



COLORADO RIVER DISTRICT
PROTECTING WESTERN COLORADO WATER SINCE 1937

NOTICE

**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**

February 8-9, 2022

9:00 a.m.**

**This Meeting Will be Held in Grand Junction, Colorado
and via Zoom**

Please See Registration/Attendance Information Below

*****PLEASE NOTE: The River District meeting will be held at Hotel Maverick, located at 840 Kennedy Avenue, Grand Junction, Colorado 81501. Due to the prevalence of the Omicron variant of the Coronavirus, the River District Staff has been forced to limit public participation to attend the meeting virtually via Zoom only. To attend or observe the meeting via Zoom, please register at our website at www.coloradoriverdistrict.org***

The 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 will be held on Tuesday, February 8, 2022, commencing at 9:00 a.m. and continuing to Wednesday, February 9, 2022, commencing at 8:30 a.m.



COLORADO RIVER DISTRICT
PROTECTING WESTERN COLORADO WATER SINCE 1937

Agenda

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

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9:00 am	1. Review Meeting Agenda and Objectives.
9:05 am	2. Appointment of Committees for 2022. <ul style="list-style-type: none">i. Executive Committee.ii. Investment Committee.iii. Information and Outreach Committee.iv. Litigation Committee.v. Water Supply Projects Committee.vi. Retirement Advisory Committee.



9:10 am	3. General Counsel's Report, Executive Session: <ul style="list-style-type: none"> a. Matters Proposed for Executive Session: <ul style="list-style-type: none"> i. Woford Mountain Reservoir and Ritschard Dam Operations (An Enterprise Matter). ii. CRCA Update. iii. Application of Colorado River District, Ouray County, Ouray County Water Users Association, and Tri-County Water Conservancy District, Case No. 19CW3098, Water Division 4. iv. Application of Colorado Springs Utilities, Case No. 15CW3019, Water Division 5. v. Eagle Park Reservoir Company Update re: Case Nos. 18CW3140 & 19CW3145, Water Division 5. vi. Update on Homestake Reservoir Compact Release Pilot Project. vii. Compact/Interstate/Demand Management.
11:10 am	Break
11:25 am	4. General Counsel's Report, Public Session: <ul style="list-style-type: none"> a. Summary and Action Items from Executive Session. b. Proposed Change to Colorado River District Bylaws. c. Special Counsel 2022 Rates. d. General Counsel's 2022 Goals and Objectives. e. Discussion of Other Items in General Counsel's Report.
12:00 pm	Lunch
1:00 pm	5. Public Comment
1:05 pm	6. General Manager's Report: <ul style="list-style-type: none"> a. Contract Insurance Requirements. b. Colorado River Basin Hydrology Report – Update. c. Yampa Pilot Project Overview/ Elkhead Operations. <ul style="list-style-type: none"> i. Authorization to enter into contract option with Colorado Water Trust. d. Colorado River Basin Roundtable Basin Implementation Plan Update. e. General Manager's 2022 Goals and Objectives. f. Service Anniversaries.
2:00 pm	7. Regional Conservation Partnership Program (RCPP) Historical Review and Analysis.
3:00 pm	Break
3:15 pm	8. Discussion regarding Colorado River District's role in Water Quality Matters. <ul style="list-style-type: none"> a. Water Quality Update and introduction by Mike Eytel and other staff members. b. Colorado Department of Public Health and Environment (CDPHE) Water Quality Presentation: Presentation by Nicole Rowan, Director, Water Quality Control Division, Nathan Moore, Clean Water Program Manager, Water Quality Control Division. c. Grand Valley TMDL Discussion. d. USGS Joint Funding Agreement (JFA) Approval.
4:15 pm	9. Directors' Updates and Concerns.



<i>Dinner will be provided to the Board of Directors of the Colorado River Water Conservation District, River District staff and Invited Guests at 7:00 p.m. located at Devil's Kitchen.</i>	
<i>CONTINUE THE MEETING TO WEDNESDAY, FEBRUARY 9, 2022 COMMENCING AT 8:30 A.M. A meeting of the Information and Outreach Committee of the Board will meet at 7:30 a.m. prior to the resumption of the full Board of Directors Meeting.</i>	
8:30 am	10. External Affairs. a. External Affairs Activities Update. b. State Affairs. c. Federal Affairs.
9:30 am	11. Annual Policy Review Discussion. a. Colorado Water Plan. b. Instream Flows. c. Endangered Species Act. d. Recreational Water Use. e. Water Quality.
10:30 am	Break
10:40 am	12. Demand Management Conceptual Market Structure Discussion.
11:50 am	Lunch
12:20 pm	13. Community Funding Partnership (CFP) Applications: a. Community Funding Partnership 2021 Review b. Applicant: Orchard City Irrigation District (OCID); Project: Fruitgrowers Dam Outlet Gates Improvement Project. c. Applicant: Town of Minturn; Project: Minturn Water Storage Tank Project. d. Applicant: The Nature Conservancy; Project: Maybell Diversion and Headgate Modernization Project. e. Applicant: The Sonoran Institute; Project: West Slope Growing Water Smart Project.
12:55 pm	14. Community Funding Partnership (CFP) Administrative Changes: a. Approve revised Community Funding Partnership Framework. b. Approval of revised Community Funding Partnership Agreement Template. c. Approval of Community Funding Partnership Emergency Agreement Template.
1:25 pm	15. Project Operations and Updates: (Enterprise Matters). a. Wolford Mountain Reservoir. i. Approval of Continuing Services Agreement with Landmark Consultants, Inc., re: Surveys. ii. Approval of Continuing Services Agreement with Edexco, Inc. re: Water Delivery, Water System Maintenance Repair and Excavation. b. Water Marketing Policy. i. Proposed Approval Water Marketing Rates for 2022.
2:00 pm	16. Future Meetings. a. Second Regular Joint Quarterly meeting, April 19-20, 2022, Glenwood Springs, CO. b. Third Regular Joint Quarterly Meeting, July 19-20, 2022, Glenwood Springs, CO.



	<ul style="list-style-type: none">c. CRWCD Budget Workshop/Special Joint Meeting, September 15, 2022, Location (TBD).d. CRWCD Annual Seminar, September 16, 2022, Colorado Mesa University.e. Fourth Regular Joint Quarterly meeting, October 18-19, 2022, Glenwood Springs, CO.f. Other Meetings:<ul style="list-style-type: none">i. Lower Basin Fact Finding Tour: November 2-4, 2022, Location (TBD).
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The Board may address the agenda in any order to accommodate the needs of the Board and the Audience.

Persons who need special accommodations 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

2. **Appointment of Committees for 2022.**
 - i. Executive Committee (Rotation).
 - ii. Investment Committee.
 - iii. Information and Outreach Committee.
 - iv. Litigation Committee.
 - v. Litigation Committee.
 - vi. Retirement Advisory Committee.

**COLORADO RIVER WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS**

OFFICERS AND EXECUTIVE COMMITTEE HISTORY FROM 2011-2022

President/V.P. History	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
PRESIDENT	Routt	Routt	Grand	Grand	Eagle	Eagle	Delta	Delta	Garfield	Garfield	Ouray	Ouray
VICE PRESIDENT	Grand	Grand	Eagle	Eagle	Delta	Delta	Garfield	Garfield	Ouray	Ouray	Eagle	Eagle
ROTATION HISTORY												
MONTROSE OURAY DELTA	Ouray	Delta	Montrose	Ouray	Delta	Montrose	Ouray	Montrose	Ouray	Delta	Montrose	Delta
GARFIELD MESA PITKIN	Garfield	Mesa	Pitkin	Garfield	Mesa	Pitkin	Garfield	Mesa	Pitkin	Mesa	Pitkin	Garfield
GUNNISON SAGUACHE HINSDALE	Gunnison	Saguache	Hinsdale	Gunnison	Saguache	Hinsdale	Gunnison	Saguache	Hinsdale	Gunnison	Saguache	Hinsdale
GRAND EAGLE SUMMIT	Summit	Eagle	Summit	Eagle	Grand	Summit	Eagle	Grand	Summit	Eagle	Grand	Summit
ROUTT RIO BLANCO MOFFAT	Moffat	Rio Blanco	Routt	Moffat	Rio Blanco	Routt	Moffat	Rio Blanco	Routt	Moffat	Rio Blanco	Moffat

- CRD has five (5) Committees (Executive; Litigation; Information & Outreach; Investment; and Water Supply Projects).
- The President resides on all committees as ex-officio, but is responsible for chairing the Executive Committee.
- Appointment to the Executive Committee is by rotation of this chart.
- When a Director becomes President, then the rotation between the remaining two counties for next year's Executive Committee is followed (example: in 2021 both Montrose & Ouray County sat on the Executive Committee, so in 2022 Delta County will be appointed to the Executive Committee, along with Ouray County).
- The CRD President & VP appoint the remaining committees based on the interest of each director to reside on a committee. No description currently exists for the duties of each committee.

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- 3. General Counsel's Report - Executive Session (Tuesday)
(No Material Available)**



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

COLORADO RIVER WATER CONSERVATION DISTRICT COMMITTEES

~~2021~~

THE COMMITTEES WILL BE UPDATED FOR 2022

EXECUTIVE COMMITTEE

Marti Whitmore, President
Marc Catlin
John Ely
Rebie Hazard
Mike Ritschard
Al Vanden Brink

LITIGATION COMMITTEE

Steve Acquafresca, Chair
Kathy Chandler-Henry
Tom Alvey
Stan Whinnery
John Ely
Marti Whitmore, ex-officio

INFORMATION & OUTREACH COMMITTEE

Al Vanden Brink, Chair
Marc Catlin
Rebie Hazard
Taylor Hawes
Garfield County
Marti Whitmore, ex-officio

INVESTMENT COMMITTEE

Doug Monger, Chair
Tom Gray
Taylor Hawes
John Ely
Garfield County
Marti Whitmore, ex-officio

COLORADO RIVER WATER PROJECTS ENTERPRISE 2021

WATER SUPPLY PROJECTS COMMITTEE

Tom Alvey, Chair
Tom Gray
Kathy Chandler-Henry
Kathleen Curry
Doug Monger
Mike Ritschard
Steve Acquafresca
Marti Whitmore, ex-officio

*In the absence of the President, the Vice President will chair the Executive Committee.



GO BACK TO AGENDA

COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

**ATTORNEY REPORT
JOINT QUARTERLY MEETING
GENERAL and ENTERPRISE
January 2022**

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 January 18-19, 2022, 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 January 6, 2022, 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)(b) and (e).

- A. Woldford Mountain Reservoir and Ritschard Dam Operations (an Enterprise Matter).
- B. CRCA Implementation Matters.
- C. Application of Colorado River District, Ouray County, Ouray County Water Users Association, and Tri-County Water Conservancy District, Case No. 19CW3098, Water Division 4.
- D. Application of Colorado Springs Utilities, Case No. 15CW3019, Water Division 5.
- E. Eagle Park Reservoir Company Update re: Case Nos. 18CW3140 & 19CW3145, Water Division 5.
- F. Update on Homestake Reservoir Compact Release Pilot Project.
- G. Colorado River Compact, Interstate, International, and Intrastate Negotiations Matters, including Demand Management.

II. GENERAL MATTERS.

A. Proposed Changes to River District Bylaws.

ACTION: We recommend that the Board adopt the proposed amendments to its Bylaws.



STRATEGIC INITIATIVE(S): 12 (Financial Sustainability).

In July 2021, the Board approved a change to the Board of Directors' Expense Guidelines to compensate directors the same amount for virtual and in-person meetings. Director compensation is also addressed in the River District's bylaws. To ensure consistency between the guidelines and bylaws, we recommend that the Board adopt a similar amendment to the River District's bylaws. In addition, we believe it would be appropriate to adopt amendments to the bylaws to clarify that the Board's regular and special meetings may be held virtually (or in hybrid format), and that notices to Directors may be provided electronically, in addition to by mail.

The following proposed amendments were provided to the Board at its October 2021 Quarterly meeting for preliminary review. We propose the following amendments for adoption by the Board: Article II, Section 4 (Compensation), Article III, Section 3 (Place of Meetings), Article III, Section 4.a. (Notice of Meetings), and Article XIII (Amendments) as set forth below. As a reminder, any amendment of the bylaws requires a majority vote of the entire River District Board (as opposed to a majority of a quorum for most Board action items).

Article II, SECTION 4 - Compensation.

~~As provided in District Directors shall be compensated pursuant to the River District Board of Directors' Expense Guidelines, as limited by the Act, the compensation to be paid to the District's.~~ Directors shall be ~~up to \$100 per day, unless the Board of Directors by motion reduces it,~~ compensated while actually engaged in the business of the District in addition to their actual traveling and transportation expenses when away from their respective places of residence on District business. Being "actually engaged in the business of the District" means preparation for, travel for, attendance at, or participation in: (1) physical, telephonic, or virtual meetings of the Board and Board -Committees, regardless of whether the Director is a member of the Committee; and (2) ~~the following~~ if the Director is representing the District on a matter related to the District's business: meetings of or discussions with state, county, local, and federal officials and District constituents; educational and policy presentations and seminars; meetings or negotiations with District staff or third parties; and judicial or administrative hearings or proceedings. ~~The compensation to be paid to the District Directors shall be \$75.00 per day, unless the Board of Directors by motion reduces it, for all telephonic meetings.~~

Article III, SECTION 3 - Place of Meetings.

The City of Glenwood Springs in Garfield County, Colorado, is hereby designated as the place where the principal office of the District shall be maintained. All regular meetings of the Board of Directors shall be held in Glenwood Springs. with a strong preference that all regular meetings be conducted in person. However, if warranted due to circumstances outside the control of the River District, regular meetings may be held using technological "virtual" means (including telephonically), or by a combination "hybrid" of in-person and virtual means. Special meetings may be held at any location proper and appropriate pursuant to Section 108 of the ~~Colorado River Water Conservation District~~ Act. Special



meetings may be held in person or by telephone conference technological “virtual” means (including telephonically). In the event of a telephonic or other virtual meeting ~~held by telephone conference call~~, the location of such meeting shall be deemed to be the physical location of the District's principal office ~~or the otherwise designated physical location of the meeting.~~ Directors may ~~participate in regular or special meetings by telephone,~~ or virtually only if the meeting has been properly and timely noticed for those means, and as further subject to the other provisions of these By-Laws.

Article III, SECTION 4 - Notice of Meetings.

(a) Not less than five (5) and not more than fifteen (15) days prior to the date of any regular meeting, the Secretary shall mail ~~written~~ or electronically transmit notice to each member of the Board of Directors that the meeting will be held. The notice shall state the commencement time and location of the meeting. The notice shall be directed to each Director at the physical address or electronic mail address which he or she has provided to the Secretary. It is the Directors’ responsibility to provide and revise their address information as necessary.

Article XIII. Amendments.

These By-Laws may be amended by the affirmative vote of a majority of the entire Board of Directors. A copy of any amendments to these By-Laws proposed to be made shall be mailed or electronically transmitted by the Secretary to each member of the Board of Directors not less than ten (10) days prior to the meeting of the Board at which such amendment is to be considered.

We recommend that the Board adopt amendments to its Bylaws as set forth above.

B. Approval of Special Counsel Rate Increases.

ACTION: We request that the Board approve the 2022 rates for special counsel.

STRATEGIC INITIATIVE(S): 12A (financial stability).

The River District uses special counsel for various legal matters. The River District’s special counsel policy requires that the Board approve all special counsel and rate increases for special counsel. We have received new rate schedules for 2022 for some of the River District’s approved special counsel.

At Karp, Neu, Hanlon, P.C., the two attorneys that are currently working on River District matters, James Fosnaught and Shoshana Rosenthal charge the River District \$270.00 and \$245.00 per hour respectively. At Berg, Simpson, Elderidge, Hersh, Jardine PC, the two attorneys working on River District matters, Craig Nuss and Joseph Nistico charge the River District \$595.00 and \$382.00 per hour respectively. Both firm’s rates reflect a government discount provided as a courtesy to the River District.



Considering the expertise of special counsel and the current legal market we believe that these increases are reasonable. *We therefore recommend that the Board approve the 2022 rates for the River District's special counsel.*

C. Waters of the United States.

ACTION: Update only.

STRATEGIC INITIATIVE(S): 1.B (outreach and advocacy) and 6 (agricultural water use).

On December 7, 2021, the EPA and Department of the Army published yet another proposed rule in the Federal Register to define the scope of waters protected under the Clean Water Act. The proposed rule purports to put back into place the pre-2015 definition of waters of the United States, “updated to reflect consideration of Supreme Court decisions”. We currently are reviewing the proposed rule to determine whether the River District needs to submit specific comments or whether it will be adequate to rely on the comments filed by organizations to which the River District is a member, including the Colorado Water Congress and/or the National Water Resource Association. Comments are due on February 7, 2022. We will continue to update the Board on this matter.

D. River District Staff's Proposed Request for Modification to Insurance Requirements for Contractors.

ACTION: Information only, but action requested by River District staff during the General Manager's report.

STRATEGIC INITIATIVE(S): 12.A. (financial sustainability).

The General Manager's Report includes a request to reduce the River District's standard insurance requirements for its various contractors from \$2 million to \$1 million. The most conservative and protective approach would be for the River District to maintain the \$2 million insurance requirement, or to annually adjust the requirement based on the then-current liability cap statutorily set pursuant to the Colorado Governmental Immunity Act, however, we understand that the increased limits can be costly and problematic for some of the River District's contractees. Accordingly, we do not object to the requested modification to the insurance requirements, provided the Board recognizes that the proposed reduction in required insurance coverage has the potential to increase the liability on the River District, as well as potentially increase the reliance on the River District's own insurance policy (instead of the insurance policies held by its contractors). We will continue to assess each contract that do not qualify for the River District's expedited contract process (previously approved by the Board) and the associated risks. Where appropriate, we will recommend that contracts that bear greater risk provide additional insurance coverage.

We recommend that discussion of this item and any questions of legal staff occur during the General Manager's discussion of this item.

E. General Counsel's 2022 Goals and Objectives.



ACTION: Update only.

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

I have set forth below the list of proposed General Counsel Goals and Objectives for 2022 based on the Board's input from its annual General Counsel evaluation and review at the October 2021 quarterly meeting, as well as subsequent developments.

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 the few remaining actions contemplated by the Windy Gap Firing 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 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.

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 the 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 new ownership relationship with Denver Water.

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 local water projects, federal issues that may affect local water users, and the potential pros and cons of demand management.
- b. Protect interests of River District constituents related to water rights administration, instream flows, and proposed or existing transmountain diversions.

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 interstate matters such as the Drought Contingency Plan, and renegotiation of the 2007 Interim Guidelines. Advise the River District Board and staff on 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 the River District's Community Partnership Program. Continue to work with River District to implement



federal and state grants that help to implement the River District’s strategic plan. *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 or water rights administration, 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).

The WMR lease has ended, and Denver Water is now a 40% owner of the WMR storage space and water rights. We continue to work with River District staff on matters related to the Ritschard Dam.

This matter is discussed in the Confidential Report and the Board may wish to discuss it in executive session.

B. Colorado River Cooperative Agreement – Implementation Issues.

ACTION: Update only.

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

We continue to pursue full implementation of the CRCA, including ensuring that West Slope parties secure all the benefits that are due when Denver Water accepts final permits for enlargement of Gross Reservoir, Shoshone Permanency, adjudication of the Green Mountain Reservoir Administrative Protocol, and other matters.

A virtual CRCA “check-in” meeting with Denver Water and West Slope CRCA signatories was held on November 9, 2021. One the lingering issues has been potential amendments to the CRCA



to address the “firmness” of the water yield provided by Denver to Summit County water users, as well as the payback ratio of water owed by the Summit County users to Denver for that yield. A follow up meeting on those issue, as well as Denver’s accounting of its CRCA Article II reuse obligations is set for January 31, 2022.

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

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

ACTION: Update only.

STRATEGIC INITIATIVE(S): 4.A. (full use of Colorado River basin water supplies), 7.B. (identifying water needs and use of River District’s conditional and absolute rights to meet those needs).

We continue to work cooperatively with the River District’s co-applicants in this case with the goal of securing a conditional decree for storage and direct flow rights, as well as appropriative rights of exchange, to be used as a source of supplemental supply for water users in the Cow Creek and upper Uncompahgre River basins. The proposed project also will be operated to preserve and improve low flows for environmental and piscatorial purposes.

There are numerous objectors in the case, including the CWCB, local water users, and local and regional environmental organizations. We anticipate providing a substantially revised proposed decree to the objectors within the next few weeks that we hope will address any reasonable objections to the claimed water rights.

The Board may wish to discuss any new developments in executive session.

D. Application of Colorado Springs Utilities, 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).

There has not been substantial activity in the settlement negotiations in this case since last fall. However, Colorado Springs recently submitted revised proposed settlement documents that we still are in the process of reviewing internally. Additionally, we have a meeting set with counsel for Colorado Springs on January 14th. We will provide the Board with any substantive updates at the January Quarterly meeting.

The Board may wish to discuss new developments in executive session.

E. Eagle Park Reservoir Company Update re: Case Nos. 18CW3140 & 19CW3145, Water Division 5.



ACTION: Update only.

STRATEGIC INITIATIVE(S): 4.A. (full use of Colorado River basin water supplies), 7.B. (identifying water needs and use of River District’s conditional and absolute rights to meet those needs).

We previously reported that the Eagle Park Reservoir Company filed two applications for findings of reasonable diligence for conditional portions of the Company’s water rights and to claim additional portions absolute. The River District, as a shareholder in the Company, has participated as a co-applicant in these cases. No statements of opposition were filed in either case, and after consultation with the Division Engineer’s Office, the Referee entered rulings in Case Nos. 18CW3140 (Pando Feeder Canal) and 19CW3145 (Reservoir Enlargement).

In the Pando Feeder Canal case (18CW3140), the Referee found the Reservoir Company has been reasonably diligent in its development of the Pando Feeder Canal conditional water right. However, the Referee’s Ruling put limitations on the use of the Reservoir Company’s other conditional water rights until the Pando Feeder Canal is made absolute in its entirety. This is problematic because some of the water rights in question divert from a different source of supply, so the restriction therefore could limit the ability to fill the reservoir. Accordingly, the Reservoir Company filed a protest to the Referee’s Ruling, and the case is now before the Water Judge where it has been fully briefed.

Likewise, in the Reservoir Enlargement case (19CW3145), the Referee found that the Reservoir Company was diligent in its development of the conditional water rights. However, the Division Engineer’s office filed a protest to the Referee’s Ruling because it does not believe that the East Fork Pumping Plant was decreed as a point of diversion to fill the Eagle Park Reservoir (the Division Engineer does not contest the overall finding of diligence). This matter also is before the Water Judge and has been fully briefed.

These cases are discussed in the Confidential Report. The Board may wish to discuss these matters in Executive Session.

F. Update on Homestake Reservoir Compact Release Pilot Project.

ACTION: Update only.

STRATEGIC INITIATIVE(S): 5C (transmountain diversions), 8 (Colorado Water Plan – compact risk and conceptual framework), and 9A (wise and efficient water use).

We previously reported about the compact release pilot project from Homestake Reservoir that was initiated in September 2020 by the Homestake Partners (Colorado Springs and Aurora), the Pueblo Board of Water Works, and the State Engineer’s Office. The claimed purpose of the release was to conduct a “feasibility test from which the members of the [Front Range Water Council] hope to learn more about the feasibility of using reservoir releases for compact compliance purposes and for any future demand management program in the Upper Division of Colorado River basin.”



We worked with the State Engineer to discuss concerns the River District and its constituents have about the study. In response the State Engineer clarified in writing that the pilot project would not create any precedent regarding a potential demand management program and that, from the State's perspective, the pilot project would focus solely on measurement of test compact releases. The Homestake Reservoir pilot project released close to 1,700 acre feet from the reservoir over a period of about a week in the fall of 2020.

We reported to the Board about the State Engineer's preliminary report on the pilot project in the Spring of 2021. As discussed, that report detailed the challenges of measuring the pilot release but postponed reporting the impact of the pilot release of West Slope water rights until after the 2021 reservoir fill season. On December 29, 2021, the State Engineer released the supplemental report and determined that the pilot release did not injure any West Slope water rights during the 2021 water year (for example, by the curtailment of West Slope junior water rights during the refill of the Homestake Reservoir storage space vacated by the pilot project release). We believe there may be a problem in the State's report that would prevent the State from reaching a definitive conclusion about the impact to West Slope water rights.

We are in the process of reviewing the supplement report with River District technical staff in more detail and will provide an update during the Board meeting. *This matter is discussed in the Confidential Report. The Board may wish to discuss this matter in executive session.*

G. 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).

River District technical and legal staff continue to be actively engaged in interstate and intrastate compact-related matters. We continue to work on matters related to the upcoming renegotiation of the 2007 Interim Guidelines for the operation of Lakes Powell and Mead. We also continue to utilize Hydros Engineering to provide technical and modeling assistance on these matters.

In addition, we continue to monitor the discussions related to the proposed Lake Powell Pipeline. We also continue to monitor the appeal filed by Water Horse Resources against the Utah State Engineer's denial of Water Horse's proposed Utah water right for a Green River pump-back project.

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

[GO BACK TO AGENDA](#)

5. Public Comment, No Material Available.



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: ANDY MUELLER, GENERAL MANAGER

SUBJECT: 2022 FIRST QUARTERLY MEETING, GENERAL MANAGER'S REPORT

DATE: JANUARY 6, 2022

LIST OF ACTIONS REQUESTED UNDER GENERAL MANAGER'S REPORT:

- a. *Staff requests that the Board appoint Mike Eytel, Senior Water Resources Specialist, to serve as the River District representative to the Yampa White Green Basin Roundtable. Staff further requests that the Board appoint Dave Kanzer, Director of Science and Interstate Matters, to serve as the River District Representative to the Southwest Basin Roundtable.*
 - b. *Staff recommends that the Board approve a modification to the standard insurance requirements for River District contractors to reduce the standard required liability policy from \$2 million to \$1 million.*
 - c. *Staff requests Board authorization for the General Manager to enter into a ten-year water supply agreement with the Colorado Water Trust for releases from Elkhead Reservoir subject to review and approval by legal counsel.*
-

- a. **Yampa-White-Green Basin Roundtable and Southwest Basin Roundtable Colorado River District Representative Appointments.**

ACTION REQUESTED: Staff requests that the Board appoint Mike Eytel, Senior Water Resources Specialist, to serve as the River District representative to the Yampa White Green Basin Roundtable. Staff further requests that the Board appoint Dave Kanzer, Director of Science and Interstate Matters, to serve as the River District Representative to the Southwest Basin Roundtable.

APPLICABLE STRATEGIC INITIATIVE(S):

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.

***8. Colorado's Water Plan:** On May 15, 2013, Governor Hickenlooper issued an Executive Order mandating the development of a statewide, comprehensive Water Plan. The plan was delivered to the Governor in December 2015. The plan outlines broad concepts for meeting the State's water needs through the year 2050 in the face of unpredictable climate change and a doubling population by balancing agricultural preservation, possible new transmountain diversion development, municipal water conservation, and environmental enhancement while protecting Colorado's legal and institutional system of interstate compacts and equitable apportionment decrees, and local control. There is uncertainty about how the plan will evolve over time and how the concepts embodied in the plan will be implemented.*

8. A. The River District will work with each of the three Basin Roundtables that comprise the District to facilitate the refinement, development, and implementation of their Basin Implementation Plans.

Hunter Causey, Director of Asset Management/Chief Engineer, has been the River District's official representative to the Yampa White Green Basin Roundtable since May 2018. With the District's internal staffing re-structure, Hunter's focus is now on asset management, particularly at the Ritschard Dam. As a result, he no longer is the appropriate staff member to cover this roundtable. Over the last year, Mike Eytel, Senior Water Resources Specialist, has been the River District's representative on many projects in the basin, including the Green River operations, the White River Management Plan Stakeholders Group, as well as keeping up on many basin-wide issues. Staff requests that the Board appoint Mike Eytel to serve as the River District representative to the Yampa White Green Basin Roundtable.

John Currier, the District's retired Chief Engineer, has been the River District's official representative to the Southwest Basin Roundtable (yes, the River District encompasses a small portion of the Lower Dolores River Watershed and therefore has a statutorily mandated seat on the Southwest Roundtable). For a variety of reasons, over the past year, the River District has continued to have John represent the District on the Southwest Basin Roundtable. It is time, however, to have one of our current staff members take over this role. Staff requests that the Board appoint Dave Kanzer, Director of Science and Interstate Matters, to serve as the River District Representative to the Southwest Basin Roundtable.



b. **Contract Liability Insurance Requirements.**

Please see attached memo (accessible in the electronic packet by [clicking here](#)).

c. **Colorado River Basin Hydrology Report.**

Please see attached memo (accessible in the electronic packet by [clicking here](#)).

d. **Yampa Pilot Project Overview/Elkhead Operations.**

Please see attached memo (accessible in the electronic packet by [clicking here](#)).

e. **General Manager's 2022 Goals and Objectives.**

Please see attached memo (accessible in the electronic packet by [clicking here](#)).

f. **Service Anniversaries Recognition.**

ACTION REQUESTED: No action, informational only.

APPLICABLE 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.

11. B. The River District will have an excellent workforce that is talented and adaptable. The District will focus on effective hiring for new employees, professional development for existing employees and management to ensure that the proper expertise and leadership attributes are maintained and developed in all staff positions.

11. D. The District will strive for efficient and effective communication that facilitates collaboration and teamwork. The District will continue to involve, empower, and support all staff in the fulfillment of the District's mission.

The District is pleased to recognize our General Counsel, Peter Fleming, for his dedicated and exceptional service for the last 20 years. We are also pleased to recognize our Senior Water Resource Specialist, Mike Eytel, for his dedicated and exceptional service for the last 15 years.



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD
PETER C. FLEMING, GENERAL COUNSEL
ANDY MUELLER, GENERAL MANAGER

FROM: AUDREY TURNER, CHIEF OF OPERATIONS

SUBJECT: REQUEST FOR MODIFICATION OF STANDARD INSURANCE REQUIREMENTS FOR RIVER DISTRICT CONTRACTORS

DATE: DECEMBER 30, 2021

ACTION: *Staff recommends that the Board approve a modification to the standard insurance requirements for River District contractors to reduce the standard required liability policy from \$2 million to \$1 million.*

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.*

In October 2019, legal counsel recommended to the Board that the River District increase the insurance requirements for contractors to \$1.5 or \$2 million as a result of a statutory increase in the Colorado Governmental Immunity Act's waiver of immunity. Pursuant to the statutory increase, the maximum liability limit was raised from \$990,000 to \$1,093,000, which is adjusted for inflation every four years. The Board approved a change to the standard insurance limits from \$1 million to \$2 million and we have been utilizing the \$2 million limit unless a waiver is approved by legal counsel.

The increased insurance requirement has resulted in challenges for some consultants and contractors in meeting these limits, and the issue has been magnified with Community Funding Partnership grant awards. Staff recognizes that it is the responsibility of our legal counsel to take the most conservative approach to protect the River District. However, the insurance issue has created inefficiencies and challenges in conducting the business of the River District, and therefore we request that the Board reduce the standard insurance requirements to the previous limit of \$1 million. Staff acknowledges and supports that counsel may recommend a higher limit on a contract



specific basis to address the higher risk associated with the work being performed (e.g. construction work at River District facilities may warrant a greater limits and additional coverage). While reducing the standard insurance requirements for contractors may result in some additional risk to the River District, we maintain our own insurance at \$2 million per occurrence with a \$3 million excess liability policy. We believe the additional risk is acceptable to improve the ability to conduct business effectively and efficiently.

Therefore, Staff recommends that the Board approve a modification to the standard insurance requirements for River District contractors to reduce the standard required liability policy from \$2 million to \$1 million.



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS
CC: ANDY MUELLER, GENERAL MANAGER
FROM: DAVE “DK” KANZER, P.E. & DON MEYER, P.E.
SUBJECT: COLORADO RIVER BASIN CONDITIONS & OUTLOOK – WATER YEAR 2022
DATE: JANUARY 5, 2022

NO ACTION: This is an 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 Water Supply Conditions Improving

Weather whiplash is in full effect in most parts of the western United States. After a somewhat snowy October, near record dry conditions returned in November. Thankfully December has rebounded with several good moisture producing storms, improving the near-term water supply conditions. This followed a wetter than average late summer, especially in southern parts of the Colorado River basin. Of course, all of this back and forth follows two years of below average hydrological conditions across the Basin.

Due to the antecedent dry conditions, there remains a large hydrological deficit to overcome in the Basin’s soil, snow and reservoirs. It is projected that it would take multiple years of above average water years to erase this cumulative deficit. This can be seen in **Figure 1** that depicts flow conditions over the last 24 months as measured in the Colorado River at Colorado-Utah state line (where the cumulative flow deficit is more than 1 million acre-feet of volumetric runoff, with flows at or near the observed record low flow of 2002, shown by orange line). **Figure 2** shows how the basin yield for the Upper Colorado River basin compares to historical averages (surrogate for Lake Powell inflow traces over last 24 months) with yields at or below the 25th percentile.

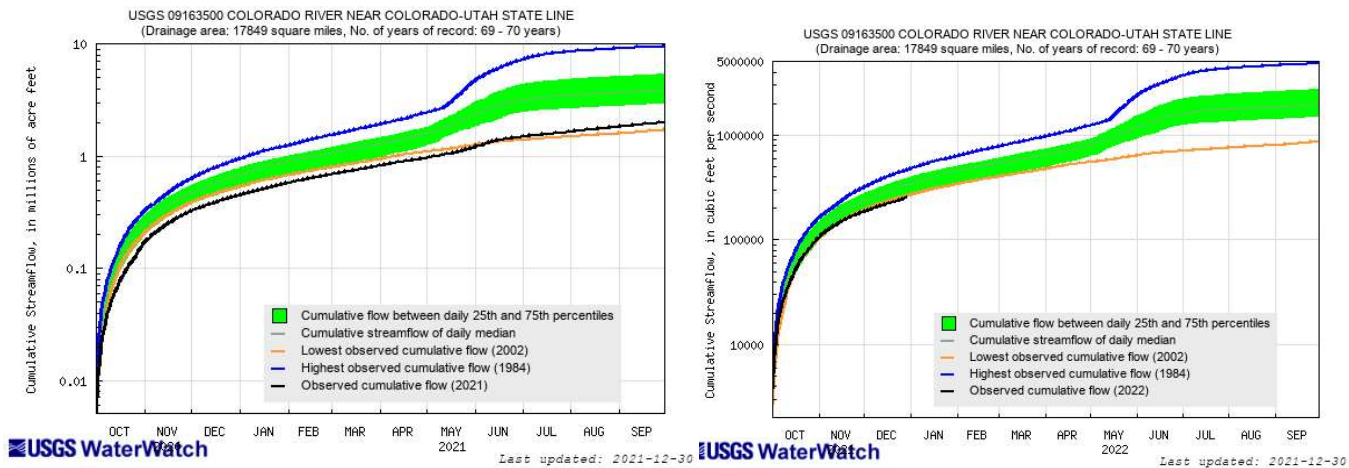
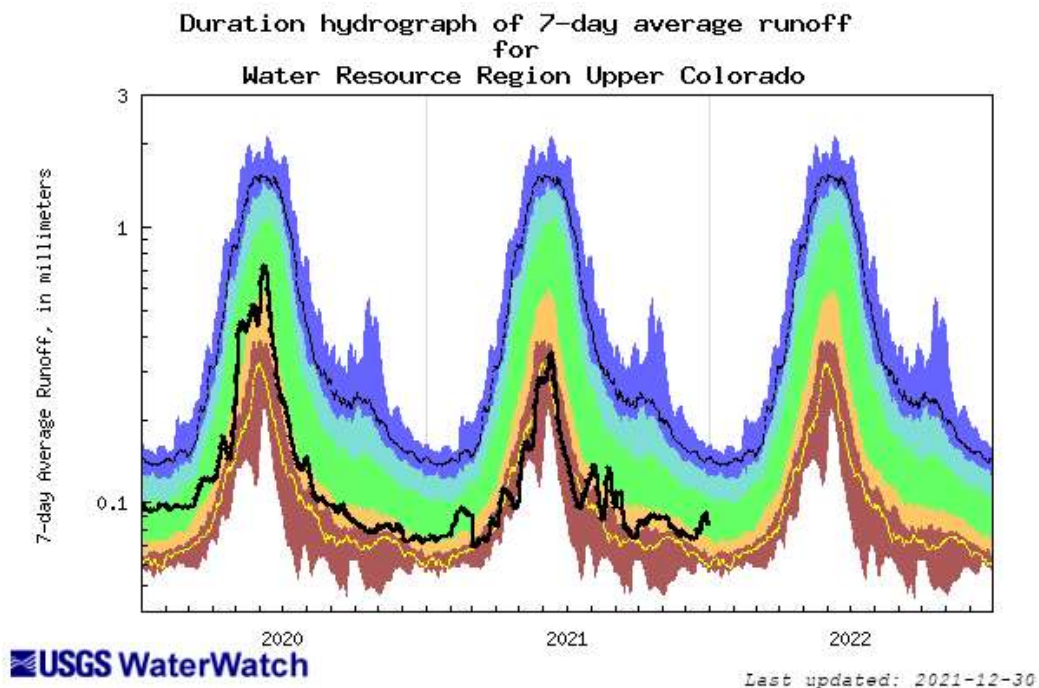


Figure 1: Cumulative observed stream flows Colorado River at the Utah-Colorado state line have been tracking the lowest year on record (2002) and have accumulated a deficit of more than 1 million acre-feet as compared to the 70-year hydrological period.



