial Statements

Statement of Net Position – Proprietary Funds

December 31, 2019	Business-Type Activity Enterprise Fund
Assets	
Current Assets	
Cash and cash equivalents	$ 14,904,433
Investments	13,313,508
Accounts receivable	390,649
Due from (to) other funds	11
Current portion of lease contract receivable	1,451,028
Accrued interest receivable	104,605
Total Current Assets	30,164,234
Capital Assets	
Nondepreciable	
Land	3,091,477
Depreciable	
Office building	1,504,865
Vehicles, equipment, furniture and fixtures	450,860
Dam project	66,154,086
Recreation area	1,222,328
Total Capital Assets	72,423,616
Less accumulated depreciation	(17,379,091)
Net Capital Assets	55,044,525
Other Assets	
Investment in Eagle Park Reservoir Company	2,368,121
Investment in Grand County Mutual Ditch & Reservior Company	220,052
Investment in Ruedi Reservoir Contracts (net of accumulated amortization of $3,630,589)	3,062,826
Notes receivable (net of allowance of $32,000)	34,872
Total Other Assets	5,685,871
Total Assets	$ 90,894,630
Liabilities	
Current Liabilities	
Accounts payable	331,086
FICA/Medicare Payable	8,544
Compensated absences	107,469
Unearned revenue	820,428
Total Liabilities	1,267,527
Net Position	
Investment in capital assets	55,044,525
Unrestricted	34,582,578
Total Net Position	89,627,103
Total Liabilities and Net Position	$ 90,894,630

See Notes to the Basic Financial Statements

Statement of Revenues, Expenses and Changes in Net Position – Proprietary Funds

December 31, 2019	Business-Type Activity Enterprise Fund
Operating Revenues	
Denver Water interest income	$ 238,518
Sale of water	1,438,987
Management fee	6,428
Other operating revenue	101,619
Total Operating Revenue	1,785,552
Operating Expenses	
Operating expenses	2,640,254
Depreciation and amortization	1,320,279
Administrative expense	1,545,285
Total Operating Expenses	5,505,818
Operating Income (loss)	(3,720,266)
Nonoperating Revenue (Expenses)	
Investment revenue	756,103
Joint venture loss	(1,209)
Intergovernmental revenue	2,066,599
Total Nonoperating Revenues	2,821,493
Change in net position	(898,773)
Total Net Position - Beginning of Year	90,525,877
Total Net Position - End of Year	$ 89,627,104

See Notes to the Basic Financial Statements

Statement of Cash Flows – Proprietary Funds

December 31, 2019	Business-Type Activity Enterprise Fund
Cash Flows from Operating Activities	
Receipts from customers	$ 1,922,607
Payments to suppliers	(3,044,394)
Payments to employees	(973,524)
Net Cash (used for) Operating Activities	(2,095,311)
Cash Flows From Capital and Related Financing Activities	
Purchase of capital assets	(775,646)
Net Cash (used for) Capital and Related Financing Activities	(775,646)
Cash Flows From Non-capital Financing Activities	
Intergovernmental	2,066,599
Interfund borrowing	(52,346)
Net Cash provided by Non-capital Financing Activities	2,014,253
Cash Flows From Investing Activities	
Purchase of investments	(3,816,571)
Proceeds from sale or maturity of investments	3,745,000
Interest received on investments and cash deposits	845,067
Principal received on lease contract	2,761,482
Net Cash provided by Investing Activities	3,534,978
Net Increase in Cash	2,678,275
Cash, Beginning of Year	12,226,158
Cash, End of Year	$ 14,904,433
Reconciliation of operating loss to net cash used for operating activities	
Operating income	$ (3,720,266)
Adjustments to reconcile net operating income to net cash used in operating activities:	
Depreciation, amortization and gain on disposal	1,326,718
Increase in accounts and notes receivable	137,055
Decrease in accounts payable	(33,392)
Increase in accrued expenses	(738)
Decrease in prepaid water fees (unearned revenue)	204,597
Increase in compensated absences	(9,285)
Net Cash (used for) Operating Activities	$ (2,095,311)
Noncash investing and financing activities:	
Income in joint ventures	$ (1,209)

See Notes to the Basic Financial Statements

Statement of Fiduciary Net Position

December 31, 2019

Custodial Fund

Assets		
Cash and investments	$	179,423
Net Position		
Restricted for other governments	$	179,423

See Notes to the Basic Financial Statements

Statement of Changes in Fiduciary Net Position

December 31, 2019

	Custodial Funds
Additions:	
Contributions	$ 108,912
Interest, dividends, and other	35
Total additions	108,947
Deductions:	
Distributions to shareholders	-
Total deductions	-
Net increase (decrease) In fiduciary net position	108,947
Net position-beginning (as restated)	70,476
Net position-ending	179,423

Notes to the Basic Financial Statements

1. Nature of Operations, Reporting Entity, Basis of Presentation, Measurement Flows, Basis of Accounting and Summary of Significant Accounting Policies.

A. Nature of Operations and Reporting Entity

The Colorado River District's boundaries include all or part of 15 west central and northwest Colorado counties. The River District was created by the Colorado Legislature in 1937 and is governed by a 15-member board of directors. Each county in the River District has one director appointed to a three-year term by his or her Board of County Commissioners.

Accounting principles generally accepted in the United States of America require the reporting entity include (1) the primary government, (2) organizations for which the primary government is financially accountable and (3) other organizations for which the nature and significance of their relationship with the primary government are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete. The District has the statutory authority to levy taxes and to issue bonded debt without approval of another government. It has the right to be sued, and has the right to buy, sell, lease or mortgage property in its own name. Based on these criteria, the District is considered a primary government and there are no other organizations or agencies whose financial statements should be combined and presented with these financial statements. The District does, however, participate in joint ventures. See Note 10 regarding these relationships.

B. Government-Wide and Fund Financial Statements

The financial statements of the District have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP), as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The GASB periodically updates its codification of the existing governmental accounting and financial reporting standards, which, along with subsequent GASB pronouncements (Statements and Interpretations), constitutes GAAP for governmental units.

The government-wide financial statements (i.e. the Statement of Net Position and the Statement of Activities) report information on all of the non-fiduciary activities of the District. For the most part, the effect of inter-fund activity has been removed from these statements. *Governmental activities,* which normally are supported by taxes and intergovernmental revenues, are reported separately from *business-type activities,* which rely to a significant extent on fees and charges for support.

The Statement of Activities demonstrates the degree to which the direct expenses of a given function or segment is offset by program revenues. *Direct expenses* are those that are clearly identifiable with a specific function or segment. *Program revenues* include 1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Taxes and other items not properly included among program revenues are reported instead as *general revenues.*

Separate financial statements are provided for governmental funds, and proprietary funds. Major individual governmental funds and major individual enterprise funds are reported as separate columns in the fund financial statements.

Fund Accounting: The accounts of the District are organized on the basis of funds, each of which is considered to be a separate accounting entity. The operations of each fund are accounted for by providing a separate set of self-balancing accounts which comprise its assets, liabilities, reserves, fund balance/net position, revenues and expenditures or expense as appropriate. The District has the following funds:

Governmental Fund Types: Governmental fund reporting focuses on the sources, uses and balances of current financial resources. Expendable assets are assigned to the various governmental funds according to the purposes for which they may or must be used. Current liabilities are assigned to the fund from which they will be paid. The difference between governmental fund assets and liabilities is reported as fund balance. The following are the District's major governmental funds:

The General Fund is the District's primary operating fund. It accounts for all financial resources of the general government, except those required to be accounted for in another fund.

The Capital Projects Fund is used to account for financial resources used for the acquisition or construction of major capital facilities other than those financed by proprietary funds.

Proprietary Fund Types: Proprietary funds are used to account for those operations that are financed and operated in a manner similar to private business or where the District has decided that determination of revenues earned, costs incurred and/or net income is necessary for management accountability. The District reports the Enterprise fund as a major fund and is known as the Colorado River Water Projects Enterprise. The Enterprise Fund currently has one major revenue project known as the Wolford Mountain Reservoir Project. The District's major customer for the water stored in the reservoir is Denver Water that accounts for 20% of the total revenues in this fund. Other revenues to this fund include the sale of water from the Colorado and Eagle river systems plus project contributions.

Fiduciary Fund Types: The Custodial Fund accounts for monies held on behalf of others in an agency capacity and cannot be used to support District activities. The District's Custodial Fund reports resources held by the District in a purely custodial capacity. In 2019, the District managed the assets of the Colorado River Cooperative Agreement's (CRCA) West Slope Fund, and CRCA's two Forest Restoration Funds for Summit County and Grand County.

C. Measurement Focus, Basis of Accounting, and Financial Statement Presentation

The government-wide financial statements are reported using the *economic resources measurement focus* and the *accrual basis of accounting,* as is the proprietary fund financial statements. The agency fund does not have a measurement focus but is reported using the accrued basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Property taxes are recognized as revenues in the year for which they are levied. Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

Governmental fund financial statements are reported using the *current financial resources measurement focus* and the *modified accrual basis of accounting.* Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be *available* when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the government considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures, as well as expenditures related to compensated absences and claims and judgments, are recorded only when payment is due or has matured.

Property taxes and property tax interest, specific ownership taxes and investment income are all considered to be susceptible to accrual. All other revenue items are considered to be measurable and available only when cash is received by the District.

Proprietary funds distinguish operating revenues and expenses from non-operating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the District Enterprise Fund are charges to customers for sales and services. Operating expenses for the District's Enterprise Fund include the

cost of sales and services, administrative expenses, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as non-operating revenues and expenses.

D. Assets, Liabilities, Deferred Inflows/Outflows of Resources, and Net Position or Fund Balances

Deposits and Investments

The District's cash and cash equivalents are considered to be cash on hand, demand deposits, and short-term investments with original maturities of three months or less from the date of acquisition, which includes local government investment pools and money market funds. State statutes govern the District's deposits of cash and investments. Investments for the District are reported at fair value, except for money market funds which are reported at amortized cost. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value is a market-based measurement, not an entity-specific measurement. For some assets and liabilities, observable market transactions or market information might be available; for others, it might not be available. However, the objective of a fair value measurement in both cases is the same – that is, to determine the price at which an orderly transaction to sell the asset or to transfer the liability would take place between market participants at the measurement date under current market conditions. Fair value is an exit price at the measurement date from the perspective of a market participant that controls the asset or is obligated for the liability.

Receivables and Payables

Activities between funds that are representative of lending/borrowing arrangements outstanding at the end of the fiscal year are referred to as "internal balances." Notes receivable represent receivable from employees for the home ownership program as discussed in Note 12, net of an allowance for forgiveness of accounts of $128,000.

Investments in Reservoir Stock and Contracts

The District has certain contracted interests in water through its shares in the Grand County Mutual Ditch and Reservoir Company, Eagle Park Reservoir Company and purchase of water rights through contracts with Ruedi Reservoir. See Note 10 regarding the participation in joint ventures related to the Grand County Mutual Ditch and Reservoir Company and the Eagle Park Reservoir Company. See Note 11 regarding Ruedi Reservoir water contracts with the Bureau of Reclamation.

Capital Assets

Capital assets, which include property, plant, and equipment, are reported in the applicable governmental or business-type activities columns in the government-wide financial statements. Capital assets are defined by the District as assets with an initial individual cost of more than $5,000 and an estimated useful life in excess of three years. Such assets are recorded at historical cost or estimated historical cost if purchased or constructed. The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend assets lives are not capitalized. Interest incurred during the construction phase of capital assets of the District's Enterprise Fund is included as part of the capitalized value of the assets constructed. No interest was capitalized in the current year.

Property, plant and equipment of the District are depreciated using the straight line method over the following estimated useful lives:

Dam	75 years
Building	40 years
Recreation area	20 - 40 years
Equipment	4 - 10 years

Compensated Absences
The District has the following policy for earning compensated vacation pay.

1 – 6 years	12 days
6 – 12 years	18 days
12 – 18 years	24 days
18 or more years	30 days

The liabilities for accumulated vacation are accrued when incurred in the District-wide and proprietary fund financial statements. A liability for these amounts is reported in governmental funds only if they have matured, for example, as a result of employee leave, resignations and retirements.

The District has the following policy for compensated sick leave pay: Regular Full-Time employees accrue sick leave at the rate of 1 day per month (12 days per year). Regular Part-Time employees accrue sick leave at the rate of ½ day per month (6 days per year). Employees are allowed to accumulate sick leave throughout the entire period of employment, up to a maximum of 90 days. Sick leave below the maximum of 90 days unused upon termination does not convey any monetary benefit to the employee, nor can it be used for continuation of pay or benefits beyond normal termination. The accrued compensated absences, attributable to the governmental activities, are generally liquidated by the General Fund.

Long-term Obligations
In the government-wide financial statements, and proprietary fund types in the fund financial statements, long-term debt and other long-term obligations are reported as liabilities in the applicable governmental activities, business-type activities, or proprietary fund type statement of net position.

Unearned Revenues
In the Enterprise fund and business type activities column of the statement of net position, unearned revenue represents billings on the sale of water that have not yet been earned.

Interfund activity
Exchange transactions between funds are reported as revenues in the seller funds and as expenditure/expenses in the purchaser funds. Flows of cash or goods from one fund to another without a requirement for repayment are reported as interfund transfers. Interfund transfers are reported as other financing sources/uses in governmental funds and after non-operating revenues/expenses in proprietary funds. Repayments from funds responsible for particular expenditures/expenses to the funds that initially paid for them are not presented on the financial statements.

Deferred outflows/inflows of resources
In addition to assets, the statement of financial position will sometimes report a separate section of deferred outflows of resources. This separate financial statement element, *deferred outflows of resources,* represents a consumption of net position that applies to a future period(s) and so will *not* be recognized as an outflow of resources (expense/expenditure) until then. The District does not report any items that qualify as a deferred outflow of resources.

In addition to liabilities, the statement of financial position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, *deferred inflows of resources,* represents an acquisition of net position that applies to a future period(s) and so will *not* be recognized as an inflow of resources (revenue) until that time. The District has only one type of item that qualifies for reporting in this category. Accordingly, the item, *unavailable revenue,* is reported in the governmental funds balance sheet and in the District-wide Statement of Net Position, which represents unavailable revenues from one source, property taxes. This amount is deferred and recognized as an inflow of resources in the period for which the taxes are levied.

Fund Balance

The District has adopted GASB Statement No. 54, "Fund Balance Reporting and Governmental Fund Type Definitions." This Statement is intended to improve the usefulness of information provided to financial report users about fund balance by providing clearer, more structured fund balance classifications and clarifying the definitions of existing governmental fund types. As a result, fund balances are reported in classifications based on the extent to which the District is bound to honor constraints for specific purposes on which amounts in the Fund can be spent. In the governmental fund financial statements, fund balances can be classified as follows:

Nonspendable: Amounts which cannot be spent either because they are in a nonspendable form or because they are legally or contractually required to be maintained intact.

Restricted: Amounts restricted to specific purposes when constraints placed on the use of the resources are either externally imposed by creditors, grantors or state or federal laws or imposed by law through constitutional provisions or enabling legislation.

Committed: Amounts which can be used only for specific purposes pursuant to constraints formally imposed by the Board through resolution approved prior to year-end. Those committed amounts cannot be used for any other purpose unless the Board removes or changes the specified use by taking the same action it employed to commit those amounts.