Explanation - Percentile classes						
lowest-10th percentile	5	10-24	25-75	76-90	95	90th percentile-highest
Much below Normal	Below normal	Normal	Above normal	Much above normal		Runoff

Figure 2: Depiction of 7-day average duration hydrograph above Lake Powell, as compared to statistical percentiles. The bold, black line indicates that flows for the last two years have been generally at or below the 25-percentile level.



Furthermore, looking back, after generally above average monsoonal flow season, with good summer precipitation, any gains were mostly erased by a very poor fall precipitation season. As of early December, drought conditions had expanded to cover 97% of Colorado, Utah and Wyoming as reported by Western Weather Assessment (www.colorado.edu, accessed December 30, 2021). This is depicted in the National Drought Monitor in **Figure 3**.

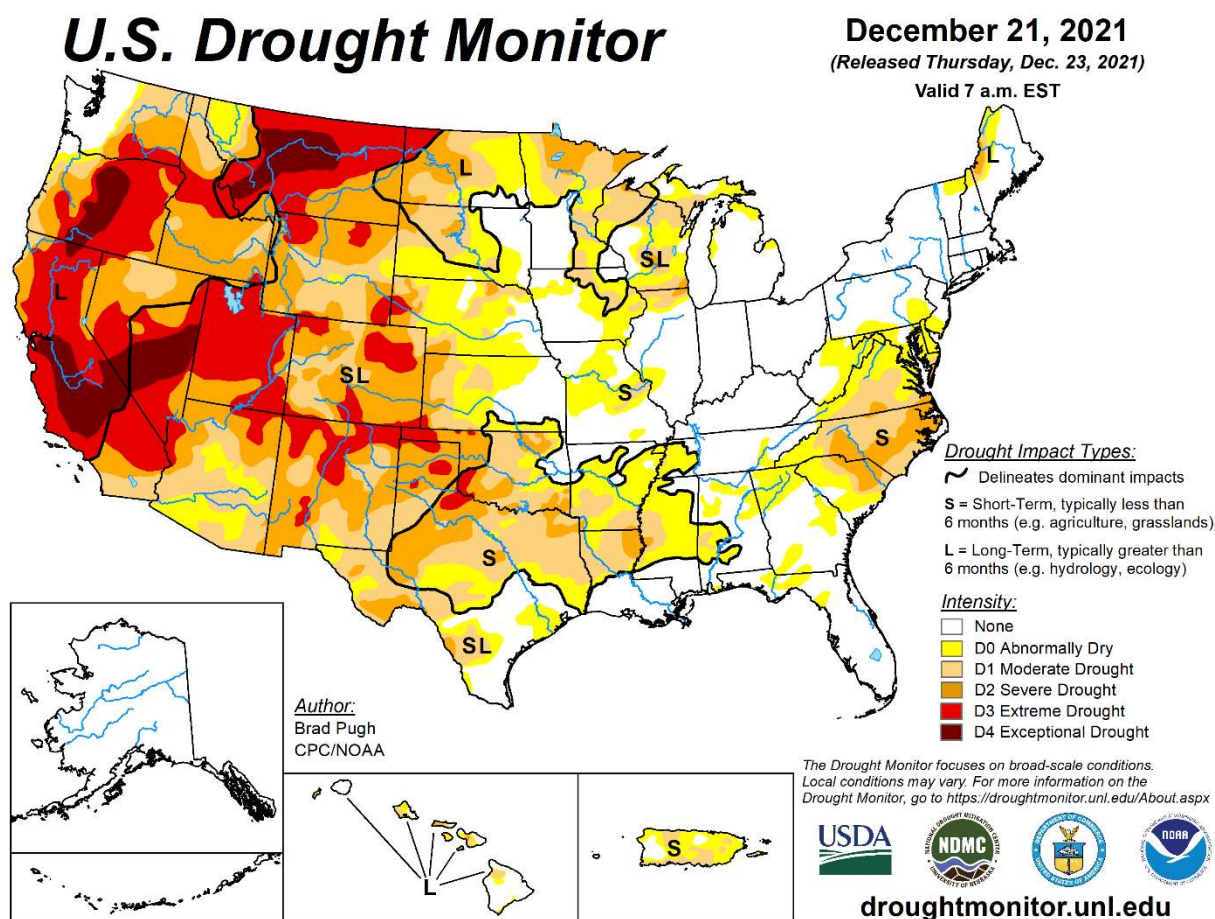


Figure 3: Drought monitor showing some level of drought is affecting all of the seven Colorado River Basin States.

Regionally, further evidence of weather whiplash can be seen across the continental US (CONUS). In late December, when snow was piling up in the Sierra and across much of the Rockies, climate records continue to be broken with abnormal warmth in Alaska (67 degrees F) on Christmas Day and with unheard of record-setting windstorms across the west feeding destructive fire storms in the Front Range and in the mid-west even spawning rare nocturnal tornados, not to mention, record December heat waves across the south.

The poor antecedent conditions pose a risk to runoff and all eyes are on the growing snowpack and accumulating water year precipitation across the UCRB. The evolution of the snowpack as



measured by the Snotel network above Lake Powell is shown in **Figure 4**. This snowpack hydrograph shows the rapid gains and the benefits of the late December 2021 snowstorms in the UCRB (accessed January 5, 2022).

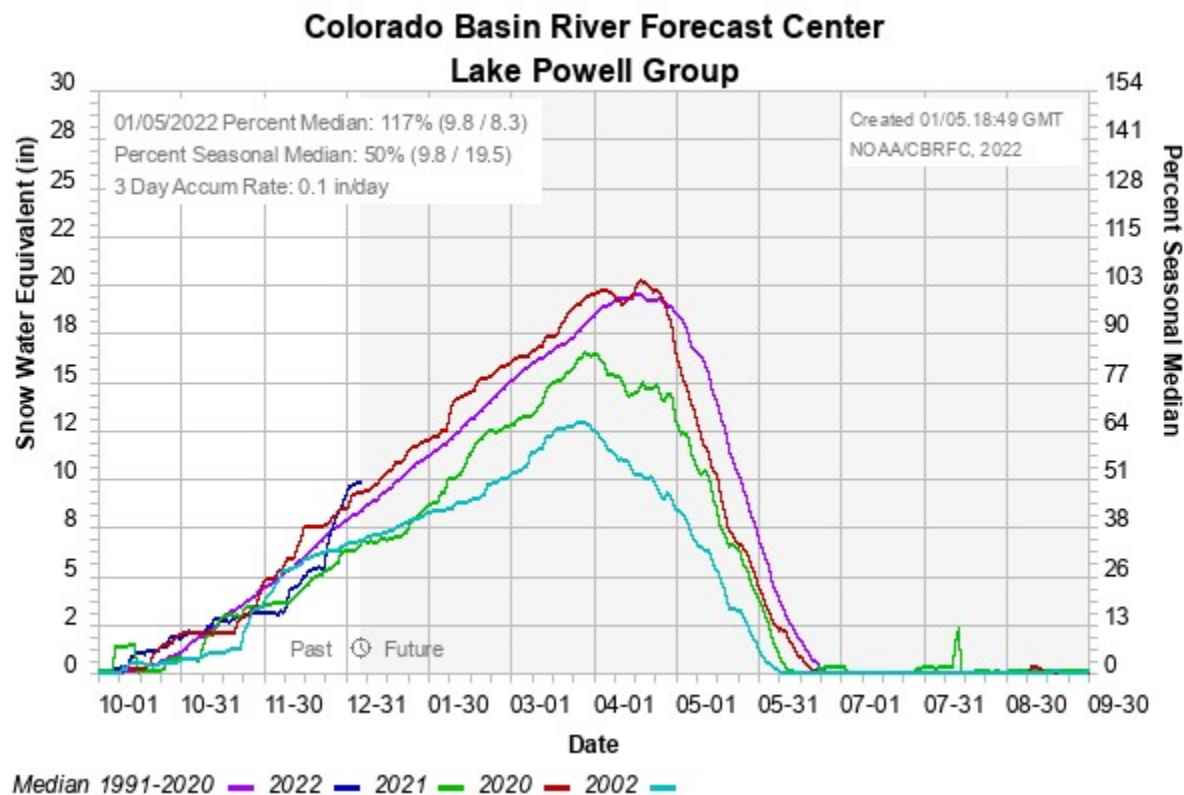


Figure 4: Snow hydrograph for Water Year 2022 to date, generated from Snotel stations above Lake Powell (accessed January 5, 2022), as compared to previous years and the updated 30-year (1991-2020) norms. December storms significantly increased the 2022 snowpack (shown in blue) from tracking along the 2002 trace, the driest of years, to above the new 30-year average.

It should be noted that beginning in Water Year 2022, the 30-year statistical norms for climatic parameters and data (primarily temperature, precipitation, and snowpack), that are used for comparison, such as average and median, have been updated to 1991-2020 period from the previous period of 1981-2010. This is consistent with the World Meteorological Organization standard. This action is needed to reflect the fact that climate is not stationary and is constantly changing (*i.e.*, warming and drying in many places, especially in the UCRB).

The impact of this change is that wet years of the 1980s in the historical record have been removed, and as such, the 30-year averages are *lower* for precipitation *higher* for temperatures in a relative sense. Thus, when one reads “100 per cent of average” for snowpack, the absolute number for SWE is lower than would have been “100 per cent of average” as reported last year, but relatively speaking, it is more representative of the near-term climatic conditions. This is reflected in all the



Snotel time-series plots and Colorado River Forecast Center (CBRFC) graphics in this memo, but not the USGS streamflow plots, which use the entire available period of record for comparison.

Importantly, this ‘new’ 30-year data record forms the baseline data set for the models that predict the water supply outlooks created by the National Weather Service, the CBRFC and other climate science agencies, making forecast products more accurate.

Looking Ahead in the Colorado River Basin

Water managers continue to be quite nervous that these snowpack gains and water year increases may be adversely impacted by ‘thirsty soils’ as depicted in **Figure 5**

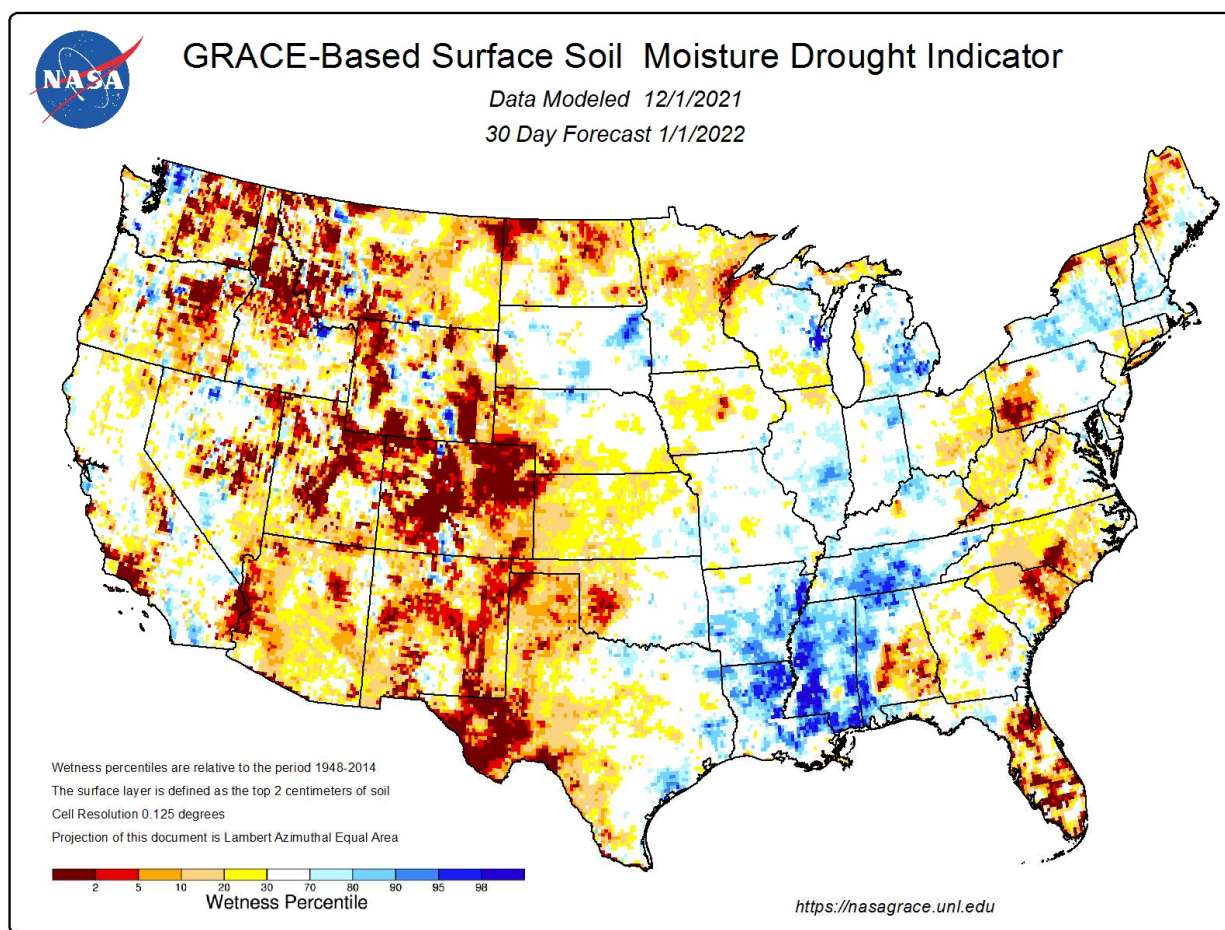
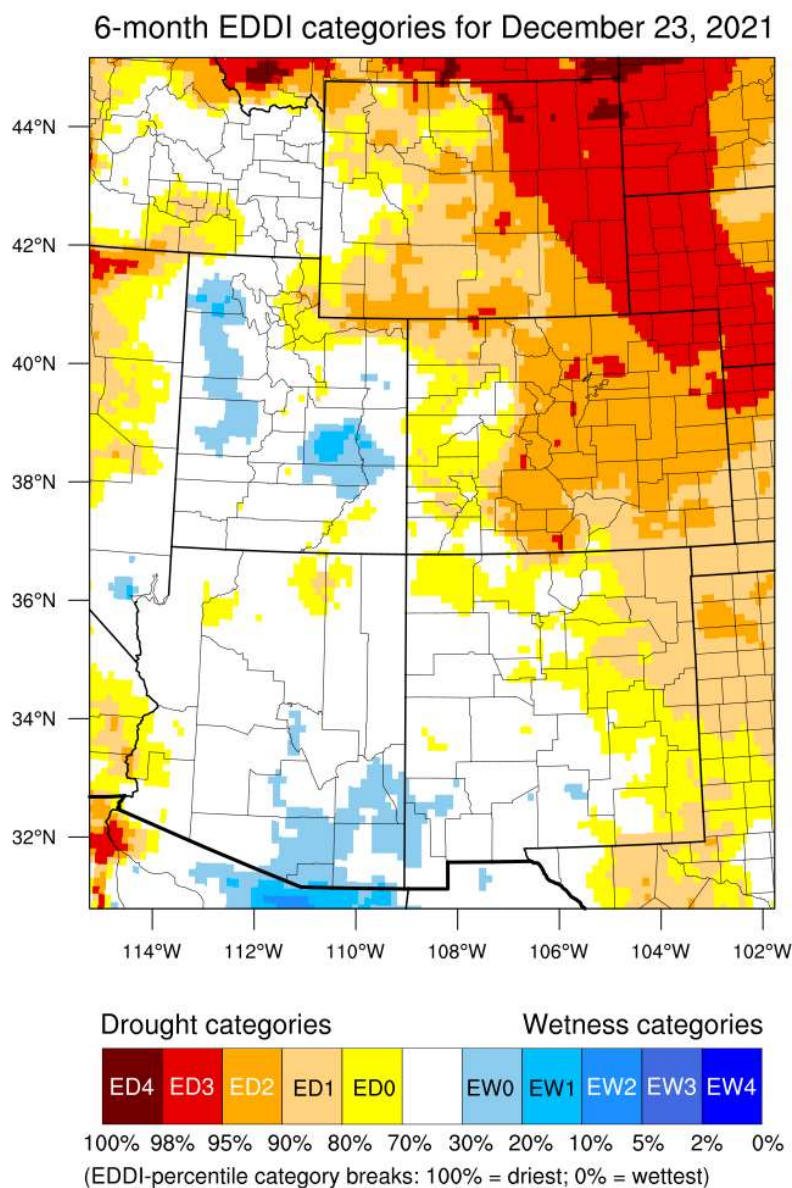


Figure 5: Map showing soil moisture drought. Some of the lowest wetness percentiles are located in the headwaters of the Colorado River Basin; these deficits need to be filled and recharged with snowmelt runoff before filling streams and rivers, potentially contributing to inefficient and lower snowmelt runoff volumes.

and adversely affected by a potentially “thirsty atmosphere” (see **Figure 6**). These conditions may combine to absorb the spring snowmelt, as occurred in 2021, before it can reach the rivers and important reservoirs.



Generated by NOAA/ESRL/Physical Sciences Laboratory

Figure 6: Map showing the 6-month distribution of Evaporative Demand Drought Index (EDDI) values (NOAA), this is an index of ‘atmospheric thirst’ that can reduce precipitation runoff efficiency through evaporation and sublimation and increase wildfire potential.

Further troubling, the three-month outlooks from NOAA Climate Prediction Center suggest a propensity of warm and dry conditions in the southern regions of the CRB as shown in **Figure 7** and throughout the west and the almost the entire Colorado River Basin, as published December 13th. (This product is updated monthly and additional information will be presented at the Board meeting.)

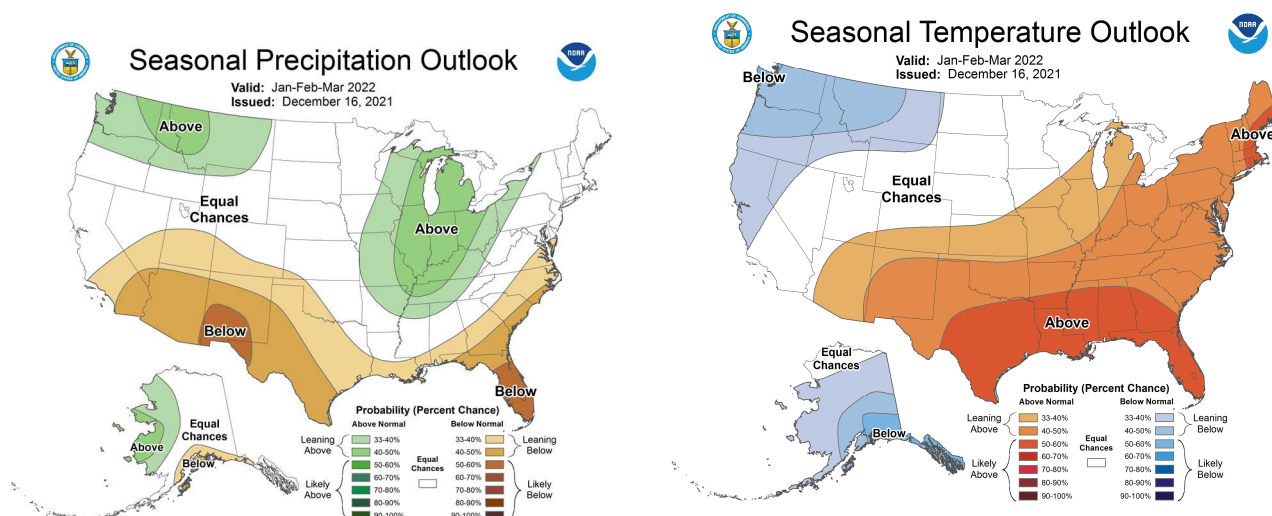


Figure 7: NOAA Three-Month (January-February-March) Temperature and Precipitation Outlook (Climate Prediction Center)

All combined, these data and related hydro-climate models suggest that the majority of the CRB may continue to be at or below average water supply conditions into the near future stressing both local and regional reservoir facilities. Of particular concern, the elevations of Lakes Powell and Mead are projected to continue to fall, in response to below average inflows.

According to the most recent forecasts from the Colorado River Forecast Center (January 2022): “Upper Colorado River Basin January water supply forecasts generally range between 75-140% of the 1991-2020 historical April-July average. Great Basin water supply forecasts are 70-140% of average. Lower Colorado River Basin January-May water supply runoff forecast volumes are 40-155% of the historical median.

April-July unregulated inflow forecasts for some of the major reservoirs in the Upper Colorado River Basin include Fontenelle 650 KAF (88% average), Flaming Gorge 840 KAF (87%), Green Mountain 265 KAF (95%), Blue Mesa 650 KAF (102%), McPhee 235 KAF (92%), and Navajo 550 KAF (87%). The Lake Powell inflow forecast is 6.3 MAF (99% of average).”

Furthermore “...based on the previous December 24-Month Study projects Lake Powell elevation will end Water Year 2022 near 3,519.33 feet with approximately 5.59 maf in storage (23% of capacity). Note that projections of elevation and storage for water year 2022 have significant uncertainty at this point in the season.”

“At the beginning of water year 2022, total system storage in the Colorado River Basin was 22.80 maf (38% of 59.60 maf total system capacity). This is a decrease of 5.97 maf over the total storage at the beginning of water year 2021, when total system storage was 28.77 maf (48% of capacity).” Unfortunately, this means that with current inflow forecasts and projected uses, total Colorado Basin reservoir storage will lose 2.5 million acre-feet and could fall to approximately 20.37 maf (34% of total system capacity).”



Consistent with the Interim Operating Guidelines and 2022 Annual Operating Plan, the **release volume from Glen Canyon Dam will be 7.48 maf in water year 2022 and projections indicate that it will be 7.48 maf again in water year 2023.** Under the most probable scenario, Lake Powell’s elevation is projected to be 3511.70 feet on December 31, 2022. With projected intervening flows between Lake Powell and Lake Mead of approximately 0.87 maf in calendar year 2021, Lake Mead’s elevation is projected to be 1049.20 feet on December 31, 2022.

With these projections that Lake Powell elevation will fall below the target elevation of 3,525 feet in 2022, enhanced monitoring and coordination under the Drought Response Operations Agreement “DROA” at the Initial Units of the Colorado River Storage Project Act (i.e., Flaming Gorge, Aspinall Unit, and Navajo) continues. Drought Contingency Plan (DCP) operations will also continue and expand in the Lower Basin in 2022 with significantly decreased downstream deliveries from Lake Mead by at least 600,000 acre-feet. This is the required volume to be withheld from the Central Arizona Project, Southern Nevada and Mexico under a “Tier 1” shortage declaration for the first time under the 2007 Interim guidelines.

The projected shortage operations, with decreased releases from Lakes Powell and Mead and with below average inflow projections, are summarized graphically in the **Figures 7 and 8**, created by Reclamation. These are further summarized in **Tables 1 and 2**, that describes the modeled probabilities of different potential hydrological futures. In summary, the chances of decreased Glen Canyon releases to 7.48 million acre-feet are greater than 50% through 2023 and there are overwhelming chances of continued Lower Basin shortage through 2023.

Shockingly, Figure 7 further shows that if the minimum probable projections come to pass, and without additional DROA or related management actions, power generation at Glen Canyon Dam may no longer be feasible after September of 2022.

Please note that these forecasts and related operational information are subject to change based upon available data and as such this information will be updated as available and relevant updated planning study information will be provided at the Board meeting.

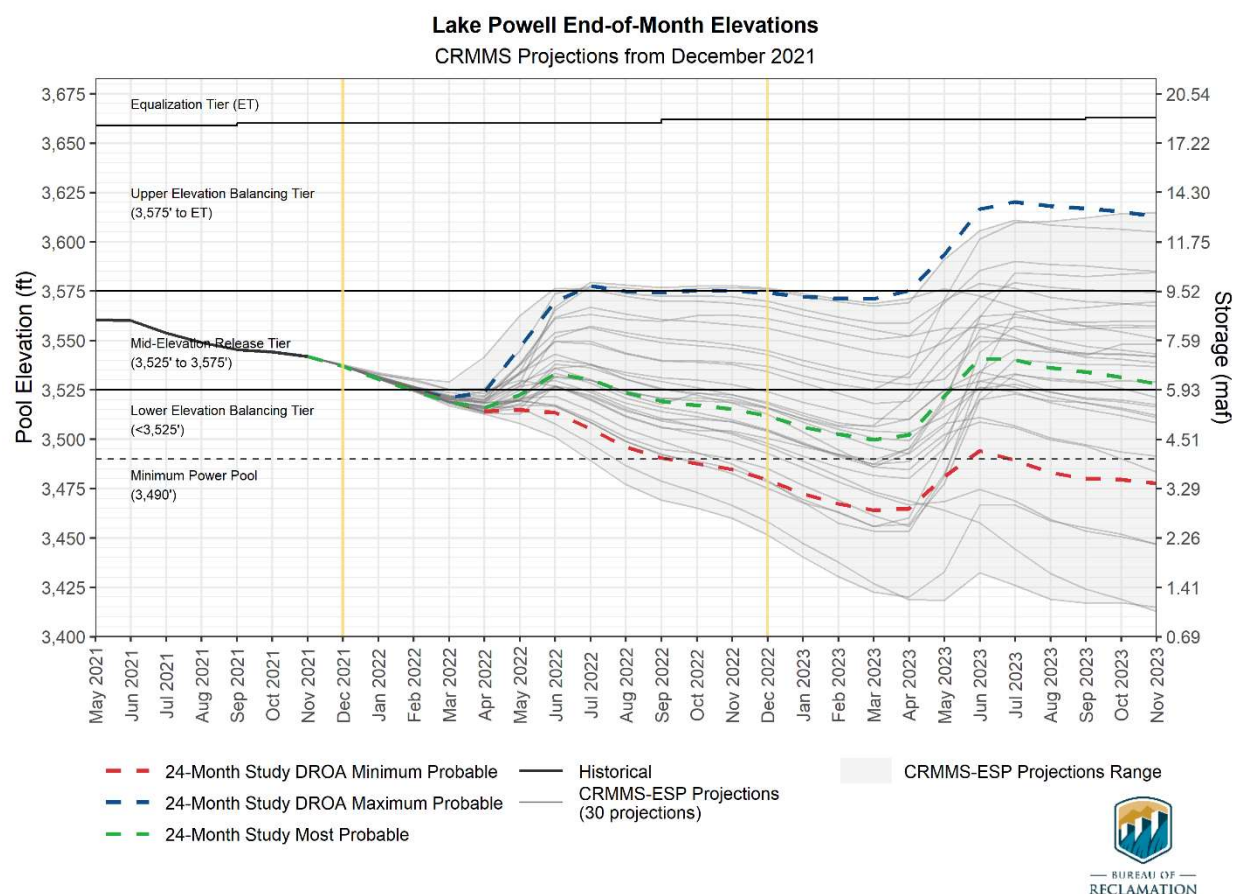


Figure 7: Lake Powell historical and projected end-of-month elevations are shown under different hydrological and operational scenarios (minimum, most and maximum probable inflows / outflows) along with key threshold levels developed under the 2007 Interim Guidelines. Under the minimum probable projection, power generation could cease being feasible due to low reservoir elevations at Glen Canyon Dam as early as September 2022.

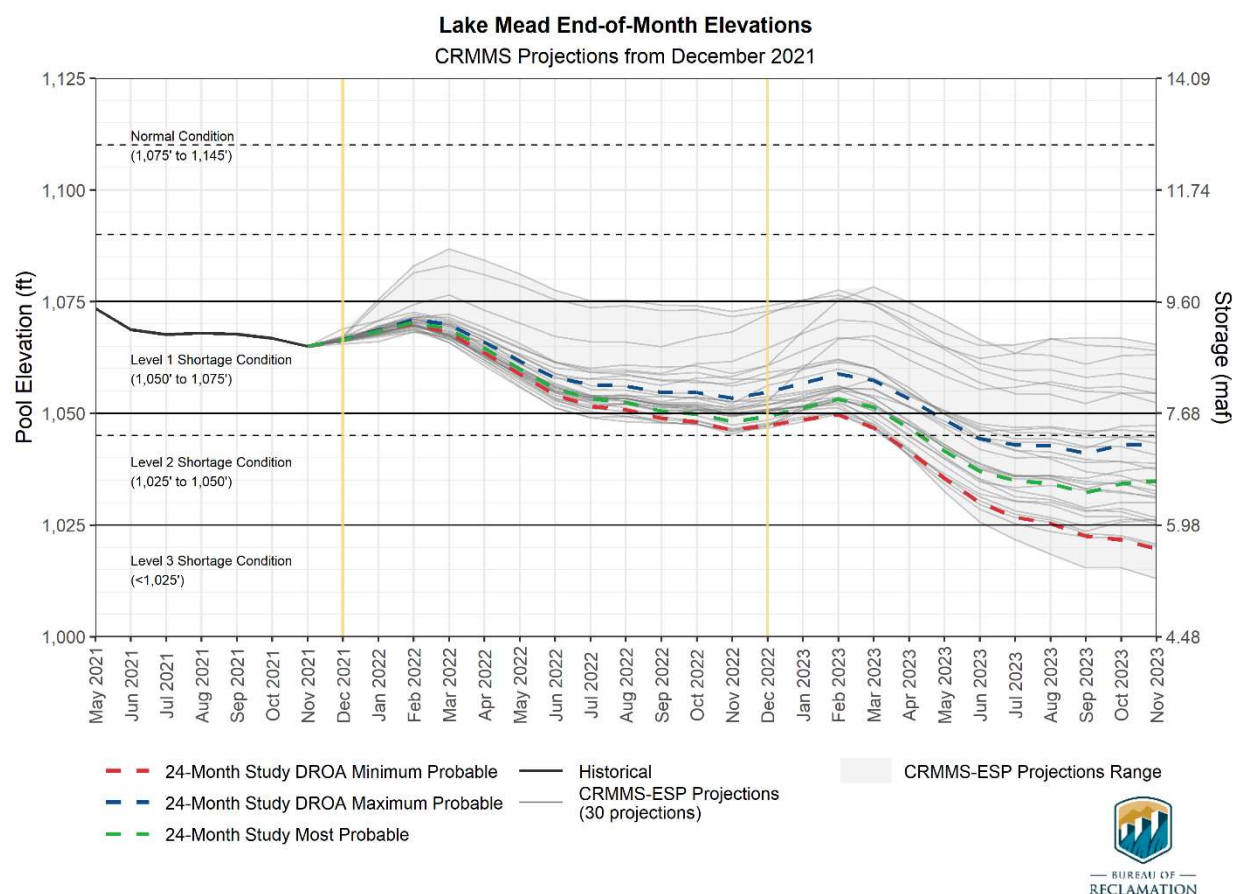


Figure 8: Lake Mead historical and projected end-of month elevations are shown under different hydrological and operational scenarios (minimum, most and maximum probable) along with key threshold levels developed under the 2007 Interim Guidelines. Under minimum probable projected conditions, Tier 2 shortage could be declared in the Lower Basin in calendar year 2023.

As part of conservative planning, and assuming extreme drought conditions continue unabated with decreased inflows into Lake Powell through 2025 (*i.e.*, assuming operational releases of 7.48 million acre-feet per year from 2022-25), **Figure 9** illustrates how such releases from Glen Canyon/Lake Powell would impact the long-term accounting under provisions of the 1922 Colorado River Compact (10-year running average).

Currently the Upper Colorado River Commission (UCRC) reports that the 2020 “10-year Progressive Flow at the Compact compliance point at Lee Ferry, Arizona, is 92.509 million acre-feet (2011-2020). If the flows from Glen Canyon dam are reduced to 7.48 million-acre feet per year from 2022 until 2025 (consistent with current 2022 projections), the 10-year running average will decline to approximately 84 million acre-feet, still well above the 75 million acre-feet threshold specified in the 1922 compact, but only 700,000 acre-feet above the minimum objective releases of 8.23 million acre-feet, as identified in the long range operating criteria (LROC).

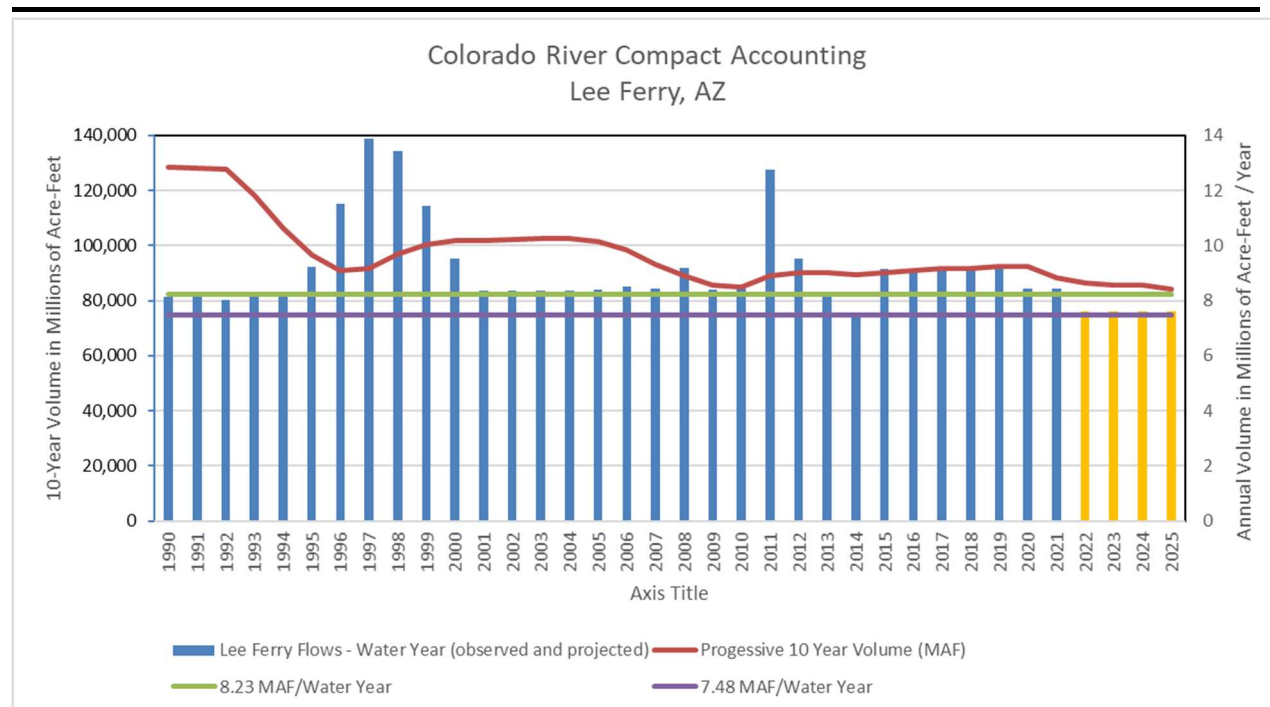


Figure 9: Historical (blue) and conservatively estimated future (yellow) Colorado River Compact accounting (adapted from UCRC Annual Report, 2020) showing the impacts of lower releases from Glen Canyon Dam.

Tables 1 and 2: Summary of Future Probabilities for Lake Powell and Mead

Upper Basin – Lake Powell

Percent of Traces with Event or System Condition

Results from **Corrected** August 2021 CRSS **without Upper Basin Drought Response Operations** (values in percent)

Event or System Condition	2022	2023	2024	2025	2026
Equalization Tier (Powell ≥ Equalization [EQ] Elevation)	0	0	0	6	6
Equalization – annual release > 8.23 maf	0	0	0	6	6
Equalization – annual release = 8.23 maf	0	0	0	0	0
Upper Elevation Balancing Tier (Powell < EQ Elevation and ≥ 3,575 ft)	0	19	25	28	25
Upper Elevation Balancing – annual release > 8.23 maf	0	19	25	28	22
Upper Elevation Balancing – annual release = 8.23 maf	0	0	0	0	3
Upper Elevation Balancing – annual release < 8.23 maf	0	0	0	0	0
Mid-Elevation Release Tier (Powell < 3,575 and ≥ 3,525 ft)	100	34	44	31	34
Mid-Elevation Release – annual release = 8.23 maf	0	0	0	6	9
Mid-Elevation Release – annual release = 7.48 maf	100	34	44	25	25
Lower Elevation Balancing Tier (Powell < 3,525 ft)	0	47	31	34	34

Notes:

¹ Modeled operations include the 2007 Interim Guidelines, Lower Basin Drought Contingency Plan, and Minute 323, including the Binational Water Scarcity Contingency Plan.

² Reservoir initial conditions on December 31, 2021 were simulated using the August 2021 Most Probable 24 Month Study.

³ Stress Test Hydrology uses 32 hydrologic inflow sequences that resamples the observed natural flow record from 1988-2019 for 32 traces analyzed.

⁴ Percentages shown in this table may not be representative of the full range of future possibilities that could occur with different modeling assumptions.

⁵ Percentages shown may not sum to 100% due to rounding to the nearest percent.





Lower Basin – Lake Mead

Percent of Traces with Event or System Condition

Results from **Corrected** August 2021 CRSS **without Upper Basin Drought Response Operations** (values in percent)

Event or System Condition	2022	2023	2024	2025	2026
Surplus Condition – any amount (Mead \geq 1,145 ft)	0	0	0	0	0
Surplus – Flood Control	0	0	0	0	0
Normal or ICS Surplus Condition (Mead < 1,145 and > 1,075 ft)	0	6	3	0	9
Recovery of DCP ICS / Mexico's Water Savings (Mead $>/\geq$ 1,110 ft)	0	0	0	0	0
DCP Contribution / Mexico's Water Savings (Mead \leq 1,090 and > 1,075 ft)	0	6	3	0	3
Shortage Condition – any amount (Mead \leq 1,075 ft)	100	94	97	100	91
Shortage / Reduction – 1 st level (Mead \leq 1,075 and \geq 1,050)	100	78	28	25	16
DCP Contribution / Mexico's Water Savings (Mead \leq 1,075 and > 1,050 ft)	100	78	28	25	16
Shortage / Reduction – 2 nd level (Mead < 1,050 and \geq 1,025)	0	16	63	34	34
DCP Contribution / Mexico's Water Savings (Mead \leq 1,050 and > 1,045 ft)	0	13	3	3	13
DCP Contribution / Mexico's Water Savings (Mead \leq 1,045 and > 1,040 ft)	0	3	13	9	0
DCP Contribution / Mexico's Water Savings (Mead \leq 1,040 and > 1,035 ft)	0	0	9	6	0
DCP Contribution / Mexico's Water Savings (Mead \leq 1,035 and > 1,030 ft)	0	0	25	13	9
DCP Contribution / Mexico's Water Savings (Mead \leq 1,030 and \geq 1,025 ft)	0	0	13	3	13
Shortage / Reduction – 3 rd level (Mead < 1,025)	0	0	6	41	41
DCP Contribution / Mexico's Water Savings (Mead $</\leq$ 1,025 ft)	0	0	6	41	41

Notes:

¹ Modeled operations include the 2007 Interim Guidelines, Lower Basin Drought Contingency Plan, and Minute 323, including the Binational Water Scarcity Contingency Plan.