Assigned: Amounts constrained by the District's intent to use them for a specific purpose. The authority to assign fund balance has been delegated to the General Manager, or designee.

Unassigned: All amounts not included in other spendable classifications. The General Fund is the only fund that would report a positive amount in unassigned fund balance.

Fund balance flow assumption

When both unassigned and restricted or assigned resources are available for use, it is the District's policy to use restricted or assigned resources first, then unassigned resources as needed.

Net Position

Represent the difference between assets, liabilities, and deferred inflows of resources. Net investment in capital assets, consists of capital assets, net of accumulated depreciation, reduced by the outstanding balances of any borrowings used for the acquisition, construction or improvement of those assets, if any. Net position is reported as restricted when there are limitations imposed on their use through enabling legislation or through external restrictions imposed by creditors, grantors or laws or regulations of other governments. As of December 31, 2019, the District has $120,806 of restricted net position for enabling legislation for emergencies. Unrestricted net position consists of net position that does not meet the definition of "restricted" or "net investment in capital assets."

Restatement of Net Position

In 2019, the District implemented Government Accounting Standards Board Statement No. 84, Fiduciary Activities, which improves guidance regarding the identification of fiduciary activities for accounting and financial reporting purposes and how those activities should be reported. As such, the District's 2019 financial statements report a restatement of net position on the Statement of Changes in Fiduciary Net Position of $70,476 which is the beginning net position of custodial funds for 2019. The beginning net position in the governmental funds has been restated in order to capitalize an expenditure made in 2013 related to the purchase of a Ruedi water supply contract from the Bureau of Reclamation, in the amount of $5,806,604.

Net position flow assumption

Sometimes the District will fund outlays for a particular purpose from both restricted (e.g. restricted grant proceeds) and unrestricted resources. In order to calculate the amounts to report as restricted – net position and unrestricted – net position in the government-wide and proprietary fund financial statements, a flow assumption must be made about the order in which the resources are considered to be applied. It is the District's policy to consider restricted – net position to have been depleted before unrestricted – net position is applied.

Property Taxes

Property taxes attach as an enforceable lien on property as of January 1. Taxes may be paid in two equal payments. To avoid penalties, the first half must be paid before March 1, and the second half must be paid on or before June 15. Alternatively, the taxes may be paid in full by April 30. All unpaid tax becomes delinquent June 16. Property taxes are levied and collected on behalf of the District by various counties and are reported as revenue by the District in the year in which the tax is budgeted and levied. Since the 2019 tax levy is budgeted and levied for the fiscal year 2020, the revenue from this tax levy has been reported as a deferred inflow of resources in both the Fund and the District-wide financial statements.

2. Interfund Receivables/Payables and Transfers

Figure 1 - Individual interfund receivable and payable balances as of December 31, 2019 are as follows

	Due From Other Funds	Due to Other Funds
Major funds:		
General fund	$ -	$ 200,011
Capital projects fund	200,000	-
Enterprise fund	11	-
	$ 200,011	$ 200,011

Interfund balances result from the time lag between the dates that 1) interfund goods or services are provided or reimbursable expenditures occur, 2) transactions are recorded and 3) payments between funds are made.

3. Stewardship, Compliance, and Accountability

Annual budgets are adopted on a basis consistent with generally accepted accounting principles for the General and Capital Project funds. The Enterprise fund is presented on the basis of revenue, lease receipts, and expenditures. All annual appropriations lapse at fiscal year-end. Encumbrances are not employed by the District.

4. Cash, Cash Equivalents, and Investments

A reconciliation of cash, cash equivalents and investments as shown in the financial statements is as follows:

Figure 2 - Cash and Investments	Balance as of December 31, 2019
Cash on hand	$ 640
Deposits	3,992,142
Investments	31,619,722
	$ 35,612,504

	Government-wide Statement of Net Position	Fiduciary Funds Statement of Net Positon	Total
Cash on Hand/Checking/Money Market	$ 3,813,359	$ 179,423	$ 3,992,782
Local Government Investment Pools (LGIP)	17,306,214	-	17,306,214
Total Cash and Cash Equivalents	21,119,573	179,423	21,298,996
Investments	$ 14,313,508	$ -	14,313,508
Total cash, cash equivalents, and investments reported in District financial statements	$ 35,433,081	$ 179,423	$ 35,612,504

Interest rate risk: Interest rate risk is the extent to which changes in interest rates will adversely affect the fair value of an investment. The District maintains an investment policy that limits investment maturities to five years for the General Fund and ten years for the Enterprise Fund, as a means of managing its exposure to fair value losses arising from increasing interest rates and to avoid undue concentration in any sector of the yield curve. Investments subject to interest rate risk disclosures are shown below.

Figure 3 - Investments as of December 31, 2019

Investment name	Maturity	Fair value
Certificates of Deposit:		
CitiBank	04/13/20	245,625
Ally	04/27/20	245,110
Sallie Mae	04/27/20	245,110
First Bank	12/07/20	110,350
CCB Utah	10/29/21	243,888
CapOne	11/02/21	243,883
CapOne	11/02/21	243,883
Discover	11/02/21	243,883
Amer. Express	12/01/21	245,946
Wells Fargo	03/14/22	250,383
Goldman Sachs	04/26/22	248,621
Amer. Express	05/03/22	247,514
Synchrony	06/02/22	137,045
Moreton	06/28/22	250,868
UBS	06/13/23	130,925
Enerbank	10/25/23	244,667
Enterprise	11/08/23	244,204
Morgan Stanley	02/14/24	256,596
Morgan Stanley	02/14/24	256,596
TIAA	02/22/24	256,143
U.S. Government Agencies:		
FFCB	03/02/20	499,700
FFCB	07/13/20	1,028,568
FFCB	10/21/22	1,097,492
FFCB	05/28/24	626,994
FFCB	03/01/21	499,935
FFCB	09/08/26	989,330
FNMA	09/24/20	498,950
FNMA	12/23/20	499,805
FNMA	07/27/21	993,324
FHLB	10/25/23	500,005
FHLB	07/19/24	1,000,000
FHLMC	07/27/26	491,780
U.S. Treasury Note	10/31/21	996,385
Total		$ 14,313,508

Credit Risk: Credit risk is the risk that an issuer of an investment will not fulfill its obligation to the holder of the investment. This is measured by the assignment of a rating by a nationally recognized statistical rating organization. Colorado statutes specify investment instruments meeting defined rating and risk criteria in which local governments may invest which include:

Obligations of the United States and certain U.S. government agency securities
Certain international agency securities
General Obligation and revenue bonds of U.S. local government entities
Bankers' acceptances of certain banks
Commercial paper
Written repurchase agreements collateralized by certain authorized securities
Certain money market funds
Guaranteed investment contracts
Local government investment pools

State law limits investments to those where the issuer is rated in one of the three highest rating categories by one or more nationally recognized organizations that rate such issuers. At December 31, 2019, the District's investments in debt securities were rated as follows:

Figure 4

Investment	Rating	Company	Rating	Company
FHLB	AA+	Standard & Poor's	Aaa	Moody's
FFCB	AA+	Standard & Poor's	Aaa	Moody's
FNMA	AA+	Standard & Poor's	Aaa	Moody's
FHLMC	AA+	Standard & Poor's	Aaa	Moody's

The District's certificates of deposit were not rated but were FDIC insured.

Concentration of credit risk: The concentration of credit risk, or the risk of loss attributed to the magnitude of a government's investment in a single issuer, occurs when deposits are not diversified. It is the policy of the District to invest public funds in a manner which will provide the highest investment return with the maximum security, meet the daily cash flow demands of the District, and conform to all federal and state statutes governing the investment of public funds. This policy applies to the investment of all financial assets of all funds of the District over which it exercises financial control. In addition, it is also the policy of the District that no more than 50% of the District's funds may be invested in any single money market mutual fund or in any single local government investment pool (LGIP). As of December 31, 2019, the District invested in three LGIPs (COLOTRUST PRIME, COLOTRUST PLUS and CSAFE) and one Institutional Money Market Funds none of which exceeded 50% of the total District funds.

COLOTRUST PRIME, COLOTRUST PLUS and CSAFE are Registered Local Government Investment Pools with the Colorado Division of Securities and meet Standard & Poor's investment guidelines to achieve an AAAm Rating, the highest attainable rating for a LGIP. All three pools are regulated by the Colorado Securities Commissioner, with quarterly reporting and annual audits required. Pool investments consist of U.S. Treasury bills, notes and note strips, commercial paper allowed by state statute and repurchase agreements collateralized by U.S. Treasury securities and or instrumentalities. A designated custodial bank provides safekeeping and depository services in connection with the direct investment and withdrawal functions. Securities owned by the pools are held by the Federal Reserve Bank in the account maintained for the custodial bank. The custodian's internal records identify the investments owned by the specific pool. The COLOTRUST pools seek to maintain a constant net asset value of $1 per share and are reported at fair value measured using NAV by the District, the CSAFE pool value is reported at amortized cost.

The District also maintains other investment policies to ensure proper diversification by security type and institution. Investments in any one issuer that represent 5 percent or more of the District's total investments are as follows:

FFCB – 33.14%
FNMA – 13.92%
FHLB – 10.48%

Investments issued or explicitly guaranteed by the US government and investments in mutual funds, external investment pools, and other pooled investments are excluded from concentration of credit risk.

Custodial Credit risk:

Deposits
Custodial credit risk for deposits is the risk that, in the event of a failure of a depository financial institution, an entity will not be able to recover its deposits or will not be able to recover collateral securities that are in the possession of an outside party. The District's monies from various funds are consolidated into a unified portfolio to maximize earnings. Earnings from the portfolio are distributed based on monthly Funds' balances.

The Colorado Public Deposit Protection Act (PDPA) requires that all units of local government deposit cash in eligible public depositories. Eligibility is determined by state regulators. The eligible depository is required to pledge to the Colorado Division of Banking a pool of collateral having a market value that at all times exceeds 102 percent of uninsured aggregate public deposits. The eligible collateral is determined by the PDPA, which includes obligations of the United States, the State of Colorado, local Colorado governments, and obligations secured by first lien mortgages on real property located in the state. PDPA allows the institution to create a single collateral pool for all public funds. The pool is maintained by another institution or held in trust for all uninsured public deposits as a group. The State Regulatory Commissions for banks and financial services are required by statute to monitor the naming of eligible depositories and reporting of the uninsured deposits and assets maintained in the collateral pools. There is no custodial credit risk for public deposits collateralized under PDPA. The District's bank deposits were entirely covered by federal depository insurance (FDIC) or collateralized under PDPA in accordance with state statute.

Investments
Custodial credit risk for investments is the risk that, in the event of the failure of the counter-party (e.g. broker-dealer) to a transaction, an entity will not be able to recover the value of its investment or collateral securities that are in the possession of another party. As of December 31, 2019, the District's investments were not exposed to custodial credit risk.

The District was not subject to foreign currency risk as of December 31, 2019.

Fair Value Measurement: The District categorizes its fair value measurements within the fair value hierarchy established by generally accepted accounting principles. The hierarchy is based on the valuation inputs used to measure the fair value of the assets and liabilities and gives the highest priority to Level 1 measurements and the lowest priority to Level 3 measurements. These measurements are described as follows:

Level 1 – Unadjusted quoted prices for identical instruments in active markets

Level 2 – Quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-derived valuations in which all significant inputs are observable.

Level 3 – Valuations derived from valuation techniques in which significant inputs are unobservable.

Inputs: If the fair value of an asset or a liability is measured using inputs from more than one level of the fair value hierarchy, the measurement is considered to be based on the lowest priority level input that is significant to the entire measurement.

The District has the following recurring fair value measurements as of December 31, 2019:

		Fair Value Measurements Using		
	12/31/2019	**(Level 1)**	**(Level 2)**	**(Level 3)**
Investments by fair value level				
Certificates of Deposit	4,591,240	4,591,240	-	-
U.S. Government Agencies	8,725,883	8,725,883	-	-
U.S. Treasury Notes	996,385	996,385	-	-
		14,313,508	-	-
Investments measured at NAV				
Colotrust	13,530,685			
Investments measured at amortized cost				
Money Market Mututal Funds	564,168			
CSAFE	3,211,361			
	31,619,722			

5. Pension and Deferred Compensation and RHS Plans

Pension Plan

The District provides pension benefits for all of its regular employees, full or part time, through a defined contribution plan known as the Colorado River Water Conservation District Pension Plan. In a defined contribution plan, benefits depend solely on amounts contributed to the plan plus investment earnings. The plan is administered by ICMA-RC. Employees are eligible to participate after one year of service. The District contributes 10% of the employee's annual compensation. The pension contribution rate was established by, and can only be amended with, the approval of the Board of Directors. The District's contributions for all currently active employees (and investment earnings allocated to the employee's account) are now fully vested.

The District's total gross payroll for 2019 was $2,753,597. The District's contributions were calculated using a base salary amount for eligible employees of $2,730,003. The District made the required 10% contribution totaling $273,000.

There are 36 participants in the plan (including 15 who are not current employees). As of December 31, 2019, the accumulated plan assets were $7,193,980. The assets in the pension plan experienced a gain of $1,179,867 in 2019. The plan assets are reported at fair value using quoted market prices.

Deferred Compensation Plan

The District provides all employees with the opportunity to participate in a deferred compensation plan. All assets of the plan belong to the plan participants. At December 31, 2019 the plan net assets were $7,172,954. The District has elected to match employee contributions up to $2,400 per year per employee between the 457 and RHS plans. The contributions are based on their age as follows: Under 40 - $2,400; 40 up to 50 - $1,600; 50 up to 55 - $800; 55 and older – No Match. During the year, the District contributed $20,000 in matching funds. This plan is administered by ICMA-RC.

RHS (Retirement Health Saving) Plan

The District contributes to employee plans by two defined methods: 1) Excess vacation (2x annual accrual) on a 2-1 ratio, 2) Matching contributions up to $2,400 depending on the employee's age as follows: Under 40 – No Match; 40 up to 50 - $800; 50 up to 55 - $1,600; 55 and older - $2,400. During the year the District contributed $52,296 for a year-end accumulated plan asset balance of $1,897,164. This plan is also administered by ICMA-RC.

6. Net Investment in Sales-Type Lease for the year ended December 31, 2019

Figure 5 - Components of Investment in Sales-type Lease

Description	Amount
Net minimum lease payments receivable	$ 1,500,000
Less unearned income (representing interest)	(48,972)
Net investment in sales-type lease	$ 1,451,028

The District's leasing operation consists of the leasing of storage space in a reservoir and use of water therein to Denver Water. The revenues under this lease are pledged as collateral under the loan with the Colorado Water Conservation Board (see note 7), prior to the loan being paid off in 2016.

Figure 6 - Maturities Under Sales-type Lease

Year	Interest	Principal	Total
2020	48,972	1,451,028	1,500,000
Total	$ 48,972	$ 1,451,028	$ 1,500,000

7. Long-term Liabilities

Figure 7 - Long-term Liabilities Activity for the year ended December 31, 2019

Description	Beginning Balance	Additions	Reductions	Ending Balance	Due Within One Year
Government Activities:					
Compensated absences	$ 275,814	$ 222,893	$ 258,191	$ 240,516	$ 240,516
Long-term Liabilities	$ 275,814	$ 222,893	$ 258,191	$ 240,516	$ 240,516
Business-type Activities:					
Compensated absences	$ 116,754	$ 92,018	$ 101,303	$ 107,469	$ 107,469
Long-term Liabilities	$ 116,754	$ 92,018	$ 101,303	$ 107,469	$ 107,469

The District does not have any note payables as of December 31, 2019.