² Reservoir initial conditions on December 31, 2021 were simulated using the August 2021 Most Probable 24 Month Study.

³ Stress Test Hydrology uses 32 hydrologic inflow sequences that resamples the observed natural flow record from 1988-2019 for 32 traces analyzed.

⁴ Percentages shown in this table may not be representative of the full range of future possibilities that could occur with different modeling assumptions.

⁵ Percentages shown may not sum to 100% due to rounding to the nearest percent.



BUREAU OF
RECLAMATION

Colorado River Headwaters within Colorado and Enterprise (Wolford and Elkhead Reservoirs) Operations

Similar to the regional basin conditions, things in the Upper Colorado River Basin within Colorado have improved greatly with Snotel data and modeled Snow conditions moving towards average conditions after a slow start to the season. This is shown in **Figure 10** along with projected runoff hydrology shown in **Figure 11**. These runoff forecasts dated January 4th, 2022 improved dramatically from early December. They rely on climate projections and modeled soil moisture and snowpack conditions, and are calibrated using historical Snotel, soil moisture and runoff relationships.

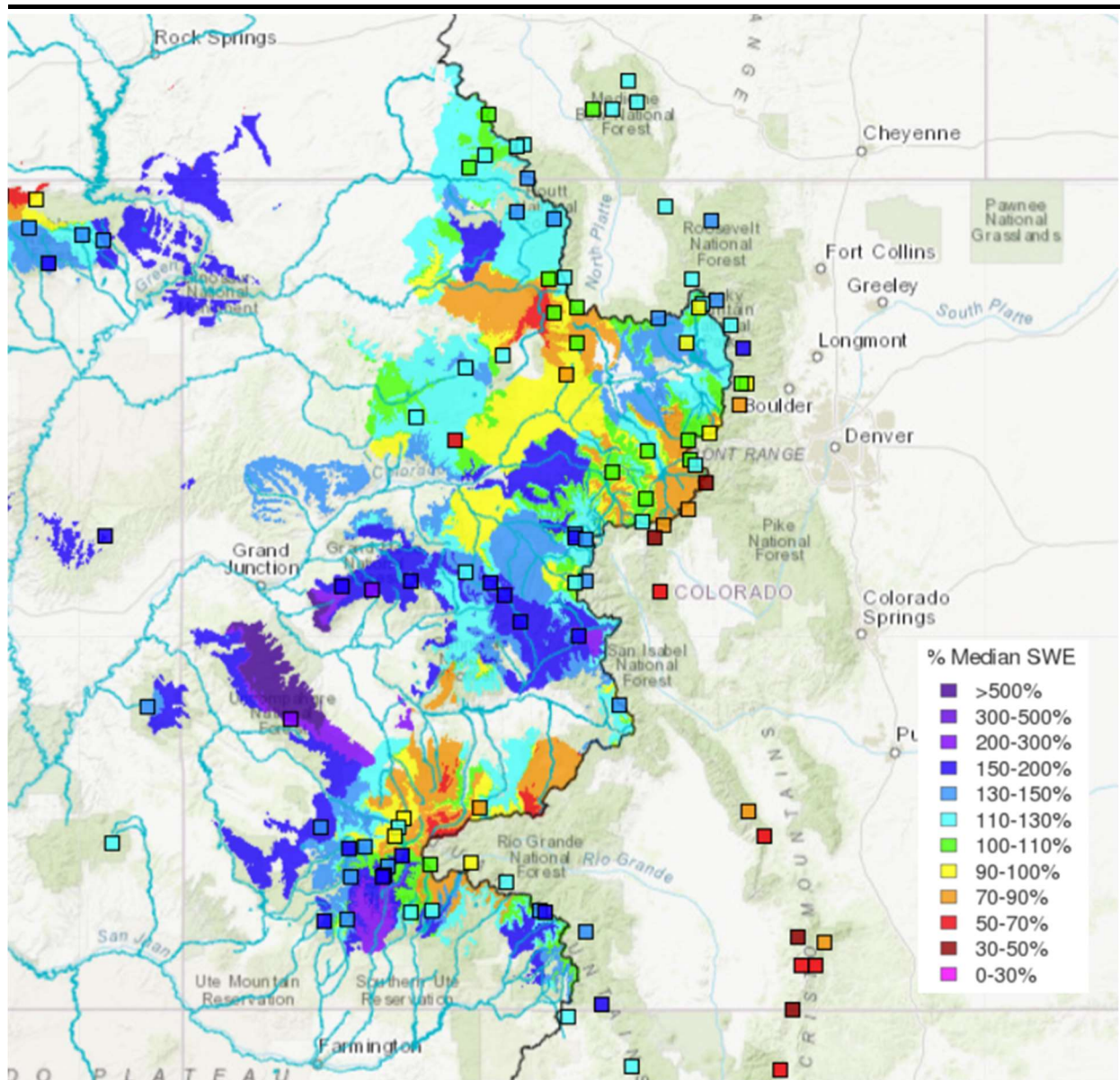


Figure 10: Map of Snow Water Equivalent (SWE) as a percent of average (squares) from Snotel network overlain on modeled snow conditions from the CBRFC for significant areas for various nodes in the Upper Colorado Headwaters in Colorado (January 4th, 2022)

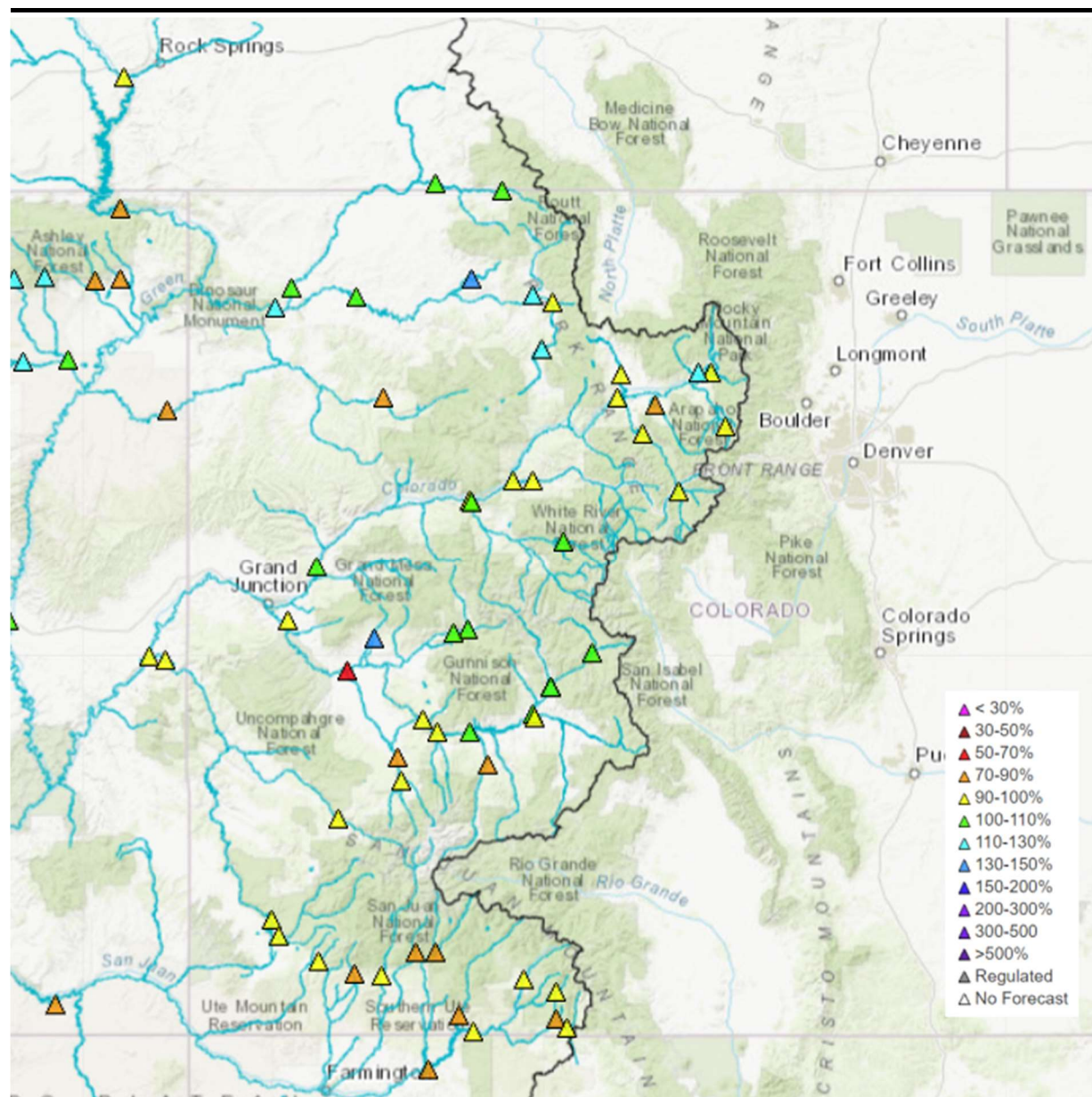


Figure 11: Map of CBRFC April – July 2022 Water Supply forecasts for various nodes in the Upper Colorado Headwaters in Colorado (January 4th, 2022)

A comparison of current snow conditions with 2002, 2020 and 2021 levels at Snotel sites above Cameo Colorado is shown in **Figure 12**. Historically, only about 25 percent of the Water Year (Oct-Sept) precipitation occurs October through December. However, Snotel data above Cameo indicate that on average the December 31st SWE accounts for 41 percent of the historical peak SWE accumulation that occurs in early April. The recent “snow globe” conditions from December 22nd to the 31st boosted snowpack from 2002/2021 levels to above 2020 moisture measurements. The boost is particularly impactful to the drought stricken Grand Mesa, as shown in **Figure 13** with a comparison of current SWE conditions with 2018, 2020 and 2021 levels at the Grand Mesa



Snotel site.

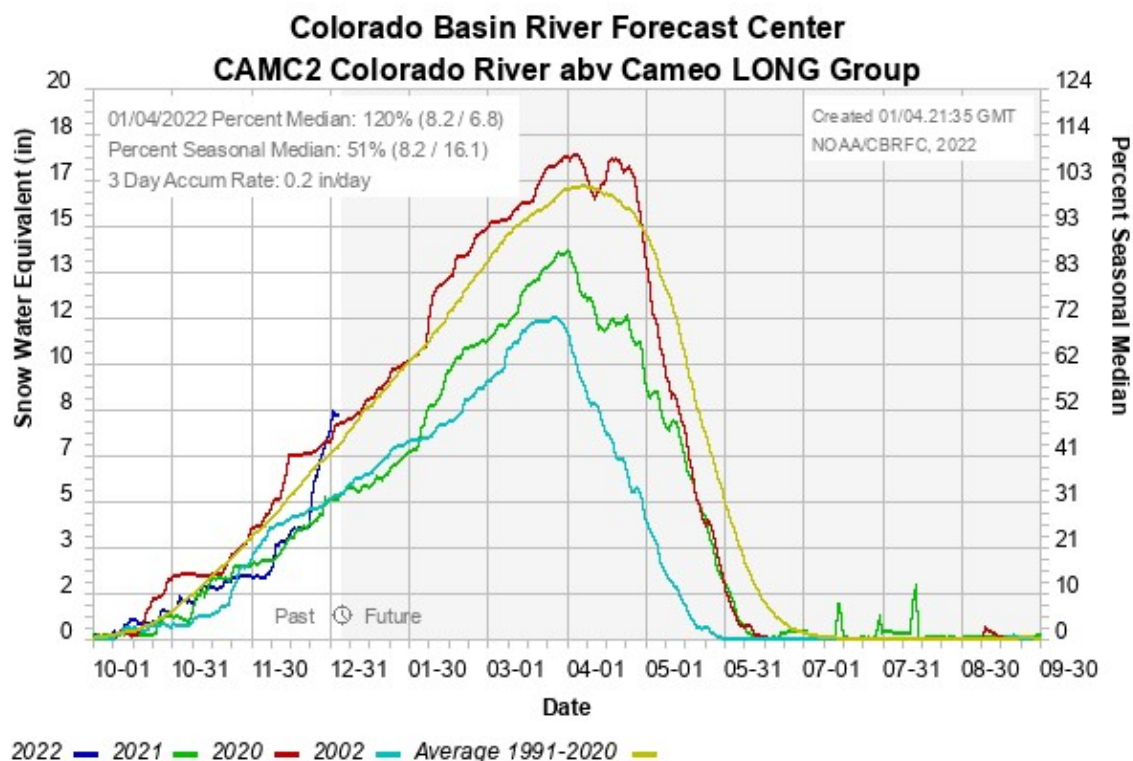


Figure 12: CBRFC comparison of SWE time series measurements for SNOTEL sites above Cameo for 2022, 2021, 2020 and 2002 (January 4th, 2022)

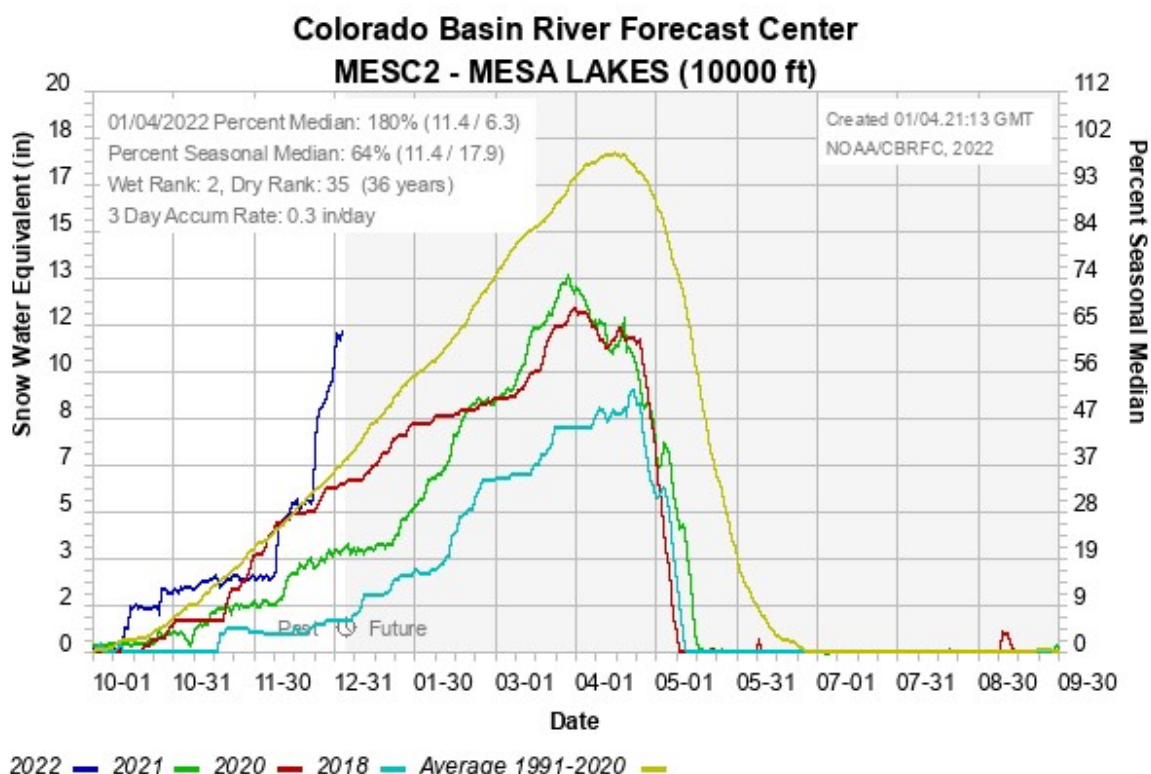


Figure 13: CBRFC comparison of SWE time series measurements at the Mesa Lakes SNOTEL site for 2022, 2021, 2020 and 2018 (January 4th, 2022)

The Shoshone Power Plant, which did not operate at full capacity from April 5th to October 19th, 2021 for various reasons including bearing failure, impacts of debris flows due to locally intense rain events on the Grizzly Creek fire scar, and rock fall in the diversion tunnel, has since been generating with both turbines.

In WY2021, the Shoshone Outage Protocol (ShOP) operations were critical to maintaining flows in the Colorado River, especially when the Grand Valley Irrigators were otherwise satisfied. The Cameo Call was in place and factored into maintaining flows in the Colorado for a total of 117 days in 2021, despite the monsoonal moisture and conservative operations by the irrigators (compared to 112 days in 2002 and 123 days in 2012). Recent streamflows at USGS gages at Dotsero, Cameo and Palisade (at the upstream terminus of the 15 Mile Reach) are shown in **Figures 14, 15 and 16.**

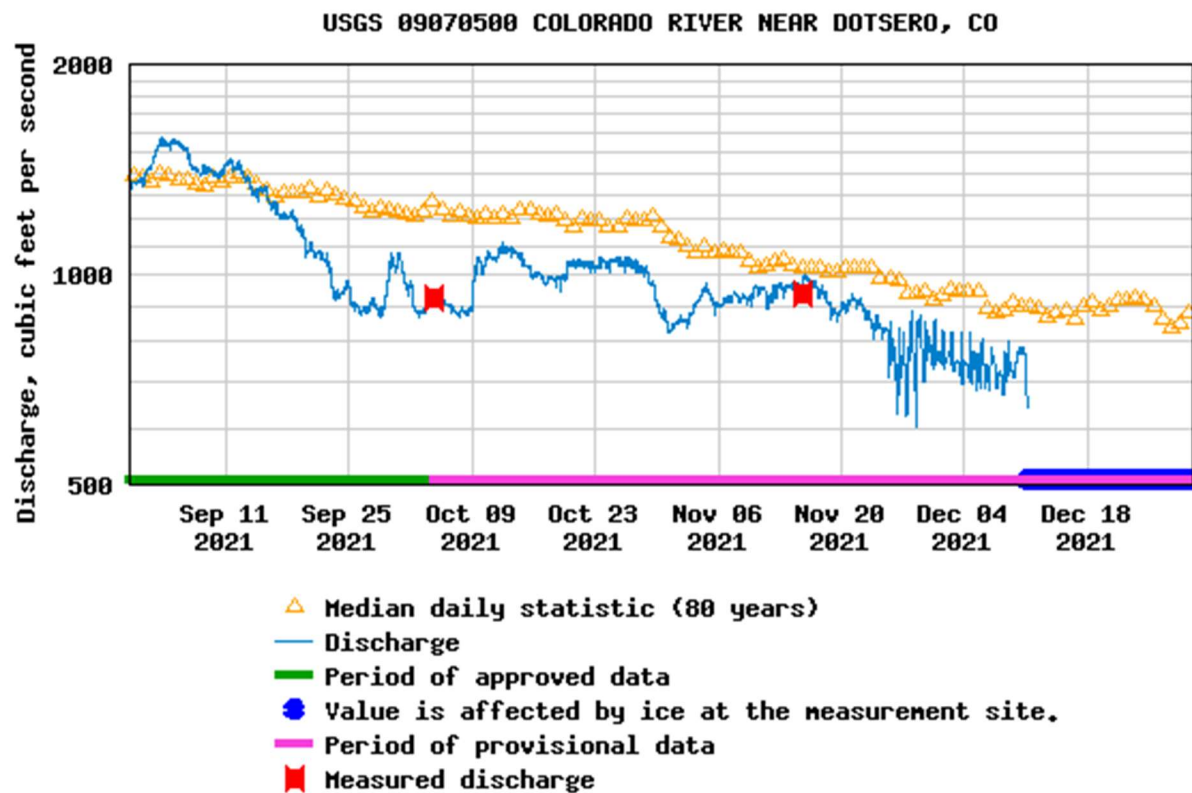


Figure 14: Chart of recent discharge at the USGS Gage Colorado River near Dotsero, indicating below average streamflow prior to icing conditions

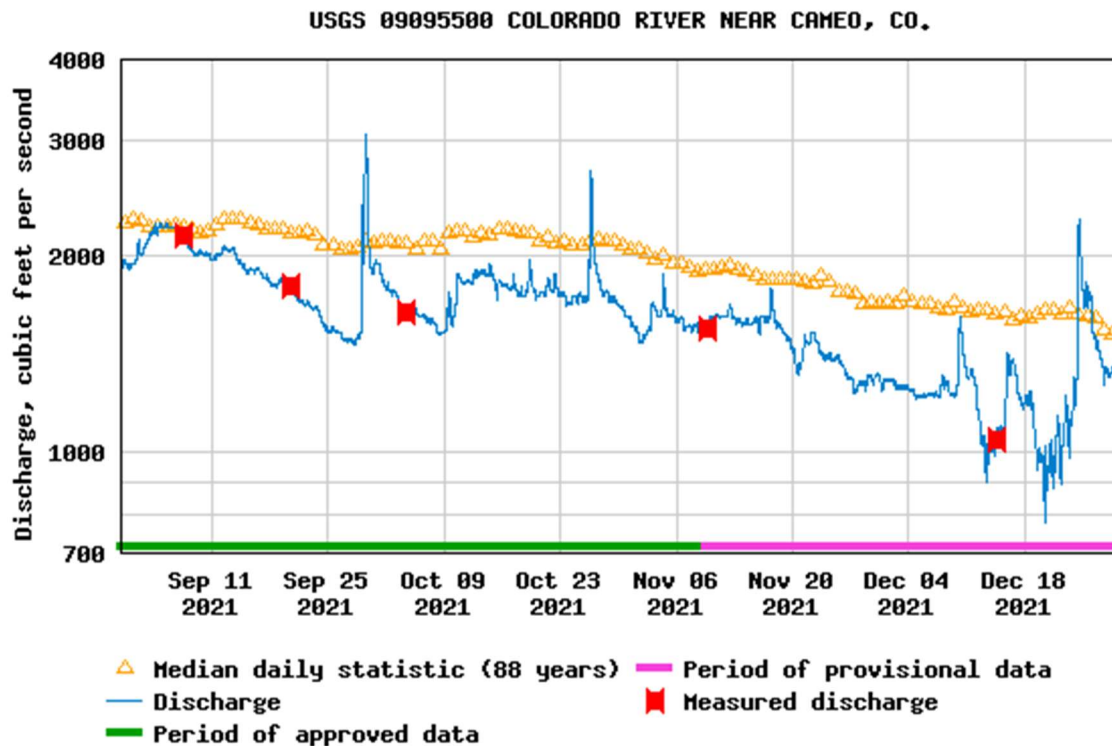


Figure 15: *Chart of recent streamflow at the USGS gage Colorado River near Cameo*

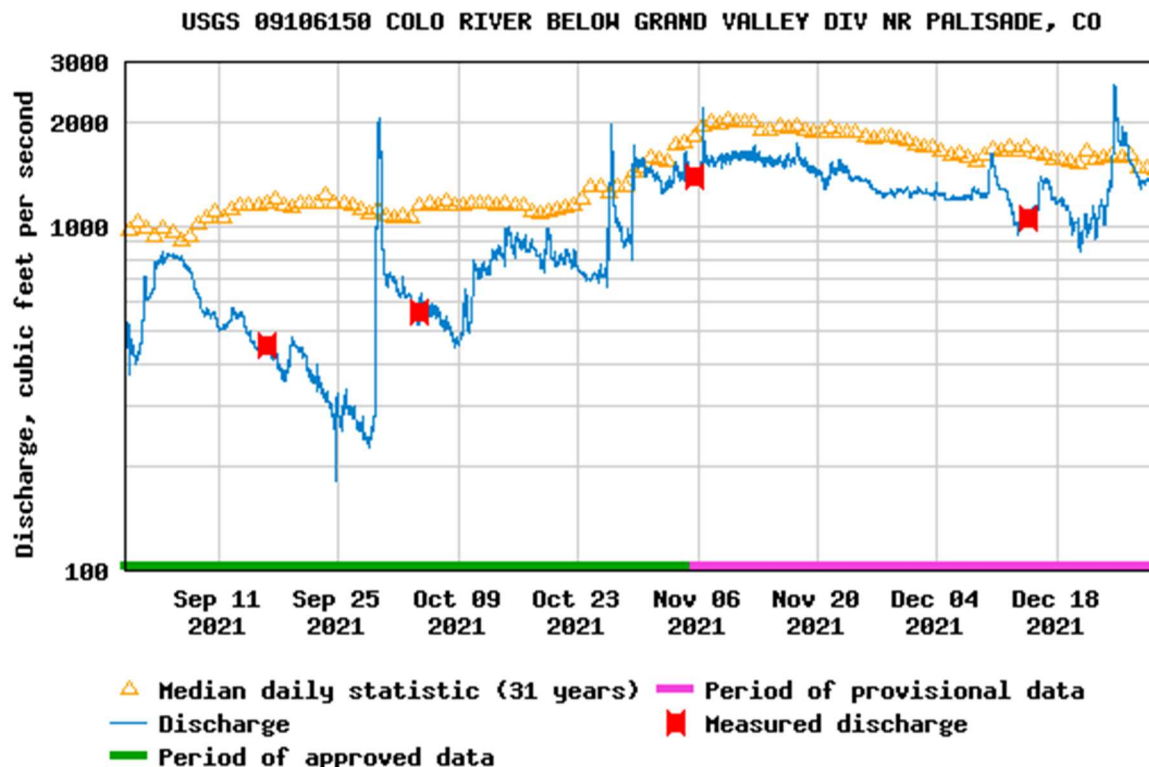


Figure 16: Chart of recent streamflow at the USGS gage Colorado River near Palisade, at the head of the 15 Mile Reach

Recent Wolford Mountain Reservoir operations are shown in **Figure 17**. Substitution releases of 22,600 acre-feet to supplement replacement releases and irrigation deliveries from Green Mountain Reservoir, along with 4,773 acre-feet released for the Recovery Program (the remaining 1,227 af of the 6,000 af Fish Pool obligation was released by exchange from Heart Lake) and about 1,200 acre-feet released for contract replacement, resulted in a total drawdown of about 30 feet below full pool.

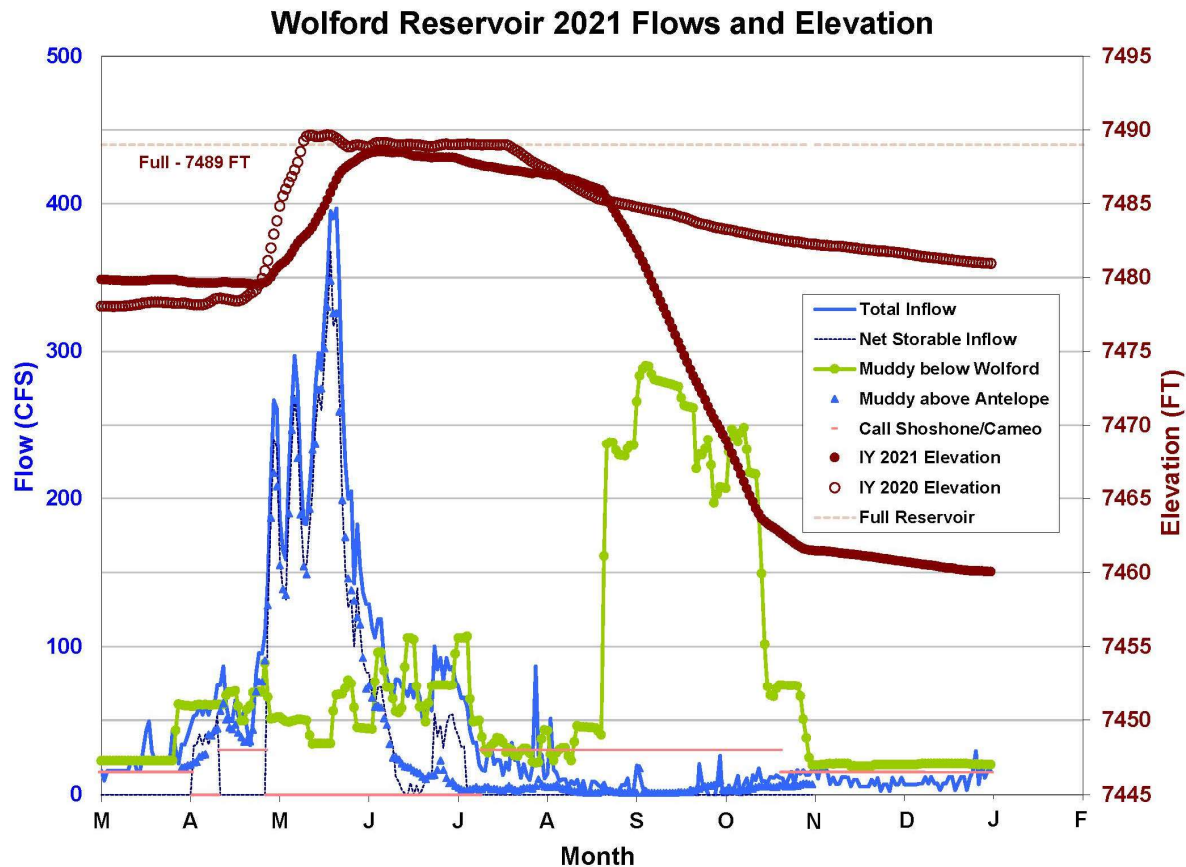


Figure 17: *Chart of 2021 operations for Wolford Mountain Reservoir in comparison to 2020*

Yampa River Basin and Elkhead Reservoir Operations

Recent streamflows in the Yampa River near Maybell are shown in **Figure 18**, indicating a strong increase in baseflows following the end of the irrigation season. During the 2021 irrigation season, releases from Elkhead Reservoir were critical to mitigating the impacts of drought and consumptive use, avoiding a Yampa mainstem call for all but three days.

Please see memo from Hunter Causey detailing these efforts.

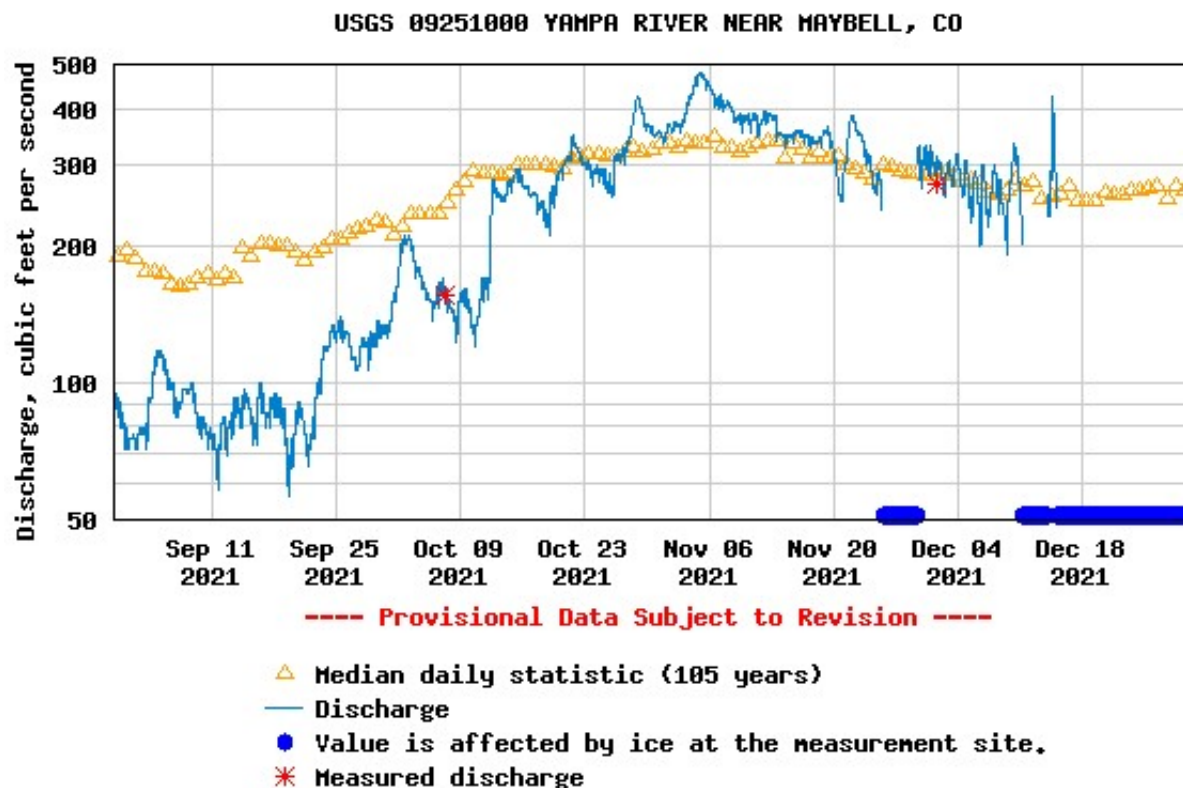


Figure 18: Chart of recent streamflow conditions at the USGS gage Yampa River near Maybell, reflecting a strong rebound from below-average streamflow conditions in September

Table 3 shows pools in Elkhead Reservoir made available for consumptive and non-consumptive uses in the lower Yampa basin. 2021 Elkhead operations are shown in **Figure 19**. Of the nearly 10,000 af made available in 2021, a total of 8,931 af were released. The 4,457 af contract pool in Elkhead was fully subscribed (less evaporative loss). 2021 operations reflect a concerted effort by the River District, Tri-State Generation and Transmission Association, the Colorado Water Conservation Board, the Colorado Water Trust, and the Recovery Program to maximize the usefulness of water stored in Elkhead for multiple benefits.

Table 3: Elkhead Reservoir Pools made available in 2021

Pool	Purpose	Amount
CWCB Permanent Fish	Delivery to Critical Habitat	5,000 acre-feet
USFWS Short Term Lease 2020 Carryover	Delivery to Critical Habitat	747 acre-feet
USFWS Short Term Lease 2021	Delivery to Critical Habitat	1,253 acre-feet
2021 Yampa River Flow Pilot Project	Enhancement/Call Mitigation	1,500 acre-feet
CWCB Contract	Direct Deliveries Free of Charge	677
acre-feet		
CWT/CRD Leased from Tri-State	Streamflow Enhancement	750 acre-feet
Total		9,927 acre-feet

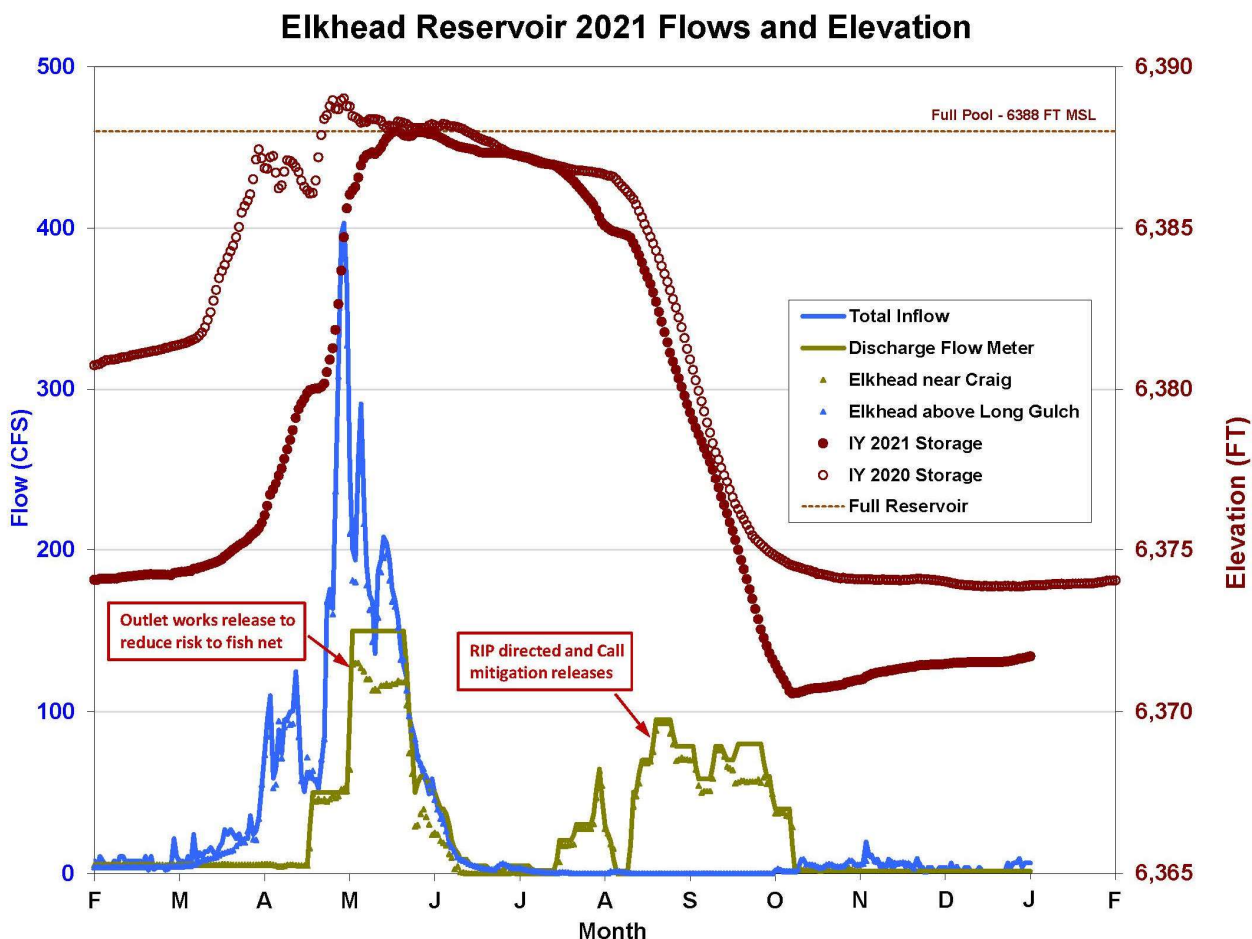


Figure 19: *Chart of 2021 Elkhead Reservoir Operations as compared to 2020*

Gunnison River Basin Operations

Dry conditions are pervasive in the Gunnison River Basin with significant drawdowns in basin water storage facilities, including Blue Mesa Reservoir, the state's largest reservoir. This was exacerbated by Drought Response Operations (DRO) that caused an additional 36 KAF to be released from Blue Mesa from August to October of 2021, above and beyond normal operations, to help stabilize Lake Powell levels. **Figure 20** shows below average streamflow conditions in the lower Gunnison River at the USGS gauge near Grand Junction over the last 24 months.

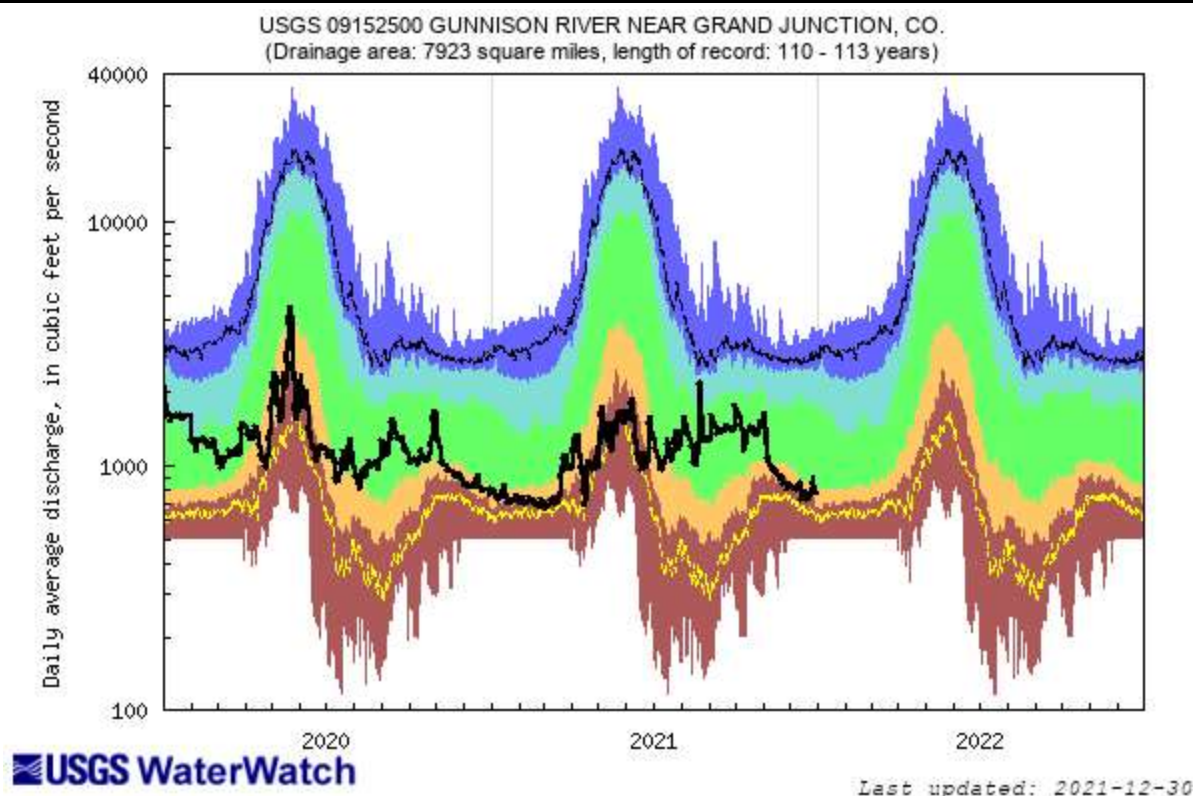


Figure 20: Chart of recent streamflow conditions at the USGS gage Gunnison River near Grand Junction, in comparison to previous years, showing below average river conditions. The impact of increased releases from the Aspinall Unit due to drought response operations can be seen in the summer of 2021.

According to Reclamation’s December 2021 24-month planning study, “Blue Mesa will not fill in water year 2022. Blue Mesa reached a peak elevation of 7,464.28 feet on June 22, 2021. The elevation reached a low elevation 7429.49 feet on November 1, 2021 with a storage level of 208,761 acre-feet (25% of full capacity).

Similarly, poor water supply conditions exist throughout the Gunnison Basin. Although it is too early to predict with any confidence, most facilities may be adversely affected in 2022. Aside from Paonia Reservoir, major storage facilities may not be able to fill. Taylor Park Reservoir, another important facility that provides benefits to the Upper and Lower Gunnison Basins is projected to reach approximately only 88% of active capacity with projected inflows of 111 KAF for April-July. More information regarding the Gunnison Basin projected hydrology and operations should be available for discussion during the Board meeting.



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: HUNTER CAUSEY, P.E.

SUBJECT: ELKHEAD PROJECT UPDATES

DATE: DECEMBER 30, 2021

ACTION:

Staff requests Board authorization for the General Manager to enter into a ten-year water supply agreement with the Colorado Water Trust for releases from Elkhead Reservoir subject to review and approval by legal counsel.

STRATEGIC INITIATIVES:

13. A. Asset Management. The River District will carefully plan and implement operation, maintenance and replacement (OM&R) activities to ensure the reliable and safe operation of District assets.

This memorandum provides an update on the Elkhead Project, including 2021 operations and a request for authorization to enter a water supply agreement with the Colorado Water Trust.

2021 Operations.

Elkhead Reservoir saw an unprecedented amount of water released for downstream beneficial uses in response to a challenging water year. A combined 6,500 acre-feet of water was released to benefit endangered fish habitat from the CWCB's 5,000 acre-feet endangered fish pool and the USFWS's 2,000 acre-feet short term lease pool, with 500 acre-feet carried over to 2022. Additionally, the River District released 1,500 acre-feet made available through the River District's Community Funding Partnership 2021 Yampa River Flow Pilot Project to prevent a call being placed on the mainstem Yampa. Furthermore, 677 acre-feet of water leased by the CWCB to assist irrigators in the state's drought-stricken areas was released. Lastly, 254 acre-feet of water leased by the Colorado River District through an agreement and with funding from the Colorado Water Trust from Tri-State Generation and Transmission Association's pool at Elkhead was released to enhance streamflow. The combined 8,931 acre-feet partially mitigated the drought impacts to consumptive and non-consumptive users. For irrigators and other consumptive users, the Pilot Project and CWCB drought mitigation releases helped avoid a mainstem call for all but three days and provided additional water to the stream system.

Staff is exploring the option of applying to the Yampa River Fund for a 1,500 acre-foot contract to augment flows similar to the 2021 Yampa River Flow Pilot Project. In order to increase the competitiveness of the application, the River District, through the CFP could offer a 50% cost



share. Staff is not seeking formal Board action but only direction to continue pursuing the idea for later Board approval.

Colorado Water Trust Water Supply Agreement.

The Colorado Water Trust (CWT) contacted staff to request a ten-year option-type contract for storage releases from Elkhead Reservoir for in-channel uses. The CWT suggested the following essential terms of the agreement:

- **Term:** 10-years.
- **Amount:** The River District would establish the amount of water it has available for release on the CWT behalf on an annual basis.
- **Payment:** CWT would pay, at the River District's set water marketing price, for all water released under the agreement.

An agreement of this nature benefits the CWT's mission in several ways. It would provide the CWT a clearer sense of how much water may be available early in the season, which would help it with planning and grant requests. It would also align with its existing similar ten-year Stagecoach Reservoir contract with the Upper Yampa Water Conservancy District. Furthermore, also it would allow CWT to take a holistic approach to the basin and coordinate releases to benefit both the upper and lower river.

The proposed agreement would not diminish the River District's ability to provide water to other users, including consumptive uses, because the agreement, as proposed, would not prevent CRD from leasing water to third parties. Pursuant to the proposal, the River District would provide the CWT with an estimate of the available water in a given water year. This would allow CWT to plan accordingly and fundraise. It is important to note that the River District would not be committing to a set amount of delivery, only providing the amount of water it would be willing to contract for in that given year. CWT would then agree to a certain amount and pay the River District the current water marketing rate for in-channel uses for each acre-foot delivered.

This request does not squarely-align with the Board's policy adopted at the July 2018 quarterly board meeting to provide one-year interim leasing for in-channel uses. The proposed arrangement also differs from the standard water marketing contracts in that it is not on a take-or-pay basis where contractees pay for leased water whether it is released or not. Staff recognizes that the Board limited the in-channel use contracts to a one-year term to maintain water availability for consumptive uses. Due to the unique terms of this agreement, the proposed agreement would not diminish the River District's ability to serve consumptive uses, and it would help the CWT with their goals which are largely aligned with the River District mission.

This arrangement is potentially positive as it allows the CWT to raise funds to pay the District's Enterprise for the release of water. At the same time, should a demand for Elkhead water arise, during the ten-year period, this agreement would allow us to meet those demands.

Staff requests the Board authorize the General Manager to execute an agreement with the Colorado Water Trust for a ten-year agreement for water releases from Elkhead Reservoir subject to review and approval by legal counsel.



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: ANDY MUELLER

SUBJECT: GENERAL MANAGER 2022 GOALS AND OBJECTIVES

DATE: JANUARY 1, 2022

I continue to have numerous goals and priorities and for 2022, I have attempted to distill these many goals into a few, relatively straightforward goals, which reflect the Board's priorities as expressed in the Strategic Plan.

- 1. Goal: Personally lead the District's effort to implement the provisions of the CRCA related to the permanency of the Shoshone call.**

APPLICABLE STRATEGIC INITIATIVE: 5.A. Trans Mountain Diversions.

- Continue to explore, evaluate and implement all alternatives available to the West Slope, including collaboration with a wide range of partners.
- Work collaboratively with the General Counsel to create a viable path forward for progress in this matter.
- Develop necessary coalition of allies for successful completion of this goal.

- 2. Goal: Continue to provide statewide and basin-wide leadership on Colorado River supplies and operations.**

APPLICABLE STRATEGIC INITIATIVES:

***4.A. through 4.D. Colorado River Supplies;
5.A. through 5.C. Trans Mountain Diversions; and
6.A. Agricultural Water Use.***

- Provide leadership and direction in the Upper Basin on Interim Guideline renegotiations.
- Continue to support the District's work on hydrologic modeling and the development of accurate and unbiased information so that the River District retains its position as a trusted source and an important participant in these ongoing matters.
- Continue involvement in the Upper Basin DCP planning efforts focusing on CRSP Reservoir reoperation protocols and water supply augmentation.



- d. Provide structure and leadership for the West Slope-wide discussion regarding a Demand Management Program in a manner that fosters open and respectful communication with a goal of reaching a consensus on West Slope priorities.
- e. Develop and strengthen collaborative working relationships with our intra and interstate partners in the Basin.

3. Goal: Develop and implement a successful plan of action addressing issues arising from the operation, maintenance and potential rehabilitation of Wolford Mountain Reservoir.

APPLICABLE STRATEGIC INITIATIVES:

12. Financial Sustainability; and

13. Asset Management.

- a. Provide direct oversight and leadership in developing confidence in understanding of the risks associated with operations.
- b. Engage with our partnering agencies in all appropriate venues to resolve any differing perspectives regarding obligations.
- c. Devise and implement any necessary course of action in a manner which keeps public safety as the District's number one priority and is financially responsible to the District.

4. Goal: Develop and implement a successful effort to identify and facilitate funding opportunities presented by the Bi-partisan Infrastructure Bill in such a manner as to assist the District's constituents in successfully attracting and receiving funds to further key projects within the District.

APPLICABLE STRATEGIC INITIATIVES:

1.Outreach and Advocacy;

2. Outreach in All Basins;

3. Climate and Hydrologic Uncertainty;

7. Water Needs/Project Development;

8. Water Efficiency and Conservation; and

12.A. Financial Stability.

- a. Lead in the development of an internal team at the River District with expertise in identifying and attracting federal funding.
- b. Utilize District resources and knowledge to assist constituents in successfully identifying and applying for federal funding.
- c. Explore creative programmatic opportunities for the District to create regional projects and partnerships within District boundaries and/or sub-basins to attract and retain federal funding in furtherance of the District's mission.
- d. Continue to develop contacts and partnerships with agencies and elected officials' offices to facilitate the accomplishment of this goal.

5. Goal: Provide direction and leadership to District staff as we continue to develop the District workforce into a more cohesive, productive team.



APPLICABLE STRATEGIC INITIATIVES: 11.A. and 11.B. River District Staff Resources.

- a. Provide leadership and mentoring to new and seasoned District employees designed to develop and instill a culture reflecting the District's mission and the District's core values of Integrity, Commitment, Collaboration, Respect and Excellence.
 - b. Continue the development of a more consistent and systemized cross departmental, team approach to projects with the goal of leveraging our existing staff resources to more effectively and consistently meet our Strategic Plan Initiatives. Model and encourage cross departmental communication and the strengthening and development of a willingness to identify areas and efforts where employees can provide unique skills and knowledge to assist other team members in accomplishing their goals and projects.
 - c. Develop and support staff in innovative methods of achieving our District's mission and strategic goals and support and encourage staff professional development.
 - d. Provide a sense of stability and security among employees through frequent professional and positive communications. Strive to be accessible to all employees so that they are properly supported and engaged in fulfilling work.
- 6. Goal: Provide leadership in the development of data to better understand the impacts of climate and hydrologic uncertainty and to develop efforts within the District, State and Basin to mitigate the effects of decreasing hydrology.**

APPLICABLE STRATEGIC INITIATIVE: 3.A. Climate and Hydrologic Uncertainty.

- a. Assist in the collation, synthesis and distribution of study results addressing this issue.
 - b. Develop opportunities to identify and financially support efforts at further development of unbiased data on this issue.
 - c. Work with local communities within the District to assist in the development of plans related to firm water supply considering climate change and uncertain hydrology in the Colorado River.
 - d. Support staff efforts to identify water users who may be particularly vulnerable to variable climate and support staff efforts to assist those constituents in developing and implementing plans to address these issues.
- 7. Goal: Develop, refine and improve skills, tools and strategies for approaching negotiations in a strategic and successful manner for the District staff and for me as General Manager.**
- a. Identify, gain admission to, and participate in, high level negotiation training.
 - b. Develop internal strategies and approaches for preparing for and participating in negotiations.
 - c. Develop training and mentoring strategies for District employees on successful negotiation tactics and implementation.



GO BACK TO AGENDA

COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

CC: ANDY MUELLER, GENERAL MANAGER

FROM: DAVE KANZER, P.E., DIRECTOR OF SCIENCE AND INTERSTATE MATTERS
RAQUEL FLINKER, SENIOR WATER RESOURCES ENGINEER/ PROJECT MANAGER

SUBJECT: LOWER GUNNISON PROJECT UPDATE (RCPP PORTION CLOSEOUT)

DATE: DECEMBER 31, 2021

ACTIONS: *Informational only, No Board action requested.*

STRATEGIC INITIATIVE(S): 2. Outreach in All Basins
3. Climate and Hydrologic Uncertainty
6. Agricultural Water Use
9. Water Efficiency and Conservation
10. Water Quality

After almost 5 years of planning and implementation lead by the River District, the first phase of the Lower Gunnison Project to improve off- and on-farm irrigation efficiency as part of the Natural Resources Conservation Service (NRCS) Regional Conservation Partnership Program (RCPP) is now complete.

The project objectives to protect, improve and/or otherwise enhance four natural resource concerns: water availability, water quality, degraded habitat, and soil health were accomplished through the development and implementation of a series of integrated agricultural water use efficiency projects. These project improvements focused on modernizing and optimizing irrigation water conveyance and application systems in four focus areas within the Lower Gunnison Basin, including (see Figure 1):

1. North Fork Water Conservancy District (NFWCD)
2. Uncompahgre Project (UVWUA)
3. Crawford Water Conservancy District (CWCD), and
4. Bostwick Park Water Conservancy District (BPWCD)

LOWER GUNNISON PROJECT UPDATE (RCPP PORTION CLOSEOUT)

December 31, 2021

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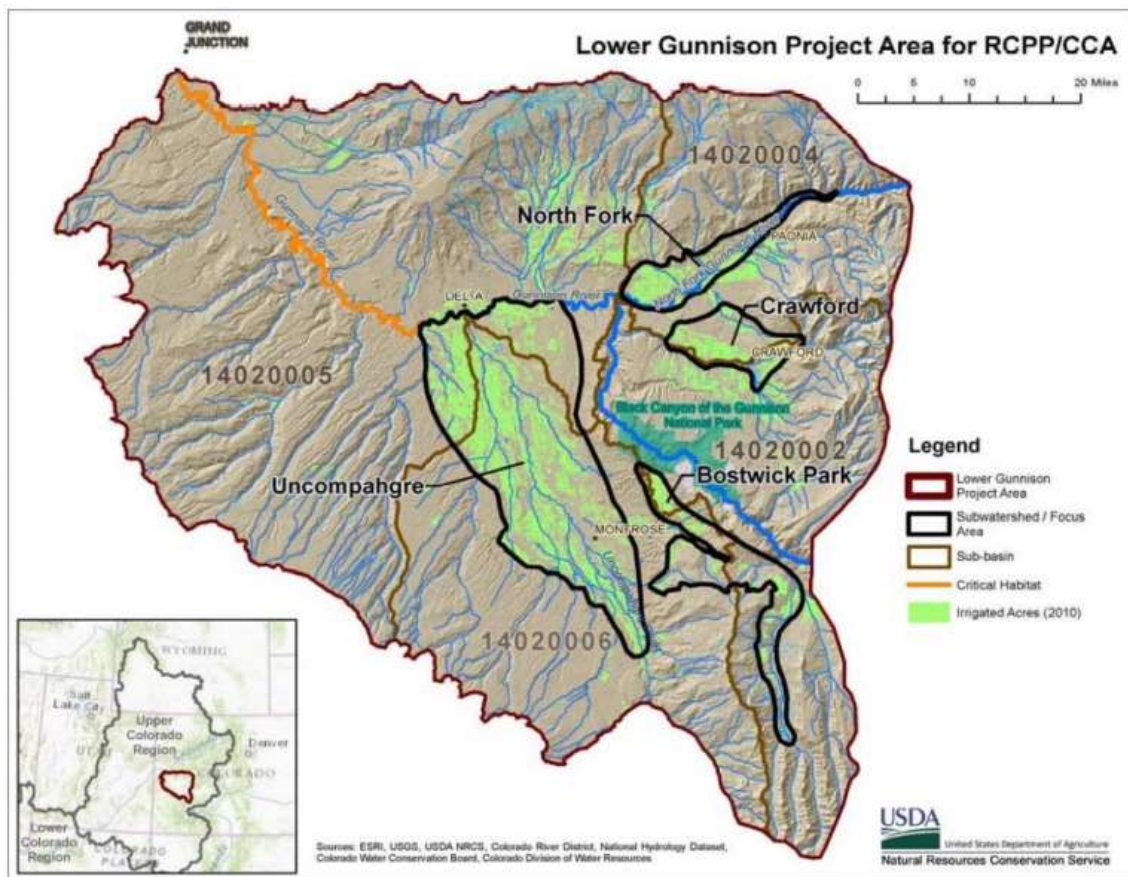


Figure 1 – Lower Gunnison Project Map, showing Hydrologic Unit Codes (HUCs)

In 2015, the Colorado River District successfully applied for approximately \$8 million of directed federal funding for this project, which was administered through an Alternative Funding Arrangement (AFA). This contract was the first and largest of its kind in the country. A series of funding and technical partners assisted in the LGP, including the Colorado Water Conservation Board (CWCB), Colorado Trout Unlimited (CTU), Colorado State University (CSU), United States Bureau of Reclamation (USBR), the United States Geological Survey (USGS) and many local conservancy districts and ditch companies as well as individual agricultural producers.

Planning and construction activities started as early as 2014 and formally ended in July 2021, when the AFA terminated in accordance with its terms. The Lower Gunnison Project supported a total of seven off-farm projects and 15 on-farm construction projects. A total of \$16,811,896.70 of combined NRCS and partnership funds were expended. All required NEPA and cultural resource compliance activities were completed and approved for all off- and on-farm projects via individual processes and pursuant to the 2018 Final Watershed Plan and Environmental Assessment for the Lower Gunnison Project.

The off-farm water conveyance projects involved the piping of canals and laterals, along with design and construction of an in-system regulating reservoir, construction of a diversion headworks with screening structure with fish passage, and Supervisory Control and Data Acquisition (SCADA) implementation. The full project list of the off-farm activities is listed below and further described in the final report (attached at the end of this memo and published on both the <https://gunnisonriverbasin.org/projects/lower-gunnison-project/> and <http://ColoradoRiverDistrict.org/supply-planning/lower-gunnison-project/> websites).

LOWER GUNNISON PROJECT UPDATE (RCPP PORTION CLOSEOUT)

December 31, 2021

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#	Project	Total Non-Amortized Construction Costs ¹			Estimated Average Annual Benefit ²					
		FA Costs	TA Costs	Total Costs	Avoided Damages Due to Salinity Reduction	O&M Savings - Piping	Cost Avoidance	Producer benefits	Reduced Travel Costs - SCADA	Total
1	Fire Mountain Canal & Reservoir Company Rogers Mesa Segment 47 Pipeline and SCADA	\$1,271,961.53	\$ 37,504.64	\$1,309,466.17	\$ 338,566.00	\$ 31,549.00	\$ 116,996.00	\$ 15,124.00	\$ 24,195.00	\$ 526,430.00
2	Uncompahgre Project Phase 9 Lateral Piping (GB & GBA Laterals) and SCADA	\$1,441,870.72	\$ 294,770.00	\$1,736,640.72	\$ 323,111.00	\$ 1,391.00	\$ 176,390.00	\$ 89,681.00	\$ 14,517.00	\$ 605,090.00
3	Crawford C4 Ranch Regulating Reservoir and SCADA	\$ 350,703.47	\$ 48,651.15	\$ 399,354.62	\$ 23,545.00	\$ 4,173.00	\$ 28,041.00	\$ 11,692.00	\$ 14,517.00	\$ 81,968.00
4	Needle Rock Ditch Company Head Gate Replacement & Piping Project and SCADA	\$ 335,381.63	\$ 26,175.81	\$ 361,557.44						
5	Crawford Water Conservancy District SCADA	\$ 101,191.73	\$ 41,432.40	\$ 142,624.13						
6	Grandview-Aspen Piping Integration Project	\$ 528,183.64	\$ 66,202.08	\$ 594,385.72						
7	Bostwick Park West Lateral Phase I Piping and SCADA	\$ 572,187.53	\$ 2,370.00	\$ 574,557.53	\$ 34,533.00	\$ 601.00	\$ 15,767.00	\$ 8,837.00	\$ 14,517.00	\$ 74,255.00
	TOTAL	\$4,601,480.25	\$ 517,106.08	\$5,118,586.33	\$ 719,755.00	\$ 37,714.00	\$ 337,194.00	\$ 125,334.00	\$ 67,746.00	\$ 1,287,743.00

¹ Costs reflect the federal investment portion only and do not include cost share.

² Benefits numbers were taken from [2018 Final Watershed Plan and Environmental Assessment for the Lower Gunnison Project](#), National Economic Development (NED) Section, Table 5.6-11

LOWER GUNNISON PROJECT UPDATE (RCPP PORTION CLOSEOUT)

December 31, 2021

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Additionally, a series of on-farm irrigation efficiency activities were completed to leverage and extend the benefits associated with Phase 1 of the Lower Gunnison Project for agricultural producers in the Colorado River District. Approximately \$1.5 million was expended on the following list of on-farm improvement projects including the development of 28 Conservation Activity Plans (CAPs), 16 project designs, and 15 construction projects in the North Fork Water Conservancy District, Uncompahgre Project, and Crawford Water Conservancy District (CWCD) areas. The construction projects included installation of gated pipes, center pivots, big guns, side-roll sprinklers, and pod sprinklers. These projects studies and/or treated approximately 1100 acres and controlled approximately 800 tons of salt, assuming 2 tons of salt controlled per treated acre.

#	Focus Area	Round	Acres	System	Conservation Activity Plans	Construction Financial Assistance	Construction Technical Assistance	Total Costs	Construction costs/Acre
1	Crawford	0	55.0	center pivot	\$3,555.00	N/A	N/A	\$3,555.00	N/A
2	Uncompahgre	0	21.0	center pivot	\$4,366.00	N/A	N/A	\$4,366.00	N/A
3	Uncompahgre	0	115.8	center pivot, big guns, gated pipe	\$2,897.00	N/A	N/A	\$2,897.00	N/A
4	North Fork	0	98.0	center pivot, wheel line	\$3,735.00	N/A	N/A	\$3,735.00	N/A
5	North Fork	0	18.8	Sideroll sprinklers	\$2,683.97	N/A	N/A	\$2,683.97	N/A
6	North Fork	0	17.7	center pivot, big guns	\$2,951.28	N/A	N/A	\$2,951.28	N/A
7	North Fork	1	188.0	center pivot, big guns	\$4,164.00	N/A	N/A	\$4,164.00	N/A
8	Uncompahgre	1	14.0	gated	\$1,980.00	\$18,220.16	\$7,419.00	\$27,619.16	\$1,831.37
9	Uncompahgre	1	18.2	pod sprinklers	\$3,538.00	\$41,271.62	\$9,890.00	\$54,699.62	\$2,811.08
10	Uncompahgre	1	7.1	wheel-line	\$2,813.00	\$36,357.47	\$9,402.00	\$48,572.47	\$6,445.00
11	Uncompahgre	1	36.8	center pivot	\$3,645.00	\$133,412.36	\$10,891.00	\$147,948.36	\$3,926.62
12	Uncompahgre	1	15.0	gated	\$2,520.00	\$23,675.78	\$6,361.00	\$32,556.78	\$2,002.45
13	Uncompahgre	1	14.0	near farm delivery	\$1,980.00	\$24,940.80	\$4,844.00	\$31,764.80	\$2,127.49
14	Uncompahgre	1	37.0	gated, near farm delivery	\$1,980.00	\$101,656.51	\$18,368.00	\$122,004.51	\$3,243.91
15	North Fork	1	17.5	gated, micro	\$4,010.00	\$93,179.47	\$17,066.00	\$114,255.47	\$6,299.74
16	North Fork	1	46.5	center pivot, wheel-line, big guns	\$5,972.00	\$174,418.90	\$18,906.00	\$199,296.90	\$4,157.52
17	North Fork	1	71.5	center pivot, wheel-line, hand-line	\$2,813.00	\$242,792.12	\$30,076.00	\$275,681.12	\$3,816.34
18	North Fork	1	8.4	near farm delivery	\$3,349.00	\$16,500.00	\$4,913.00	\$24,762.00	\$2,549.17
19	Crawford	1	19.5	wheel-line	\$2,970.00	\$62,083.61	\$6,460.00	\$71,513.61	\$3,515.06
20	Crawford	1	14.8	center pivot, solid set	\$3,105.00	\$55,381.04	\$7,408.00	\$65,894.04	\$4,242.50
21	Crawford	1	17.9	center pivot, solid set	\$3,195.00	\$54,577.26	\$12,768.00	\$70,540.26	\$3,764.41
22	Uncompahgre	2	63.0	center pivot	\$4,150.00	\$127,360.16	\$10,946.00	\$142,456.16	\$2,195.34
23	Crawford	2	46.1	center pivot, guns	\$6,095.00	N/A	N/A	\$6,095.00	N/A
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25	North Fork	2	24.9	center pivot, guns	\$7,238.00	N/A	N/A	\$7,238.00	N/A
26	North Fork	2	28.0	surge, storage pond	\$3,600.00	N/A	N/A	\$3,600.00	N/A
27	Crawford	2	22.3	center pivot, guns	\$5,000.00	N/A	N/A	\$5,000.00	N/A
28	Crawford	2	35.0	gated	\$7,238.00	N/A	N/A	\$7,238.00	N/A
	Grand Totals		1071.7		\$107,363.25	\$1,205,827.26	\$175,718.00	\$1,488,908.51	



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Lower Gunnison Project (2015 NRCS RCPP) Final Summary Report Sponsoring Local Organization: Colorado River District



PROJECT REPORTING PERIOD

July 15, 2015 – July 14, 2021

AGREEMENT NUMBER

68-8B05-A-15-03

PROJECT MANAGER

Dave Kanzer, P.E.

REPORT CREATION DATE

November 12, 2021

PREPARED BY

Dave Kanzer (Project Manager); Ian Philips (Chief Accountant); Raquel Flinker (Project Manager); Shana Harness (RCPP Coordinator);

MAIN PARTNERING ORGANIZATIONS (not limited to): Colorado Water Conservation Board, No Chico Brush (Agricultural Producer Group), Colorado State University, The Nature Conservancy, Trout Unlimited, Local Conservancy and Conservation Districts, Local Ditch Companies

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Attachment A: Final Soil Health Survey Report

Acknowledgements

The Lower Gunnison Project owes its success to a long list of dedicated partners, organizations, and individuals. As such, there are too many devoted participants to separately thank and acknowledge. However, in addition to the federal family of Department of Interior agencies (US Bureau of Reclamation, US Geological Survey, US Bureau of Land Management and the US Fish and Wildlife Service) the main non-federal partnering organizations can and should be explicitly acknowledged, these include: the Colorado Water Conservation Board, No Chico Brush (Agricultural Producer Group), Colorado State University (CSU) Agricultural Extension Service and the CSU Water Center, the Nature Conservancy, Trout Unlimited and a host of Gunnison basin water conservancy, conservation districts, and ditch company members. Most of these local stakeholders and water users are unpaid volunteers, working extremely hard to modernize their agricultural infrastructure, as stewards of our precious natural resources.

Beginning in 2014, this group worked tirelessly to overcome a host of overlapping challenges to ensure that the Lower Gunnison Project met and even exceeded its original goals and objectives.

Additionally, this project could not have been completed without the dedicated assistance of the NRCS team in Colorado and across the country. In particular, the Lower Gunnison Project team would like to specifically thank and acknowledge the efforts of Clint Evans, Randy Randall, John Andrews, and Barb Gohlke among the many other capable NRCS staff that worked behind the scenes to provide significant assistance.

Executive Summary and Project Description

The RCPP-funded project entitled *Modernizing Agricultural Water Management in the Lower Gunnison River Basin: A Cooperative Approach to Increased Water Use Efficiency and Water-Quality Improvement* (hereinafter referred to as the *Lower Gunnison Project or LGP*) had the objective of protecting and enhancing four natural resource concerns: improvements to water availability, water-quality, degraded habitat, and soil health.

These objectives were accomplished through the development and implementation of an integrated program to improve off- and on-farm irrigation efficiency by modernizing and optimizing irrigation water conveyance and application systems in four focus areas within the Lower Gunnison Basin.

In 2015, the Colorado River District received notice that up to \$8 million of funding was available from the NRCS under RCPP for this project and an Alternative Funding Arrangement (AFA) was set up with directed funds allocated by the NRCS program area into Watershed Authority (PL-566) and Environmental Quality Incentives Program (EQIP) and divided into Technical Assistance (TA) and Financial Assistance (FA) budget ‘buckets’ for each program area.

Now completed, the LGP supported a total of seven off-farm projects and 15 on-farm construction projects. These were distributed within the following four sub watersheds or “focus” areas within the Lower Gunnison River Basin (see **Error! Reference source not found.**):

1. North Fork Water Conservancy District (NFWCD)
2. Uncompahgre Project
3. Crawford Water Conservancy District (CWCD)
4. Bostwick Park Water Conservancy District (BPWCD)

A total of \$16,811,896.70 of combined federal NRCS and partnership funds were expended to bring this project to completion.

Overall, the LGP RCPP-funded efforts assisted water users and agricultural producers meet state and federal regulatory requirements. All required NEPA and cultural resource compliance activities were completed and approved for all off- and on-farm projects via individual processes and pursuant to the [2018 Final Watershed Plan and Environmental Assessment for the Lower Gunnison Project](#).

This final project summary report provides the relevant details of this four-year project.

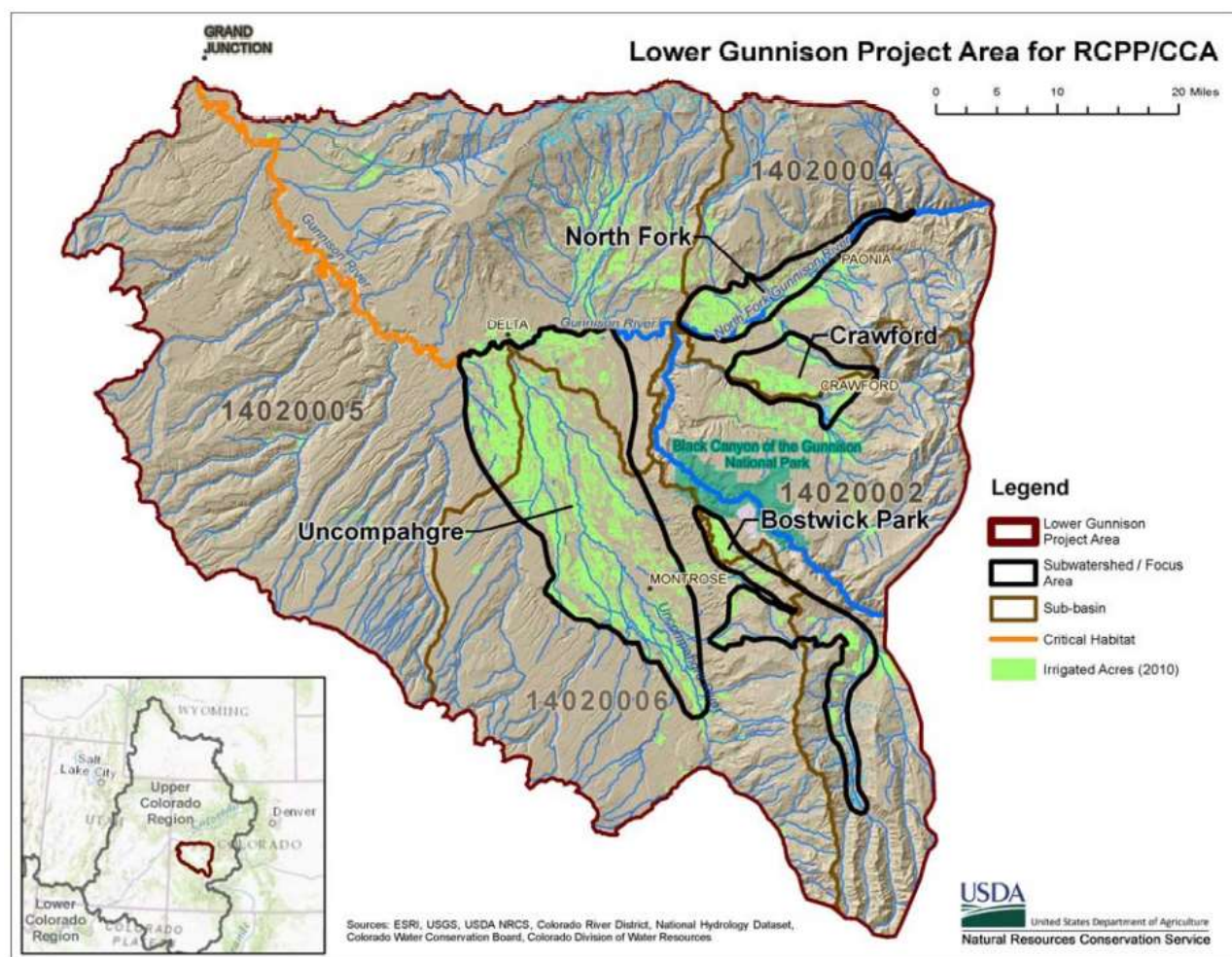


Figure 1 – Lower Gunnison Project Map, showing Hydrologic Unit Codes (HUCs)

1 Watershed Plan and Program (PL-566) / Off-Farm Improvement Projects

In all, seven off-farm projects were designed and constructed, consistent with NRCS standards and practices. These projects were certified and documented as complete by NRCS State Engineer, John Andrews after careful review, inspections, and standard close-out processes.

All completion reports and additional project details are available upon request, however, relevant off-farm project-specific information is available on <https://gunnisonriverbasin.org/projects/lower-gunnison-project/>.

With additional outside funding, two of the seven off-farm projects are anticipated to be expanded and to continue moving forward in 2021 and 2022; these include the Grand View-Aspen Integration and canal improvement project, cost-share funded by USBR Salinity Program, and the Lower Aspen Canal project funded by multiple partners and overseen by the Crawford Water Conservancy District. Construction is anticipated to begin in late 2021 and continue through 2022, effectively expanding and leveraging the original 2015 AFA and consistent with the 2018 watershed plan.

Furthermore, the 2018 Environmental Assessment is currently being expanded and supplemented to include additional related projects for future permitting. Funding has not yet been secured for this list of projects. The publication of the Supplemental EA is due in 2022.