8. Capital Assets

Figure 9 - Capital Asset Activity for the year ended December 31, 2019

	Beginning Balance	Additions	Retirements	Ending Balance
Governmental Activities:				
Capital Assets, not being depreciated:				
Land	$ 115,000	$ -	$ -	$ 115,000
Water contract	5,806,604	-	-	5,806,604
Total capital assets, not being depreciated	5,921,604	-	-	5,921,604
Capital Assets, being depreciated:				
Building	1,201,289	17,566	-	1,218,855
Equipment, Furniture and Fixtures	367,465	30,411	(16,890)	380,986
Total capital assets, being depreciated	1,568,754	47,977	(16,890)	1,599,841
Less accumulated depreciation for:				
Building	(608,360)	(33,654)	-	(642,014)
Equipment, Furniture and Fixtures	(344,705)	(11,820)	16,890	(339,635)
Total accumulated depreciation	(953,065)	(45,474)	16,890	(981,649)
Total capital assets, being depreciated, net	615,689	2,503	-	618,192
Governmental activities capital assets, net	$ 6,537,293	$ 2,503	$ -	$ 6,539,796
Business-type activities:				
Capital assets, not being depreciated:				
Land	$ 3,091,477	$ -	$ -	$ 3,091,477
Total capital assets, not being depreciated	3,091,477	-	-	3,091,477
Capital assets, being depreciated:				
Building	1,499,010	5,855	-	1,504,865
Dam Project	65,480,582	679,944	(6,440)	66,154,086
Recreation Area	1,151,705	70,623	-	1,222,328
Vehicles and Other Equipment	431,636	19,224	-	450,860
Total capital assets, being depreciated	68,562,933	775,646	(6,440)	69,332,139
Less accumulated depreciation for:				
Building	(344,651)	(42,619)	-	(387,270)
Dam Project	(15,129,387)	(926,445)	-	(16,055,832)
Recreation Area	(590,327)	(38,950)	-	(629,277)
Vehicles and Other Equipment	(273,340)	(33,372)	-	(306,712)
Total accumulated depreciation	(16,337,705)	(1,041,386)	-	(17,379,091)
Total capital assets, being depreciated, net	52,225,228	(265,740)	(6,440)	51,953,048
Business-type activities capital assets, net	$ 55,316,705	$ (265,740)	$ (6,440)	$ 55,044,525

The depreciation expense, for governmental activities, is shown as unallocated on the Statement of Activities.

9. Commitments and Contingencies

Risk Management
The District is exposed to various risks of loss related to injuries of employees while on the job, property loss and torts committed by the District or its employees. The District has purchased commercial insurance to cover these potential losses. There has been no significant reduction in insurance coverage. Settlement amounts have not exceeded insurance coverage for the current year or the three prior years.

TABOR Amendment
Colorado voters passed an amendment to the State Constitution, Article X, Section 20, also known as the Tax Payers Bill of Rights (TABOR) Amendment or Amendment 1, which has several limitations, including revenue raising, spending abilities, and other specific requirements for state and local governments. The amendment is complex and subject to judicial interpretation. The District believes it is in compliance with the requirements of the amendment. However, the District has made certain interpretations of the amendment's language in order to determine its compliance. As of December 31, 2019, the amount required as an emergency reserve in compliance with the amendment is $120,806 and is shown as a restriction of fund balance and net position in the General Fund and governmental activities, respectively.

Other Legal Matters
As a result of its involvement with matters of water rights, in the normal course of business the District becomes party to various claims and litigation regarding such matters. While it is reasonable to expect that some of these cases will result in an unfavorable outcome to the District, legal counsel for the District believes any such unfavorable outcome would not materially affect the District's financial position.

Commitments
In a 2011 and 2012 agreement, the District committed to two credits for Tri-State Generation & Transmission Association, INC. In exchange for Tri-State abandoning and cancelling certain water rights, the District agrees to provide Tri-State a $75,000 credit towards service charges for Elkhead Reservoir operations, water marketing, or a combination of the two. The credit is redeemable in annual increments not to exceed $12,500 per year, and is non-transferrable. The 2011 agreement, for $25,000, expires November 29, 2031. The 2012 agreement, for $50,000, expires January 11, 2032.

10. Joint Ventures

A) The District participates in a joint venture with the Bluestone Water Conservancy District. The original joint venture, the Bluestone Management Committee, was formed to provide for the collection of revenues on water that has been leased to outside parties. This joint venture does not meet the criteria for inclusion within the reporting entity because it has a separate governing board from that of the District, and the District appoints only half of the members of the Board. In March of 2015 the Bluestone Management Committee, formed the Kobe Water Authority and obtained their own EIN.

Financial statements of the Bluestone Management Committee and the Kobe Water Authority can be obtained from the District**.**

B) The District participates in a joint venture with Grand County Mutual Ditch and Reservoir Company, a nonprofit organization. The Company was formed to purchase shares of the Grand County Irrigation & Land Co including the right to request or receive delivery of water and all beneficial right, title and interest in and to all water rights represented by said shares. The Grand County Mutual Ditch and Reservoir Company issued twenty four shares of common stock allocated proportionally as four shares to the six separate legal entities, including the Colorado River Water Conservation District. The Board of Directors consists of 6 members, one from each of the six shareholders. The District has an ongoing equity interest in the Grand County Mutual Ditch and Reservoir Company of 16.7% or 1/6. As of December 31, 2019, the District's investment in this Company totaled $222,266. Separate audited financial statements of the Grand County Mutual Ditch Company can be obtained from their office at P.O. Box 824 Winter Park, Colorado 80482.

C) The District participates in a joint venture with Eagle Park Reservoir Company, a nonprofit organization along with three other separate legal entities. The Company was formed to acquire water diversion, storage facilities and water rights and operate its water storage facilities located in Eagle County, Colorado, and to deliver water on behalf of its stockholders. The District has a 7.98% interest in the Eagle Park Reservoir Company and currently owns 2,065 of Class A stock out of a total of 25,890 shares and 225 Class B stock of a total of 1000 shares. As of December 31, 2019, the District's investment in this Company totaled $2,365,807. Separate audited financial statements of the Eagle Park Reservoir Company can be obtained from their office at 846 Forest Road, Vail Colorado 81657.

11. Water-purchase Contracts

The District has four contracts in place for the purchase of water from the Bureau of Reclamation's Ruedi Reservoir. The District obtained these water contracts for use in the operations of its Colorado River Water Projects Enterprise fund. The investment in these contracts is being amortized over the life of the agreements (25 years) through 2032. The total value of these contracts is $3,062,826, net of accumulated amortization of $4,132,953 and is recorded as an investment in Ruedi Reservoir Contracts on the Statement of Net Position.

12. Employee Home Ownership Program

In 2008, the Board approved an Employee Home Ownership Program. Employees may be eligible for up to 20% of the purchase price or $50,000, whichever is less. Up to 60% of the loan could be forgiven contingent upon 15 years of continuous employment. As of December 31, 2019, eleven employees have enrolled in this program. The balance of the note receivable from employees as of December 31, 2019 was $117,525 net of an allowance for doubtful accounts of $128,000, which is recorded in both the General Fund and the Enterprise Fund.

Required Supplementary Information

Schedule of Revenues, Expenditures and Changes in Fund Balances – Budget and Actual (Budgetary Basis) – General Fund

December 31, 2019	Original Budget	Final Budget	Actual	Variance With Final Budget Favorable (Unfavorable)
Revenues				
Property taxes	$ 4,269,176	$ 4,200,078	$ 4,243,514	$ 43,436
Specific ownership taxes	287,231	335,200	346,430	11,230
Investment income	29,184	36,489	39,582	3,093
Property Tax Interest	-	-	10,371	10,371
Miscellaneous	7,500	7,500	8,976	1,476
Total Revenues	$ 4,593,091	$ 4,579,267	$ 4,648,873	$ 69,606
Expenditures				
Current Operating				
County treasurers' fees	143,845	166,430	152,062	14,368
Directors' fees, salary and expense	65,865	59,865	52,697	7,168
Professional and legal	3,280,850	3,054,417	2,700,244	354,173
General government	266,400	249,816	197,967	51,849
External affairs	219,750	202,290	121,001	81,289
Project expense	492,409	460,464	430,937	29,527
Emergency and contingency	129,758	120,806	-	120,806
Total Expenditures	$ 4,598,877	$ 4,314,088	$ 3,654,908	$ 659,180
Excess (Deficiency) of Revenues Over Expenditures	$ (5,786)	$ 265,179	$ 993,965	
Other Financing (Uses)				
Operating transfers in (out)	-	(200,000)	(200,000)	
Total Other Financing (Uses)	-	(200,000)	(200,000)	
Excess (Deficiency) of Revenues and Other Financing Sources over Expenditures and Other Financing Uses	$ (5,786)	$ 65,179	793,965	
Fund Balance - Beginning of Year			2,317,320	
Fund Balance - End of Year			$ 3,111,285	

Supplementary Information

Statement of Property Taxes Collected Compared to Budget – General Fund

December 31, 2019

County	Budget	Actual	Variance Favorable (Unfavorable)
Delta	$ 75,017	$ 72,662	$ (2,355)
Eagle	755,531	749,876	(5,655)
Garfield	607,914	594,036	(13,878)
Grand	169,841	169,388	(453)
Gunnison	151,922	154,123	2,201
Hinsdale	13,852	13,246	(606)
Mesa	484,811	471,866	(12,945)
Moffat	102,779	103,441	662
Montrose	123,980	117,320	(6,660)
Ouray	40,705	39,987	(718)
Pitkin	796,646	795,462	(1,184)
Rio Blanco	211,087	210,592	(495)
Routt	278,612	287,498	8,886
Saguache	1,038	1,035	(3)
Summit	484,270	485,191	921
Total Property Taxes	$ 4,298,005	$ 4,265,723	$ (32,282)
Delinquent Taxes	-	8,419	8,419
Less: Tax Credits & Tax Abatements	-	(30,628)	(30,628)
Total Property Taxes Collected	$ 4,298,005	$ 4,243,514	$ (54,491)

Schedule of Revenues, Expenditures and Changes in Fund Balance – Budget and Actual – Capital Projects Fund

December 31, 2019	Original Budget	Final Budget	Actual	Variance With Final Budget Favorable (Unfavorable)
Revenues				
Investment Income (Loss)	$ 50,000	$ 74,750	$ 121,457	$ 46,707
Miscellaneous	-	-	5,500	5,500
Total Revenues	$ 50,000	$ 74,750	$ 126,957	$ 52,207
Expenditures				
Grant program	$ -	$ 174,070	$ 122,706	$ 51,364
Other capital outlay	95,150	74,750	70,701	4,049
Other	20,000	16,533	16,533	-
Total Expenditures	$ 115,150	$ 265,353	$ 209,940	$ 55,413
Excess of Revenues Over (Under) Expenditures	$ (65,150)	$ (190,603)	$ (82,983)	
Other Financing Sources				
Transfers in	-	200,000	200,000	
Total Other Financing Sources	$ -	$ 200,000	$ 200,000	
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures and Other Financing Uses	$ (65,150)	$ 9,397	$ 117,017	
Fund Balance - Beginning of Year			$ 4,039,284	
Fund Balance - End of Year			$ 4,156,301	

Schedule of Revenues, Expenditures and Changes in Net Position– Budget and Actual (Budgetary Basis) Colorado River Water Projects Enterprise Fund

December 31, 2019	Original Budget	Final Budget	Actual	Variance With Final Budget Favorable (Unfavorable)
Receipts				
Denver Water lease receipts	$ 3,000,000	$ 3,000,000	$ 3,000,000	$ -
Sale of water including capital contributions	1,373,775	1,571,057	1,438,987	(132,070)
Investment Income (loss)	250,000	450,500	756,103	305,603
Miscellaneous	96,500	103,600	101,619	(1,981)
Joint Venture Income	10,000	5,000	(1,209)	(6,209)
Management Fee	15,000	5,000	6,428	1,428
Project Contributions	3,902,000	3,548,915	1,890,295	(1,658,620)
Grant	70,000	111,655	47,249	(64,406)
Elkhead Operations Reimbursements	104,475	129,055	129,055	-
Total Receipts	$ 8,821,750	$ 8,924,782	$ 7,368,527	$ (1,556,255)
Expenditures				
Directors' salaries, fees and expenses	21,455	19,955	15,917	4,038
Staff salaries	840,346	820,753	954,954	(134,201)
Salary overhead	333,510	306,113	318,172	(12,059)
Travel & Education	56,674	56,225	51,475	4,750
Legal	87,680	68,000	36,268	31,732
Administrative expenses	134,633	135,835	128,329	7,506
External affairs	73,250	67,429	40,170	27,259
Technical support	333,125	238,776	211,806	26,970
Wolford Mountain	697,450	1,270,900	329,488	941,412
Mitigation	40,000	38,000	33,270	4,730
Yampa Projects	177,507	111,115	80,816	30,299
Eagle River projects	32,000	39,850	40,681	(831)
Roaring Fork Projects	46,000	59,923	59,923	-
Project Development	4,063,000	3,690,090	1,884,271	1,805,819
Total Expenditures	$ 6,936,630	$ 6,922,964	$ 4,185,540	$ 2,737,424
Excess of Receipts Over (Under) Expenditures	$ 1,885,120	$ 2,001,818	$ 3,182,987	
Reconciliation of Budgetary Basis to GAAP Basis:				
Depreciation and amortization			(1,320,278)	
Remove Denver Water lease receipts			(3,000,000)	
Add Denver Water interest income			238,518	
Change in net assets - GAAP basis			$ (898,773)	

Statutory Information

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INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENTAL AUDITING STANDARDS*

To the Board of Directors
Colorado River Water Conservation District
Glenwood Springs, Colorado

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each major fund and the aggregate remaining fund information of the Colorado River Water Conservation District (the "District") as of and for the year ended December 31, 2019, and the related notes to the financial statements, which collectively comprise the District's basic financial statements and have issued our report thereon dated June 25, 2020.

Internal Control Over Financial Reporting

In planning and performing our audit on the financial statements, we considered the District's internal control over financial reporting to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, we do not express an opinion on the effectiveness of the District's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the District's financial statements will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe that a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

INDEPENDENT AUDITOR'S REPORT
To the Board of Directors
Colorado River Water Conservation District
Glenwood Springs, Colorado

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the District's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the District's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

McMahan and Associates, L.L.C.

McMahan and Associates, L.L.C.
June 25, 2020

McMahan and Associates, L.L.C.
Certified Public Accountants and Consultants

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INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR EACH MAJOR FEDERAL PROGRAM; REPORT ON INTERNAL CONTROL OVER COMPLIANCE REQUIRED BY THE UNIFORM GUIDANCE

To the Board of Directors
Colorado River Water Conservation District
Glenwood Springs, Colorado

Report on Compliance for Each Major Program

We have audited the compliance of Colorado River Water Conservation District (the "District") with the types of compliance requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on each of the District's major federal programs for the year ended December 31, 2019. The District's major federal programs are identified in the Summary of Auditor's Results section of the accompanying Schedule of Findings and Questioned Costs.