Table 1: Off-farm summary table

#	Project	Total Non-Amortized Construction Costs ¹			Estimated Average Annual Benefit ²					
		FA Costs	TA Costs	Total Costs	Avoided Damages Due to Salinity Reduction	O&M Savings - Piping	Cost Avoidance	Producer benefits	Reduced Travel Costs - SCADA	Total
1	Fire Mountain Canal & Reservoir Company Rogers Mesa Segment 47 Pipeline and SCADA	\$1,271,961.53	\$ 37,504.64	\$1,309,466.17	\$ 338,566.00	\$ 31,549.00	\$ 116,996.00	\$ 15,124.00	\$ 24,195.00	\$ 526,430.00
2	Uncompahgre Project Phase 9 Lateral Piping (GB & GBA Laterals) and SCADA	\$1,441,870.72	\$ 294,770.00	\$1,736,640.72	\$ 323,111.00	\$ 1,391.00	\$ 176,390.00	\$ 89,681.00	\$ 14,517.00	\$ 605,090.00
3	Crawford C4 Ranch Regulating Reservoir and SCADA	\$ 350,703.47	\$ 48,651.15	\$ 399,354.62	\$ 23,545.00	\$ 4,173.00	\$ 28,041.00	\$ 11,692.00	\$ 14,517.00	\$ 81,968.00
4	Needle Rock Ditch Company Head Gate Replacement & Piping Project and SCADA	\$ 335,381.63	\$ 26,175.81	\$ 361,557.44						
5	Crawford Water Conservancy District SCADA	\$ 101,191.73	\$ 41,432.40	\$ 142,624.13						
6	Grandview-Aspen Piping Integration Project	\$ 528,183.64	\$ 66,202.08	\$ 594,385.72						
7	Bostwick Park West Lateral Phase I Piping and SCADA	\$ 572,187.53	\$ 2,370.00	\$ 574,557.53	\$ 34,533.00	\$ 601.00	\$ 15,767.00	\$ 8,837.00	\$ 14,517.00	\$ 74,255.00
TOTAL		\$4,601,480.25	\$ 517,106.08	\$5,118,586.33	\$ 719,755.00	\$ 37,714.00	\$ 337,194.00	\$ 125,334.00	\$ 67,746.00	\$ 1,287,743.00

It should be noted that the estimated average annual cost benefits above were calculated as part of the 2018 Environmental Assessment. These estimated benefit values were not independently verified nor recalculated upon project completion. All costs shown are limited to NRCS RCPP and do not include the cost-share portion of these project components.

¹ Costs reflect the federal investment portion only and do not include cost share.

² Benefits numbers were taken from [2018 Final Watershed Plan and Environmental Assessment for the Lower Gunnison Project](#), National Economic Development (NED) Section, Table 5.6-11

Table 2: Off-farm project benefits summary table

#	Project	Benefits				
		Water Quality	Water Availability	Soil Health	Habitat Improvements	Greenhouse gas emission reduction
1	Fire Mountain Canal & Reservoir Company Rogers Mesa Segment 47 Pipeline and SCADA	Salt reduction: ~ 2,365 tons/year	x	x	x	x
2	Uncompahgre Project Phase 9 Lateral Piping (GB & GBA Laterals) and SCADA	Salt reduction for Phase 9: ~ 6,030 tons/year Selenium reduction range: 241-482 lbs/year	x	x	x	x
3	Crawford C4 Ranch Regulating Reservoir and SCADA		x		x	x
4	Needle Rock Ditch Company Head Gate Replacement & Piping Project and SCADA	x	x		x	x
5	Crawford Water Conservancy District SCADA		x		x	x
6	Grandview-Aspen Piping Integration Project	x	x		x	
7	Bostwick Park West Lateral Phase I Piping and SCADA	x	x		x	x
	TOTAL	Salt reduction: ~ 8,395 tons/year Selenium reduction range: 241-482 lbs/year				

1.1 Fire Mountain Canal & Reservoir Company Improvement Project and SCADA (Rogers Mesa Segment 47 Pipeline)

This project was within the North Fork Water Conservancy District focus area and was jointly funded by NRCS RCPP, Reclamation's Salinity Control Program, and Colorado Water Conservation Board. The RCPP funded portion involved piping of approximately 2 miles of the total improvement project that piped a total of 4.2 miles of the Fire Mountain Canal (see Figure 2).

Additionally, four solar powered remote monitoring and SCADA (Supervisory Control and Data Acquisition) infrastructure was funded by RCPP and implemented at the following sites:

1. Patterson lateral
2. Rubicon gate at Leroux creek
3. Leroux creek intake
4. Main intake and Jessie ditch turn out



Figure 2 – Fire Mountain Canal Improvement Project: New siphon entrance and screen structure (left) with HDPE piping related to segment 47 pipeline (right)

1.2 Uncompahgre Project Phase 9 Lateral Piping (GB & GBA Laterals) and SCADA

The Phase 9 lateral piping project was jointly funded by RCPP, Reclamation Salinity Control Program, and State of Colorado Non-point source program. The RCPP portion of the project piped 3.4 miles of the GB and GBA lateral canals (see Figure 3). This project also included the development of the west side system optimization and modernization plan.

Additionally, remote monitoring and SCADA infrastructure was implemented at the following four sites (see Figure 4):

1. Selig canal diversion – headgate and canal
2. Loutzenhizer canal diversion – headgate and canal
3. East canal diversion – headgate and canal
4. Office HUB – computer and software



Figure 3 - Stockpile of PVC pipe used (left) used to enclose GB-GBA laterals (right) as part of Phase 9 East side lateral project of the Uncompahgre Project, north of Montrose, Colorado



Figure 4 – SCADA controls installed at the Loutzenhizer Diversion, Uncompahgre River, south of Montrose, Colorado

1.3 Crawford 4C Ranch Regulating Reservoir and SCADA

The 4C regulating reservoir (or fluctuation pond) was constructed within the Crawford Water Conservancy District, east of Crawford, Colorado. The project included the construction of a 19 acre-foot capacity reservoir, inflow and outflow control structures and SCADA. Much of the design and initial site work was funded by the Colorado Water Conservation Board as cost share, through a cooperative agreement with the Colorado River District to provide this technical assistance. Please see Figure 5.

The remote monitoring and SCADA infrastructure was implemented in the following sites, as shown in Figure 7:

1. Crawford clipper diversion – Parshall flume
2. Baxter manifold
3. 4C pond inflow and outflow

Solar panels were used to power the systems at the Crawford Clipper diversion and 4C pond. The project also added SCADA integrated network communication infrastructure on Young's Peak, near Crawford (Figure 8).



Figure 5 – The 4C regulating reservoir during construction, part of the Crawford Clipper Ditch Company, near Crawford, Colorado



Figure 6 – The completed 4C regulation reservoir after construction, near Crawford, Colorado.



Figure 7 – Solar powered implemented SCADA system component at 4C regulating reservoir outflow, Crawford



Figure 8 - Young's Peak Communication Station, Crawford, Colorado

1.4 Needle Rock Ditch Company Head Gate Replacement & Piping Project and SCADA (i.e., NRD Project)

This project was located within the Crawford Water Conservancy District focus area. It included replacement of 875 feet of open earthen ditch with 42-inch pipe, construction of diversion headworks with screening structure and fish passage along with SCADA implementation. The incorporated fish passage and screening improvements eliminated an existing obstacle to migration and thereby expanded aquatic habitat. This portion was made possible through a funding partnership with the National Resources Defense Council (NRDC), Colorado Trout Unlimited (CTU), and the State of Colorado. This cooperative effort significantly expanded the fish and wildlife benefits and helped meet habitat improvement objectives of the LGP. Please see Figure 9.

In future phases, it is anticipated that this SCADA node will be integrated into the regional SCADA network that Crawford Water Conservancy District operates and maintains.



Figure 9 – Needle Rock Ditch Company new pipeline screening structure, stilling basin and fish passage. Flow is from left to right. The SCADA installation with mast and solar panel can be seen to the left of the new headgate entrance, Crawford.

1.5 Crawford Water Conservancy District SCADA (aka Smith Fork SCADA)

This project included sensor installation and remote monitoring at the following locations:

1. Crawford Reservoir control house - with existing AC power
2. Aspen canal monitoring point – solar powered
3. Crawford Reservoir Feeder Canal - with existing AC power

This is illustrated in Figure 10.



Figure 10 – Implemented SCADA equipment at the Crawford Reservoir Feeder Canal, Crawford, Colorado

The project also implemented additional network communication equipment to the Young's Peak tower (shown in Figure 11) to enable communication between the Feeder canal and the CWCD office. It is anticipated that this location will support an expansion of the SCADA network within the Crawford WCD.



Figure 11 – SCADA network telemetry equipment installed on Young's Peak tower to assist with the transmission of regional information collected, Crawford, Colorado

1.6 Grandview-Aspen Piping Integration Project

This project was located within the Crawford WCD focus area and leveraged RCPP funds against US Bureau of Reclamation Salinity Funds to create a large, multi-beneficial project. The project included enclosing 460 feet of the Grand View canal's middle section with dual large diameter pipelines. It also included the

construction of a large entrance structure to control, measure, and screen debris from entering the dual pipelines. This is shown in Figures Figure 12 and Figure 13.

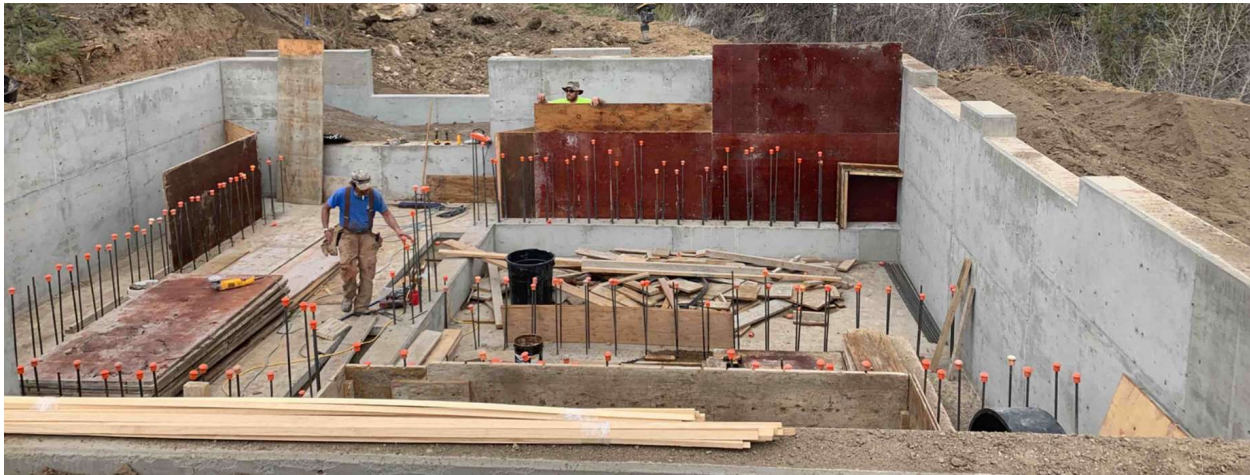


Figure 12 – Grandview Canal inlet and screening structure during construction, Crawford



Figure 13 – Grandview completed canal inlet and screening structure, Crawford, Colorado

1.7 Bostwick Park West Lateral Phase I Piping and SCADA (West Lateral)

The Bostwick Part West Lateral Phase I Piping project replaced approximately 0.5 miles of open, earthen lateral with an enclosed pressurized HDPE pipeline. The project also included remote monitoring and SCADA implementation. See Figure 14.



Figure 14 – Bostwick Park West Lateral Improvement Project showing piping and valve installation

2 On-Farm and Near-Farm Irrigation Improvement Projects

There were four separate application periods for Conservation Activity Planning (CAP) for on- and near farm irrigation improvement funding. These plans were ranked based on owner interest, ability to address priority, resource concerns, and cost effectiveness. This resulted in 3 funding rounds for project implementation.

“Round 0” CAP application period did not result in any on-farm implementation projects. Proposed projects that met ranking criteria in Rounds 1 through 3 were funded and successful applicants chose the Technical Service Provider (TSP) from an approved list to develop the desired CAP, create approved designs and oversee construction, as appropriate, to result in the following irrigation improvement projects.

1. Summary Rounds 0 and 1:
 - a. 21 applications, 21 CAPS completed resulting in 14 construction projects.
 - b. The original associated obligated construction contracts totaled \$1,265,060.22, but this was reduced to \$974,957.01 due to the rescindment of one project based on landowner non-compliance.
 - c. These projects resulted in approximately 338 acres being treated in the Lower Gunnison Basin.
2. Summary Rounds 2 and 3:
 - a. 7 applications, 7 CAPS completed resulting in 1 construction project.
 - b. Construction costs totaled \$138,307.
 - c. The project resulted in approximately 63 acres treated in the Lower Gunnison Basin.

Table 3 summarizes the on-farm activities from all rounds, indicating that a total of \$1.5 million was expended to develop 28 CAPS for a total of 1072 acres. 16 projects were designed and 15 were implemented, treating approximately 401 acres and controlling approximately 800 tons of salt, assuming an average of 2 tons per acre per year (NRCS personal communication).

Table 3: On-farm summary table

#	Focus Area	Round	Acres	System	CAP FA	Construction FA	Construction TA	Total Costs	Construction costs/Acre
1	Crawford	0	55.0	center pivot	\$3,555.00	N/A	N/A	\$3,555.00	N/A
2	Uncompahgre	0	21.0	center pivot	\$4,366.00	N/A	N/A	\$4,366.00	N/A
3	Uncompahgre	0	115.8	center pivot, big guns, gated pipe	\$2,897.00	N/A	N/A	\$2,897.00	N/A
4	North Fork	0	98.0	center pivot, wheel line	\$3,735.00	N/A	N/A	\$3,735.00	N/A
5	North Fork	0	18.8	Sideroll sprinklers	\$2,683.97	N/A	N/A	\$2,683.97	N/A
6	North Fork	0	17.7	center pivot, big guns	\$2,951.28	N/A	N/A	\$2,951.28	N/A
7	North Fork	1	188.0	center pivot, big guns	\$4,164.00	N/A	N/A	\$4,164.00	N/A
8	Uncompahgre	1	14.0	gated	\$1,980.00	\$18,220.16	\$7,419.00	\$27,619.16	\$1,831.37
9	Uncompahgre	1	18.2	pod sprinklers	\$3,538.00	\$41,271.62	\$9,890.00	\$54,699.62	\$2,811.08
10	Uncompahgre	1	7.1	wheel-line	\$2,813.00	\$36,357.47	\$9,402.00	\$48,572.47	\$6,445.00
11	Uncompahgre	1	36.8	center pivot	\$3,645.00	\$133,412.36	\$10,891.00	\$147,948.36	\$3,926.62
12	Uncompahgre	1	15.0	gated	\$2,520.00	\$23,675.78	\$6,361.00	\$32,556.78	\$2,002.45
13	Uncompahgre	1	14.0	near farm delivery	\$1,980.00	\$24,940.80	\$4,844.00	\$31,764.80	\$2,127.49
14	Uncompahgre	1	37.0	gated, near farm delivery	\$1,980.00	\$101,656.51	\$18,368.00	\$122,004.51	\$3,243.91
15	North Fork	1	17.5	gated, micro	\$4,010.00	\$93,179.47	\$17,066.00	\$114,255.47	\$6,299.74
16	North Fork	1	46.5	center pivot, wheel-line, big guns	\$5,972.00	\$174,418.90	\$18,906.00	\$199,296.90	\$4,157.52
17	North Fork	1	71.5	center pivot, wheel-line, hand-line	\$2,813.00	\$242,792.12	\$30,076.00	\$275,681.12	\$3,816.34
18	North Fork	1	8.4	near farm delivery	\$3,349.00	\$16,500.00	\$4,913.00	\$24,762.00	\$2,549.17
19	Crawford	1	19.5	wheel-line	\$2,970.00	\$62,083.61	\$6,460.00	\$71,513.61	\$3,515.06
20	Crawford	1	14.8	center pivot, solid set	\$3,105.00	\$55,381.04	\$7,408.00	\$65,894.04	\$4,242.50
21	Crawford	1	17.9	center pivot, solid set	\$3,195.00	\$54,577.26	\$12,768.00	\$70,540.26	\$3,764.41
22	Uncompahgre	2	63.0	center pivot	\$4,150.00	\$127,360.16	\$10,946.00	\$142,456.16	\$2,195.34
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24	North Fork	2	0.0	Big guns	\$5,820.00	N/A	N/A	\$5,820.00	N/A
25	North Fork	2	24.9	center pivot, guns	\$7,238.00	N/A	N/A	\$7,238.00	N/A
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28	Crawford	2	35.0	gated	\$7,238.00	N/A	N/A	\$7,238.00	N/A
Grand Totals			1071.7		\$107,363.25	\$1,205,827.26	\$175,718.00	\$1,488,908.51	

3 Summary Budget

All off and on-farm projects were completed within the overall project budget with some reallocation of monies between individual project components. An example of this reallocation occurred with the Grandview-Aspen Piping Integration Project. The location of the screen structure changed, requiring additional access infrastructure, a new Parshall flume, and screen structure enlargement to incorporate additional emergency spillway. Additionally, this project experienced some cost overages due to an increase in pipe costs and increase in gate valve costs.

The NRCS directed funds were augmented with approximately \$10 million of cost share acquired by

the Project Sponsor (Table 7) and together these funds were sufficient to complete all the projects scoped in the 2018 Environmental Assessment for the Watershed Plan. With prior approval and local contract amendments, some funds were reallocated from projects that were underbudget to projects that were overbudget within the overall budget of approximately \$18 million.

The on-farm projects were funded under the EQIP program and, similarly, the overall budget was honored with some reallocations between individual project components.

Unfortunately, due to the nature of the PL-566 and EQIP programs and the contracting requirements under the Alternative Funding Arrangement (AFA), the ratio of TA to FA funds was defined in advance of project initiation. Once defined, there was no legal mechanism to move funds between FA and TA. This led to the inability to expend all the directed NRCS funds. Table 4 shows that approximately \$316,000 was unexpended from the PL-566 funding pool (Table 4) and approximately \$265,000 was unexpended from the EQIP funding pool (Table 5), for a total of approximately \$571,000 of NRCS RCPP directed program funds being 'left on the table' (Table 6). This is explained further in Section 6.

The following budget information summary tables include all expenditures made under both PL566 Watershed Authority and EQIP programs.

Please note: the budget information below only includes those funds being managed by the Project Sponsor and does not include a summary of funds potentially obligated and/or expended by CO NRCS as TA to support the LGP. A total of \$637,030 (\$22,000 for on-farm and \$615,030 for off-farm) was withheld by CO NRCS to develop the environmental assessment and to account for NRCS staff time.

Table 4 – PL566 Budget (Off-farm activities) Summary

PL 566 - Watershed Authority		
TA Budget	TA Cumulative Expenditures	TA Balance
\$ 900,469.00	\$ 603,933.32	\$ 296,535.68
FA Budget	FA Cumulative Expenditures	FA Balance
\$4,624,441.00	\$ 4,605,236.23	\$ 19,204.77
Total Budget	Cumulative Expenditures	Balance
\$5,524,910.00	\$ 5,209,169.55	\$ 315,704.45

Table 5 – EQIP (on-farm) Budget Summary

EQIP		
TA Budget	TA Cumulative Expenditures	TA Balance
\$ 253,660.00	\$ 249,510.18	\$ 4,149.82
FA Budget	FA Cumulative Expenditures	FA Balance
\$1,584,400.00	\$ 1,323,843.25	\$ 260,556.75
Total Budget	Cumulative Expenditures	Balance
\$1,838,060.00	\$ 1,573,353.43	\$ 264,706.57

Table 6 – Overall Budget Summary (NRCS directed funds only)

Overall Budget Summary		
Total TA Project Budget	Total TA Expenditures	TA Balance
\$1,154,129.00	\$ 853,443.50	\$ 300,685.50
Total FA Project Budget	Total FA Expenditures	FA Balance
\$6,208,841.00	\$5,929,079.48	\$ 279,761.52
Total Project Budget	Total Expenditures	Balance
\$7,362,970.00	\$6,782,522.98	\$ 580,447.02

Table 7 – Partner Contribution

	PL 83-566 (Off-Farm)	RCPP EQIP (On-Farm)	Total Partner Contribution
TOTAL:	9,583,422.32	445,921.40	\$10,029,343.72
Remaining Partner Contribution			(\$2,029,343.72)

Negative number indicates that the total original required partner contributions of \$8 million were exceeded by this amount.

4 Efforts to Address Natural Resource Concerns and Results

This section outlines the actions taken to address the four main resource concerns of the Lower Gunnison Project: Water Quality, Water Availability, Soil Health & Degraded Habitat.

4.1 Natural Resource Concern: Water Quality

Off-farm lateral piping projects within the LGP focus areas were targeted to improve water quality conditions based on their ability to control and reduce excessive selenium and salinity loading, along with ancillary benefits including nitrate and sediment load reduction (all are from natural geological and anthropomorphic sources). Water quality benefits were estimated based on best available data, modeling, and trend analyses.

Water quality data continues to be collected downstream of the LGP project components. Downward trends for salt and selenium have been established by the USGS at the Whitewater compliance point (USGS gage location above Grand Junction).

Along with other related actions, the LGP resulted in significant water quality gains. In fact, in June 2021, the Colorado Water Quality Commission delisted 66 miles of the Gunnison River, between Delta and Grand Junction, from the impaired waters list for selenium after more than 20 years after its original impairment listing, in 1998. Although the LGP continues to address water quality concerns through ongoing planning and project implementation, this is a critically important milestone in the Lower Gunnison River basin and a direct outcome of the integrated efficiency projects described in this report. This has additional documented benefits for threatened and endangered species (<https://www.usbr.gov/uc/progact/Selenium/index.html>)

Consistent with documented decreasing trends in concentrations and loads of salinity and dissolved selenium at the Lower Gunnison River watershed compliance point³, above Grand Junction, it is anticipated that tributary water quality monitoring data locations near LGP improvement projects reflect similar decreasing trends as the LGP projects continue to be implemented. Data to quantify changes in selenium and salinity loads are being collected and documented under the close cooperative partnership with the Gunnison Basin Selenium Management Program (SMP)⁴ but were not fully available at the time of this report. Specifically, the water-quality monitoring in affected, local watershed monitoring points, downstream of the LGP irrigation improvement projects, continue between 4-6 times per year. These data are archived as part of the USGS NWIS database⁵.

4.2 Natural Resource Concern: Water Availability

Using similar techniques developed for water quality impact analysis, estimates of potential water availability benefits were developed based upon best available data, modeling, and trend analyses. Robust water diversion and depletion data is being collected and analyzed in proximity of the LGP project components. It is premature to draw quantified conclusions, but anecdotal information related to water supply availability is positive. This was especially noticed during the 2020 and 2021 irrigation years that were characterized by severe drought. The expected water shortages were ameliorated in the project focus areas.

³ USGS Report - [Assessment of Dissolved-Selenium Concentrations and Loads in the Lower Gunnison River Basin, Colorado, as Part of the Selenium Management Program, 2011–17](#)

⁴ [USBR Gunnison Basin Selenium Management Program](#)

⁵ <https://waterdata.usgs.gov/nwis>

4.3 Natural Resource Concern: Soil Health

Soil surveys, samples, and a corresponding soil health report for each RCPP CAP project were completed with technical assistance funding from the Colorado Water Conservation Board via a Soil Health Technician. The technician was hired and managed by the Shavano Conservation District and a private agricultural production company. Associated findings and related soil health education was promoted by the LGP at the annual Western Slope Soil Health Conference (held throughout the LGP project period Februarys 2017-21); see <http://www.westerncoloradosoilhealth.org/> for more info.

Soil health education and outreach occurred through mid-2021 with community field visits and site demonstrations. Covid precautions were implemented, and proper health board protocols were followed.

A final Soil Health Survey Report was supported using NRCS RCPP funding along with significant assistance from local partners (agricultural producers and the CWCB) completed and is included in the Appendix as Attachment A.

4.4 Natural Resource Concern: Degraded Habitat

Consistent with USGS studies and USBR's SMP, it is anticipated that LGP associated reductions in selenium (and to a lesser extent salinity) concentrations and loading provide significant benefits to sensitive, threatened, and endangered river fishes that occupy designated critical habitat in the Lower Gunnison and Colorado Rivers. The USFWS continues to document habitat improvements via annual sufficient progress determinations, enabling water development to continue pursuant to the 2011 Gunnison Basin Programmatic Opinion and thereby providing regulatory certainty to LGP water users.

5 Project Issues and Lessons Learned

This section outlines some documented testimonials from water users that benefited from the RCPP LGP. In general, participating private landowners were satisfied and/or pleased with the irrigation water use efficiency projects that were cost shared and completed under the RCPP EQIP directed funding. For example, two separate participants were quoted as follows:

- "The program was fantastic. Any way that we can fund projects to make water more efficient makes agriculture more viable on the western slope and in Colorado."
- "The RCPP program was an easier and a more beneficial program to enter into for ditch companies than general EQIP."

Unfortunately, there were some 'unavoidable headaches' associated with the RCPP LGP. Delays associated with the development and approval of the Watershed Plan EA, equipment availability, and overall program constraints. In some cases, excessive delays led to more than 3 years from project application to completion. This also required a no-cost project extension from NRCS headquarters. Overall, these issues seem to be programmatic and were generally associated with NRCS EQIP and PL566 program rules and regulations. In the end, however, many projects were implemented, and the benefits far outweighed the costs and 'headaches'.

Additional constructive feedback was provided from the program participants regarding these issues:

- "Problems arise when one entity funds a project, and another implements it as there are too many cooks in the kitchen. Many of the issues were ironed out successfully and we are very supportive of a future RCPP program."
- "The downside was the rules kept changing and the policies and deadlines didn't seem to be

determined up front for the program. A lot of these were resolved through time, and I think that if the program was offered again, it wouldn't be as cumbersome." In the future, it would be beneficial for the expectations and timelines to be clearly communicated to the participants at the beginning."

5.1 Lessons Learned

Although the RCPP program was successful in soliciting, funding, and completing many important on- and off-farm projects, there was a lot of challenges and learning along the way. The main challenges and setbacks were generally attributable to new, revised program guidelines and lack of local dedicated support team. The lack of local support impacted communication and decision making which led to unclear guidance and delays.

Below is a comprehensive list of 'lessons learned':

- The permitting process was longer and consumed more funds than anticipated.
- NRCS did not have local / state decision making authority. This led to a lot of time to get answers from national NRCS headquarters, far removed from local NRCS administrators and project managers.
- Additional NRCS program training for project sponsors would be helpful early in the program. Topics should include RCPP processes, regulations, restrictions, and realistic timelines.
- Program schedule was not allowed to extend past one year even if uncontrollable delays were caused by the NRCS or permitting process.
- Federal requirements resulted in complicated 2-step contracting system under early AFA rules.
- NRCS payment process was cumbersome, in some cases causing reimbursement delays of weeks to months. This was especially true with respect to 'Assignment of Payment (AOP)' process that did not increase efficiency. The AOP process was then scrapped, and the project sponsor was required to provide 'banking and credit services'.
- On-farm local participants often lacked capacity and required a lot of technical assistance that exceeded TSP budgeted abilities causing a larger load on the Project Sponsor.
- On-farm local participants were often unfamiliar with the contract terms and could not rely upon local NRCS offices for assistance.
- Associated project delays, in some cases, led to outdated estimates and inaccurate projected project costs.
- The program would benefit from additional funding flexibility within the total overall budget. Program rules prevented re-allocation of TA and FA funds. Rules required the project sponsor to estimate the ratio of TA to FA funds well in advance of project design and implementation. In both program areas, PL-566 and EQIP, this led to under / over estimation and resulted in 'stranded funds.'
 - For example, for off-farm projects (PL-566) the ratio of TA/FA was over estimated, resulting in unused TA funds. This occurred because ditch companies provided direct project management and some of the originally projected TA was not needed. This resulted in unspent funds that could have been used as additional FA to expand project scope and benefits.
 - The opposite was true for on-farm projects (EQIP), where it turned out that agricultural producers needed more technical assistance and support. In this case, the underestimation of TA funds led to a shortage and resulted in unspent FA.
- A very popular RCPP EQIP program modification was that the Project Sponsor was able to increase program benefits by providing 75% of documented participant expenditures, rather than to be constrained by the non-RCPP EQIP cost share associated with programmatic cost schedules.

Attachment A: Final Soil Health Survey Report

Farmer Perceptions and Experiences Regarding Cover Crops in the Uncompahgre Valley

-Agronomic, Economic and Informational Barriers to Adoption-

There were 14 farmers surveyed in the Uncompahgre Valley in the Summer and Early Fall of 2021 to discover barriers to more widespread adoption of cover crops. The average number of acres farmed was 748 with a range of 50-2000. The majority of those surveyed farmed over 100 acres (N=5), followed by 50-200 acres (N=4), 201-500 acres (N=3) and 501-1000 acres (N=2). Most of the farmers practiced some cover cropping with only 2 farmers not practicing cover cropping. The majority of those surveyed employed some reduced tillage in addition to conventional tillage, with 7 implementing conventional with some reduced tillage; 5 implementing conventional tillage alone; 1 no-tillage; and 1 reduced tillage with some conventional tillage. This was mostly a function of crop to be planted and ease of subsequent season irrigations. Most farms (N=13) integrate livestock on their farm in some way, with cattle being the primary species (N=11).

Of those surveyed that did plant cover crops, the average number of years of cover crop experience was 4.8. The number of acres in cover crops can vary greatly in a given year, depending on crops grown, weather and other factors. The average number of acres planted into cover crops in a given year was 69, or roughly 10% of a farm was planted to cover crops. Winter cereals were the most common planted cover crop (N=13), these included wheat, spelt, rye, and triticale. A multispecies mix was the next most common (N=4). Many of those that planted a multispecies mix often did not have great success or had issues with some species acting as weeds in subsequent years. Sorghum sudan grass (N=2) and millet (N=1) were also planted. Many producers have experimented with drilling and broadcasting. However, broadcasting (N=8) and then marking was the most common method used to plant, followed by drilling (N=7). Grazing was a common practice, with all but two integrating grazing. The majority (N=8) surveyed used tillage to terminate the crop in the spring, with 4 using an herbicide. Landlord support did not seem to influence cover cropping.

Very real agronomic challenges present themselves as producer's experiment with cover crops (Table 1). Respondents were asked to rank their experience and perception of a given impediment from 1-3, where 1 is a low, 2 is medium and 3 is high. Among the most apparent challenges elicited from responses were selecting the appropriate cover crop; the risk to subsequent cash crop, including yield reduction; issues with termination; and weediness.

The agronomic benefits experienced were mostly lower than what they perceived to benefit from the practice (Table 2). This could be related to the lack of time necessary to accrue benefits. This highlights the importance of tempering claims related to cover crops and soil health as a panacea for agronomic problems.

Their experience of the economic, structural and social impediments to adoption seemed to be less important than what they had perceived (Table 3). Time and risk seemed to be the most important factors in this section.

When seeking information related to cover cropping, those surveyed preferred talking with others/neighbors (N=14; experimenting on their own N=12); crop consultants (N=11); seminars (N=9); retailers (N=7); local workshops (N=6); and NRCS/Extension agents (N=4). However, thirteen of the respondents indicated that they would be interested in active participation in on-farm research with CSU.

Table 1: Perceived & Experienced Agronomic Challenges	PERCEPTION	EXPERIENCE	Difference
Interferes with fall harvest	1.36	1.45	.10
Interferes with spring planting	1.14	1.27	.13
Cover crop incorporation into soil	1.23	1.27	.04
Increased management and associated time required	1.89	1.73	-.17
Establishing cover crops	1.43	1.55	.12
Selecting the right cover crop for my operation	1.57	1.82	.25
Cost of planting and managing crops	1.79	1.82	.03
Cover crop seed availability	1.14	1.18	.04
No measurable economic return	1.61	1.36	-.24
Uses too much soil moisture	1.14	1.18	.04
Not enough water	1.50	1.18	-.32
Becomes a weed in subsequent years	1.21	1.50	.29
Increased insect potential	1.07	1.18	.11
Increases risk in cash crop production	1.07	1.36	.29
Decreases nitrogen availability	1.42	1.50	.08
Yield reduction in the following cash crop	1.00	1.32	.32
Lack of immediate agronomic benefits	1.29	1.45	.17
Availability of planting equipment	1.50	1.27	-.23
Issues with termination	1.14	1.41	.27

Table 2: Perceived & Experienced Agronomic Benefits	PERCEPTION	EXPERIENCE	Difference
Reduce soil erosion	1.93	1.91	-.02
Benefit to cash crop	1.82	1.55	-.28
Reduce nutrient loss	1.54	1.64	.10
Reduce fertilizer applications	1.57	1.36	-.21
Build soil organic matter	2.25	2.22	-.03
Decrease soil compaction	2.13	2.06	-.07
Control weeds	2.21	2.14	-.08
Provides a N source	1.71	1.55	-.17
Provides nutrient scavenging	1.82	1.55	-.28
Increases yields in the following cash crop	1.93	1.45	-.47
Increases economic return	1.79	1.55	-.24
Reduce costs for the following crop	1.71	1.64	-.08
Attracts pollinators	1.64	1.73	.08
Winter kills easy	1.85	2.00	.15
Winter hardiness or survival	1.92	2.30	.38
Reduces disease	1.71	1.70	-.01
Controls insects	1.36	1.50	.14
Increased soil water holding	1.93	1.95	.03
Provides forage for livestock	2.86	2.82	-.04

Table 3: Perceived & Experienced Economic/Structural/Social Barriers	PERCEPTION	EXPERIENCE	Difference
Negative perceptions limit adoption (i.e., aesthetics)	1.29	1.00	-.29
Contract or custom farming options limit adoption	1.54	1.39	-.15
Landlords limit adoption	1.46	1.30	-.16
There is no market	1.31	1.30	-.01
Commodity prices do not impact my use of cover crops	1.14	1.18	.04
Crop insurance premiums influence my decision to plant cover crops	1.07	1.00	-.07
Cost of inputs (seed, fertilizer, etc.) limit my use of cover crops	1.79	1.77	-.01
I do not have the time for cover crops	1.86	2.00	.14
I do not have the equipment necessary to incorporate cover crops	1.21	1.27	.06
There is too much risk	1.14	1.09	-.05
Rented ground keeps me from incorporating cover crops	1.46	1.39	-.07
The near-term cost of cover crops is too great for the uncertain long-term payback	1.36	1.36	.01
The risks to this year's crop success is too great	1.00	1.13	.13
Availability of financial incentives	1.21	1.09	-.12



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COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD
ANDY MUELLER GENERAL MANAGER
PETER FLEMING GENERAL COUNSEL

FROM: MIKE EYTEL, SENIOR WATER RESOURCE SPECIALIST

SUBJECT: WATER QUALITY UPDATE

DATE: JANUARY 5, 2021

No Board Action is requested. This memorandum is for informational purposes only.

STRATEGIC INITIATIVES: 1. Outreach and Advocacy
4. Colorado River Supplies
10. Water Quality.

The Colorado River District's primary objective with respect to water quality is to protect the ability of the District's residents to use water beneficially now and in the future. – CRD Water Quality Policy

This memorandum provides an overview of Colorado's water quality regulations and ongoing CRD efforts to support its constituents concerning water quality issues.

Background.

Consistent with Board policies, the Colorado River District is committed to meeting its residents' present and future water needs. These policies recognize that water quality and quantity are impossible to separate due to the causal link between streamflow and the stream's water quality. Therefore, the River District typically supports many water quality-related activities in coordination with local watershed groups implemented through USGS cooperative programs to meet state and federal water quality regulations.

Federal statutes, primarily the Clean Water Act (CWA), drive water quality regulations in Colorado, and these regulations are interpreted and administered by the Colorado Water Quality Control Commission (WQCC), which is staffed by the Water Quality Control Division (WQCD) contained within the Colorado Department of Public Health and the Environment (CDPHE). With the CWA establishing the basic structure for regulating the quality of surface waters and discharges of pollutants into the Waters of the United States (WOTUS), the specifics of protection and regulation are exclusively vested in CDPHE as the agency with legal primacy granted by the federal government via the U.S. Environmental Protection Agency (EPA).



Furthermore, Colorado State statutes authorize the WQCC to adopt water quality regulations in consultation with and through delegated authority from the EPA. Specifically, the WQCC is the policy-setting agency responsible for developing specific water quality regulations proposed by the WQCD within the broader rules and directives outlined in the Colorado Water Quality Control Act and CWA.

In contrast, water quantity allocation and administration are vested with the Colorado State Water Courts and administered by the Division of Water Resources within the Colorado Department of Natural Resources.

The WQCC consists of a nine-member commission appointed by the Governor to three-year terms. Three of the nine commissioners are residents from river sub-basins located within the River District. They are:

- Jennifer Bock - serves as the Assistant City Attorney for Steamboat Springs.
- April Long - WQCC Vice-Chair, is the Stormwater Manager and Clean River Program Manager for the City of Aspen and the Executive Director of the Ruedi Water and Power Authority.
- Troy Waters – owns and operates a row crop farm outside Fruita, Colorado. He serves as a board member to the Grand Valley Waters Users Association and Ute Water Conservancy District and serves on the Mesa County Agricultural Advisory Panel.