Management's Responsibility

Management is responsible for compliance with the requirements of laws, regulations, contracts, and grants applicable to its federal programs.

Auditor's Responsibility

Our responsibility is to express an opinion on compliance for each of the District's major federal programs based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2, U.S. Code of Federal Regulations, Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (the "Uniform Guidance"). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the District's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination on the District's compliance with those requirements.

Opinion on Each Major Federal Program

In our opinion, the District complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended December 31, 2019.

INDEPENDENT AUDITOR'S REPORT
To the Board of Directors
Colorado River Water Conservation District
Glenwood Springs, Colorado

Report on Internal Control Over Compliance

Management of the District is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit, we considered the District's internal control over compliance with types of requirements that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the District's internal control over compliance.

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program or on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of the internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

McMahan and Associates, L.L.C.

McMahan and Associates, L.L.C.
June 25, 2020

Colorado River Water Conservation District
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
For the Year Ended December 31, 2019

Part I – Summary of Auditor's Results

Financial Statements:

Type of auditor's report issued	Unmodified
Internal control over financial reporting:	
Material weakness identified	None noted
Significant deficiency identified	None noted
Noncompliance material to financial statements noted	None noted

Federal Awards:

Internal control over major programs:	
Material weakness identified	None noted
Significant deficiency identified	None noted
Type of auditor's report issued on compliance for major programs	Unmodified
Any audit findings disclosed that are required to be reported in accordance with Title 2, U.S. Code of Federal Regulations, Part 200	Yes
Major programs:	
Regional Conservation Partnership Program	CFDA #10.932
Dollar threshold used to identify Type A from Type B programs	$750,000
Identified as low-risk auditee	No

Part II – Findings Related to Financial Statements

Findings related to financial statements as required by *Government Auditing Standards*	None noted
Auditor-assigned reference number	Not applicable

Part III – Findings Related to Federal Awards

Internal control findings	No
Compliance findings	None noted
Questioned costs	None noted
Auditor-assigned reference number	2019-01

Colorado River Water Conservation District
SCHEDULE OF PRIOR AUDIT FINDINGS AND QUESTIONED COSTS
For the Year Ended December 31, 2018

The District had no findings for the year ended December 31, 2018.

Schedule of Expenditures of Federal Awards

Colorado River Water Conservation District
Schedule of Expenditures of Federal Awards
For the Year Ended December 31, 2019

Program Title	Federal CFDA Number	Grant Identifying Number	Federal Expenditures	Expenditures to Sub-recipients
U.S. Department of Agriculture				
Regional Conservation Partnership Program	10.932	68-8B05-A-15-03	$ 1,315,847	$ 1,256,643
Environmental Quality Incentives Program	10.912	68-8B05-A-15-03	820	-
Total U.S. Department of Agriculture			$ 1,316,667	$ 1,256,643
Total Expenditures of Federal Awards			$ 1,316,667	$ 1,256,643

Notes to the Schedule of Expenditures of Federal Awards For the Year Ended December 31, 2019.

Note 1. Basis of Presentation:
The Schedule of Expenditures of Federal Awards includes the federal grant activity of Colorado River Water Conservation District (the "District") and is presented on the modified accrual basis of accounting. The information in this schedule is present in accordance with the requirements of Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Guidance").*
Therefore some amounts presented in this schedule may differ from amounts presented in or used in the preparation of the general purpose financial statements.

Note 2. Pass Through Sub Recipients
The District provided the following Federal funds listed in the Schedule of Expenditures of Federal Awards to sub-recipients:

Program Title	Federal CFDA Number	Amount Provided to Sub-recipients
Regional Conservation Partnership Program	10.932	$1,256,643

Note 3. Indirect Facilities and Administration Costs
The District has elected not to use the 10% de minimis cost rate allowed in Title 2 U.S. Code of Federal Regulations (C.F.R.) Part 200.414, Indirect (F&A) costs, of the Uniform Guidance.

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COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: **BOARD OF DIRECTORS**
ANDY MUELLER, GENERAL MANAGER
PETER FLEMING, GENERAL COUNSEL

FROM: **JIM POKRANDT**

SUBJECT: **2020 POLICIES REVIEW**

DATE: **JULY 3, 2020**

Requested Action: Adopt River District Policies in the 2020 cycle.

Strategic Initiatives: -1B: Timely and Accurate Public Information-4A and 4B: Colorado River Supplies -7: Water Needs/Project Development

The Board's adopted practice is to review about one-third of the River District's 19 policy statements on a rotating three-year basis. The process starts each January. For a complete list of River District policies, refer to our website: www.coloradoriverdistrict.org/policies/. A policy must be on the Board's agenda for at least two quarterly meetings before you take final action to adopt or re-adopt the policy.

At the April quarterly meeting, Directors accepted the revised drafts first discussed at the January quarterly meeting that then incorporated directors' suggested edits. And as a reminder, in this process we consolidated four of the policies into two: **Funding/Infrastructure** and **Colorado River Compacts/Entitlement.**

Thus, the following policies are for your adoption at the July quarterly meeting:

- Funding/Infrastructure
- Colorado River Compacts/Entitlements
- Interstate Water Marketing
- Transmountain Water Diversions

970.945.8522 201 Centennial Street | PO Box 1120 Glenwood Springs, CO 81602 ColoradoRiverDistrict.org

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Adopted July 18, 2017

Funding: Water Infrastructure and Programs

Colorado River Water Conservation District Policy Statements:
The Colorado River Water Conservation District (River District) believes the State of Colorado and the federal government have important roles and responsibilities in water planning and development. Moreover, the state and federal governments should encourage investment in capital maintenance, including extraordinary maintenance, to address and maintain – and upgrade where possible - the full function and benefit of Colorado's aging water infrastructure.

In Colorado, the River District advocates that the state establish reliable and sustainable revenue resources to achieve the above goals. This goal should address full funding of Colorado's Water Plan.

In the meantime, the state must protect revenues dedicated for water projects and programs for their statutorily intended uses (i.e., no more transfers to the General Fund) and develop dedicated revenue sources that provide for consistent and predictable annual appropriations.

Background & Discussion:
Severance tax and federal mineral leasing (FML) revenues have been the predominant sources of funding for water projects and programs supported and administered by the Colorado Water Conservation Board (CWCB). Historically, all or a portion of these funds have been subject in times of tight state budgets to transfer to the state's General Fund for non-water related expenditure.

Annual severance tax and FML revenues are largely determined by world energy prices, which fluctuate dramatically year-to-year and are extremely difficult to forecast reliably. An additional challenge to the viability of these funding streams is generated by our society's push to wean itself from dependence on fossil fuels. These fluctuations, lack of dependable forecasts and an overall declining revenue stream lead to unreliable budgeting and challenging fiscal management. State assistance to water projects and programs is too important to remain reliant on such unpredictable, erratic and declining revenue sources.

In 2019, Colorado voters approved Proposition DD to allow limited sports gambling. Tax revenues, after allocations to prevention programs and administration, will be dedicated to projects and initiatives proscribed in Colorado's Water Plan. The Colorado River District position is that DD is only a down payment on Colorado's Water Plan funding and that adoption of additional permanent funding should be a statewide priority.

The River District recognizes that being dependent upon federal and state funding for protection of water resources within the District is not the entire solution and as such the District supports the development of a reliable local funding stream to enable the District to meet its mission of protecting the water resources originating within the District for the use and enjoyment of its constituents.

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Adopted July 19, 2005
Revised and readopted April 2008
Revised and readopted July 2011
Revised and readopted April 2014
Revised and readopted April 2017

Colorado River Compacts and Entitlements

Colorado River Water Conservation District Policy Statement:

The Colorado River Compacts of 1922 and 1948 must be enforced, protected and defended from legal challenge or amendment unless all seven basin states agree to the terms of any proposed change.

As proscribed in the Colorado River Water Conservation District's (River District) organic legislation in 1937, the River District is "given such powers as may be necessary to safeguard for Colorado, all waters to which the state of Colorado is equitably entitled under the Colorado River Compact."

The River District recognizes that the Colorado River is a highly variable system, and this hydrologic variability is forecast to become more frequent and more pronounced in the future. Therefore, the River District will continue to support the State of Colorado, in cooperation with the other three upper division states, in the development and implementation compact compliance strategies so that the Upper Basin will be fully prepared for periods of extended droughts that minimize impacts to existing uses and minimize the potential for shortages and disruptions to present and future West Slope economies.

New Colorado River water uses must be developed in a manner that minimizes the risk of compact curtailment to existing users.

The River District shall lead efforts to analyze the risk and risk factors of compact curtailment. Such analyses shall explore early warning signs of possible curtailment and recommend alternative avoidance and mitigation responses.

The River District shall lead the effort to inventory and maximize the efficient use of water supplies exempt from compact administration to ensure western Colorado retains the full benefit of pre-compact water rights.

Background & Discussion:

The State of Colorado is signatory to the 1922 Colorado River Compact and the 1948 Upper Colorado River Basin Compact. The 1922 and 1948 Compacts, along with the 1944 International Treaty with Mexico, other federal laws, and United States Supreme Court decisions comprise the "Law of the River." The diversion of Colorado River water for consumptive beneficial uses within the State of Colorado is subject to, and limited by, provisions of the Law of the River.

Today, the 1922 Compact negotiators allocated a greater amount of water than is reliably available. This and other unresolved technical and legal issues result in conflicting interpretations of the 1922

Compact. Resolution of unresolved Colorado River compact issues, such as the Mexican Treaty obligation and the accounting of Lower Basin tributaries, will be challenging, time consuming, and costly. However, the cost of inaction is even greater.

Curtailment of Colorado River water uses to meet the 1922 Compact requirements, should it ever occur, is projected to impact all or nearly all post-compact Colorado River water uses. As additional water development in Colorado occurs, the risk of reaching or exceeding our compact entitlement increases. Due to the anticipated magnitude of any interstate curtailment, this risk will likely be shared by all post-compact water users in Colorado. The risks to the West Slope posed by the potential acquisition of pre-compact water rights by non-West Slope interests and dry-up of associated agricultural lands must be addressed. Further, the future effects of, and uncertainty surrounding, climate change represent additional risk and challenges regarding determination and management of Colorado's remaining Colorado River entitlement and must be addressed.

The primary purposes of both compacts are to provide legal certainty regarding how much water each state can develop, to allow states to develop their water resources when the water is needed, and to preclude the interstate application of the prior appropriation doctrine. The Colorado River Compacts protect Colorado from downstream states claiming prior (senior) use of the Colorado River that would preclude Colorado's eventual development of its full consumptive use entitlement.

There are, however, disputes about the interpretation of the language of the compacts. These include conflicting language allocating the river's waters: "in perpetuity to the Upper Basin and to the Lower Basin, respectively, the exclusive beneficial consumptive use of 7,500,000 acre feet of water per annum" (*Article III(a)*) and the requirement that "the States of the Upper Division will not cause the flow of the river at Lee Ferry to be depleted below an aggregate of 75,000,000 acre feet for any period of ten consecutive years."(*Article III(d)*) Interbasin differences also include unresolved issues between the Upper and Lower Basin states regarding respective water delivery obligations to the Republic of Mexico. Failure of the seven basin states to harmonize the terms, conditions and interpretation of the compacts by mutual agreement invites unilateral federal intervention to resolve these differences and legal proceedings that will be protracted, divisive, and exceptionally expensive.

Colorado must continue to improve and refine technical data regarding existing Colorado River uses within the state and throughout the Colorado River Basin, including a consistent and common method for calculating consumptive uses among the four Upper Basin states. Additionally, more and better science must be developed regarding historical Colorado River flows and periodic, sustained droughts, including refinement of paleo-hydrology studies and the potential impacts of climate variability on basin-wide hydrology.

The Colorado River Compact of 1922 expressly grandfathers water uses which pre-date the compact, protecting them from being curtailed when compact administration occurs. Therefore, full legal protection, along with efficient use, including by exchange, is of paramount importance regarding these strategic water rights.

The River District's involvement should include an active education program of its constituents, as well as other affected parties, regarding the issues involved, the importance of water storage and conservation, and the consequences of inaction.

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Adopted July 19, 2005
Revised and readopted April 2008
Revised and readopted July 2011
Revised and readopted April 2014
Readopted April 2017

Interstate Water Marketing

Colorado River Water Conservation District Policy Statements: The Colorado River Water Conservation District (River District) opposes any proposal to market Colorado River water between the states of the Upper Colorado River Basin and Lower Colorado River Basin states without the unanimous consent of all seven states. The District also opposes marketing of Compact-related waters among states of the Upper Colorado River Basin without similar, unanimous consent of the Upper Basin states.

Background & Discussion:
The State of Colorado is signatory to the 1922 Colorado River Compact and the 1948 Upper Colorado River Basin Compact. The 1922 and 1948 compacts, along with the 1944 International Treaty with Mexico, a number of other federal laws, and United States Supreme Court decisions comprise the "Law of the River." The diversion of Colorado River water for consumptive beneficial uses within the State of Colorado is subject to, and limited by, provisions of the Law of the River.

The Colorado River Compacts of 1922 and 1948 protect Colorado from downstream states claiming prior (senior) use that would preclude Colorado's eventual development of its full entitlement. Accordingly, the compacts must be protected and defended from legal challenge or amendment unless all seven basin states agree to the terms of any proposed change. Any non-consensual proposal to market water between basins may represent an abrogation of the 1922 Compact.

The primary purposes of both compacts are to provide legal certainty regarding how much water each state can develop, to allow states to develop their water resources when the water is needed, and to preclude the interstate application of the prior appropriation doctrine. These, and other, benefits of the compacts outweigh any short-term benefit that may accrue to one state from interstate marketing of its compact-allocated water.

Under most interpretations of the compacts, the upper basin states do not have a clearly quantified allocation. Therefore, one upper basin state selling a portion of its unquantified entitlement is problematic, at best. At worst, it introduces lower basin interests into any eventual resolution of ambiguities in the 1948 Upper Colorado River Basin Compact and changes allegiances within the Upper Basin when negotiating ambiguities in the 1922 Compact.

In the lower basin of the Colorado River, interstate water storage agreements and consensual water marketing among states of the lower basin have been an important tool to manage limited supplies of and increasing demands for Colorado River water. Because of the structure and

operation of the Colorado River, consistent with the Colorado River Compact of 1922, the River District fully supports water marketing among the lower basin states of the Colorado River contingent upon their mutual agreement.

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Adopted March 16, 2000
Revised & readopted July 19, 2005
Revised and readopted April 16, 2008
Revised and readopted July 2011
Revised and readopted April 2017

Transmountain Water Diversions

Colorado River Water Conservation District Policy Statements:

The Colorado River Water Conservation District (River District) believes there is no current or reasonably foreseeable need for new transmountain diversion projects. Transmountain diversion of Colorado River water results in adverse economic, environmental, and recreational impacts to the basin of origin. Front Range water demands can be met through a combination of better groundwater management, conservation, reuse, system interconnections, re-operations, and in-basin transfers and exchanges.