Currently, the WQCC/WQCD administers 34 regulations covering eight areas:

- **Drinking-Water, Regulation 11** assures the safety of public drinking water supplies and enables the state of Colorado to assume responsibility for enforcing the standards established by the federal Safe Drinking Water Act.
- **Procedural and Planning Rules, Regulations 21 – 23.** These regulations govern all procedures and hearings before the WQCC/WQCD and assure that all such procedures and hearings are fair and impartial.
- **Surface and Groundwater Quality Classification and Standards, Regulations 31 – 43.** These regulations provide basic standards, an antidegradation rule, an implementation process, and a system: for classifying state surface waters; for assigning water quality standards; for granting temporary modifications; and for periodic review of the classifications and standards through the triennial review process, which takes 5 years due to the number of regulations needed for review.
- **Financial Assistance Rules, Regulations 51 – 55.** These regulations authorize the Colorado Water Resources and Power Development Authority to participate directly in the Water Pollution Control Revolving Fund (WPCRF), Water Resources Reform and Development Act (WRDA), Safe Drinking Water Revolving Act (SWDA), and the Water and Wastewater Infrastructure Funding (WIFIA) Programs to provide funding mechanisms for loans and grants to Colorado water and wastewater providers.
- **Point Source Discharges and Permit Rules, Regulations 61 – 66.** These regulations authorize the WQCD to issue discharge permits for stormwater, wastewater, confined animal feeding operations, and biosolids applications designed to comply with the Colorado Water Quality Control Act and Federal Clean Water Act.



- **Watershed Protection Control Regulations, Regulations 71 – 86.** The purpose of these regulations is to promulgate control regulations to describe prohibitions, standards, concentrations, and effluent limitations on the extent of specifically identified pollutants that any person may discharge into any specified class of state waters. Control Regulations have primarily been used to utilize Best Management Practices to help control nutrients through waste load allocations and non-point source remediation.
- **Regulation 93 - Implementation of Clean Water Act Section 303(d).** This regulation establishes Colorado's Lists of Impaired Waters. These waters include Water-Quality-Limited Segments Requiring Total Maximum Daily Loads ("TMDLs"), Impaired Water Bodies with Approved TMDLs and 4b Plans, and Colorado's Monitoring and Evaluation List. Regulation 93 is really where the rubber meets the road for water quality. The goal of a TMDL is to eventually bring impaired segments/waterbodies into compliance and delisting from the 303(d) list.

Rulemaking.

These regulations guide the Water Quality Control Division (WQCD) to assess the waters of Colorado and administer the CWA and Colorado's Water Quality Control Act. As staff to the WQCC, the WQCD helps define and study issues, prepares proposed regulatory language, and supports the WQCC in rulemaking hearings and processes. In October 2017, the WQCD established a water quality roadmap that outlines its strategy for developing nutrient criteria and other water quality priorities over the 10 years from 2017 to 2027 (see attached). The WQCC plans to review and adopt new water quality criteria as needed for nutrients (nitrogen, phosphorus, and chlorophyll-a), cadmium, temperature, arsenic, ammonia, and selenium during rulemaking hearings through 2027. In addition, the WQCD and stakeholders form technical workgroups that cooperatively develop scientific evidence to support the commission's water quality criteria. For example, the Direct Potable Re-use (DPR) proposal to treat wastewater for potable use may be the most notable rulemaking proposal currently going through the workgroup development process.

The state of Colorado expects to double its population by the year 2050, and the Colorado Water Plan lays out strategies to address projected water supply and demand gaps, and DPR is one of those strategies. Promulgating DPR rules involves extensive public outreach regarding the advanced water purification technology used to treat wastewater to safe drinking water standards. Currently, there are no federal or state regulations allowing DPR. Setting minimum requirements and oversight for DPR ensures consistency and helps protect public health. Regulated entities have requested that the WQCC/WQCD promulgate a DPR-specific rule. The addition of a DPR rule would facilitate further recycling opportunities for municipal providers to reuse trans-basin water directly, potentially reducing or stabilizing water exports from the River District.

Staff participates in those WQCC rulemaking hearings directly impacting River District Enterprise assets and those with broader regional implications. In addition, the River District directly supports water quality data collection and assessment through annual Joint Funding Agreements (JFA) with the U.S. Geological Survey (USGS) as part of their cooperative water program. These are the primary means of assisting our constituents and watershed groups to monitor water quality trends. Notably, the River District USGS cooperative program leverages nearly \$500,000 in River District funding along with cooperative funding provided by partners for basin-specific water quality monitoring within every basin in the River District. The following is a brief list of the water quality efforts that the River District supports via the USGS JFA; these programs are discussed in a



separate Board memo with staff recommendations ([click here](#) to access the USGS Joint Funding Agreement for 2022 memo).

- **Wolford Mountain Reservoir** water quality monitoring supports two (2) real-time streamflow gages and water quality sampling above, within, and below the reservoir, as required as a condition of the 1041 Permit with Grand County. Approximately \$120,000 annually.
- **Upper Gunnison Water Quality Program** consists of a network of eleven (11) streamflow gages, 5 real-time water quality monitoring stations, and 11 water quality stations. A cooperative effort with Upper Gunnison Water Conservancy District and others totals approximately \$274,000 annually to monitor and assess quality and quantity; the River District contributes approximately \$32,000 per year.

Lower Gunnison Water Quality Program consists of sixteen (16) water quality stations focused on selenium and salinity issues; this represents a long-term success story with the lower Gunnison River impairment de-listing in 2021. Previously the River District expended up to \$78,000 per year; in 2022, it is proposed to decrease this amount to approximately \$43,000 for monitoring, assessment, and trend studies, making a like amount available for the Grand Valley TMDL program ([click here](#) to access the Grand Valley TMDL Update memo).

- **New Grand Valley TMDL / Stakeholder effort.** Staff proposes this as the newest area of focus, with approximately \$30,000-\$35,000 of CRD funding per year to be reallocated from the Lower Gunnison Program, along with an additional \$10,000 of cooperative matching funds from the USGS.
- **Grand Lake** (3-Lakes Region) connectivity channel supports a real-time 5-parameter sonde. This assists in monitoring algal productivity for Grand Lake Adaptive Management. Approximately \$21,300 annually.
- **Eagle River Water Quality Program** supports ten (10) real-time streamflow and water quality stations. A cooperative effort with numerous Eagle River entities totaling approximately \$175,000 annually.
- **White River Program** supports a network of nine (9) real-time streamflow and water quality stations and White River Algae Project monitoring. A cooperative effort with Rio Blanco County, Meeker Sanitation, Rangely, and Town of Meeker totaling approximately \$111,000 annually.
- **Stream Temperature Program** maintains four (4) real-time stream temperature monitoring stations in the Fraser, Upper Colorado, Roaring Fork, and Yampa River Basins. Approximately \$11,300 annually.
- **Yampa River Basin Program** supports six (6) real-time streamflow and water quality stations. A cooperative effort with the National Park Service, Bureau of Land Management, Steamboat Springs, and the City of Craig. Approximately \$62,300 annually.
- **Colorado River Basin Salinity and Selenium Trend Profiling Program** is a cooperative effort with Garfield County, the Bureau of Reclamation, and the U.S. Fish & Wildlife Service that supports three (3) mainstem Colorado River stream gages with stream temperature and specific conductance to monitor long-term salinity and selenium trends \$22,416 annually.

The above water quality programs significantly leverage the River District's investments in USGS cooperative water program to provide higher federal funding ratios to support various local



governments, water conservancy districts, conservation districts, and related interested watershed groups. These cooperative efforts are coordinated regularly with entities like the Eagle River Watershed Council, Grand County Watershed Information Network, and the Middle Colorado Watershed Council. In addition, CRD staff works closely with federal, state, and local agencies to address emerging water quality issues and create innovative ways to further leverage assets to support these efforts via grants and other outside funding.

In addition to these discrete water quality efforts, the USGS compiles annual summary reports of water quality data for the following basins within the River Districts Boundaries([linked below](#)):

- **Colorado River Basin, 1990-2019**
- **Eagle River Basin, 1990-2018**
- **Fraser River Basin, 1990-2018**
- **Gunnison River Basin (Upper), 1995-2019**
- **Gunnison River Basin (Lower), 1993-2019**
- **White River Basin, 1992-2019**
- **Yampa River Basin, 1990-2019**

Board Presentation.

On Tuesday, January 18, 2022, we are pleased to have Nicole Rowan, Division Director of the WQCD, and Nathan Moore, Clean Water Program Manager, available to present current WQCD's priorities and the 10-Year Water Quality Roadmap (overview attached) status to the River District Board.

Nicole Rowan oversees the implementation of the federal Clean Water Act, Safe Drinking Water Act, and Colorado's Water Quality Control Act. Ms. Rowan has over 25 years of experience as an environmental engineer working for the state of Colorado and in private industry. She has a bachelor's degree in Biological Systems Engineering from the University of Nebraska-Lincoln and a Master's Degree in Civil Engineering from the University of Colorado at Denver.

Nathan Moore has been with the WQCD for 24 years. He has a Bachelor's and a Master's degree in civil and environmental engineering from the University of Colorado.

Summary.

In summary, consistent with Board policy, staff engages in a wide variety of water quality efforts on behalf of our constituents to protect the historical and future beneficial uses of water on the West Slope, focusing on regulatory issues and related actions that state and federal agencies may promulgate. In addition, along with the USGS, the River District monitors and analyzes priority water quality constituents in each sub-basin to protect against undue risk using good scientific information.



10-Year Water Quality Roadmap

Overview



Excess nutrients can degrade the quality of our drinking water, impair recreational boating and fishing experiences, and harm fish and aquatic species. Colorado has been directed by the EPA and the commission to adopt nutrient criteria to protect our streams and lakes. In October 2017, we established a water quality roadmap that outlines our strategy for developing nutrient criteria and other water quality priorities over 10 years from 2017 to 2027.

Focus areas

Criteria Development:

The Water Quality Control Commission plans to adopt water quality criteria for nutrients (nitrogen, phosphorus, and chlorophyll *a*), cadmium, temperature, arsenic, ammonia, and selenium during rulemaking hearings through 2027.

Evidence Development:

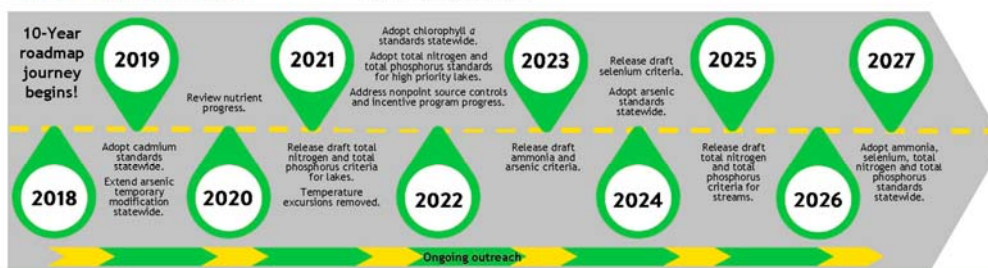
The Water Quality Control Division and stakeholders will undertake technical work and develop scientific evidence needed to support adoption of water quality criteria by the commission.

Criteria Implementation:

The water quality criteria adopted by the commission are implemented as water quality standards in the river basins statewide (Regulations 32-38). The standards are translated into permits that allow the discharge of acceptable levels of pollutants. Sometimes permit limits result in water treatment being needed to address permit requirements. Nonpoint sources, like agricultural runoff, can also release nutrients, so we will consider how to decrease nutrients in waterways from nonpoint sources as well.

Outreach:

There are several ways stakeholders can participate in shaping the efforts that will happen over 10 years from 2017 to 2027.



CDPHE_nutrients@state.co.us

www.colorado.gov/cdphe/WQ-10-Year-Roadmap

10-Year Water Quality Roadmap

Overview

Rulemaking hearings

2019: Regulations 31-38

- Cadmium standards adopted statewide.

2021: Regulations 31-38

- Delete temperature excursions.

2022: Regulations 31-38 & 85

- Chlorophyll *a* standards adopted statewide.
- Total nitrogen and total phosphorus standards adopted for lakes above dischargers, lakes with swim beaches, and lakes that are classified as direct use water supply.
- Address nonpoint source controls for nutrients.

2024: Regulations 31-38

- Arsenic standards adopted statewide.

2027: Regulations 31-38

- Ammonia and selenium standards adopted statewide.
- Total nitrogen and total phosphorus standards adopted for remaining waters statewide.

Criteria Development

The commission adopts water quality criteria during rulemaking hearings. Over 10 years from 2017 to 2027, the commission plans to adopt these criteria into multiple regulations at the same time. Statewide criteria are adopted in Regulation 31 and implemented into river basins in Regulations 32 to 38.

Evidence Development

We will work with stakeholders to evaluate federal criteria, examine appropriate data, and ultimately, draft appropriate criteria to protect Colorado's waters. We plan to release draft criteria as quickly as possible to allow the regulated community time to consider impacts of implementation on their facilities. The following are the major evidence development milestones through 2027:

- 2019 - Draft cadmium criteria.
- 2021 - Draft total nitrogen and total phosphorus criteria for lakes.
- 2023 - Draft ammonia and arsenic criteria.
- 2024 - Draft selenium criteria.
- 2025 - Draft total nitrogen and total phosphorus criteria for streams.

Criteria Implementation

Water quality treatment to address discharge permit conditions for nutrients, ammonia, temperature, arsenic, and selenium can be challenging from both a technological and financial perspective. Over 10 years, we will develop information on the technological and financial feasibility of meeting the new water quality criteria. Additionally, we plan to examine what information would be required to modify the statewide standards on a site-specific basis.

Work Group Efforts and Outreach

We are committed to an extensive stakeholder process throughout the 10-year water quality roadmap.

- Quarterly roadmap work group meeting information is available on our website: www.colorado.gov/cdphe/WQ-10-Year-Roadmap
- Technical advisory committees will target members representing the EPA, Colorado Parks and Wildlife, non-profit organizations, academia, and industry while ensuring that all regions of the state are included.
- Annual updates on roadmap progress will be given to the commission and Colorado's Water Quality Forum.



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- 8.b. Colorado Department of Public Health and Environment (CDPHE) Water Quality Presentation:
Presentation by Nicole Rowan, Director, Water Quality Control Division,
Nathan Moore, Clean Water Program Manager, Water Quality Control Division.



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: MIKE EYTEL, SENIOR WATER RESOURCES SPECIALIST
RAQUEL FLINKER, SENIOR WATER RESOURCES ENGINEER
BRENDON LANGENHUIZEN, DIRECTOR OF TECHNICAL ADVOCACY
DAVE “DK” KANZER, DIRECTOR OF SCIENCE AND INTERSTATE MATTERS

SUBJECT: GRAND VALLEY TMDL UPDATE

DATE: JANUARY 5, 2022

ACTION: *Staff requests the Board authorize staff to participate in the Grand Valley Watershed Stakeholder Group for three years or less if requested by the Stakeholder Group, and contribute an estimated effort of \$60,000 in staff resources over the three years.*

STRATEGIC INITIATIVE(S):

6. E. The River District will advocate for sensible water quality regulations and cooperative actions that do not unduly burden the agricultural community.

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.

10. Water Quality: The water quality regulatory framework will likely be an increasing challenge to River District Enterprise assets as well as the interests of the District’s constituents. Historically, agriculture has largely escaped water quality regulation, due to nationwide exemptions under the Clean Water Act, but this may change. For example, at some point, there likely will be recognition that necessary contaminant (e.g., nutrient, selenium, salinity) reductions cannot be feasibly and economically attained solely through traditional treatment of point source municipal and industrial wastewater.

10. A. The River District will proactively convene and facilitate, as needed, local stakeholder groups to address local and regional water quality concerns to protect against regulatory actions.

10. B. The River District will act in accordance with its formally-adopted Policy Statement on Water Quality.



This memorandum is written in response to a request at the CRD's October 20, 2021 quarterly board meeting to evaluate opportunities to support the Grand Valley entities impacted by the Colorado Department of Public Health and Environment (CDPHE)'s issuance of a Total Maximum Daily Load (TMDL) for certain identified pollutants on tributaries of the Colorado River in the Grand Valley region in August 2021.

In the last quarter of 2021, River District Staff followed up on the CRD Mesa County Board member's request for CRD involvement in this effort. Through extensive interviews with key stakeholders, the River District was requested to participate in the recently formed Grand Valley Watershed Stakeholder Group (Stakeholder Group) and to support the collection of baseline water quality monitoring data in response to issues identified in the TMDL.

To better understand and to address the TMDL, CRD staff interviewed Carrie Gudorf, Regulatory Programs Manager at Mesa County; Mark Harris, General Manager at Grand Valley Water Users Association; Tim Ryan, General Manager of the Grand Valley Drainage District; and Angie Fowler, Principal Engineer at SGM (who is preparing an update to the Grand Valley and Lower Gunnison Watershed Plan, and coordinating the Stakeholder Group). Additionally, CRD staff has participated in Stakeholder Group meetings over the past several months to understand concerns, potential impacts, coordination, and to offer guidance based upon experience from the Lower Gunnison River TMDL and actions that led to the successful removal of the Lower Gunnison from the water quality impairment list due to dissolved selenium.

Background on the Grand Valley TMDL.

In August 2021, after years of study, CDPHE published a TMDL report for a series of tributary stream reaches in the Grand Valley. After this was publicly noticed, Grand Valley entities requested a delay due to procedural issues. Current indications are that CDPHE will re-notice the Grand Valley TMDL in February 2022. The scope of the originally noticed TMDL report addressed dissolved selenium, total recoverable iron, and bacteria (*Escherichia coli* aka *E. coli*) impairments found in certain tributaries to the Colorado River within the Grand Valley in Mesa County, Colorado.

Selenium and iron are naturally occurring in the dominant geologic formation of the area, Mancos Shale. This is similar to conditions in the Lower Gunnison basin where land use and irrigation practices can result in elevated levels of these constituents in return flows to the tributaries. On the other hand, the impairment due to *E. coli* bacterial has most likely been introduced by either animal or human waste products.

Federal Clean Water Act regulations, as administered by the U.S. Environmental Protection Agency (U.S. EPA), require that States with legal primacy (i.e., CDPHE in Colorado) develop TMDLs for "impaired" waters under Section 303(d) of the Clean Water Act. The impaired waterbody in the Grand Valley has been identified by CDPHE as Segment COLCLC13b, and it is defined as "all tributaries to the Colorado River, including wetlands, from the Government Highline Canal Diversion to a point immediately below Salt Creek, and down-gradient from the Government Highline Canal, the Orchard Mesa Canal No. 2, Orchard Mesa Drain, Stub Ditch, and the northeast Colorado National Monument boundary." All or parts of COLCLC13b has been identified as impaired for different use classes by selenium, iron and *E. coli*.



Specifically, the CDPHE is recommending TMDLs for the following waterbodies, as shown on Figure 1:

- COLCLC13b_A: Lewis Wash, Hunter Wash, Pritchard Wash, Persigo Wash, Little Salt Wash, Big Salt Wash, and Reed Wash.
- COLCLC13b_B: Salt Creek.
- COLCLC13b_C: Adobe Creek and Leach Creek.
- COLCLC13b_D: Indian Wash

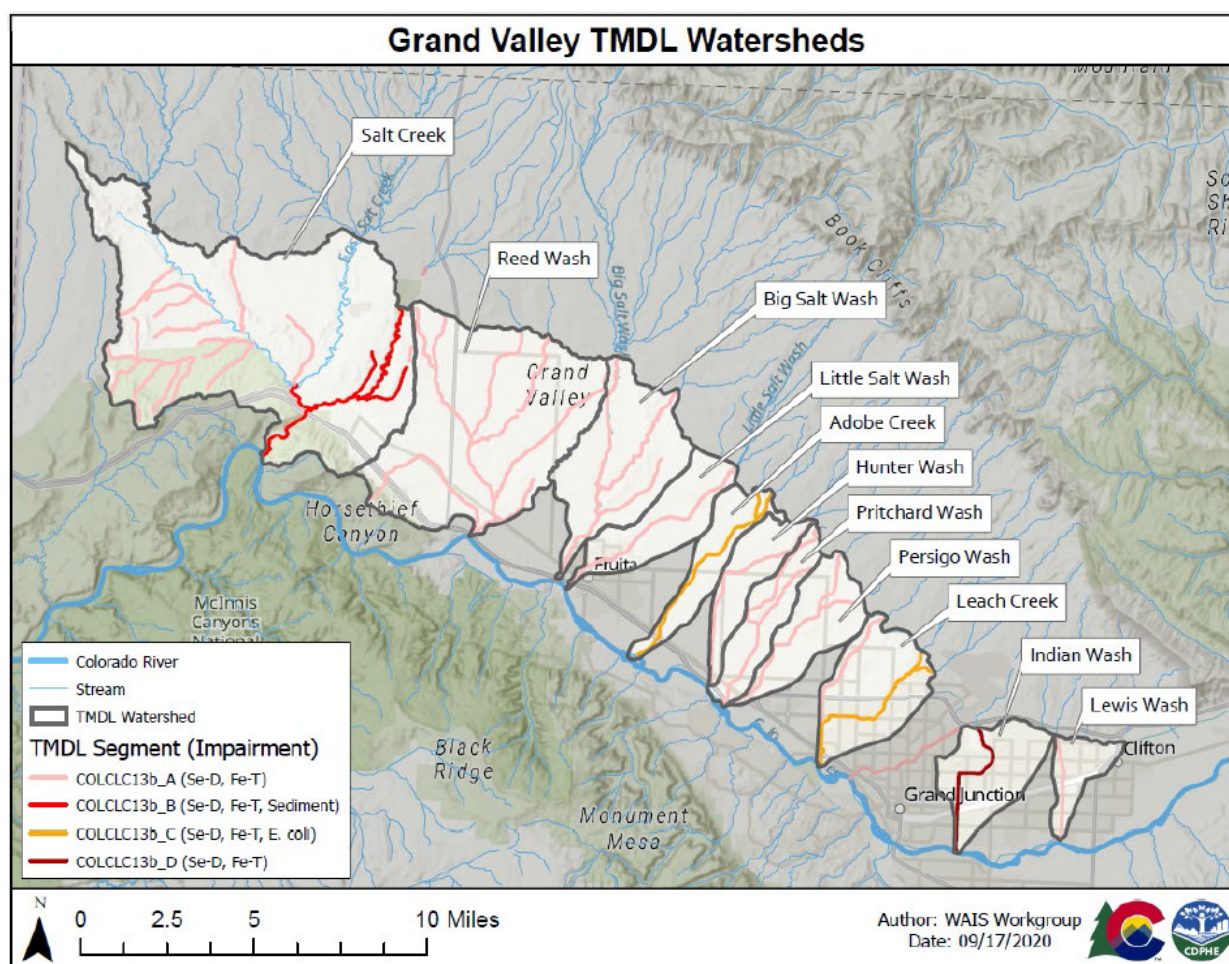


Figure 1. Impaired segments in the Grand Valley for which TMDLs are expected.

TMDL Impact to Grand Valley Water Users.

There are several point-source discharges and nonpoint sources potentially contributing to the impairments of the tributaries in the Grand Valley. Point sources addressed in the TMDL include dischargers covered by individual Colorado Discharge Permitting System (CDPS) permits and stormwater dischargers covered by general CDPS and MS4 permits.

Although nonpoint sources have been identified, they may not be directly affected by the TMDL because they are not currently regulated under CDPS. These nonpoint discharges could include



irrigation and fertilization sources and/or land use practices, like rural septic systems, that occur on, or in conjunction, with the natural geological formations of the area.

The TMDL assigns ‘waste load allocations’ for dissolved selenium, total recoverable iron, and *E. coli* per stream reach and/or identifies the load reductions necessary to attain the adopted water quality standards. Therefore, TMDL implementation occurs through the issuance of new and renewed CDPS permits, for point sources. In the Grand Valley, this means that existing and future holders of stormwater permits could be responsible for implementing the TMDL through the permitting and/or permit renewal processes. CDPHE is expected to require all existing permit renewals to have a "Compliance Schedule" built into the permit to allow time to design and implement cost-effective remediation methods and/or compliance actions. Non-point sources (naturally occurring or agriculture or land use-induced) are encouraged to implement best management practices (BMPs) that are deemed suitable by CDPHE and are typically led by local stakeholders and/or watershed groups.

Agricultural water users, while not directly regulated by permit conditions, may be the entities that could have the greatest impact on success or failure through improvements to water delivery systems or by implementation of on-farm BMPs that could contribute to non-point source reductions. This is where the River District can assist in providing leadership and insight based upon on lesson learned and successes found in the Lower Gunnison selenium control efforts by working with irrigation districts, ditch companies and others to facilitate on- and off-farm improvements, which helped lead to the delisting of the Lower Gunnison selenium impairment in 2021. While the creation and implementation of a TMDL is often understandably viewed as a burden to many in the local water user community, it is also a potential opportunity to attract federal, state and other funding, and particularly for this TMDL to modernize and enhance irrigation systems and potentially make agricultural operations more productive and profitable.

Grand Valley Watershed Stakeholder Group.

The Stakeholder Group came together to prepare formal comments about concerns regarding the lack of data and scientific methods utilized by CDPHE to justify and promulgate the TMDL. This Stakeholder Group also acted to coordinate water users and TMDL-impacted community groups, these include Mesa County, Grand Valley Water Users, Grand Valley Drainage District, among others.

The Stakeholder Group also pointed out in their public comments to CDPHE that the Grand Valley Drainage District will be finalizing an update to the Colorado River and lower Gunnison River Watershed Plan in March 2022 and that this document will provide guidance and will enable potential applicants to receive Section 319 nonpoint source grant funding to implement priority Watershed Plan objectives, many of which will coincide with addressing concerns identified by the TMDL.

During interviews with individual members of the Stakeholder Group, CRD staff heard consistently that this group of local interests wants to lead regional coordination to address the waste load allocations identified in the TMDL. They also consistently expressed a request for CRD staff to participate in the Stakeholder Group to share experiences and lessons learned from the Lower Gunnison project and other relevant efforts. The other request heard by staff was to provide



funding to implement a water quality monitoring plan to establish a consistent and comprehensive baseline water quality assessment in affected areas of the Grand Valley.

The River District has led the Lower Gunnison entities in addressing selenium issues for more than twenty years with recent success in removal of the water quality impairments in the lower Gunnison River. The success of those activities was due to, in part, by significant federal, state and local investment. There is good potential that similar cooperative activities can be brought to bear in the Grand Valley. However, unlike in the Lower Gunnison basin, the Grand Valley has entities with capabilities to coordinate this effort and these entities prefer to lead the effort themselves through a new Stakeholder Group process.

Recommendations.

Staff recommends supporting the Grand Valley entities through consultation and/or participation in the Stakeholder Group to equitably support affected water user entities. It is hoped that this approach would set a new precedent for how the River District participates in regional water quality concerns. Using staff experience related to strategic leveraging of grant funds and coordination of irrigation districts through the Lower Gunnison Project, it is hoped such an approach would assist constituents in the Grand Valley with programmatic design and implementation efforts.

Given the existing regional support and work of the Stakeholder Group, and the limited staff and financial resources of the District, it is staff's recommendation that the Board direct staff to:

1. Participate as an advisor, as requested, in the Stakeholder Group for up to 3 years, upon which continued staff participation will be re-evaluated. Staff time and travel costs associated with this effort is estimated to be up to \$20,000 annually with a three-year estimated total cost of up to \$60,000, subject to annual appropriation;
2. Reallocate some funding in the proposed 2022 CRD/USGS Joint Funding Agreement (JFA) to enhance baseline water quality sampling to address priority concerns identified by the Stakeholder Group. Specifically, staff recommends that \$30,000-\$35,000 of CRD funding be reallocated from Lower Gunnison monitoring and assessment efforts and to be made available in 2022; this would bring an additional \$10,000 of USGS cooperative matching funds. Discussion and proposed approval of the 2022 CRD-USGS JFA is provided separately in the January 2022 Board Meeting materials ([click here](#) to access the USGS Joint Funding Agreement for 2022 memo and [click here](#) to access the Water Quality Update memo).

These recommendations are consistent with the River District's Water Quality Policy that calls for protection of the District's resources to enable beneficial water use to continue now and into the future and specifically calls the CRD to prevent classifications that cause unreasonable financial burdens or operational constraints to historical water users, as well as to encourage the voluntary implementation of reasonable best management practices and programs for nonpoint sources such as farming and ranching activities.



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS

CC: ANDY MUELLER, GENERAL MANAGER

FROM: DAVE 'DK' KANZER, P.E., DIRECTOR OF SCIENCE AND INTERSTATE MATTERS

SUBJECT: AUTHORIZATION REQUEST: USGS JOINT FUNDING AGREEMENT FOR 2022

DATE: DECEMBER 31, 2021

ACTION(S): *Request delegated authority to the General Manager to enter into the annual joint funding agreement ("JFA") with the USGS, subject to review and approval by legal counsel, in the gross obligation amount not to exceed \$620,000 to engage in cooperative streamflow gauging and water quality sampling activities in calendar year 2022, consistent with the adopted 2022 budget.*

Delegated authority is also requested for the General Manager to enter into agreements, subject to review and approval by legal counsel, with cooperating partners, to offset some of the 'customer costs' of the JFA. The estimated local cost share amount is approximately \$110,000 from about 6 separate parties. With this cost share, the net expenditure of River District funds is not expected to exceed \$510,000.

STRATEGIC INITIATIVE(S):

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.

3. C. The River District will engage in and support water supply planning efforts, local and regional, which include adapting to climate change impacts.

7. A. The River District will work proactively with District constituents and basin roundtables to better quantify and refine both the consumptive and non-consumptive water needs, in amount, location and timing, throughout the District, including projected needs that may result from climate change.

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.

10. A. The River District will proactively convene and facilitate, as needed, local stakeholder groups to address local and regional water quality concerns to protect against regulatory actions.



Background.

The Colorado River District continues to manage one of the largest in-channel water monitoring and assessment programs in Colorado in partnership with the United States Geological Survey, collecting and analyzing water quality and quantity data across all sub-basins of the River District. These resulting data products are published on easily-accessible websites that are widely used by water resource managers and water users to support water resource planning, management and decision making, as these data are subject to rigorous quality control and are independently verified.

Each year the proposed cooperative monitoring activities are carefully reviewed by staff and partner groups (*e.g.*, conservancy districts, watershed groups and local governments) to ensure that strategic initiative objectives are being met and to help constituents understand and manage their water resources. All major tributary sub-basins in the Colorado River District have active groups that coordinate water resource data collection efforts to increase efficiency and reduce redundancy.

For example, there are stakeholder groups in the Upper and Lower Gunnison, the Upper and Middle Colorado River, the Roaring Fork, the Eagle, the White and the Yampa River Basins and one that is newly forming in the Grand Valley to address Total Maximum Daily Load (TMDL) issues. (This is the subject of a separate related memo, please [click here](#) to read the memo.) All these groups are supported wholly or in part by the River District-USGS JFA. These coordination efforts also bring in significant contributions from these interested stakeholders, resulting in more than \$110,000 in 2022. Partnerships in the Eagle River watershed make up almost two-thirds of this amount.

Proposed 2022 USGS Joint Funding Agreement Details.

In 2022, the CRD-USGS cooperative water program will continue to be the largest such program in the State of Colorado and, aside from the CRD Community Funding Partnership, it represents the largest single River District budget item, at approximately \$620,000. This amount represents the ‘customer cost’ to cover stream gaging, discrete water quality sampling and continuous monitoring of temperature, specific conductivity and other parameters at different locations across the Upper Colorado River basin within the River District. In general, the USGS provides cooperative matching funds of about 30% of total program costs via federally appropriated funds to the cooperative water program and the River District and partners provide the rest of the funding. Additionally, with these aforementioned partnership contributions, it is anticipated that the net expenditure of River District funds will not exceed \$510,000.

All proposed cooperative monitoring and assessment activities are outlined in the draft annual Joint Funding Agreement (JFA). At the time of this writing, the total projected cost of these data collection and analysis activities is \$863,641 with a federal cost share of \$245,193 being provided by the USGS, this is a little less than one third of the total program expenditures. These activities and expenditure breakdown including frequency, location, parameters collected, and technologies employed summarized in a series of tables and spreadsheets; these are reviewable upon request.

Colorado River Wildfire Impacts Monitoring.

In 2022, it is anticipated that additional state and federal funding will be available to support and expand reach-specific watershed and water quality monitoring related to wildfire impacts. Staff is

Authorization Request: USGS Joint Funding Agreement for 2022

December 31, 2021

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working with local partners to refine data collection and analysis priorities and to acquire grant funding to assess dynamic watershed changes, like precipitation-induced mudslides, associated changes to water quality and to provide early warning information regarding threats to water resources. This is especially important for water treatment operators and direct diverters in the Colorado mainstream watershed.

The details of these activities for 2022 and beyond are still being finalized, but the focus continues to be on downstream impacts from the East Troublesome, Grizzly Creek and Pine Gulch fires that burned in 2020. These areas are being monitored for a series of chemical constituents and/or real-time parameters that serve as indicators and surrogates. The intent is to gather multi-year data to understand and quantify both short-term and long-term issues brought about watershed-scale changes and to provide real-time information to interested water users. It is hoped that these concerted post-fire water quality monitoring and assessment efforts will provide information and guidance related to future potential best management practices and to increase efficiency and effectiveness of future post-wildfire responses across all watersheds of the River District.

Final information is still forthcoming based upon the uncertainties associated with pending grant funding decisions. It is anticipated that additional specific information will be available at the board meeting that could change the total cost of the 2022 JFA and final staff recommendation and requested Board authorization. However, it is likely that some significant level of additional federal cost share may become available to expand the 2022 JFA. This would be consistent with previous Board authorization. As a reminder, in July and in December 2021, the Board authorized staff to provide fiscal management of state and federal cost share dollars in separate actions totaling \$150,000 (including \$50,000 of CFP funding), to support monitoring and assessment activities in 2021, under Joint Funding Agreements with the USGS.

Going forward, if, and as additional grant, and/or USGS cooperative funding becomes available to support additional wildfire / watershed science activities, after the January Board meeting, it would likely be in conjunction the local grant sponsor, the non-profit Middle Colorado Watershed Council. It is anticipated that the potential expansion of grant-funded wildfire science activities will require additional discussion and Board review.

GO BACK TO AGENDA

9. Director's Updates and Concerns, No Material Available.

[GO BACK TO AGENDA](#)

10. External Affairs.



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: MARIELLE COWDIN, ZANE KESSLER, AND LINDSAY DEFRADES

SUBJECT: EXTERNAL AFFAIRS ACTIVITIES UPDATE

DATE: DECEMBER 31, 2021

ACTIONS: *No Board action requested.*

APPLICABLE STRATEGIC INITIATIVE(S):

1. Outreach and Advocacy:

1.A. The River District will continue to enhance and expand partnerships and working relationships with key elected and appointed officials to advance western Colorado's perspectives on proposed legislation and regulations affecting western Colorado water resources at both the state and federal levels.

1.B. The River District will assume a leadership role in offering timely and accurate public information regarding topical trends and developments concerning water resources, water use, and water conservation.

1.C. The River District will make special efforts to inform and involve community leaders, especially elected leaders, in water-related matters.

1.D. The River District will expand its efforts to actively engage the public through our website and other social media, including new and emerging media platforms, with a goal of reaching and engaging younger generations of water users.

1.E. The River District will ensure its outreach and communications extend to all 15 counties of the District.

1.F. The River District will expand its branding efforts to ensure grassroots support and understanding of the River District and its mission.

2. Outreach in All Basins:

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.



9. Water Efficiency and Conservation:

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

General Communications & Strategic Planning

The External Affairs team began the final quarter of 2021 with a bang, successfully executing the Annual Water Seminar. This year's event presented unique challenges and opportunities, providing both virtual and in-person attendance options as well as a simulcast collaboration with the Getches-Wilkinson Center at University of Colorado at Boulder Law School. Over 300 people took part in the River District's flagship seminar, which centered on addressing the serious challenges facing our community and the greater Colorado River Basin.

Post-Annual Seminar, the External Affairs team began working in earnest with the General Manager on a new Strategic Communications Plan for 2022, laying out new messaging pillars, goals, and campaign strategies for the coming year and preparing to launch a new website. Please see the Information and Outreach Committee Memo (provided separately) for more details.

Community Funding Partnership

With Vital Films recently contracted, the EA team has worked with Amy Moyer and the filmmakers to tell the stories of 2021 Community Funding Partnership projects and grantees, with an emphasis on elevating the stories of these individual West Slope water users. A teaser trailer for a longer, documentary-style film was released in late November 2021. The EA team aims to debut the longer-form film at the 2022 Annual Water Seminar, while releasing a series of six smaller vignettes throughout the year to highlight specific projects and grantees.

Events

1. ***Annual Water Seminar*** – The Colorado River District hosted the Annual Water Seminar, *Wake-up Call on the Colorado River*, on October 1 at the Maverick Ballroom at Colorado Mesa University. Final counts showed 120 in-person attendees and 240 virtual attendees, not including the in-person and virtual audiences attending the Getches-Wilkinson Center's Environmental Law Conference who experienced our simulcast keynote sections. Speakers included Dr. Gigi Richard, Brad Udall, Assistant Secretary for Water & Science Tanya Trujillo, Dr. Jack Schmidt, a panel of Community Funding Partnership grantees moderated by Amy Moyer, and a panel of local, diverse business owners moderated by Andy Mueller. The EA team and others on staff continue to receive a great deal of positive feedback from event partners and participants.
2. ***Water With Your Lunch*** – 'NextGen Ag: Technology and the Future of Family Farms' was hosted virtually by the River District on November 16. This latest installment of the popular lunch-hour webinar series included speakers Paul Bruchez of Kremmling, CO, Perry Cabot of CSU Ag Extension, Dan Keppen of the Family Farm Alliance, and Dave Kanzer of the Colorado River District. Marielle Cowdin, Director of Public Relations,



moderated the discussion. 183 people registered and 108 people attended virtually and participated in a lively Q&A. An additional 83 people have since watched the 'NextGen Ag' recording on the River District's YouTube channel.

Planned Events for 2022- See Information & Outreach Committee Memo for more information.

Outreach

1. Digital Outreach

a. Website

- i. Since seminar completion, the EA team has reworked the site map for the new website and continue to work with HVZ Designs to implement the updates. Updating the beta version of the website with this new site map has delayed the soft launch until January. The EA team is confident that the changes in progress will greatly enhance the brand, structure, navigability, and relevance of the new River District website.

b. Social Media

During the last quarter, the River District's social media audience gained 452 followers across three platforms. A total of 7,355 people follow the River District accounts across three platforms.

- i. *Facebook*: From October 1 to December 30, Facebook posts reached approximately 61,183 people and received 3,364 engagements, which includes reactions (likes), shares and comments. Engagement decreased 56% from previous quarter due to the fact that no posts were 'boosted' while a more thorough communication plan was being developed. **2,871 followers.**
- ii. *Twitter*: From October 1 to December 30, the District's Twitter posts were seen in feeds about 32,009 times and received 1,153 post engagements. Engagement decreased by 1.9% from previous quarter. **2,802 followers**
- iii. *Instagram*: From October 1 to December 30, River District's Instagram posts reached approximately 22,445 people, and received 1,700 engagements. Engagement increased by 2.8% from previous quarter. **1,682 followers.**

c. E-Newsletter

- i. As of December 30, 5,858 people receive the River District *News Drop* e-newsletter containing water news from across the state and region. The News Drop has a 29% open rate - a 3% increased average since the last Quarterly Board Meeting.



2. Media Relations

- a. Between October 1 and December 30, 2021, the Colorado River District was featured in 20 news stories, op-eds and columns (see [attachment](#)). Links to these stories are available in the attached document.

3. Radio Advertisements

- a. The EA Team will be renewing radio contracts throughout the year to maintain our presence on local airwaves. See I&O Committee Memo for more information.

4. In addition to these events, staff has presented to or informed the following groups and organizations since the last board meeting:

- Grand Junction Sentinel Editorial Board
- Ute Water Conservancy District
- Grand Junction Chamber's Mesa County Leadership Program - Water in the West
- Grand Valley water users regarding CRD Demand Management Punching Bag
- National Park Service Colorado River Leadership Team
- Montrose County Water Summit
- CRD Demand Management Stakeholder Group
- Delta County BOCC
- Ouray County BOCC
- Summit County BOCC
- Rio Blanco County BOCC
- Hinsdale County BOCC
- Colorado Ag Water Alliance
- West Slope water leaders with Colorado Attorney General Phil Weiser
- Pitkin County Healthy Rivers Board
- Senator Bennet
- Senator Hickenlooper
- Infrastructure briefing with staff from the U.S. Senate Agriculture Committee
- Infrastructure Briefing with DOI Deputy Secretary for Water and Science, Tanya Trujillo
- Infrastructure discussions and CRD Briefings for Rep. Boebert's staff and Rep. Neguse's staff
- West Slope water/infrastructure priorities briefing with Gloria Montano, USDA Undersecretary for Farm Production and Conservation
- For the Love of Colorado Coalition
- Colorado Interim Water Resources Review Committee
- Colorado Counties, Inc. Winter Conference
- White River National Forest, Future Forest Roundtable
- Upper Colorado Basin operations to the Learning By Doing Management



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD AND INFORMATION AND OUTREACH COMMITTEE

FROM: MARIELLE COWDIN, ZANE KESSLER, AND LINDSAY DEFRADES

SUBJECT: EXTERNAL AFFAIRS ACTIVITIES FOR 2022

DATE: DECEMBER 31, 2021

ACTIONS: *No Board action requested.*

APPLICABLE STRATEGIC INITIATIVE(S):

1. Outreach and Advocacy:

1.A. The River District will continue to enhance and expand partnerships and working relationships with key elected and appointed officials to advance western Colorado's perspectives on proposed legislation and regulations affecting western Colorado water resources at both the state and federal levels.

1.B. The River District will assume a leadership role in offering timely and accurate public information regarding topical trends and developments concerning water resources, water use, and water conservation.

1.C. The River District will make special efforts to inform and involve community leaders, especially elected leaders, in water-related matters.

1.D. The River District will expand its efforts to actively engage the public through our website and other social media, including new and emerging media platforms, with a goal of reaching and engaging younger generations of water users.

1.E. The River District will ensure its outreach and communications extend to all 15 counties of the District.

1.F. The River District will expand its branding efforts to ensure grassroots support and understanding of the River District and its mission.

2. Outreach in All Basins:

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.



9. Water Efficiency and Conservation:

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

External Affairs Team 2021 Year in Review

2021 brought significant changes to the Colorado River District. Staff turnover, in addition to the passage of Ballot Measure 7A the previous November, presented opportunities to restructure and create a more agile External Affairs department. Marielle Cowdin was hired in May 2021 as the Director of Public Relations and co-manager of the External Affairs team alongside Zane Kessler, Director of Government Affairs. Lindsay DeFrates was brought on board in July as the PR & Media Specialist. The new team, in partnership with other staff, worked to build upon the successful branding efforts of the previous team and to reimagine communications strategies that reach and engage an even broader River District audience.

The team's first few months were anything but straightforward — historic drought, wildfires, landslides, fishing closures, and a Tier 1 Shortage Declaration by the Bureau of Reclamation framed a difficult season for all water users. These issues also elevated national media interest in Western water issues and the Colorado River Basin. While a challenging atmosphere for the new External Affairs team to enter, water year 2021 provided an important platform for River District advocacy, while elevating the voices and circumstances of our constituents.

The team worked quickly and strategically to connect press with the District's expert staff, reinvigorated our social media platforms with new content, organized and executed new Water With Your Lunch webinars, planned and hosted a well-received Annual Water Seminar, and conducted outreach to counties and municipalities throughout the District.

The challenges of 2021 painted a clear picture – the Colorado River District's role representing and protecting the interests of West Slope water users will only become more critical in the months and years to come. As such, the External Affairs team proposes the following information and outreach plan for 2022.

New Messaging & Strategic Communications Plan

While River District messaging in recent years has evolved to underscore the importance of the District's work and highlight the many challenges facing West Slope water users, the External Affairs team is developing a new Strategic Communications Plan to provide a clearer and more impactful roadmap for constituent communications in the year to come.

As Colorado's Western Slope continues to suffer the exponential impacts of a changing climate and aridification, the River District's communications must serve to:

1. **Ensure water security for our constituents;**
2. **Provide critical education and engagement to our constituents and to those that affect West Slope water users (e.g., Front Range water users); and**
3. **Provide leadership and guidance to decision makers acting on behalf of Colorado's**



water users within and across state lines.

Prior to implementing specific campaigns and messaging tactics to achieve these goals, the River District must intentionally refine current and new messaging. The External Affairs team recommends **the following new pillars** to guide River District communications through 2022 and beyond:

- Partnerships & Next-Generation Innovation
- Conservation for Adaptation
- Headwaters Economics
- Healthy Watersheds

At the Committee meeting, Marielle Cowdin, Director of Public Relations, will provide a brief presentation to further outline these goals and pillars and welcomes feedback from the Board.

Front Range Colorado River Consumer Campaign

Implementation of the new Strategic Communications Plan in 2022 includes an outreach campaign targeted directly to Front Range water consumers. While Trans-Mountain Diversions and the dichotomy of water consumption across the Continental Divide is a familiar topic to those within our District, many residents across the ever-growing Front Range remain unaware of their West Slope water source. Last summer's historic low flows, spiking river temperatures, and associated economic losses in Western Colorado were a stark reminder of this intrastate disjunction. To best fulfill our mission of water security for our constituents, the River District must engage with Front Range water users around conservation of our state's most valuable natural resource – the Colorado River.

The River District will begin the Front Range campaign across communities within Boulder and Larimer Counties, and in partnership with external groups on both sides of the Divide. East Slope partners will include strategically selected NGOs small businesses, and others that have significant reach into these Front Range audiences. West Slope partners may include conservancy districts, local governments, water providers, and others with significant stake in the health of the Western Colorado and the Colorado River.

The campaign will be executed in two phases:

- I. Tier I – An education campaign targeting Northern Front Range communities, connecting water users with their West Slope water sources. Goals for this campaign tier include increasing Front Range awareness of Colorado water distribution, Trans-Mountain Diversions, and Upper Colorado River hydrology and conditions.
- II. Tier II – An action follow-up targeting the same individuals reached with the education campaign, as well as direct Colorado River District advocacy to elected officials. Tier II public messaging will vary based on audience ties to different Colorado cultural pillars – outdoor recreation, local food production, environmental health, etc. Messaging tied to these pillars will be distributed in collaboration with the appropriate partners for each audience interest group and will be accompanied by an action ask. Actions taken may include:



- i. Writing to local representatives and/or conservancy districts to support general water conservation measures
- ii. Advocating local utilities to participate in conservation trainings

The External Affairs team considers this to be the beginning of a multi-year, multi-tier communications effort.

At the Committee meeting, Marielle Cowdin, Director of Public Relations, will provide a brief presentation to further outline this specific campaign and welcomes feedback from the Board.

Educational Programs & Activities

1. ***Webinars: Water With Your Lunch*** – This informative, lunch-hour webinar series continues to be a popular and accessible program. 2021 webinars were well-attended, and staff continue to receive positive feedback from participants. The virtual events allow for us to provide a variety of timely content based on constituent interests and River District messaging priorities. The External Affairs team is proposing to host another four (4) webinars in 2022, beginning with a continuation of the popular ‘Know Your Snow’ series in February, followed by a timely look at tribal water right development later in the spring.
2. ***State of the River Workshops*** – The External Affairs team aims to host 12 in-person State of the River events across the District in 2022. These public meetings will be held from March through June. The content will center around snowpack and runoff conditions within specific communities, the Community Funding Partnership, and provide opportunities for unique local issues to be addressed. These events are primarily used to highlight the work of the River District and other topical water issues, as well as to introduce the new faces of the River District to our constituents. There is potential for some meetings to be filmed by local cable TV stations and then re-aired on local Public, Education, and Government channels. Should circumstances change given the pandemic, however, we are prepared to offer virtual meetings akin to 2021.

The 2022 State of the River meetings will be held in the following locations:

- a. Rangely
- b. Grand Junction
- c. Montrose
- d. Ouray County
- e. Craig
- f. Glenwood Springs
- g. Steamboat Springs
- h. Eagle County
- i. Grand County
- j. Summit County
- k. Crested Butte
- l. Carbondale



3. ***Annual Water Seminar*** – After a successful but complex, hybrid event in October 2021, we plan to host the 2022 Annual Water Seminar as an in-person event. Colorado Mesa University served as an excellent venue last fall, so the EA team will work with established contacts to continue our flagship event in Grand Junction at CMU’s Meyer Ballroom. We also plan to lock-in a mid-September seminar date to bring the event back into alignment with the River District’s usual Budget Workshop schedule. An aggressive advertising campaign for the seminar will focus email, radio, social media, and other digital advertisements to boost in-person attendance. The event will also include a livestream component and professional recording for later viewing on the River District’s YouTube and Vimeo channels.
4. ***Water ’22 Campaign*** – Water Education Colorado (WeCO) recruited the River District to participate in and support their upcoming *Water ’22* education and outreach campaign. Marielle is a member of this campaign’s steering committee and throughout the last several months of 2021, has provided guidance on behalf of the District and its priorities. The statewide campaign will officially launch in January 2022 at the Colorado Water Congress annual convention with events and educational materials evolving throughout the calendar year. The EA team will be engaged in some of these efforts with campaign partners, allowing us to provide key demographics on both sides of the Continental Divide with a better understanding of Colorado River issues.
5. ***Live Zoom of Board Meetings*** – The Administrative Staff continues to successfully broadcast the Zoom video and audio of our Board meetings live, while also archiving them on our website for public access.

Outreach Programs/Activities

1. ***River District News Drop*** – Our bi-weekly newsletter includes a staff-curated list of relevant water news headlines. The News Drop has an audience of more than 5,500 subscribers. And a consistent open rate average of 30% throughout the year puts our e-newsletter well above the industry standard average of 18%. To continue to grow this audience, we will feature the News Drop registration link more prominently on the River District website and we will continue to collect email addresses from participants in our virtual and in person events. Our monthly social media calendar will also include at least one boosted post to encourage followers to register for the News Drop.
2. ***Newsletters/Blog Posts*** – The External Affairs team will continue to send eight (8) e-newsletters to subscribed constituents throughout the year, before and after each quarterly Board meeting. All long-form story content shared within these emails is published on the River District blog as online articles, archived and accessible on the River District website. These posts are then re-shared across all three River District social media platforms. The newsletters and blog posts continue to be an essential way for the Colorado River District to grow its ‘expert’ voice to our audience and to maintain our status as a “go-to” source for information and perspective on western water issues.
3. ***Website*** – In developing the Communications Strategic Plan, the External Affairs team revisited design and structure ideas for a new website that can serve to increase



public engagement and understanding of the work we do. Updating the beta version of the website with this new site map has delayed the soft launch into January 2022. However, the EA team is confident that the changes were necessary and will greatly enhance the usability and relevance of the new site.

4. ***Social Media*** – In 2022, social media will be an essential tool in engaging wider audiences with the goal of increasing the number of water users who fully understand our mission and importance to West Slope communities. To increase our overall following online, we plan to use geo-targeted marketing and promotion of relevant posts and information to grow our following throughout the District. Our goal is to increase our followers by one-third across all platforms, with growth that more accurately reflects the District’s broad geographical representation. Social media will also play a crucial role in supporting our Front Range water conservation messaging and continue to be a platform from which to celebrate CFP awards and on-going partnerships.
5. ***Radio Advertising*** – Advertising on radio stations within our District continues to be a cost-effective way to solidify branding and promote water messaging to a very broad audience. In 2022, the River District will continue public radio underwriting and will maintain a presence across private station airways with adaptive 30-second messaging segments to reach a larger cross-section of our constituents.
6. ***Community Funding Partnership*** –The External Affairs team continues to work with Amy Moyer, Director of Strategic Partnerships, to communicate with constituents about Community Funding Partnership projects, grantees, and successes. The new Bipartisan Infrastructure Law has brought a once in a generation opportunity to further leverage program funds for adaptive projects to benefit West Slope water users, and the EA team will prioritize messaging with this in mind.
 - ***Films*** – With Vital Films recently contracted, the EA team has worked with Amy Moyer and the filmmakers to tell the stories of 2021 Community Funding Partnership projects and grantees, with an emphasis on elevating the stories of these individual West Slope water users. A teaser trailer for a longer, documentary-style film was released in late November 2021. The EA team aims to debut the longer-form film at the 2022 Annual Water Seminar, while releasing a series of six smaller vignettes throughout the year to highlight specific projects and grantees.
7. ***Speakers Bureau*** – A variety of staff members are recruited by civic groups and other organizations to address current water issues each year. The new EA team aims to directly meet with as many of these organizations as possible in 2022, connect with new groups through this networking, and to find points of collaboration around and at upcoming State of the River workshops. While building those relationships, we will reinforce the River District as an expert resource for Western water issues and work with non-External Affairs River District staff to ensure strong, consistent external messaging at all engagements. Strategic messaging training will be provided to all staff throughout the year to make sure that they are confidently prepared for these opportunities.



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8. ***Press Relations*** – The River District continues to be a go-to place for reporters to find background, context, and quotes for increasing coverage of western water issues ([click here](#) for Media Mentions attachment). We will continue to foster these relationships in 2022 by setting editorial meetings with our major media partners to build new relationships and strengthen old ones.
 9. ***Director Briefings*** – As individual directors desire and request, staff is available to assist in any briefings or public meetings you may have in your county.
 10. ***Elected Official Briefings/Updates*** – With the ongoing drought, River District communication to inform and advise legislators and elected officials on West Slope water issues in 2022 will be critical. Zane, Andy, and others on the team will continue to engage in state and federal legislative matters, in-person briefings, BOCC meetings, and increase correspondence with elected officials throughout the District.

GO BACK TO MEMO

The Herald Times

1. COUNTY BEAT: Water, roads, meeting notices discussed, *December 22, 2021*

<https://www.theheraldtimes.com/county-beat-3/rio-blanco-county/>

2. River District to host lunch-hour webinar on next-gen agriculture, *November 12, 2021*

<https://www.theheraldtimes.com/river-district-to-host-lunch-hour-webinar-on-next-gen-agriculture/rio-blanco-county/>

Summit Daily

3. High Country snowpack lags, but it's early, *December 14, 2021*

<https://www.summitdaily.com/news/regional/high-country-snowpack-lags-but-its-early/>

Sopris Sun

4. Helping out the trout at Canyon Creek, *December 8, 2021*

<https://soprissun.com/2021/12/08/helping-out-the-trout-at-canyon-creek/?fbclid=IwAR3CApbhLg3dW3bzoGnNBTboKhrNThTD23KN3XMP42SKW4-3lkZy9KcMU5w>

MSNBC

5. Denver Breaks Records With Historic Lack of Snowfall, *December 8, 2021*

<https://www.msnbc.com/mtp-daily/watch/mountain-west-looks-to-cloud-seeding-to-increase-rain-and-snow-levels-128218693598>

Glenwood Springs Post Independent

6. Bruell column: The rivers run through us ... Let's do more to protect them, *November 18, 2021*

<https://www.postindependent.com/opinion/bruell-column-the-rivers-run-through-us-lets-do-more-to-protect-them/>

Aspen Times

7. Ouray County asks state water board to delay filing aimed at instream flow protection, *November 16, 2021*

<https://www.aspentimes.com/news/ouray-county-asks-state-water-board-to-delay-filing-aimed-at-instream-flow-protection/>

8. Crystal River restoration finding its footing in Carbondale park, *November 13, 2021*

<https://www.aspentimes.com/news/crystal-river-restoration-finding-its-footing-in-carbondale-park/>

Denver 9 News

9. Cloud seeding making up for lost snowpack, *November 11, 2021*

<https://www.9news.com/article/news/state/colorado-climate/colorado-cloud-seeding/73-2a23961d-e6c2-4a48-914a-21678a5e3697>

Steamboat Pilot and Today

10. Community Agriculture Alliance: Meeting demand for water, *November 9, 2021*

<https://www.steamboatpilot.com/news/community-agriculture-alliance-meeting-demand-for-water/>

11. River District report highlights Western Slope concerns with state water-savings plan, *October 1, 2021*

<https://www.steamboatpilot.com/news/environment/river-district-report-highlights-western-slope-concerns-with-state-water-savings-plan-2/>

KVNF

12. KVNF Regional Newscast: *November 3, 2021*

<https://www.kvnf.org/news/2021-11-03/kvnf-regional-newscast-november-3-2021#stream/0>

Gunnison Times

13. Public outreach central to Upper Gunnison's mission, *October 27, 2021*

<https://www.gunnisontimes.com/articles/public-outreach-central-to-upper-gunnisons-mission/>

Bloomberg Law

14. Infrastructure Bill Seen as Way to Pay Farmers to Cut Water Use, *October 22*

<https://news.bloomberglaw.com/environment-and-energy/infrastructure-bill-seen-as-way-to-pay-farmers-to-cut-water-use>

Aspen Journalism

15. Wolf Creek reservoir project secures River District grant, *October 21*

<https://aspenjournalism.org/wolf-creek-reservoir-project-secures-river-district-grant-to-fund-permitting/>

Aspen Public Radio

16. Talking about demand management and how to leave more water in the Colorado River, *October 17*

<https://www.aspenpublicradio.org/environment/2021-10-17/demand-management-a-new-strategy-for-saving-water-in-colorado>

Fresh Water News

17. West Slope water officials sound alarm on climate change, shrinking water supplies, *October 6*

<https://www.watereducationcolorado.org/fresh-water-news/west-slope-water-officials-sound-alarm-on-climate-change-shrinking-water-supplies/>

Crested Butte News

18. Gunnison Basin Roundtable not happy with Blue Mesa releases, *October 6*

<https://crestedbuttenews.com/2021/10/gunnison-basin-roundtable-not-happy-with-blue-mesa-releases/>

Western Slope Now

19. Annual water conference addresses harsh impacts to the Colorado River and proposed solutions, *October 1*

<https://www.westernslopenow.com/news/local-news/annual-water-conference-addresses-harsh-impacts-to-the-colorado-river-and-proposed-solutions/>

The Arkansas Valley Voice

20. Governor Polis applauds USDA's \$3 billion climate and agriculture investment, *October 2*

<https://arkvalleyvoice.com/governor-polis-applauds-usdas-3-billion-climate-and-agriculture-investment/>

Wall Street Journal

21. The Colorado River Is in Crisis. The Walton Family Is Pushing a Solution.

<https://www.wsj.com/articles/the-colorado-river-is-in-crisis-the-walton-family-is-pushing-a-solution-11633167002>



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD
ANDY MUELLER, GENERAL MANAGER
PETER FLEMING, GENERAL COUNSEL

FROM: ZANE KESSLER, DIRECTOR OF GOVERNMENT RELATIONS

SUBJECT: STATE LEGISLATIVE AFFAIRS

DATE: JANUARY 1, 2022

ACTIONS:

- *Staff requests that the Board establish bi-weekly telephone meetings during the Colorado legislative session.*

STRATEGIC INITIATIVE(S):

- *1.A, 1.B Outreach and Advocacy*

2022 Legislative Outlook: Returning to the traditional second Wednesday of the New Year, the Colorado General Assembly will open the 2nd Regular Session of the 73rd General Assembly on Wednesday, January 12. Colorado Democrats will continue to enjoy the majority in both the House (41-24) and Senate (20-15) and, of course, holds the Governor's office.

There are no printed bills available as of the date of this memo. Water bills introduced as of Monday, January 17 will be distributed at the board meeting and action will be requested. In the meantime, below is a list of anticipated water legislation for the 2022 legislative session.

- 1) **Interim Water Committee Bills:** The Interim Water Resources Review Committee held its third and final hearing of the interim session on October 27. Committee members considered a total of seven draft bills for referral to the full legislature but only three were able to reach the 7-of-10 vote threshold needed to move forward. Those three bills are included below:

Bill A: Groundwater Compact Compliance Fund (Sens. Simpson/Sonnenberg and Reps. Roberts/Catlin)

This bill creates the Groundwater Compact Compliance and Sustainability Fund for groundwater compact compliance and groundwater resource sustainability and conservation in the Rio Grande and Republican River Basins. The fund will be



administered by CWCB and is subject to annual appropriations. Funds may include appropriations or transfers by the General Assembly, funds from federal sources, and gifts, grants, and donations. The CWCB will disburse funds based on recommendations from the board of directors of either the Rio Grande Water Conservancy District or the Republican River Water Conservation District, after approval by the State Engineer (SEO). The bill authorizes the CWCB to use up to 5.0 percent of the annual appropriation to pay its direct and indirect costs and those of the boards of the Rio Grande Water Conservation District and the Republican Water Conservation District, and the SEO. If all groundwater reduction requirements and all statutorily mandated standards are achieved, the fund will be repealed, and any remaining money transferred to the General Fund.

- **Bill B: Investment Water Speculation Prohibition** (Sens. Coram/Donovan and Rep. McCormick)

The bill prohibits a person who purchases agricultural water rights in Colorado from engaging in investment water speculation. It authorizes the State Engineer (SEO) to investigate the sale or transfer of agricultural water rights that are represented by shares in a mutual ditch company if the purchase is suspected of investment water speculation.

Investigations may be initiated either by a third-party complaint or upon the SEO's own motion. The bill creates a rebuttable presumption that a purchaser is engaging in water speculation if the purchaser holds or will hold a minimum percent of the agricultural water rights held by all of the shareholders of the mutual ditch company. Each mutual ditch company is required to determine the minimum percent threshold for a presumption of water speculation and inform the State Engineer no later than December 31, 2022. If the SEO determines that a sale or transfer is investment water speculation, they may impose a fine not to exceed \$10,000.

If the SEO determines a third-party complaint is frivolous or filed to harass a seller or purchaser, the matter may be referred to the Attorney General's Office. The Attorney General may bring civil action against the complainant. The courts may impose a fine not to exceed \$1,000, and may also award attorney fees and court costs.

Note: Per our conversations at the October 2021 Quarterly Board meeting, this draft bill has caused no shortage of heartburn for water users on the West Slope.

The bill's sponsors continue to maintain that the draft bill is a placeholder and will need to be changed significantly if it is to move forward during the session. Staff is in the process of working with partners on the West Slope to determine if a strike-below amendment could be offered that avoids the private property and transactional issues presented by the bill in its current form.

Bill C Expand Water Resources Review Committee to Include Agriculture (Sens. Donovan/Sonnenberg and Reps. McLachlan/Catlin)



The bill expands the scope of the Water Resources Review Committee to include identifying, monitoring, and addressing agriculture issues, and renames it the Water Resources and Agriculture Review Committee.

- 2) **Loans From Irrigation Districts To Landowners:** A draft bill has been circulated in recent weeks that would amend the statutes to allow a board of directors of an irrigation district to borrow money, which the irrigation district may use to make loans to landowners to be used to make improvements to private water delivery systems or for projects that improve
 - Water conservation or efficiencies on landowner property; or
 - Landowner delivery or drainage systems.
- 3) **Recreational Water Rights:** Recreational In-Channel Diversions (RICDs) were discussed by the Interim Water Resources Committee this summer but no bills were drafted on the subject. Rather, proponents of changes to the existing RICD statutes have initiated a stakeholder process to discuss if changes to the statutes are necessary to achieve their goals and, if so, whether support for those changes can be obtained from stakeholders in the broader water community.

It is unclear whether we will see a bill on recreational water rights this session or not, but staff will continue to engage in the process and will keep the Board informed as it moves forward.

- 4) **Incentivizing the Removal of Non-Essential Turf:** Staff is engaged in conversations with members of the conservation community interested in developing a Colorado turf buyback program to incentivize local governments, businesses, homeowners, and others to remove and replace existing non-essential turf with water efficient landscapes.

Governor’s Budget Proposal: Governor Polis presented his FY 2022-2023 budget to the Joint Budget Committee (JBC) on Friday, December 3rd. During his presentation, the Governor said the budget of \$40 billion “doubles down on my commitment to saving Coloradans money, fighting pandemic-induced inflation by putting money back in their paychecks, and protecting the Colorado way of life.”

While Polis’ budget proposal is focused primarily on investments in education and the economy, it does call for \$15mm to pay for the permanent fallowing of irrigated acreage in the Republican and Rio Grande River basins in order to maintain interstate compact compliance in those basins (see Interim Water Committee [Bill A](#): Groundwater Compact Compliance Fund).

The FY22-23 budget proposal also requests additional funding for increased staff capacity within the Department of Natural Resources, including:

- 6 FTE within the CWCB to hire “Regional Project Managers” for the Water Plan Grant Program, and



-
- 3 FTE within the DWR to hire new “Water Accounting Coordinators” in the S. Platte, Rio Grande, and Arkansas Basins.

State/Federal Funding Nexus: On January 4, Governor Polis and the Office of State Planning and Budgeting (OSPB) submitted a package of requests for supplemental adjustments to the FY 2021-22 budget to the JBC. Within that package, the Governor highlighted the bipartisan federal Infrastructure Investment and Jobs Act (IIJA) and the need for Colorado projects to be well-positioned in applying for competitive/programmatic funding under the IIJA. OSPB estimates that the state’s share of funding from the bill could double if the state is successful with grant applications, many of which require a state match. As a result, the Governor is proposing that \$100 million be appropriated from the General Fund to serve as matching funding for the IIJA to attract more federal funds to Colorado.

When all is said and done, the fate of Polis’ budget proposal and all supplemental requests will depend on decisions made by the JBC. The JBC’s work in the coming year will also be complicated by federal funding provided to the state through the American Rescue Plan Act of 2021 — \$3.8 Billion of which must be spent by December 31, 2024.

State Economic Outlook: The nonpartisan Legislative Council staff and OSPB released their revised economic forecasts on December 17.

Legislative Council staff now estimates that there will be nearly \$800 million more in revenue for the state’s general fund this fiscal year than they predicted in September, and more than \$500 million in additional revenue for the next fiscal year than their previous forecast indicated. OSPB staff released slightly lower estimates predicting roughly \$700 million more in revenue for the state’s general fund this fiscal year, and about \$420 million more for the next fiscal year than they previously estimated.

Legislative Council now anticipates about \$2 billion of annual TABOR surplus revenue in each of the next three fiscal years, well above the \$550 million to \$900 million in excess predicted in September’s forecasts.

While the economic outlook appears to be bright, both OSPB and Legislative Council forecasts highlighted risks associated with the ongoing pandemic, supply chain issues and inflation — any one of which could have negative impacts on the budget once lawmakers start developing a final plan in the coming months.



GO BACK TO AGENDA

COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD
ANDY MUELLER, GENERAL MANAGER
PETER FLEMING, GENERAL COUNSEL

FROM: ZANE KESSLER, DIRECTOR OF GOVERNMENT RELATIONS

SUBJECT: FEDERAL AFFAIRS UPDATE

DATE: JANUARY 1, 2022

ACTIONS: *No specific action requested with this memo; however, as always, Board direction and priority-setting is welcomed.*

STRATEGIC INITIATIVE(S): *1.A, 1.B Outreach and Advocacy*

Federal Infrastructure Funding: With President Biden's signature on the bipartisan Infrastructure Investment and Jobs Act (IIJA), River District staff has shifted its attention to the agencies overseeing administration of the funding for water-related matters, specifically the U.S. Bureau of Reclamation and USDA's Natural Resource Conservation Service (NRCS).

As a reminder, the IIJA includes more than \$8 billion for Western water infrastructure maintenance and projects, including repairing aging dams and canals, building new storage and conveyance facilities, funding water conservation and recycling projects, and improving watershed and ecosystem management.

Note: for members of the Board seeking a comprehensive overview of the various water and natural resource provisions included in the IIJA, a memo prepared by the Ferguson Group in Washington, D.C. is **attached** for your review.

On November 17, just two days after the legislation was enacted, River District staff arrived in DC for a handful of meetings with senior staff and appointed officials at the Department of the Interior and Bureau of Reclamation. Staff also met with members of the Colorado Congressional Delegation to underscore the need for their help advocating for West Slope water projects going forward.

Since that time, the Bureau of Reclamation has held a series of stakeholder webinars for Tribes and water users throughout the West that have served to provide more information on the various funding programs and processes for seeking funds made available by passage of the IIJA. All



Bureau stakeholder webinars have been recorded and are available to the public along with additional resources and information at www.usbr.gov/bil/.

Reclamation's Aging Infrastructure Account: In total, there will be \$3.2 billion made available over five years in the Aging Infrastructure Account to address extraordinary maintenance needs at Reclamation projects and facilities. Reclamation's infrastructure is either reserved, which means operated by Reclamation, or transferred, where it is operated by local beneficiary parties through a contract with Reclamation. Both reserved and transferred works are eligible for IJA funding through the application process.

On December 16, less than a month after enactment of the IJA, Reclamation initiated the first application period for Extraordinary Maintenance (XM) projects that will address aging water and power infrastructure across the West. Per the authorizing statute, the deadline for applications under this first round of funding will be due on January 31, 2022.

USDA Watershed Funding: The act also funds programs administered by the U.S. Department of Agriculture (USDA) that deploy rural broadband, protect watersheds. In total, IJA provides \$918 million for watershed programs administered by the NRCS, including:

- \$500 million for Watershed and Flood Prevention Operations (WFPO) and \$118 million for Watershed Rehabilitation Programs. Both programs are critically important to Western and Midwestern states being hit by drought.
- \$300 million for the "Emergency Watershed Protection Program" to repair damages watersheds resulting from catastrophic wildfires and other natural disasters.

Clean Water Act/Waters of the United States (WOTUS): the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) are proposing an interim definition of "waters of the United States" (WOTUS) to provide "stable implementation" of the Clean Water Act (CWA) while the Biden Administration seeks to develop what it is characterizing as a more "durable" definition that will avoid policy pendulum swings with changes in administrations. The proposed rule interprets WOTUS to mean the waters defined by a collection of pre-2015 Corps and EPA regulations referred to as the "1986 regulations," with amendments to reflect the agencies' interpretation of the statutory limits on the scope of WOTUS as informed by Supreme Court decisions, including *Rapanos v. United States*.

The agencies say in the proposed rule that recent court decisions have reinforced the need for a stable and certain definition of WOTUS, noting that federal district courts in both Arizona and New Mexico have vacated the Trump Administration's WOTUS rule.

River District staff has been and will remain engaged in the WOTUS rulemaking through direct engagement with the Administration and through its memberships in national advocacy organizations such as the Family Farm Alliance and the National Water Resources Association.

Appointments: The U.S. Senate last month confirmed the following key Biden nominees to fill critical leadership roles in federal agencies important to Western water users:



- Camille Touton was confirmed to be the next Commissioner of the Bureau of Reclamation,
- Michael Connor, former Deputy Secretary of the Interior under the Obama Administration, was confirmed to lead the Army Corps of Engineers (Corps) as the next Assistant Secretary of the Army for Civil Works, and
- Robert Bonnie, an important member of Secretary Vilsack's team at the U.S. Department of Agriculture (USDA), was confirmed to be undersecretary for farm production and conservation (the USDA mission area overseeing the Natural Resources Conservation Service).

Budget Reconciliation Bill: After weeks of negotiations, on November 19, the House passed H.R. 5376, the \$1.85 trillion Build Back Better (BBB) budget reconciliation bill by a vote of 220-213, with Rep. Jared Golden (D-ME) being the lone Democrat voting against the measure. No Republicans supported the bill. Leading up to the House vote, Minority Leader Kevin McCarthy (R-CA) unexpectedly took control of the House floor, speaking for nearly nine hours in an effort to derail the vote.

In total, the House Natural Resources Committee approved \$25.6 billion to be spent on entities and programs under their jurisdiction. The spending breakdown is as follows:

During and after House deliberations, Democrat leaders in Senate and members of the White House continued to negotiate with Senator Joe Manchin (D-WV) to secure his support for and passage of a measure that accomplished the goals that President Biden set forth in his Build Back Better plan. However, earlier this month, Senator Manchin announced that he could not support the legislation and suggested taking a different approach to address some of President Biden's goals. Sen. Manchin's announcement was a major, if not deadly, blow to the prospects of Senate passage. And while Senate leadership has not given up entirely, it is now likely that the Senate will be forced to make major changes to the package if it has any chance of passage in the upper chamber.

Appropriations Update: Congress returned from the Thanksgiving holiday with a December 3 deadline to pass a stopgap funding bill to keep the federal government open. After significant political posturing, Congress passed a short-term Continuing Resolution (CR) late night on December 2 which will fund the government at enacted FY 2021 levels through Friday, February 18, 2022. This is expected to give the Senate appropriators enough time to work on FY22 appropriations bills and for Democrats to continue working on President Biden's domestic agenda over the holidays. This also means that adoption of any FY 2022 Community Project Funding/Congressionally Directed Spending requests (i.e., earmarks) that advanced through the legislative process earlier this year in the House and/or Senate will be delayed until February at the earliest.



TO: TFG Clients

DATE: November 12, 2021

Summary of Water and Natural Resource Provisions in the Bipartisan Infrastructure Investment and Jobs Act of 2021

Congress passed [H.R. 3684, the bipartisan Infrastructure Investment and Jobs Act](#) on November 5, 2021. President Biden is set to sign the legislation into law on November 15. This memo summarizes the provisions in the Act dealing with water and natural resource infrastructure programs for local and state governments and tribes.

Waterways and Ports

Investigations

\$150 million for Army Corps of Engineers (Corps) for investigations program over five years. Not later than 60 days after the date of enactment of this Act, the Chief of Engineers shall submit to the House and Senate Committees on Appropriations a detailed spend plan for the funds identified for fiscal year 2022. Within that same timeframe, the Chief of Engineers shall also provide a briefing to the House and Senate Committees on Appropriations on an implementation plan, including a schedule for solicitation of projects and expenditure of funds, for the funding provided for fiscal year 2023.

Construction

\$11.615 billion for Corps infrastructure priorities for construction projects over five years to help address the huge backlog of authorized projects that have yet to receive funding. Included under Corps construction are specific funding set-asides for Navigation, Inland Waterways, Aquatic Ecosystem Restoration, Environmental Infrastructure, Continuing Authorities Program, Flood Control, Shore Protection, and Remote and Subsistence Harbor Projects. \$200 million of the total amount shall be for water-related environmental infrastructure assistance. \$115 million of the total amount shall be used under the aquatic ecosystem restoration program under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330) to restore fish and wildlife passage by removing in-stream barriers and provide technical assistance to non-Federal interests carrying out such activities, at full Federal expense and notwithstanding the individual project cost limitation set forth in that section. \$1.9 billion of the total shall be for aquatic ecosystem restoration projects, of which not less than \$1 billion shall be for multi-purpose projects or multi-purpose programs that include aquatic

ecosystem restoration as a purpose. Not later than 60 days after the date of enactment of this Act, the Chief of Engineers shall submit to the House and Senate Committees on Appropriations a detailed spend plan for the funds provided under this heading in this Act for each fiscal year, including a list of project locations and new construction projects selected to be initiated. The bill directs the \$2.5 billion for inland waterway appropriations to give priority to projects in the Corps' Capital Investment Strategy and adds a general provision that projects in the Corps' appropriation should not be limited by cost-benefit analysis when determining benefits to disadvantaged communities.

Operations and Maintenance

\$4 billion for Corps Operations and Maintenance, which would be spent over a three-year period, and includes funding for dredging Federal navigation projects and repairing damages to Corps Projects caused by natural disasters. In addition, there is \$808 million for Corps Mississippi Rivers and Tributaries (MR&T) Projects and includes funding to address emergencies for Corps projects caused by natural disasters. Also, there is \$160 million for Corps Regulatory program; \$251 million for flood control and coastal emergencies; and \$40 million for expenses.

Water Infrastructure Finance and Innovation Program (WIFIA)

\$75 million for "Water Infrastructure Finance and Innovation Program (WIFIA) Account" to remain available until expended: with \$64,000,000 for the cost of direct loans and for the cost of guaranteed loans, for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of state, local government, public utility, or private; \$11 million for administrative expenses.