Nevertheless, transmountain diversion proposals are likely to persist. Accordingly, the River District will continue its historical willingness to examine fairly and thoroughly all project proposals and to work with willing project proponents to determine if an acceptable project can be developed that provides genuine benefits to both the receiving and exporting basins. In any examination of potential new transmountain diversion projects, the River District, at a minimum, will insist on adherence to the seven principals enumerated in the "IBCC Conceptual Framework" as described in Colorado's Water Plan, 2015.

The River District will advocate for and pursue full water-related mitigation for every transmountain project. Present and future West Slope water uses, including environmental and recreational needs, must be recognized and protected.

The River District will ensure that mitigation conditions on existing transmountain diversion projects are honored and upheld for the protection of in-basin water users and local environments. Additionally, the River District will advocate that the transmountain diverted waters be efficiently used and fully reused to extinction wherever allowed by law.

Transmountain diversion projects seeking re-operations that result in an expansion of historical use must consult with the basin from which water is being diverted. Alternative re-operation regimes should include those that protect and benefit both the diverter and the basin-of-origin.

Background:

Most of the Colorado's water is on the western side of the Continental Divide, while Colorado's population lives predominantly along the Front Range on the state's eastern slope. As a result, Colorado has dozens of water projects that divert water from the Colorado River basin across the Divide. These projects range from small projects diverting a few hundred acre feet of water per year to the Colorado-Big Thompson (C-BT) Project, which diverts an average of more than 220,000 acre feet annually. On average, a total of roughly 500,000 acre feet of Colorado River Basin water is transmountain diverted annually in Colorado.

Transmountain diversion of water is 100% consumptive for the basin-of-origin. As such, transmountain diversion projects, especially larger transmountain diversions, often have unique and significant impacts on the basin from which the water is diverted. Therefore, water diverted across the Continental Divide must be used, reused whenever legally allowable, and be integrated into an overall program of water conservation.

The primary goal of the River District is the protection of existing water uses and preservation of future economic opportunities for the residents of Western Colorado. The River District is committed to meeting the present and future water needs of its residents.

The River District supports the House Bill 05-1177 process that resulted in the 2015 Colorado's Water Plan, especially the basin-by-basin review and identification of both consumptive and non-consumptive water needs and potential supply alternatives. Additionally, the District participated with the Interbasin Compact Committee (IBCC) formed by HB 1177 that developed the consensus criteria that any new transmountain diversion proposal should follow to ensure adequate local input, protection of local authorities, acceptance of hydrologic risk by the proponent, and full mitigation. These criteria are formalized as the "IBCC Conceptual Framework" for new water project development in Colorado's Water Plan, 2015.

Western Colorado's economy is increasingly dependent on tourism-related construction and recreational industries that rely on adequate stream flows and healthy river systems. As such, adequate protections for all Western Colorado water uses, including non-consumptive environmental and recreational uses, benefit the entire state.

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COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: ALESHA FREDERICK, JIM POKRANDT, ZANE KESSLER AND ELEANOR HASENBECK

SUBJECT: EXTERNAL AFFAIRS ACTIVITIES

DATE: JULY 2, 2020

ACTIONS: Information only. No action requested with this memo.

STRATEGIC INITIATIVE(S):
1.E. & 1.F. Outreach and Advocacy
2.A. Outreach in All Basins

Events

COVID-19 required a sudden pivot in our strategy for event outreach and engaging the public.

The demand for digital events is higher than ever. The EA Team has quickly pivoted from the traditional in-person events scheduled within our district to providing all educational events as virtual experiences. Even when physical events are back in full swing, we expect a surge in the popularity of virtual and hybrid events.

All webinar series are recorded and posted to the River District's YouTube Channel, if you would like to view a recording.

1. ***State of the River meetings***
    a. We held three State of the River meetings as webinars: Summit State of the River (May 14), Mesa State of the River (May 20) and the Gunnison Basin State of the River (June 24).
        i. 775 people registered and 383 attended. We are getting about 50% of registrants in attendance at each event, but all registrants are provided access to the webinar after the live event to view at their leisure. State of the River videos have 146 views on YouTube, which reflects how many additional people have watched webinar recordings after the event.
    b. We have two more State of the River meetings scheduled:

i. Yampa Valley State of the River with partners the Community Agriculture Alliance and Yampa, White, Green Basin Roundtable (July 29, 6:30 – 8 p.m.)

ii. Colorado Mainstem State of the River (Tentatively scheduled for 6 p.m. August 19)

2. Water With Your Lunch series

a. The EA Team launched a new lunchtime webinar series featuring River District Staff and other respected experts discussing critical water issues. Although we have only had two events from this series, the feedback we have received is overwhelmingly positive. There is a large desire from our constituents to continue with the series.

i. Past Events

1. Water With Your Lunch: Long-term challenges facing West Slope water users and opportunities for collaboration (June 10)
2. Water With Your Lunch: Water Policy and You (June 30)
3. 366 registrants with 189 attending, and 36 views of the recordings on YouTube.

ii. Future

1. Water With Your Lunch: Rising temperatures, rising challenges State Climatologist Russ Schumacher will join River District Deputy Engineer Dave Kanzer in a discussion about the interrelationships between climate and hydrology — and the cycles of snow, rains and monsoons.
2. Water With Your Lunch: A path to permanence for Shoshone flows (tentatively scheduled for August 5, 12- 1:15 p.m.).

Additional webinar topics are under development. The EA team encourages Board members to send future webinar ideas to edinfo@crwd.org.

To maintain a high quality of webinar offerings, evaluations from participants are solicited that identify not only what is successful, but any unmet needs and areas for improvement as well. Staff has attached a document containing these questions and a summary of responses. Results from these surveys were generally favorable.

3. Seminar

a. Staff has determined that our traditional in-person Seminar will not happen this year. Instead, the EA team is planning a River District Water Week with a series of 60- to 90-minute webinars that will highlight collaborative efforts the River District has been involved in throughout our vast territory (i.e. projects, policies, etc.), district partnerships and the importance of collaboration to the River District mission. The seminar will also highlight the importance of the River District to its constituents and West Slope water and we hope to experiment with additional innovative concepts to attract different and larger audiences. Staff is evaluating whether this event will be held the second week of September or in October.

4. ***In addition to these webinars, staff has presented to the following groups and organizations since the last board meeting:***
    a. Delta, Montrose, Moffat, Routt and Summit Boards of County Commissioners
    b. Northwest Colorado Council of Governments Water Quality and Quantity Committee
    c. Holy Cross Cattlemen's Association
    d. Rotary Club of Granby
    e. The Yampa-White-Green Basin Roundtable

Media relations

In the second quarter, the External Affairs team issued 11 press releases or guest commentaries to local media. The subjects covered were:

1. A commentary for the Delta-Montrose area on the value of irrigated agriculture and the importance of modernizing infrastructure through the Lower Gunnison Project
2. Press releases about two Water With Your Lunch events
3. Press releases about the Summit, Mesa, Colorado and Gunnison State of the River webinars
4. Press release about hydrology and our dry April and May
5. Press releases about Wolford Mountain Reservoir opening
6. A commentary by Andy Mueller for the High Country News' Writers on the Range series to counter a column by former Interior Secretary Bruce Babbitt (more below).

The Colorado River District was mentioned or quoted in 43 news stories between April 4 and July 1. Common themes among these stories include snowpack and hydrology, Wolford Mountain Reservoir operations amid the pandemic, event previews of the District's summer webinars and numerous stories and opinion pieces about the possible mill levy. Links to these stories are available in the attached document.

Here are some highlights from the District's media presence in the last quarter:

1. Andy Mueller submitted a syndicated column to Writers on the Range in response to a column from former Interior Secretary Bruce Babbitt suggesting the use of a program similar to the Conservation Reserve Program to retire irrigated agriculture as a means to reduce Colorado River water consumption. Andy's column was published in multiple news outlets across the West Slope and the greater Mountain West.
2. Andy was quoted in a story about Water Asset Management's purchases of Grand Valley farmland. This story was a collaboration between KUNC in Greeley, Aspen Journalism in the Roaring Fork Valley, the Nevada Independent based in Las Vegas and KJZZ, a public radio station in Phoenix. The story was syndicated to these outlets and beyond.
3. An Aspen Journalism story about polling data in support of the River District reached newspapers in Craig, Steamboat, Aspen, Grand County and Vail with localized data about the impact of the potential mill levy featured in each paper.

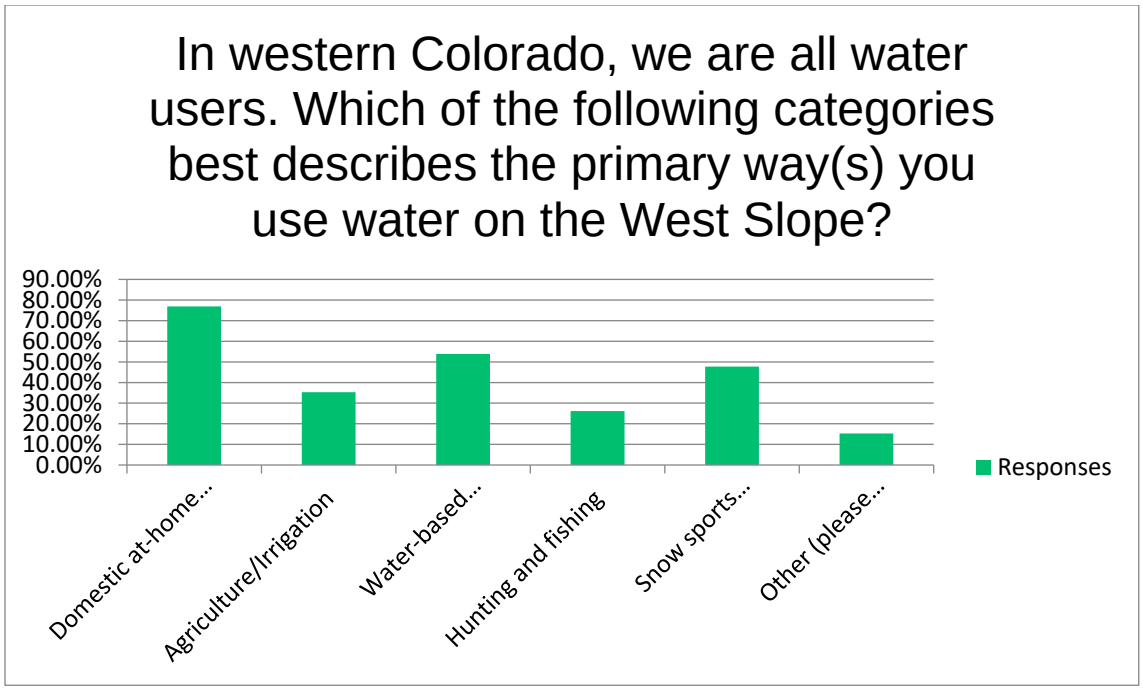
Digital outreach

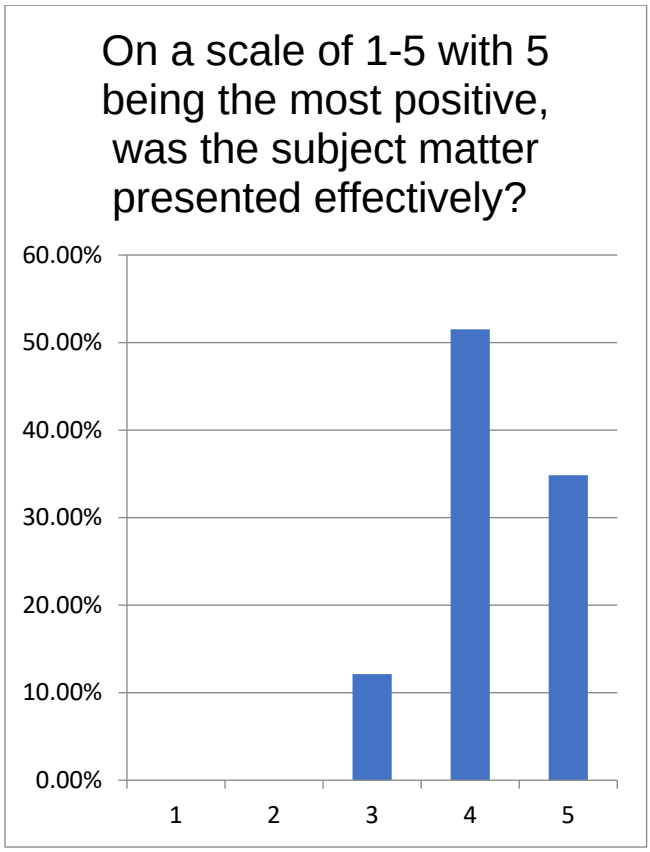
1. ***Social media:*** Here are some details about contact with the public via social media.
    a. *Facebook:*

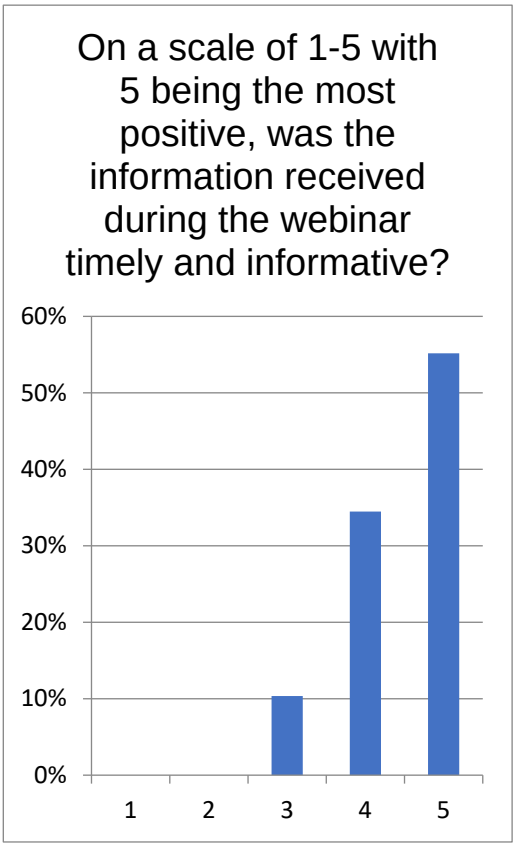
i. From April 5 to July 1: 33,105 people have had River District posts on their Facebook feed.
ii. From April 5 to July 1: our Facebook posts received 4,002 engagements, which includes reactions (likes), shares and comments.

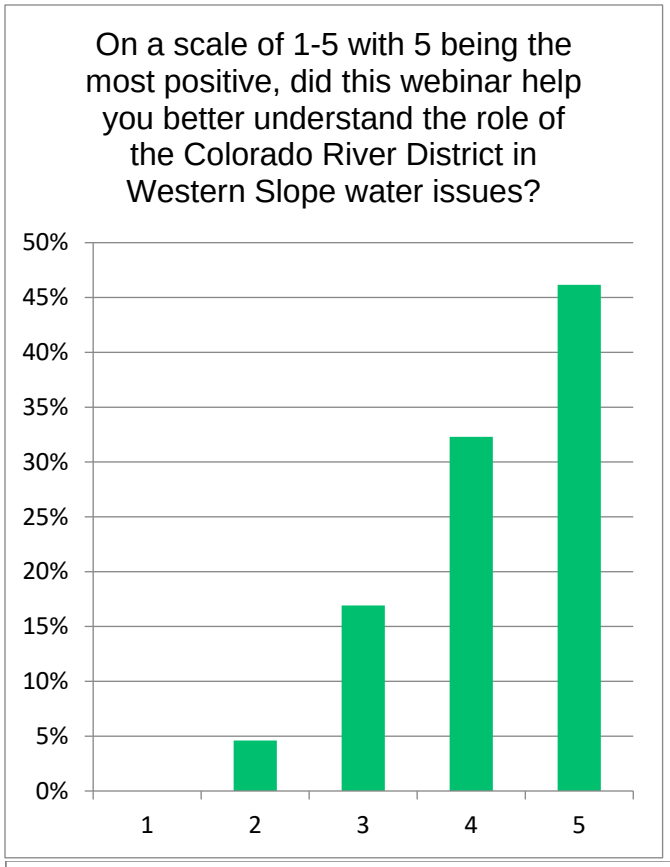
b. *Twitter:* During April, May and June, the District's Twitter posts were seen in Twitter feeds about 59,000 times.
c. *Instagram:* From April 4 to July 1: 9,559 people have had River District posts appear in their Instagram feed.

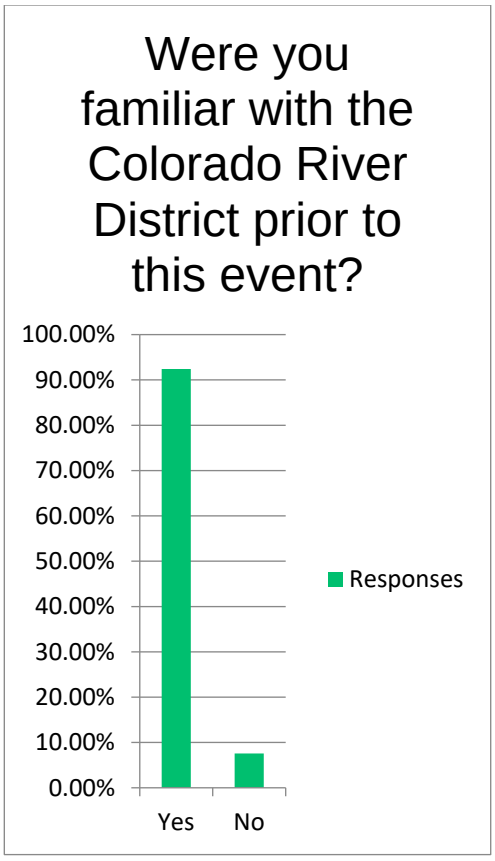
2. ***Email newsletter:*** As of July 1: 3,174 people receive the River District's News Drop email newsletter twice weekly containing water news from across the state and region. Staff is working to collect emails from webinars to add new subscribers to this newsletter and get additional contact with constituents. Through this method and by sharing newsletter sign-ups on social media, we have increased newsletter subscribers by about 700 subscriptions since March 1.
3. ***Radio:*** The District has radio ads airing on KNZZ Talk Radio in Grand Junction, the Range in Montrose and Ski Country FM along the I70 corridor. Underwriting messages are also aired on KVNF community radio out of Paonia, Colorado Public Radio West out of Grand Junction, KDNK out of Carbondale and Aspen Public Radio out of Aspen. These adds all focus on the six pillars of the District's 2020 communications plan.

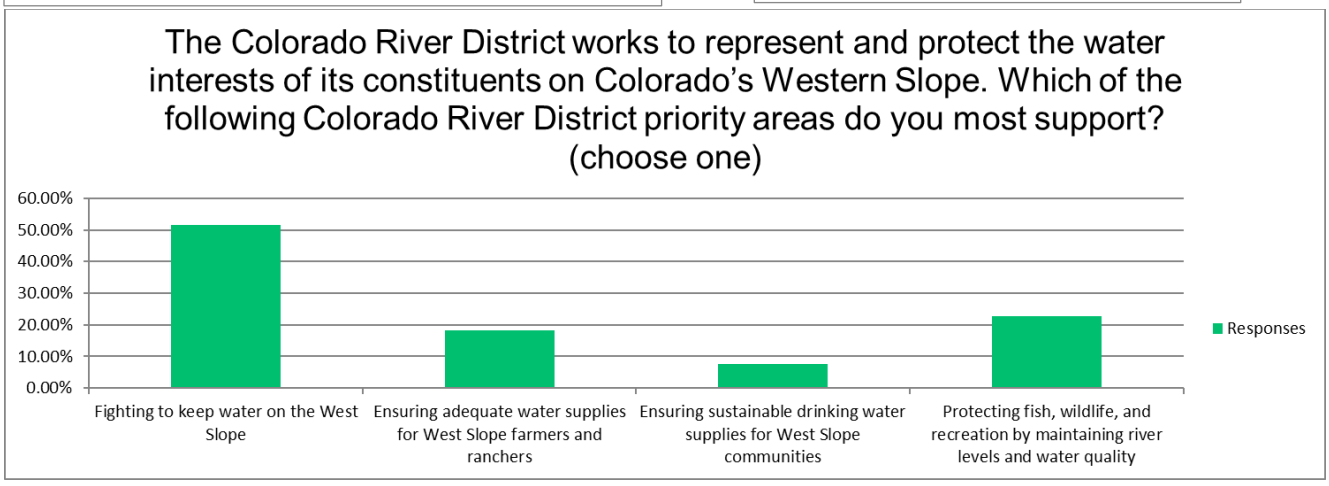

In western Colorado, we are all water users. Which of the following categories best describes the primary way(s) you use water on the West Slope?
90.00%
80.00%
70.00%
60.00%
50.00%
40.00%
30.00%
20.00%
10.00%
0.00%
Domestic at-home...
Agriculture/Irrigation
Water-based...
Hunting and fishing
Snow sports...
Other (please...
Responses

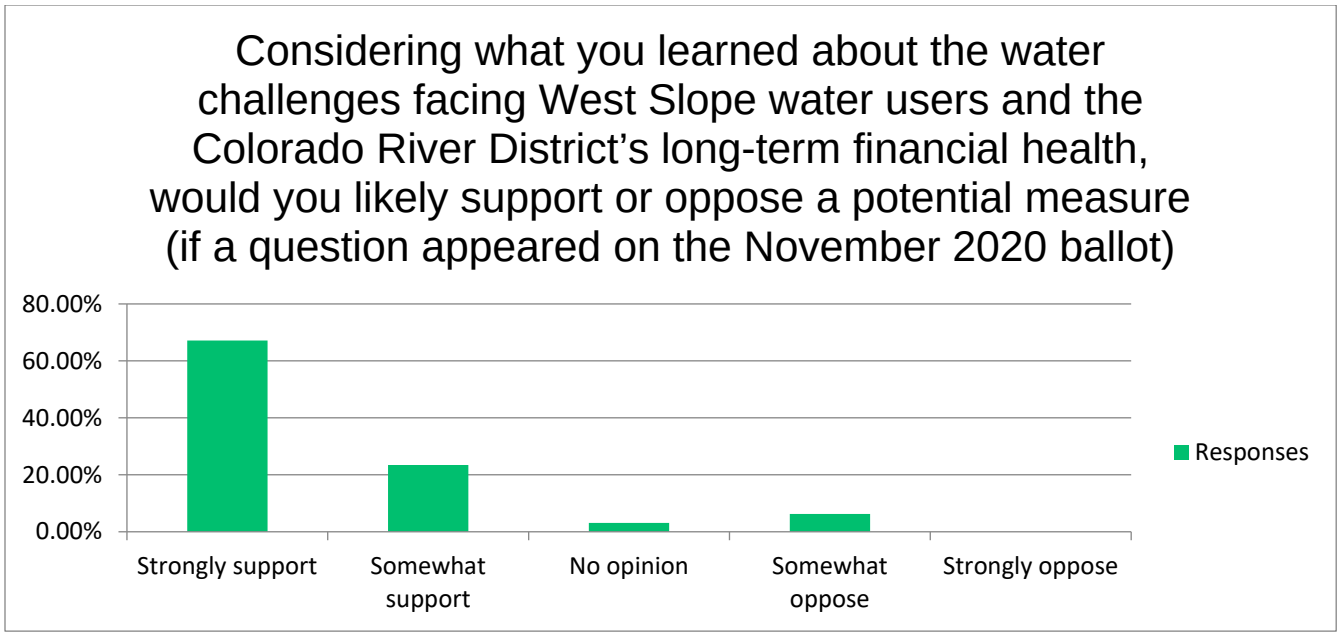

On a scale of 1-5 with 5 being the most positive, was the subject matter presented effectively?
60.00%
50.00%
40.00%
30.00%
20.00%
10.00%
0.00%
1
2
3
4
5

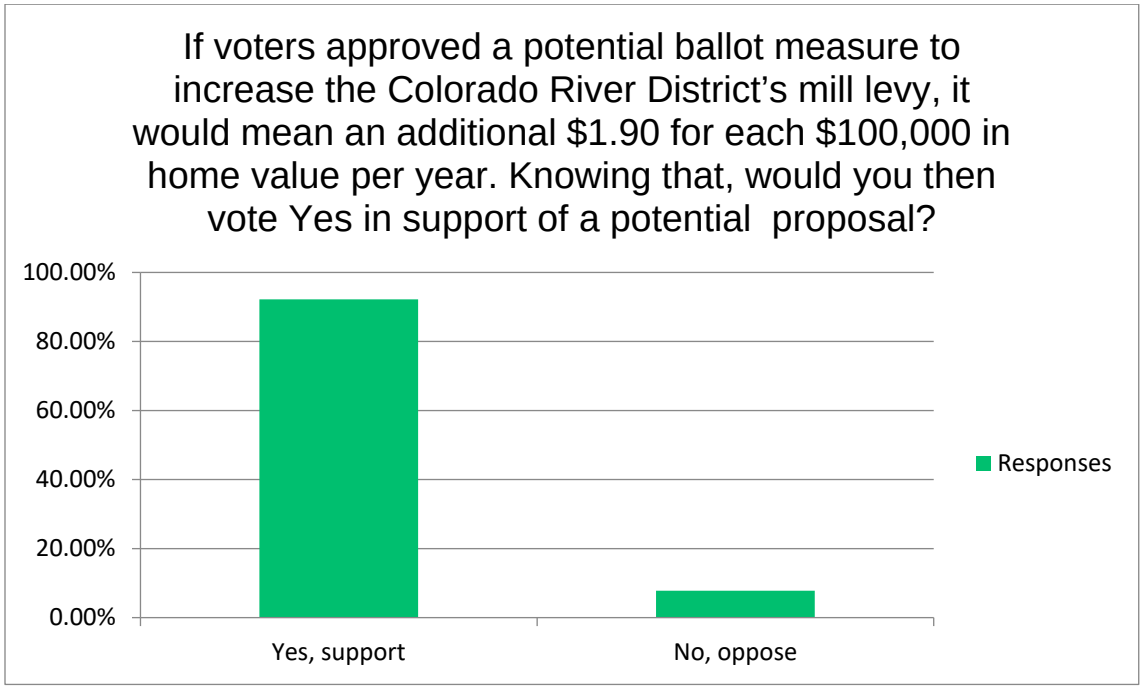

On a scale of 1-5 with 5 being the most positive, was the information received during the webinar timely and informative?
60%
50%
40%
30%
20%
10%
0%
1
2
3
4
5


On a scale of 1-5 with 5 being the most positive, did this webinar help you better understand the role of the Colorado River District in Western Slope water issues?
50%
45%
40%
35%
30%
25%
20%
15%
10%
5%
0%
1
2
3
4
5


Were you familiar with the Colorado River District prior to this event?
100.00%
90.00%
80.00%
70.00%
60.00%
50.00%
40.00%
30.00%
20.00%
10.00%
0.00%
Yes
No
Responses


The Colorado River District works to represent and protect the water interests of its constituents on Colorado's Western Slope. Which of the following Colorado River District priority areas do you most support? (choose one)
60.00%
50.00%
40.00%
30.00%
20.00%
10.00%
0.00%
Fighting to keep water on the West Slope
Ensuring adequate water supplies for West Slope farmers and ranchers
Ensuring sustainable drinking water supplies for West Slope communities
Protecting fish, wildlife, and recreation by maintaining river levels and water quality
Responses


Considering what you learned about the water challenges facing West Slope water users and the Colorado River District's long-term financial health, would you likely support or oppose a potential measure (if a question appeared on the November 2020 ballot)
80.00%
60.00%
40.00%
20.00%
0.00%
Strongly support
Somewhat support
No opinion
Somewhat oppose
Strongly oppose
Responses


If voters approved a potential ballot measure to increase the Colorado River District's mill levy, it would mean an additional $1.90 for each $100,000 in home value per year. Knowing that, would you then vote Yes in support of a potential proposal?
100.00%
80.00%
60.00%
40.00%
20.00%
0.00%
Yes, support
No, oppose
Responses

Colorado River District media mentions 04/04/2020 to 07/02/2020

1. 04/06/2020 Shoshone agreement keeps water flowing down Colorado River while hydro plant is inoperable – Aspen Journalism (also ran in Aspen Times, Glenwood Post Independent)
2. 04/07/2020 With irrigation diversions starting, water available if needed for fish – Grand Junction Daily Sentinel
3. 04/07/2020 Water from retired coal plants could help endangered fish in the Yampa River – Steamboat Pilot via Aspen Journalism
4. 04/09/2020 Wolford closes campgrounds to public – Sky Hi News
5. 04/10/2020 Canals are filling in the Grand Valley (Column) – The Grand Junction Daily Sentinel
6. 04/12/2020 Smaller snowpack may be the new normal – Vail Daily (also ran in Sky Hi News)
7. 04/13/2020 Warm temps mean average snowpack leads to lower rivers – Glenwood Post Independent
8. 4/15/2020 Campground at Wolford is closed – Grand Gazette
9. 4/26/2020 Facing a drier future, water managers turn to science – Rio Blanco Herald Times
10. 4/27/2020 Major South Platte River basin project would maximize reuse of Western Slope water, report says - Aspen Journalism (also ran in Aspen Times and Sky Hi News)
11. 4/27/2020 Boaters permanently banned from Wolford Mountain Reservoir after ignoring closure signs, district says – Sky Hi News
12. 4/27/2020 Campground, Boat Access at Wolford Mountain Reservoir closed – Grand Gazette
13. 4/30/2020 Two men who claimed to be commercial fishing guides from Steamboat have been permanently banned from fishing at Wolford Mountain Reservoir – Steamboat Radio (No link available)
14. 05/02/2020 Summit County fire districts, schools among local entities fearing budget cuts due to pandemic shutdown – Summit Daily
15. 05/08/2020 Summit State of the River to be presented virtually – Summit Daily
16. 05/11/2020 Survey finds support for River District ballot measure – Sky Hi News (also ran in Aspen Times, Vail Daily, Craig Press, Steamboat Pilot & Today)
17. 05/12/2020 Boating at Wolford reservoir opens Friday, camping to open May 22 – Sky Hi News
18. 05/13/2020 Activists oppose 'river killer' tax – Pagosa Daily Post (online only)
19. 05/15/2020 Police blotter: Washed up kayak, paddle spark concern – Sky Hi News
20. 05/17/2020 Experts present on local and regional water issues at the Summit State of the River – Summit Daily
21. 05/22/2020 Guest column: Front Range companies should foot water bill (Opinion) – Sky Hi News
22. 05/25/2020 Mueller: Don't hurt farmers to save the Colorado River (Opinion) – Vail Daily and numerous other publications as part of syndicated Writers on the Range column
23. 05/29/2020 Western Colorado water purchases stir up worries about the future of farming – Aspen Journalism, KUNC, Inside Climate News, Arizona Public Media (This story appears to have hit some of the syndicates and reached a pretty wide audience.)
24. 06/01/2020 Free webinar explores water challenges – Montrose Press
25. 06/01/2020 Colorado River District to host informational webinar series – Summit Daily
26. 06/02/2020 Letter: Local river group supports ballot measure – Sky Hi (Opinion)

27. 06/02/2020 Grand County a bright spot for West Slope water supply – Sky Hi News
28. 6/02/2020 Dry April and May hurt Western Colorado runoff forecasts – Grand Gazette
29. 06/02/2020 Colorado Parks and Wildlife offering bounty for northern pike in Green Mountain Reservoir – Summit Daily
30. 06/04/2020 Weathering a 20-Year drought: Yampa Basin Rendezvous evaluates challenges, opportunities for local water – Steamboat Pilot
31. 06/05/2020 Letter: Eastern Slope water users need to pay their share – Always Mountain Time Radio (Opinion - originally appeared in Sky Hi News, but link is broken and column cannot be found on Sky Hi's website)
32. 06/07/2020 Have 'Water With Your Lunch' – and thirst for more – Rio Blanco Herald Times
33. 06/08/2020 'Megadrought' and 'Aridification' — Understanding the New Language of a Warming World – The Revelator
34. 06/11/2020 Coordinated reservoir releases aid in endangered fish recovery – The Grand Junction Daily Sentinel
35. 06/12/2020 Colorado seeing very dry conditions heading into summer – Glenwood Post Independent
36. 06/14/2020 Snow happens: June storms aren't uncommon in Colorado, Aspen — for now – Aspen Times, Mountain Town News
37. 06/17/2020 Dam ideas: Reservoirs and pipelines proposed as water supply solutions – Telluride Daily Planet
38. 06/22/2020 Colorado's oldest water rights get extra protection from state engineer – Aspen Times via Aspen Journalism
39. 06/23/2020 Colorado River District to host second 'Water With Your Lunch' webinar – Summit Daily
40. 06/27/2020 Learn how state, fed water policy impacts Western Slope water use – Rio Blanco Herald Times
41. 06/28/2020 Growing thirst from Front Range cities threatens Holy Cross Wilderness – Vail Daily
42. 07/01/2020 Local historian retires — a second time – Sopris Sun
43. 07/01/2020 How to explain June snowstorms in a time of rapidly rising temperatures – Crested Butte News

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COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: ZANE KESSLER

SUBJECT: COLORADO LEGISLATIVE UPDATE & OUTLOOK

DATE: JULY 2, 2020

ACTIONS: No specific action requested with this memo.

STRATEGIC INITIATIVE(S):
1. A, B, C Outreach and Advocacy

Staff would like to thank Directors for your commitment and dedication to bi-weekly meetings during the legislative session. Your positions, priorities and guidance were truly invaluable throughout the session.

2020 Legislative Session in Review: The Second Regular Session of the 72nd General Assembly turned out to be very different than anyone could have expected. The legislature adjourned after only 84 days in session – though it was 160 days in the making. The wild ride brought on by the pandemic and resulting economic crisis, however, did not prevent the Colorado River District from making meaningful progress on a number of important legislative issues.

The District followed **25 individual pieces of legislation**. A spreadsheet of introduced bills we followed is attached with outcomes noted for each. In total, the **General Assembly introduced 651 bills this session** and nearly half of those bills (322) were killed. By comparison, in 2019 the General Assembly introduced 598 bills and the River District followed 28 individual bills.

> **HB20-1159**, the Colorado River District's priority legislation protecting pre-existing uses from junior instream flow calls was signed into law by Governor Polis on April 1. With leadership and support provided by Representatives Dylan Roberts (D-Avon) and Marc Catlin (R-Montrose), the bill passed the House unanimously on a 63-0 vote. Senators Kerry Donovan (D-Vail) and Don Coram (R-Montrose), helped to ensure broad bipartisan support for the final passage in the Senate, 31-1.

970.945.8522 201 Centennial Street | PO Box 1120 Glenwood Springs, CO 81602 ColoradoRiverDistrict.org

HB20-1157, which expands the state's Instream Loan Program was also signed into law by the Governor. The District worked closely with Representatives Roberts and Perry Will (R-New Castle) to ensure that the bill addressed the River District's concerns and provided meaningful protections for West Slope water users. As a result, HB1157 included the following provisions:

1) Quadrupled the comment period for renewable loans (from 15 to 60 days) to ensure that water users who feel they could be harmed by a loan have adequate time to raise their concerns with the State Engineer's Office;
2) Allowed for a State Engineer's decision to approve or deny a proposed loan may be appealed, heard and determined by a water judge on an expedited basis;
3) Required that applicants carry the burden of proof in demonstrating that a loan does not cause injury to other water users;
4) Required CWCB to give preference to loans of stored water, when available, over direct flow (agricultural) water.

Waters of the U.S.: The River District and others in the water community were successful in convincing House and Senate leadership not to move forward in establishing a state Dredge and Fill Water Permit Program to regulate "gap waters" not covered by the Trump Administration's new Waters of the U.S. Rule. That new rule was to become effective in Colorado on June 22. But on June 19, the U.S District Court of Colorado approved a motion for a Preliminary Injunction on the rule. We can expect continued litigation on this matter for a while.

Budget Cuts: The General Fund forecast reached a high point of $13.4 billion in December. By May that estimate had shrunk to $10.3 billion, a drop of more than 23%, based on estimates from the economists of Legislative Council. The resulting budget cuts for the coming year resulted in significant cuts to the Department of Natural Resources and the Colorado Water Conservation Board for the coming fiscal year, including the elimination of $10 million for Water Plan implementation funding from the CWCB Projects Bill. Interim committees, including the Water Resources and Wildfire Matters Review Committees, will also be suspended this year for lack of funding.

Gallagher: In the waning days of the legislative session, lawmakers found the supermajority of votes needed to refer a Gallagher Amendment repeal question to the 2020 Ballot. If voters approve the measure, it will repeal the 29 percent assessment rate in the constitution for most nonresidential property, the calculation of the target percentage, and the requirement that the General Assembly adjust the residential assessment rate to maintain the target percentage. While the legislature's referred measure required a 2/3 majority in each legislative chamber, the ballot question will only require a simple majority of voter support to succeed.

Colorado Primary Results:

- In a surprise upset, U.S. Representative Scott Tipton (CD-3) lost to Lauren Boebert, of Rifle, in the Republican primary. Boebert will run in the general election against former Routt County Commissioner and State Representative, Diane Mitsch Bush. Mitsch Bush defeated businessman James Iacino for the Democratic Party's nomination.

- Republican Sen. Bob Rankin (SD8) of Carbondale, defeated Debra Irvine of Breckenridge. On the Democratic side, Karl Hanlon of Glenwood Springs defeated former Eagle County Commissioner Arn Menconi of Carbondale.
- Democratic Rep. Donald Valdez (HD62) defeated Matthew Martinez in a race where Martinez had support from some of Valdez' Democratic House colleagues.
- Republican Sen. Ray Scott (SD7) of Grand Junction lost his primary bid for Mesa County Commissioner. Sen. Scott will return to the Capitol in January, where he has two years left on his final term.

Bill #	Title	Position	House Sponsors	Senate Sponsors	Official Summary	Status
HB20-1037	Augmentation Of Instream Flows	Support With Savings Clause Intact	J. Arndt (D)	D. Coram (R)	The bill authorizes the Colorado water conservation board to augment stream flows to preserve or improve the natural environment to a reasonable degree by use of an acquired water right that has been previously quantified and changed to include augmentation use, without a further change of the water right being required.	Governor Signed (03/24/2020)
HB20-1069	Add Water Well Inspectors Identify High-risk Wells	Neutral	L. Saine (R), B. Titone (D)	J. Sonnenberg (R), D. Coram (R)	Water Resources Review Committee. The bill requires the state engineer to employ a minimum of 4 water well inspectors in the state's water well inspection program. The bill requires the state board of water well construction and pump installation contractors, on or before November 1, 2020, to promulgate rules for identifying high-risk water wells that should be prioritized for inspection. Thereafter, the state engineer shall use the rules to identify high-risk water wells and shall prioritize the inspection of high-risk water wells. The bill clarifies that money in the well inspection cash	House Second Reading Laid Over Daily - No Amendments (06/01/2020)

HB20-1072	Study Emerging Technologies For Water Management	Support	L. Saine (R), J. Arndt (D)	J. Sonnenberg (R), J. Bridges (D)	Water Resources Review Committee. The bill declares that new technologies, such as blockchain, telemetry, improved sensors, and advanced aerial observation platforms, can improve monitoring, management, conservation, and trading of water and enhance confidence in the reliability of data underlying water rights transactions. To advance the potential use of these new technologies, the bill: • Authorizes and directs the university of Colorado, in collaboration with the Colorado water institute at Colorado state university, to conduct feasibility studies and pilot deployments of	Senate Committee on Agriculture & Natural Resources Postpone Indefinitely (05/27/2020)
HB20-1089	Employee Protection Lawful Off-duty Activities	Neutral	J. Melton (D)		The bill prohibits an employer from terminating an employee for the employee's lawful off-duty activities that are lawful under state law even if those activities are not lawful under federal law.	House Committee on Business Affairs & Labor Postpone Indefinitely (02/19/2020)
HB20-1094	Repeal Fee Cap On-site Wastewater Treatment System	Neutral	J. Arndt (D), M. Catlin (R)	D. Coram (R), J. Ginal (D)	Current law requires that a local board of health set the permit fee for on-site wastewater treatment system permits in an amount to recover the actual indirect and direct costs associated with the permit and sets a $1,000 cap on the fee. The bill repeals the dollar limitation on the fee.	Governor Signed (03/11/2020)

HB20-1095	Local Governments Water Elements In Master Plans	Support	J. Arndt (D)	J. Bridges (D), C. Hansen (D)	The bill authorizes a local government master plan to include goals specified in the state water plan and to include policies that condition development approvals on implementation of those goals.	Governor Signed (03/24/2020)
HB20-1097	Connected Municipal Use No Change If Already Quantified	Oppose/Refer to Water Congress subcommittee for additional discussion	J. Arndt (D), M. Young (D)		Current law limits the place of use of water subject to a changed water right that has been decreed for use in a treated domestic or municipal water supply system to only that system. The bill authorizes the use of that water in an interconnected treated domestic or municipal water supply system if: • The water is attributable to a water right for which the historical consumptive use has previously been quantified, diverted from a point of diversion that has already been decreed for that water right, and delivered from the decreed treated system to the interconnected	House Committee on Rural Affairs & Agriculture Postpone Indefinitely (02/13/2020)

HB20-1157	Loaned Water For Instream Flows To Improve Environment	Support	D. Roberts (D), P. Will (R)	K. Donovan (D)	Under current law, the Colorado water conservation board (board), subject to procedural requirements established to prevent injury to water rights and decreed conditional water rights, may use loaned water for instream flows if the loaned water is used for preserving the natural environment of a stream reach that is subject to a decreed instream flow water right held by the board. The bill expands the number of years within a 10-year period that a renewable loan may be exercised from 3 years to 5 years, but for no more than 3 consecutive years, and allows a loan to be	Governor Signed (03/20/2020)
HB20-1159	State Engineer Confirm Existing Use Instream Flow	StrSupport	D. Roberts (D), M. Catlin (R)	K. Donovan (D), D. Coram (R)	Current law specifies that the Colorado water conservation board's appropriation of water for instream flow purposes is subject to existing uses and exchanges of water. The bill directs the state engineer, in administering current law, to confirm a claim of an existing use or exchange if the use or exchange has not previously been confirmed by court order or decree. The person making the claim may also seek confirmation by the water judge.	Governor Signed (04/01/2020)
HB20-1164	Housing Authority Exemptions From Water Fees	Oppose	J. Rich (R), K. Becker (D)	R. Zenzinger (D)	The bill specifies that housing authorities are exempt from tap fees and development impact fees imposed by a water conservancy district.	House Second Reading Laid Over to 12/31/2020 - No Amendments (05/28/2020)

HB20-1172	No Abandonment Of Water Rights For Efficiencies	Oppose	J. Arndt (D)		Current law provides that a period of nonuse of a portion of a water right is tolled, and no intent to discontinue permanent use is found for purposes of determining an abandonment of a water right, for the duration that the nonuse of the water right by its owner is a result of any of certain conditions. The bill adds a condition that applies when the nonuse of a portion of a water right is a result of the implementation of efficiency improvement projects or methods that result in a reduction of the amount of water diverted for the decreed beneficial use. In such case: • For the period of nonuse to be tolled, the	House Committee on Rural Affairs & Agriculture Postpone Indefinitely (03/02/2020)
HB20-1191	Outdoor Recreation Industry Office	Support	B. McLachlan (D), M. Soper (R)	D. Coram (R), T. Story (D)	The bill creates the outdoor recreation industry office in the office of economic development. The director of the outdoor recreation industry office is designated by and reports to the director of the office of economic development. The outdoor recreation industry office serves as a central coordinator of outdoor recreation industry matters.	Senate Committee on Agriculture & Natural Resources Postpone Indefinitely (05/27/2020)

HB20-1215	Sunset Water Wastewater Facility Operators Certification Board	Neutral	D. Valdez (D), A. Valdez (D), M. Froelich (D)	M. Foote (D)	Sunset Process - House Energy and Environment Committee. The bill implements the recommendations of the department of regulatory agencies' sunset review of the water and wastewater facility operators certification board by: • Extending the repeal date of the board until September 1, 2031 (sections 1 and 2 of the bill); • Amending the definition of domestic wastewater treatment facility to exclude only those small on-site wastewater treatment systems with a design capacity of 2,000 gallons or less per day, unless the system discharges directly to surface water (section 3); • Repealing	Sent to the Governor (06/29/2020)
HB20-1233	Basic Life Functions In Public Spaces	Oppose	J. Melton (D), A. Benavidez (D)		The bill prohibits the state and any city, county, city and county, municipality, or other political subdivision (government entity) from restricting any person from: • Conducting basic life functions in a public space unless the government entity can offer alternative adequate shelter to the person and the person denies the alternative adequate shelter; and • Occupying a motor vehicle, provided that the motor vehicle is legally parked on public property or parked on private property with the permission of the property owner.	House Committee on Transportation & Local Government Postpone Indefinitely (02/26/2020)

HB20-1327	Water Diversions From Rio Grande Basin	Neutral	D. Valdez (D), P. Will (R)	D. Coram (R)	The bill prohibits each state agency or instrumentality from approving or assisting any project that diverts water from water division 3, which consists of the Rio Grande river basin, for export to another basin in Colorado or export to any portion of another state unless the state engineer determines, after due consideration of all findings provided by the Colorado water conservation board, that the project will not: • Increase the costs or negatively affect operation of the federal closed basin project; • Adversely affect the purposes of any national wildlife refuge or federal wildlife habitat area	House Committee on Rural Affairs & Agriculture Postpone Indefinitely (03/09/2020)
HB20-1344	Study Artificial Recharge Max Beneficial Use Water	Neutral	R. Holtorf (R)		The bill directs the Colorado water conservation board, in consultation with the state engineer and the Colorado water institute, to conduct a study to: • Evaluate ways to maximize the beneficial use of water within Colorado by recharging aquifers when surplus or excess water is available; • Evaluate ways to minimize the amount of water that flows out of Colorado to downstream states, without risking noncompliance with applicable interstate compacts, United States supreme court decrees, and other federal law; • Identify: • Specific aquifers that are hydrologically and legally	House Committee on Rural Affairs & Agriculture Postpone Indefinitely (05/27/2020)

HB20-1403	Colorado Water Conservation Board Construction Fund Project	Support	M. Catlin (R), D. Roberts (D)	J. Sonnenberg (R), K. Donovan (D)	The bill appropriates the following amounts from the Colorado water conservation board (CWCB) construction fund to the CWCB or the division of water resources in the department of natural resources for the following projects: • Continuation of the satellite monitoring system operation and maintenance, $380,000 (section 1 of the bill); • Continuation of the Colorado floodplain map modernization program, $500,000 (section 2); • Continuation of the weather modification permitting program, $350,000 (section 3); • Continuation of the Colorado Mesonet	Governor Signed (06/29/2020)
SB20-008	Enhance Penalties Water Quality Criminal Violations	Monitor	D. Jackson (D), E. Hooton (D)	F. Winter (D), M. Foote (D)	Current law specifies that a person who commits criminal pollution of state waters that is committed: • With criminal negligence or recklessly is subject to a maximum daily fine of $12,500; and • Knowingly or intentionally is subject to a maximum daily fine of $25,000. Section 1 of the bill makes a: • Criminally negligent or reckless violation a misdemeanor and increases the penalty to $25,000, imprisonment of up to one year, or both; and • Knowing or intentional violation a class 5 felony and increases the penalty to $50,000, imprisonment of up to 3 years, or both. Current law specifies that a	House Committee on Energy & Environment Postpone Indefinitely (05/28/2020)

SB20-024	Require Public Input On Water Demand Management Program	Amend	J. Arndt (D), M. Catlin (R)	D. Coram (R), K. Donovan (D)	Water Resources Review Committee. The bill requires the Colorado water conservation board and the water resources review committee to involve the public and provide opportunities for public comment, using procedures similar to those used for initial adoption of the state water plan, before adopting any final or significantly amended water resources demand management program as part of the Colorado upper basin states' drought contingency plan.	Senate Committee on Agriculture & Natural Resources Postpone Indefinitely (01/30/2020)
SB20-048	Study Strengthening Water Anti-speculation Law	Support	M. Catlin (R), D. Roberts (D)	D. Coram (R), K. Donovan (D)	Water Resources Review Committee. Current law specifies that an appropriation of water cannot be based on speculation, as evidenced by either of the following: • The applicant does not have either a legally vested interest or a reasonable expectation of procuring such an interest in the lands or facilities to be served by the appropriation, unless the appropriator is a governmental agency or an agent in fact for the persons proposed to be benefited by the appropriation; or • The applicant does not have a specific plan and intent to divert, store, or otherwise capture, possess, and control a	Governor Signed (03/11/2020)

SB20-109	Short-term Rentals Property Tax	Neutral		R. Gardner (R)	For purposes of the property tax, the bill classifies an improvement that is used to provide short-term stays, which is overnight lodging for less than 30 consecutive days in exchange for a monetary payment. A building or a portion of a building that is designed and used as a residency by a person, a family, or families and that is leased or available to be leased for short-term stays is a residential improvement and, therefore, it is classified as residential property. A short-term rental unit is excluded from the definition of residential improvements and, therefore, it is classified as nonresidential	Senate Committee on Finance Postpone Indefinitely (02/11/2020)
SB20-153	Water Resource Financing Enterprise	Monitor		D. Coram (R)	The bill creates the water resources financing enterprise (enterprise). The board of the enterprise (board) consists of the board of directors of the Colorado water resources and power development authority and the Colorado water conservation board. The enterprise will provide financing to water providers, defined to include drinking water suppliers, wastewater treatment suppliers, and raw water suppliers. Raw water suppliers are limited to those that provide raw water for treatment and use as drinking water. Customers of drinking water suppliers will pay a	Senate Committee on Agriculture & Natural Resources Postpone Indefinitely (02/13/2020)

SB20-155	Keep Presumption Noninjury Well On Divided Land	Neutral	R. Pelton (R)	J. Sonnenberg (R)	Under current law, a well that is exempt from the state engineer's administration and is used for domestic purposes is afforded a rebuttable presumption that the use of the well will not cause material injury to others' vested water rights or to any other existing well. If the land on which the exempt well is located is later divided into multiple parcels, the well loses that presumption. The bill maintains the presumption of noninjury to vested water rights or other wells when the land on which the well is located is later divided and use of the well continues to meet certain requirements	Governor Signed (07/02/2020)
SB20-201	Species Conservation Trust Fund Projects	Support	D. Roberts (D), M. Catlin (R)	K. Donovan (D)	The bill appropriates $4 million from the species conservation trust fund for programs submitted by the executive director of the department of natural resources that are designed to conserve native species that state or federal law list as threatened or endangered or that are candidate species or are likely to become candidate species as determined by the United States fish and wildlife service, allocated as follows: • Native terrestrial wildlife conservation, $1,107,505; • Native aquatic wildlife conservation, $892,495; • Platte river recovery implementation program	Governor Signed (06/29/2020)

SB20-SJR003	Water Projects Eligibility Lists	Support	D. Roberts (D)	K. Donovan (D)	CONCERNING APPROVAL OF WATER PROJECT REVOLVING FUND ELIGIBILITY LISTS ADMINISTERED BY THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY.	Governor Signed (03/04/2020)
SCR20-001	Repeal Property Tax Assessment Rates (Gallagher Repeal)	Support	Esgar (D), Soper (R), Rich (R)	Tate (R), Hansen (D), Rankin (R)	Submitting to the registered electors of the state of Colorado an amendment to the Colorado constitution to repeal the requirement that the general assembly periodically change the residential assessment rate in order to maintain the statewide proportion of residential property as compared to all other taxable property valued for property tax purposes and repeal the nonresidential property tax assessment rate of twenty-nine percent.	Signed by Speaker Becker and President Garcia (06/12/20)

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COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: ZANE KESSLER

SUBJECT: FEDERAL AFFAIRS UPDATE

DATE: JULY 2, 2020

ACTIONS: ***No specific action requested with this memo; however, as always, Board direction, input, and priority-setting welcomed. Staff will request direction on specific issues as time allows.***

STRATEGIC INITIATIVE(S):
1. A, B, C ***Outreach and Advocacy***

Highlights in this report:

I. H.R. 2, the Moving Forward Act
II. Great American Outdoors Act
III. WRDA

I. H.R. 2, the Moving Forward Act

On July 1, the US House of Representatives passed H.R. 2, the Moving Forward Act. The measure is a large infrastructure bill, which provides a total of $1.5 trillion in authorizations for a wide variety of infrastructure provisions including roads, bridges, aviation, rail, and water. In total, the bill authorizes close to $70 billion for water infrastructure. The bill includes the text of Congressman Huffman's FUTURE Western Water Infrastructure and Drought Resiliency act as well as Congresswoman Torres-Small's Western Water Security act.

The **FUTURE Western Water Infrastructure and Drought Resiliency Act** attempts to provide investments for surface and groundwater storage, while strongly encouraging the use of water recycling, desalination and water efficiency and conservation to improve drought planning and habitat restoration. To accomplish this goal, the bill incorporates several policy ideas to build resilient water infrastructure, expand the use of modern water management tools and technologies and assist disadvantaged areas in meeting their drinking water needs.

The **Western Water Security Act** provides funding for western water infrastructure while advancing water conservation, water-use efficiency and environmental restoration programs in the Southwest and other western states. However, it would allow NGOs to be eligible for the WaterSmart program. The River District and other water organizations across the West have raised concerns about this expansion of eligible recipient organizations. Senate Committee staff, however, is prepared to include compromise language for inclusion if the measure makes it to the Senate.

In addition to the authorizations mentioned above, H.R. 2 would expand and reinstate several tax provisions that will assist with water infrastructure development:

- Sec. 90101. Credit to issuer for certain infrastructure bonds (Creates something similar to Build America Bonds)
- Sec. 90102. Advance refunding bonds, which will allow water agencies to "refinance" existing bonds and realize savings that can be reinvested in other infrastructure projects.
- Sec. 90108. Exempt-facility bonds for sewage and water supply facilities.

It is important to note that this measure will face an uphill battle in the Senate if it is taken up by the Senate at all.

II. Great American Outdoors Act (LWCF)

The Great American Outdoors Act (S. 3422), introduced by Senator Cory Gardner, passed out of the Senate on June 17. The bill, which passed 73 to 25, fully and permanently funds the Land and Water Conservation Fund at $900 million annually rather than funding levels being determined by the congressional appropriations process each year. It also establishes the National Parks and Public Lands Legacy Fund, directing up to $9.5 billion over five years to address priority repairs in national parks and other public lands.

The National Water Resources Association (NWRA) and Family Farm Alliance (FFA) expressed concerns that the bill provided deferred maintenance funding for every federal asset agency within the Department of the Interior except for the Bureau of Reclamation. NWRA and FFA both noted that, just like the National Park Service, Forest Service, Bureau of Land Management, and the Bureau of Indian Affairs, the Bureau of Reclamation has significant deferred maintenance needs for federal water supply facilities.

There was a last-minute effort lead by Senator Martha McSally (R-AZ) to introduce an amendment to establish a revolving loan fund to continuously address those maintenance needs at Reclamation. The fund would have allowed water managers to access loans for their outstanding maintenance needs across the West. On June 10, however, the Senate Majority Leader used procedural measures to prevent amendments from being considered by the Senate.

The legislation now heads back to the House of Representatives, where there is considerable bipartisan support for the bill. According to House Majority Leader, Steny Hoyer (D-MD), the

House is expected to consider and pass the legislation during the congressional work period at the end of July.

III. WRDA

On May 6, the Senate Committee on Environment and Public Works (EPW) held a Business Meeting to consider **America's Water Infrastructure Act of 2020 (S. 3591)**, **the Drinking Water Infrastructure Act of 2020 (S. 3590)**, which together comprise what has traditionally been known as the Water Resources Development Act (WRDA). Both pieces of legislation were voted out of committee by a 21-0 vote. The legislation now awaits further consideration before the full Senate.

America's Water Infrastructure Act of 2020 (AWIA): The current language being considered focuses mostly on the U.S. Army Corps of Engineers and does not include a Reclamation section. It does, however, include several sections to deal with invasive species issues in the West.

Sec.1005, Watercraft inspection stations. This section directs the Interior Secretary to establish, operate, and maintain new or existing watercraft inspection stations intended to prevent the spread of aquatic invasive species.

Sec.1604.Invasive species mitigation and reduction. This section authorizes the Secretary to enter into partnerships with states and other federal agencies to carry out actions to reduce, to the maximum extent possible, terrestrial invasive species that adversely affect water quantity or water quality in the Platte River Basin, the Upper Colorado River Basin, the Upper Snake River Basin, and the Upper Missouri River Basin. $50 million in appropriations is authorized for each fiscal year 2021 through 2024 to carry out these partnerships.

This section also directs the Secretary, acting through the Director of USFWS, to establish a pilot program to carry out activities to remove invasive plant species in riparian areas that contribute to drought conditions in the Lower Colorado River Basin, the Rio Grande River Basin, the Texas Gulf Coast Basin, and the Arkansas-White-Red Basin.

The Drinking Water Infrastructure Act (DWIA) is an EPA-specific drinking water bill that would establish grant programs and revise the Safe Drinking Water Act (SDWA). It authorizes new programs to improve water system resilience, protect systems from natural hazards, reduce lead in drinking water, and assist small, rural, disadvantaged or tribal communities with drinking water systems. In total, DWIA would provide approximately $2.5 billion in authorizations for drinking water grant programs.

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COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: **BOARD OF DIRECTORS, CRWCD**

FROM: **HUNTER CAUSEY, P.E.**

SUBJECT: **WOLFORD MOUNTAIN PROJECT AND ELKHEAD RESERVOIR UPDATES**

DATE: **JULY 7, 2020**

ACTIONS: No action requested.

STRATEGIC INITIATIVE(S):
13. Asset Management

Wolford Wetlands Permitting

As part of the permitting process for construction of Wolford Mountain Reservoir, the District was required to construct wetland mitigation areas to offset the impact of the wetlands inundated by the reservoir. Those mitigation efforts have continued uninterrupted with success since the original construction in 1995. While the wetland mitigation areas are thriving, some of the specific metrics used to quantify the mitigation success are not being met to the same extent as other metrics. Staff is working with wetlands consultants at SGM Inc., and the permitting agency, USACE, to develop a memorandum that will document the current status of the wetlands and set expectations of performance going forward.

Wolford BLM ROW

Ritschard Dam and much of the wetland mitigation area are located on BLM owned parcels. The arrangement is allowed through a right-of-way grant between the District and BLM which is set to expire in June 2021. Staff is working with the BLM to renew this agreement which likely will entail a National Environmental Policy Act review process.

Ritschard Dam Risk Assessment

Staff is arranging a dam safety risk analysis for Ritschard Dam which will culminate in a comprehensive dam safety evaluation. Staff is coordinating with the State Dam safety office, Denver Water, and subject matter experts to conduct workshops in July and August. The purpose

of this effort is to qualitatively understand the risks associated with the project facility. A better understanding of these risks will help inform decision making.

Wolford and Elkhead Dam Safety & Maintenance Activities

Staff participated with the State Division of Water Resources in dam safety inspections at both Wolford Mountain and Elkhead Reservoirs. The dam safety engineer did not identify any new significant dam safety concerns at either dam and both inspections were productive in helping to identify maintenance and dam safety enhancements.

Staff is pursuing several maintenance activities at Ritschard dam including adjustments to the valve controls, patching of aging concrete on both the service and emergency spillways, and repair of monitoring equipment.

Lastly, staff will be conducting a virtual tabletop exercise with local and state emergency personnel consisting of a discussion-based scenario of an emergency at Ritschard Dam. The exercise will serve to test and expose deficiencies in the current emergency action plan in an effect to improve the existing plan.

Recreation Areas

Wolford Campground was closed on March 27 in response to the coronavirus pandemic. The campground was opened on May 22nd (Memorial Day weekend) with procedures in place to limit transmission of the coronavirus. Occupancy in May was moderately reduced compared to previous years but is now seeing high occupancy and many new faces.

Camping at Elkhead Reservoir State Park (managed by Colorado Parks and Wildlife) opened on May 12 with measures in place to prevent the spread of the coronavirus.

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11. Future Meetings

a. CRWCD 2021 Budget Workshop, **Date and Location TBD.**
b. CRWCD Annual Seminar/Webinar, **TBD**.
c. Fourth Regular Joint Quarterly Meeting, **October 20-21, 2020, Glenwood Springs, CO.**
d. Other Meetings:
    i. CWC Summer Event, **TBD**.
    ii. CRWUA Conference, **December 14-16, 2020, Las Vegas, NV.**