For projects that are carried out with these funds, the Secretary of the Army and the Director of the Office of Management and Budget shall consider other factors in addition to the benefit-cost ratio when determining the economic benefits of projects that benefit disadvantaged communities.

Western Water and Drought Resiliency

Aging Infrastructure

\$3.2 billion over five years for the Aging Infrastructure Account. The Aging Infrastructure Account was created in the 2020 Consolidated Appropriations bill. Its function is to provide funds and funding assistance to the Bureau of Reclamation for direct loans to finance the non-federal share of costs of certain major, nonrecurring maintenance of Reclamation-owned water infrastructure at water projects across the West that need major upgrades or replacement. As those facilities, most of which are more than 50 years old, continue to age, the issue of storing and delivering water effectively, efficiently, and in a timely manner only increases. Long term low interest loans would be provided under the authority provided by P.L. 111-11.

(A) \$100 million shall be made available for Bureau of Reclamation reserved or transferred works that have suffered a critical failure, in accordance with section 40904(a). This section authorizes nonreimbursable funding from Reclamation for projects where construction of the reserved or transferred work began on or before January 1, 1915; and a unit of the reserved or transferred work suffered a critical failure in Bureau of Reclamation infrastructure during the 2-year period ending on the date of enactment of the Act that resulted in the failure to deliver water to project beneficiaries; and

(B) \$100 million shall be made available for the rehabilitation, reconstruction, or replacement of a dam in accordance with section 40904(b). This section authorizes nonreimbursable funding from Reclamation for a dam the construction of which began on or after January 1, 1905; that was developed pursuant to section 4 of the “Carey Act”; that the Governor of the State in which the dam is located has determined the dam has reached its useful life, determined the dam poses significant health and safety concerns, and has requested Federal support; and for which the estimated rehabilitation, reconstruction, or replacement, engineering, and permitting costs would exceed \$50,000,000.

WIIN Act Storage

\$1.15 billion for WIIN Act Storage. \$1.05B for water storage, groundwater storage, and conveyance projects in accordance with section 40902, of which \$100M shall be made available to provide grants to plan and construct small surface water and groundwater storage projects in accordance with section 40903.

Section 40903 authorizes the Secretary to establish a competitive grant program. The non-Federal project sponsor of any project must be in a Reclamation State, including the State of Alaska or Hawaii, determined by the Secretary to be feasible. The non-Federal sponsor is eligible to apply for 25% grant for the planning, design, and construction of a small storage project between 2,000 and 30,000AF in size, with the maximum grant set at \$30 million per project.

Rural Water

\$1 billion for rural water projects that have been authorized by an Act of Congress before July 1, 2021, in accordance with the Reclamation Rural Water Supply Act of 2006.

Water Recycling and Reuse

\$1 billion for water recycling and reuse projects, of which—

(a) \$550M shall be made available for water recycling and reuse projects authorized in accordance with the Reclamation Wastewater and Groundwater Study and Facilities Act that are authorized or approved for construction funding by an Act of Congress before the date of enactment of this Act; or selected for funding under the competitive grant program authorized pursuant to section 1602(f) of the Reclamation Wastewater and Groundwater Study and Facilities Act, with funding to be provided in accordance with that section, notwithstanding section 4013 of the Water Infrastructure Improvements for the Nation (WIIN) Act, except that section 1602(g)(2) of the Reclamation Wastewater and Groundwater Study and Facilities Act shall not apply to amounts made available under this subparagraph; and

(b) \$450M shall be made available for largescale non-federal water recycling and reuse projects in accordance with section 40905 (authorizes a 25% grant (no cap) for Western water recycling and reuse projects where the total costs to plan, design and construct exceed \$500 million).

Water Desalination

\$250 million for water desalination projects and studies authorized in accordance with the Water Desalination Act of 1996 that are— (A) authorized or approved for construction funding by an Act of Congress before July 1, 2021; or (B) selected for funding under the Water Desalination Act of 1996.

Dam Safety

\$500 million for the Reclamation Safety of Dams (SOD) Program, in accordance with the Reclamation Safety of Dams Act of 1978. The Reclamation SOD program provides for Reclamation owned dam rehabilitation projects with a 15% reimbursable component taken over all project purposes.

WaterSMART Grants

\$400 million for WaterSMART grants in accordance with section 9504 of the Omnibus Public Land Management Act of 2009 (50-50 cost shared grant), of which \$100M shall be made available for projects that would improve the condition of a natural feature or nature-based feature (50-75% cost shared grants, as those terms are defined in section 9502 of the Omnibus Public Land Management Act of 2009).

Drought Contingency Planning

\$300 million over 5 years for Drought Contingency Plan Funding. The Drought Contingency Plan (DCP) was agreed between the 7 states of the Upper and Lower Colorado Basins, and approved by Congress, to prepare for increasingly harsh drought conditions. This section provides \$50 million to the Upper Basin and \$250 million to the Lower Basin to implement the DCP and for drought contingency operations, such as Federal water contributions and monitoring at Lake Powell and Lake Mead.

Watershed Management

\$100 million for watershed management projects to provide financial assistance in accordance with subtitle A of title VI of the Omnibus Public Land Management Act of 2009 (established the Cooperative Watershed Management Program where diverse stakeholder groups in a watershed are eligible for grants (50%-100% federal share) to form and/or carry out projects to restore or enhance watershed function).

Aquatic Ecosystem Restoration

\$250 million for design, study, and construction of aquatic ecosystem restoration and protection projects in accordance with section 1109 of division FF of the Consolidated Appropriations Act, 2021 (which authorized the Secretary of the Interior to negotiate and enter into an agreement on behalf of the United States to fund up to 65% of the design, study, and construction of an aquatic ecosystem restoration and protection project in a Reclamation State if the Secretary determines that the project is likely to improve the health of fisheries, wildlife or aquatic habitat, including through habitat restoration and improved fish passage via the removal or bypass of barriers to fish passage, with limitations).

Multi-Benefit Projects

\$100 million for multi-benefit projects to improve watershed health in accordance with section 40907 (which authorizes and directs the Secretary of the Interior, in consultation with the heads of relevant agencies, to establish a competitive grant program (50% - 75% federal share) for grants to eligible applicants for the design, implementation, and monitoring of conservation outcomes of habitat restoration projects that improve watershed health in a river basin that is adversely impacted by a Bureau of Reclamation water project).

Endangered Species Recovery

\$50 million for endangered species recovery and conservation programs in the Colorado River Basin.

Not later than 60 days after the date of enactment of this Act, the Secretary of the Interior shall submit to the House and Senate Committees on Appropriations a detailed spend plan, including a list of project locations of the preceding proviso, to be funded for fiscal year 2022; and beginning not later than 120 days after the enactment of this Act, the Secretary of the Interior shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of the funds provided under this heading in this Act.

Fish and Wildlife Restoration

Fish Passage

\$1 billion to the Secretary of Transportation to establish an annual competitive grant program to award grants (up to 80% federal share) to eligible entities (states/local governments/tribes) for projects for the replacement, removal, and repair of culverts or weirs that — “(1) would meaningfully improve or restore fish passage for anadromous fish; and “(2) with respect to weirs, may include — “(A) infrastructure to facilitate fish passage around or over the weir; and “(B) weir improvements. The legislation also authorizes an additional \$800 million annually for the program for each of FYs 2022 — 2026.

\$10 million to the USFWS and NOAA Fisheries for the removal of non-hydropower Federal dams and for providing dam removal technical assistance in support of listed ESA species.

\$200 million to the Secretary of the Interior to be used for restoring fish and wildlife passage by removing in-stream barriers and providing technical assistance under the National Fish Passage Program.

\$400 million to the Secretary of Commerce (NOAA) to be used for restoring fish passage by removing in-stream barriers and providing technical assistance pursuant to section 117 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1891a), of which up to 15 percent shall be reserved for Indian Tribes or partnerships of Indian Tribes in conjunction with an institution of higher education, non-profit, commercial (for profit) organizations, U.S. territories, and state or local governments, and of which the remaining amount shall be for all eligible entities, including Indian Tribes and such partnerships of Indian Tribes

Ecosystem and Habitat Restoration

\$255 million to the Secretary of the Interior to be used for regional ecosystem restoration purposes, including \$162 million for Klamath Basin restoration activities; \$17 million for Lake Tahoe restoration; and \$50 million for the sagebrush steppe ecosystem.

\$491 million to the Secretary of Commerce (NOAA) to be used for contracts, grants, and cooperative agreements to provide funding and technical assistance for purposes of restoring marine, estuarine, coastal, or Great Lakes ecosystem habitat, or constructing or protecting ecological features that protect coastal communities from flooding or coastal storms.

\$492 million to the Secretary of Commerce (NOAA) to be used for coastal and inland flood and inundation mapping and forecasting, and next-generation water modeling activities, including modernized precipitation frequency and probable maximum studies.

\$77 million to the Secretary of Commerce (NOAA) for habitat restoration projects through the National Estuarine Research Reserve System (16 U.S.C. 1456c), including ecosystem conservation pursuant to section 12502 of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1456–1).

\$172 million to the Secretary of Commerce (NOAA) for Pacific Coastal Salmon Recovery.

Forest Restoration and Ecosystem Health

\$2.130 billion authorization (not appropriated in the Act – to be spent from future operating funds) for forest ecosystem restoration projects on federal, tribal and non-federal lands to the Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, for described activities, including water quality and fish passage, for the period of fiscal years 2022 through 2026.

\$250 million to the Secretary of Agriculture to restore passages for fish and other aquatic species by improving, repairing, or replacing culverts and other infrastructure; and removing barriers, as the Secretary determines appropriate, from the passages; and to remove unauthorized roads and trails in the National Forest System (USFS Legacy Road and Trail Remediation Program), for the period of fiscal years 2022 through 2026.

Watershed Resiliency

\$618 million over five years for USDA NRCS Watershed Programs. Provides \$500 million for Watershed and Flood Prevention Operations (WFPO) and \$118 million for Watershed Rehabilitation Programs. Both programs are critically important to Western and Midwestern states being hit by drought. WFPO helps units of federal, state, local, and tribal governments protect and restore watersheds up to 250,000 acres. This program provides for cooperation between the Federal government and the states and their political subdivisions to work together to prevent erosion; floodwater and sediment damage; to further the conservation development, use and disposal of water; and to further the conservation and proper use of land in authorized watersheds. The Watershed Rehabilitation Program helps project sponsors rehabilitate aging dams that are reaching the end of their design lives. This rehabilitation addresses critical public health and safety concerns.

\$300 million to USDA NRCS for “Emergency Watershed Protection Program” to repair damages to the waterways and watersheds resulting from natural disasters.

Tribal Programs

\$216 million over five years for Tribal Climate Resilience. Provides \$216 million for tribal climate resilience, adaptation, and community relocation planning, design, and implementation of projects that address the varying climate challenges facing tribal communities across the country. Of that, \$130 million is for community relocation and \$86 million is for climate resilience and adaptation projects.

\$250 million for construction, repair, improvement, and maintenance of irrigation and power systems, safety of dams, water sanitation, and other facilities.

Drinking Water Programs

\$17.343 billion to the EPA in appropriations for Drinking Water State Revolving Fund (SRF) capitalization grants for fiscal years 2022 through 2026. Authorizes an additional **\$14.65 billion** for the Drinking Water SRF over FYs 2022—2026. Additional authorities are provided for further subsidizations from the SRF.

\$15 billion to the EPA in appropriations for Drinking Water SRF capitalization grants to replace lead service lines, with 49% of the funding distributed by the states as forgivable loans or grants for fiscal years 2022 through 2026.

\$4 billion to the EPA in appropriations for Drinking Water SRF capitalization grants to address per- and polyfluoroalkyl substances (PFAS) for fiscal years 2022 through 2026. **\$5 billion** to the EPA in appropriations under subsections (a) through (j) of section 1459A of the Safe Drinking Water Act (42 U.S.C. 300j–19a) to address PFAS for fiscal years 2022 through 2026.

\$175 million to the EPA for technical assistance and grants for emergencies affecting public water systems for fiscal years 2022 through 2026.

\$510 million to the EPA in funding for the Assistance for Small and Disadvantaged Communities Program for fiscal years 2022 through 2026.

\$500 million to the EPA for the Lead Reduction Projects Grant Program for fiscal years 2022 through 2026. There is an additional **\$10 million** authorized, until expended, for a Lead Inventorying Utilization Grant Pilot Program to provide grants to eligible entities to carry out lead reduction projects that are demonstrated to exist or are suspected to exist, based on available data, information, or resources, including existing lead inventorying of those eligible entities.

\$250 million to the EPA for the Drinking Water System Infrastructure Resilience and Sustainability Program for fiscal years 2022 through 2026. Stipulates a 90 percent federal cost share for aid to small, rural, and disadvantaged communities.

\$250 million to the EPA for the Indian Reservation Drinking Water Program for fiscal years 2022 through 2026.

\$50 million to the EPA for an Advanced Drinking Water Technologies grant program for fiscal years 2022 through 2026. The program is for public water systems that serve a population of 100,000 or fewer people or disadvantaged communities. The grant program is designed to identify and/or deploy drinking water infrastructure technology that is new or emerging, but proven to enhance the treatment, monitoring, affordability, efficiency, and safety of the drinking water provided.

Clean Water Programs

\$19.908 billion to the EPA in appropriations for Clean Water SRF capitalization grants for fiscal years 2022 through 2026. Authorizes an additional **\$14.65 billion** for the Clean Water SRF over FYs 2022—2026. Additional authorities are provided for further subsidizations from the SRF.

\$1 billion to the EPA in appropriations for Clean Water SRF capitalization grants to address per- and polyfluoroalkyl substances (PFAS) for fiscal years 2022 through 2026.

\$100 million to the EPA for the Wastewater Efficiency Grant Program for fiscal years 2022 through 2026. The program provides funding to publicly owned treatment works to create or improve waste-to-energy systems. Grants may be awarded for sludge collection systems, anaerobic digesters, methane capture or transfer, and other emerging technologies that transform waste to energy.

\$125 million to the EPA for the Pilot Program for Alternative Water Source Projects for fiscal years 2022 through 2026. The grants may be used for engineering, design, construction, and final testing of alternative water source projects designed to meet critical water supply needs. Alternative water source projects include those projects that provide alternative sources of water through conserving, managing, reclaiming, or reusing water, stormwater, or wastewater.

\$1.4 billion to the EPA for the Sewer Overflow and Stormwater Reuse Municipal Grants Program for fiscal years 2022 through 2026, placing a particular emphasis on projects in rural and financially distressed communities. The federal cost share for rural or financially distressed communities would be no less than 90 percent. The bill also expands eligible projects to include “notification systems to inform the public of combined sewer or sanitary overflows that result in sewage being released into rivers and other waters.”

\$125 million to the EPA for the Clean Water Infrastructure Resiliency and Sustainability Program to provide grants for protecting water systems from weather events and cybersecurity risks for fiscal years 2022 through 2026.

\$50 million to the EPA for the Small and Medium Publicly Owned Treatment Works Circuit Rider Program for fiscal years 2022 through 2026. The program awards grants to provide on-site technical assistance to owners and operators of small and medium publicly owned treatment works.

\$250 million to the EPA for a grant program that allows nonprofit organizations to receive funds for the construction, repair, or replacement of decentralized wastewater systems for low- or moderate-income households, or groups of such households for fiscal years 2022 through 2026.

\$200 million to the EPA for a program to provide grants to publicly owned treatment works or nonprofit organizations to cover the costs incurred from connecting a household to a municipal or private wastewater system for fiscal years 2022 through 2026.

\$25 million to the EPA for the Innovative Water Infrastructure Workforce Development Program for fiscal years 2022 through 2026.

\$75 million to the EPA for a water data sharing pilot program aimed at ensuring the coordination of data and information regarding water quality and needs between state and local governments for fiscal years 2022 through 2026.

\$250 million to the EPA for WIFIA for fiscal years 2022 through 2026. Requires the EPA to develop and begin implementation of an outreach plan to promote WIFIA assistance to small communities and rural communities. The legislation also changes the WIFIA requirement that mandates each WIFIA project applicant must provide two final agency rating opinion letters. Under this section, project applicants will only need to provide one final agency rating opinion letter, like the requirements of other federal loan programs, prior to final acceptance and financing of the project.

\$50 million to the EPA for a Stormwater Infrastructure Technology program that provides grants to eligible entities to carry out stormwater control infrastructure projects that incorporate new and emerging, but proven, stormwater control technologies for fiscal years 2022 through 2026. Authorizes an additional **\$25 million** for FYs 2022—2026 to the EPA to establish Centers of Excellence for stormwater control infrastructure and create a public website to share the results of the research.

\$25 million to the EPA to conduct and complete an assessment of wastewater system capital improvement needs of all treatment works in the United States that are eligible for assistance from state water pollution control revolving funds established under the CWA for fiscal years 2022 through 2026.

\$25 million to the EPA to provide funding to carry out groundwater research on enhanced aquifer use and recharge in support of sole-source aquifers for fiscal years 2022 through 2026.

Authorizes a new Small Publicly Owned Treatment Works Efficiency Grant Program at the EPA for small publicly owned treatment works to support water and energy efficiency in disadvantaged communities, as well as those in rural areas with a population of less than 10,000. The bill does not provide a specific authorized funding level for this program.



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD
ANDY MUELLER, GENERAL MANAGER
PETER FLEMING, GENERAL COUNSEL

FROM: ZANE KESSLER, DIRECTOR OF GOVERNMENT AFFAIRS

SUBJECT: 2022 ANNUAL POLICIES REVIEW

DATE: JANUARY 1, 2022

ACTION: No formal action requested. Staff requests that the Board review and advise of any desired changes to the attached policies.

STRATEGIC INITIATIVE(S): 1. Outreach and Advocacy; 4. Colorado River Supplies; and 6. Agricultural Water Use

The Board's adopted practice is to review approximately one-third of the River District's existing 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/

While this annual review of policies is a worthwhile endeavor, staff wants to be mindful of the Board's time and would like the discussion and input to be on substantive matters. Staff proposes to only bring substantive changes to the policy to the Board's attention for discussion and will internally handle minor edits such as punctuation and grammar.

This annual policy review is also an opportunity for Directors to consider and request drafting of new policy areas. Under your adopted process, 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.

Below and attached are five policies due for triennial review in 2022. Staff's recommended revisions for these policies are shown in redline format.

- Colorado Water Plan
- Instream Flows,
- Endangered Species Act,
- Recreational Water Use, and
- Water Quality.

Colorado Water Plan

Colorado River Water Conservation District Policy Statements:

The Colorado River Water Conservation District supports ~~believes~~ the Colorado Water Plan.

~~The District believes that continued funding and refinement of the plan are necessary for the Plan to remain relevant and to contribute~~ can contribute positively to the protection, development, and stewardship of Colorado's water resources.

The District and its constituents must be intimately involved in the ~~refinement~~development and implementation of the Plan. ~~The Plan~~Future iterations of the plan must also include realistic and measurable goals, as well as identification of the financial resources needed to achieve them. ~~Updates to the~~ Plan must also include a robust action plan for on-going communication and outreach regarding the Plan's implementation and revisions.

~~The Updates to the~~ Plan must include clear and explicit recognition of the consequences of over-development of Colorado's Colorado River compact entitlement along with definitive measures to avoid Colorado River Compact curtailment. Additionally, these consequences and measures must be clearly and fully articulated in the context of the Plan's treatment of any potential new transmountain diversion. While the Conceptual Framework in Chapter 8 was an effort to address this issue, the passage of time has demonstrated that the Plan needs clearer more definite language. Moreover, the Updates to the Plan should assure that any measures to address compact compliance include an equitable sharing of burdens among all water uses, both East and West Slope.

~~The Plan~~Future iterations of the Plan should also include explicit recognition and protection of Colorado's Prior Appropriation doctrine and local planning authorities.

Background & Discussion:

The Colorado River District actively supported the Colorado Water for the 21st Century Act (House Bill 05-1177) which created Colorado's nine Basin Roundtables, the 27-member Interbasin Compact Committee (IBCC), and laid the foundation for the ultimate creation of Colorado's Water Plan in 2015.

Additionally, the District actively participated in the IBCC process that developed the consensus criteria that any new transmountain diversion proposal should ensure adequate local input, protection of local authority, acceptance of hydrologic risk by the proponent, and full mitigation. These criteria were formalized as the "IBCC Conceptual Framework" for new water project development in Colorado's Water Plan, 2015. As stated above, this component of the Plan has proven too ambiguous to adequately prevent reckless development of additional trans-basin diversion projects.

Since its creation, the Plan has resulted in more than \$500 million in loans and grants for water projects throughout the Centennial State.

The current version of the Colorado Water Plan lays out measurable objectives for 2020, 2025, 2030, and 2050. These future updates to the Plan are necessary to ensure that water remains a focus of Colorado's ongoing policy development and that state policies continue to be responsive to ongoing technical work and stakeholder work objectives.

~~The River District worked on and supported House Bill 1177 in 2005, which was the origin of the Round Table process and the Colorado Water Plan (CWP).—~~

~~-~~

~~In the past year, the CWP progressed from draft (12/2014) to anticipated final adoption (12/2015); accordingly, there are elements of the CWP that are known and unknown as this policy is considered and adopted.—~~

~~The Colorado River is the river of state-wide interest and use in Colorado. Consequently, the River District has been involved with most of the basin roundtables, as well as the Inter-basin Compact Committee (IBCC), since their formations.—~~

~~The River District's comments on the original draft (12/2014) included a request for adherence to the basin-based development goals of the plan. Specifically, we asked for inclusion of "the critical issues facing West Slope basins as they have been expressed in (individual) basin plans," including "components that simply cannot be reconciled (among individual basin plans)."~~

Instream Flows

Colorado River Water Conservation District Policy Statements:

The Colorado River District values and supports the environmental, human and economic benefits of flowing rivers and streams. The District recognizes the potential tension between instream uses and out-of-stream diversions for consumptive uses and the need to ensure balance between the two in an arid West.

The Colorado River District supports Colorado's instream flow program as one means to balance protection of the natural environment with the activities of mankind. The District also supports alternatives to the state's adjudication and permanent acquisition of instream flow water rights, such as time-limited leases and loans and voluntary, temporary reductions of historical diversions for environmental benefit.

Colorado's prior appropriation doctrine is adaptable and will continue to allow instream uses to be balanced and harmonized with traditional consumptive uses. A component of that balance is to ensure that instream flows continue to be subject to and administered to protect pre-existing uses.

Background & Discussion:

The River District was created to protect the many beneficial (consumptive and non-consumptive) uses of Colorado River basin waters.

Western Colorado's recreation and tourism industry is a major economic driver of our economy. Water-based recreation is integral to the vast majority of that industry and necessarily relies on certain, minimum stream flows.

Since 1973 and the inception of the Colorado instream flow program, the CWCB has appropriated instream flow water rights on more than ~~1,600~~ 1,700 stream segments covering more than ~~9,250~~ 9,700 miles of stream and 480 natural lakes in Colorado. Most of the existing instream water rights are limited to cold water streams and rivers. Additionally, many of the state's existing instream flow rights, especially its earlier instream flow rights, are for single, year-round or two-season flow regimes. More recent, seasonal adjudications better mimic the natural hydrograph and therefore often better protect the natural environment as well as better comport with consumptive water uses.

Conflicts and impacts have occurred as a result of instream flow appropriations, especially when instream flow rights are located on the lower reaches of major stream systems; accordingly, special consideration should be given to appropriations downstream of existing or likely future consumptive water uses or near state lines.

Colorado's instream flow statute explicitly protects water uses, including use by exchange, in place at the time of the state's instream flow appropriation, whether those uses are formally documented by water court decree or not. This statutory protection was reaffirmed by the Colorado General

Assembly in 2020 when House Bill 20-1159 passed the legislature with broad bipartisan support and was signed into law by Governor Jared Polis. The state has recently indicated it lacks the authority to protect preexisting, undecreed uses unless they are explicitly recognized and included in a water court decree (such as a new junior water rights or an instream flow decree). The River District believes the instream flow statute clearly protects historical pre-existing water uses from a call by subsequent instream flow rights.

Endangered Species Act

Colorado River Water Conservation District Policy Statements:

The Colorado River District supports collaborative efforts to recover threatened and endangered species to the point where they no longer are in need of Endangered Species Act protections.

Congress should reauthorize the Endangered Species Act (ESA) with amendments providing for better implementation that focuses on species recovery, encourages and rewards constructive and meaningful partnerships with non-federal parties and respects private property rights including water rights. The reauthorized Act should encourage and reward programs and partnerships such as the Upper Colorado River Endangered Fish Recovery Program (Recovery Program), which has proven successful in making progress in species' recovery while allowing continued water use and development as well as avoiding litigation.

Any reauthorization or amendment to the ESA must prioritize and encourage proactive programs that prevent species' listings. Additionally, the amended Act should require recovery goals for all listed species and adequate funding for species' recovery, including reasonable and measurable criteria for delisting. ~~and for timelines delisting, for all listed species and adequate funding for species' recovery.~~

Listing actions, critical habitat designations and other recovery program actions must be based on sound scientific information.

Irrespective of Congressional actions or judicial interpretations, the ESA should be administered in a manner respectful of property rights and, to the maximum extent practicable, that rewards voluntary partnerships with affected parties.

Background & Discussion:

Adopted in 1973, the ~~ESA was designed as a law that would protect species believed to be on the brink of extinction. The~~ ESA has been amended numerous times since its enactment. The authorization for funding included in Section 15 of the ESA expired on October 1, 1992 and has not been reauthorized since that time. Nevertheless, Congress has appropriated funds in each succeeding fiscal year, and the ESA's provisions—including those related to listings, consultations, prohibitions, and penalties—remain in effect.

A long-standing question related to the ESA is whether it effectively achieves its purposes, as outlined in the act. Various stakeholders have put forth different interpretations on this issue. Some stakeholders have offered, as evidence of the ESA's success, the very low rate of extinction for those species listed under the act. Other stakeholders have suggested the ESA has been ineffective at conservation, noting that recovery is a critical component of success as presumed by the definition of conservation included within the act—"to bring any endangered or threatened species

to the point at which the measures provided in [the ESA] are no longer necessary”; to support this position, they highlight that only a small number of species have been delisted due to recovery.

~~The original bill included a sunset for the Act on October 1, 1992. Although the ESA has not been reauthorized, Congress annually appropriates funds for its continued implementation keeping the Act in full force and effect.—~~

When the law was enacted in 1973, there were 109 species listed for protection. As of October of 2020~~2018~~, there are more than 4,660~~1,670~~ species on the list in the United States and more than 2,300 worldwide, with 61 species considered as "candidates" for listing. As of 2019~~2022~~, Colorado had 303~~2~~ species listed as threatened or endangered, including 16~~14~~ animals and 16 plants, and an additional 43 species listed as “species of special concern.”—

~~Unfortunately, since its inception the ESA has largely failed to achieve recovery and delisting of imperiled species. Only 59 domestic species have been "delisted" or removed from the species list since 1973, 17 due to extinction and 19 due to "data error"; the remaining species benefitted from recovery programs and other activities such as banning the use of certain pesticides.—~~

~~— The ESA is administered primarily by the U.S. Fish and Wildlife Service of the Department of the Interior and NOAA Fisheries of the Department of Commerce. Under the ESA, certain species of plants and animals (both vertebrate and invertebrate) are listed as either "endangered" or "threatened" according to assessments evaluating the risk of extinction. In practice, most new listings result from judicial action, primarily from third parties. Once a species is listed, powerful legal tools, including third party legal actions, enforce the recovery of the species and protection of its habitat.—~~

~~A species, subspecies or “distinct population” may be classified as "endangered" when it is in danger of extinction within the foreseeable future throughout all or a significant portion of its range. A "threatened" classification is provided to those animals and plants likely to become endangered within the foreseeable future throughout all or a significant portion of their ranges.—~~

~~Despite the fact that there are many areas for improvement that opposing interests agree on, past efforts to reauthorize the Act, or even to initiate administrative improvements, have met with vocal opposition; as a result few have passed or been implemented.—~~

The Upper Colorado River and the San Juan River Basin Recovery Programs are multi-agency, multi-party, public-private partnerships designed to help recover listed fish species while allowing historical water use and future water development to continue in the respective basins. Both programs have enabled Colorado and surrounding states’ water users to avoid litigation and interruptions of historical water use or denials of water development authorizations that have occurred elsewhere.

The Colorado River District has been an active partner and participant in the Upper Colorado River Recovery Program since its inception. This program has been heralded as exemplary for its continued successes and lack of litigation. Evidence of the program’s success can be seen in the face that two of the four subject fish species, the humpback chub and the razorback sucker, are proposed to be downlisted from endangered to threatened status. This Recovery Program, along with its sister program in the San Juan River Basin, should continue with attendant federal financial and programmatic support.

The Upper Colorado River Endangered Fish Recovery Program and San Juan River Basin Recovery Program are underpinned by cooperative agreements and federal authorizing legislation that expire on September 30, 2023. The recovery programs have historically been funded from a variety of sources pursuant to agreements among the recovery programs' participants, with Colorado River Storage Projects (CRSP) power revenues providing the most significant source of annual funding for the programs (~75% of total annual funding in 2021).- Long-term drought conditions in the Colorado River Basin, however, have significantly reduced the projected future availability of hydropower revenues for the Recovery Programs.

Recreational Water Use

Colorado River Water Conservation District Policy Statements:

The Colorado River District supports recreational water uses - and the water rights confirming those recreational water uses - that balance recreational needs with historical and future consumptive water uses, including water uses by exchange. A recreational in-channel water right (RICD) should not be granted if it would materially impair the ability to fully develop for beneficial use Colorado's entitlements under the Compacts of 1922 and 1948.

The River District recognizes that a variety of recreational water uses occur throughout Colorado, including on-lakes and reservoirs, in-stream, and those enabled or enhanced by storage releases and diversions from streams. Like all water rights, water rights for recreational uses must be reasonably efficient and promote maximum utilization of Colorado's waters.

Recreational water uses and any water rights confirming those uses should be included in regional stream management plans.

Background & Discussion:

Recreational water use and aesthetic enjoyment of the state's waters are integral to Western Colorado's lifestyle and economy.

Recreation is a recognized beneficial use of the state's waters. Colorado's courts and Colorado's General Assembly recognize certain recreational in-channel uses of water as beneficial water use and eligible for adjudication.

In 2001, the General Assembly passed Senate Bill 01-216 providing legislative certainty and conditions on recreational in-channel diversions (RICD). In 2006, the legislature passed Senate Bill 06-037 providing clearer definitions regarding RICD water rights and their associated structures. The final version of Senate Bill 06-037 represented considerable compromise by both sides of the debate and resulted in an Act that both deserved and enjoyed broad support. The River District supported both bills.

Adopted, April 19, 2016
Revised, Adopted, July 16, 2019
Draft Revisions January 1, 2022

GO BACK TO MEMO

Water Quality

Colorado River Water Conservation District Policy Statement:

The Colorado River District's primary objective with respect to water quality is to protect the ability of its current and future constituents to use water beneficially ~~now and in the future~~ while maintaining healthy rivers and the Western Colorado economies that depend on those rivers. To this end, the River District supports the following:

1. The River District will advocate for and may participate in the prevention or mitigation of those activities that adversely impact water quality whenever existing or future beneficial water uses, the ecological health of rivers and streams, public health or local economies dependent on certain water quality may be threatened.
2. Water quality negotiations, classifications and enforcement decisions should be based on sound scientific data and methodologies and should not impose unreasonable financial burdens or operational constraints of historical water users.
3. The River District will participate in administrative and legislative efforts to clarify the scope of the Clean Water Act (CWA) through rulemaking and legislation defining Waters of the U.S. (WOTUS) and its implementation.
4. The River District will generally support legislative and regulatory measures that provide and protect water quality it deems reasonable and necessary to support and protect the present and future economy and quality of life in the region.
5. The River District will oppose any mandatory, nonpoint source regulation for farming and ranching activities but will encourage the voluntary implementation of reasonable best management practices and programs. ~~The River District will advocate for incentives for non-point pollution prevention and clean-up efforts and funding for those efforts.~~
- 5.6. The River District will work to form partnerships and leverage financial resources at the local, state and federal levels to pursue projects that address non-point source water quality issues while benefiting water users and the environment.
- 6.7. Any new or substantially amended regulations should be implemented with sufficient resources allocated to the affected enforcement authorities, water users and land owners.

Background & Discussion:

The Colorado River District is committed to meeting the present and future water needs of its residents. The River District recognizes that clean, healthy rivers support vibrant communities and thriving rural economies on the Western Slope. The River District also recognizes that water ~~quality and water quantity are often inseparable.~~ Water quality can be an important factor in the ability of the Colorado River District's residents to beneficially use water.

The tension between water quality and water quantity is long and varied. The inter-relationship between the two is better recognized and accepted today. There is a causative link between the amount of stream flow present and the water quality of the stream. Water diversions inevitably have some impact on water quality. This impact may not be measurable or significant to either water users or to the environment. However, in the case of transmountain diversions, they can have major, adverse consequences.

Water quality regulation is largely driven by federal statutes and regulations, principally the Clean Water Act and regulations promulgated under this Act. The scope of the Act is largely determined by interpretation of the term “Waters of the United States.” Recent and current efforts to administratively define and re-define WOTUS and guide its implementation have resulted in increased uncertainty. The River District believes Congress has the ultimate responsibility for clarifying WOTUS and other key terms of the CWA. Additionally, new programs, regulatory requirements and judicial interpretations must be adopted with appropriations sufficient for implementation.

In Colorado, responsibility for water quality protection is almost exclusively vested in the Colorado Water Quality Control Commission and Division within the Colorado Department of Public Health and the Environment. In contrast, responsibility for water quantity allocation and administration is generally vested with the Water Courts and the Colorado Department of Natural Resources. As integration between water quantity and water quality evolves, local governments should have a role in the monitoring, management and enforcement of water quality programs. Local governments’ role, however, should be voluntary, based on the needs and resources of the community and not mandated.

As growth in Colorado continues, as consumptive water uses continue to be developed, and as drought cycles continue to occur a warming climate continues to diminish river flows, water quality will be an ever-growing issue for Colorado water managers. In a rapidly changing world the District recognizes that flexible and dynamic water quality regulations are necessary to assure the vibrancy of Colorado’s rivers and our economy. The District supports creative solutions which are based in sound science and reason.



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: ANDY MUELLER, GENERAL MANAGER
PETER FLEMING, GENERAL COUNSEL

SUBJECT: **REVISED** DEMAND MANAGEMENT MARKET STRUCTURE CONCEPTUAL PROPOSAL

DATE: JANUARY 7, 2022

ACTION REQUESTED: *No action requested, informational only.*

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 Southwestern 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.

I. INTRODUCTION

On October 19, 2021, at its fourth quarterly meeting for 2021, the Board and staff of the Colorado River District reviewed and discussed the Demand Management Market Structure Conceptual Proposal prepared by River District staff at the request of the Board. The Board provided significant feedback at the October meeting and asked that the Board members reach out to members of their respective communities to provide additional information. Staff reached out to the District's Demand Management Stakeholder group and received additional feedback from Board members and constituents throughout the District. This memorandum utilizes the original October memo and market structure as the base in black but adds additional discussion narrative based upon the feedback we received in red; and provides specific alternative market elements in blue. Hopefully, this format will help facilitate a thorough understanding of the input received and provide a basis for an excellent discussion at our January meeting.

While the Board most likely could discuss every element of this conceptual market structure, given the Board's rather full agenda, we are hoping to have a targeted discussion on key items. The key policy items for discussion at our January meeting suggested by staff are in Green. At the beginning of this discussion item, we will check in with Board members to see if the items identified by staff are the appropriate key items for discussion and/or if there are some that should be added or deleted from the list.

This conceptual proposal is prepared by the Colorado River District Staff at the request of the Colorado River District Board. The proposal is not a recommendation by the Colorado River District Staff nor does it represent the position of the District Board. It is merely an effort to move what has largely been a theoretical, process oriented conversation around demand management into a more practical examination of potential market structure and rules. Many organizations refer to such a proposal as a "strawman", but given the often controversial nature of demand management, staff at the River District refers to this proposal as a "punching bag" *i.e.*, something concrete to start the conversation but designed for everyone to feel free to criticize, improve upon, or reject.

Prior to diving into the particulars of a proposed market structure, it is important to clearly identify and define what is meant when by the term "demand management program" in the context of the Upper Basin States within the Colorado River Basin. On March 19, 2019, the seven basin states



of the Colorado River basin executed and delivered to Congress a series of agreements commonly referred to as the Drought Contingency Plan (DCP). Among those agreements was a document succinctly titled, “Agreement Regarding Storage at the Colorado River Storage Project Act Reservoirs Under an Upper Basin Demand Management Program” more commonly referred to as the “Upper Basin Demand Management Storage Agreement” or simply the “Demand Management Storage Agreement.” This Demand Management Storage Agreement was not actually an agreement to establish a demand management program, but rather an agreement signed by the Upper Division states of Colorado, Wyoming, Utah and New Mexico and the Secretary of the Interior to study the feasibility of such a program and, if deemed feasible, to provide a storage account in the Initial Units authorized under the Colorado River Storage Project (CRSP) Act (Powell, Flaming Gorge, Aspinall, and Navajo). While that agreement did not expressly define the term “Demand Management” it did state that “[t]he purpose of an Upper Basin Demand Management Program will be to temporarily reduce Consumptive Uses in the Upper Basin or augment supplies with Imported Water, if needed in times of drought, to help assure continued compliance with Article III of the Colorado River Compact without impairing the right to exercise existing Upper Basin water rights in the future.”

In plain language, “demand management” as contemplated by the Upper Division states, is a government sponsored program that incentivizes and enables the voluntary, temporary and compensated reduction of consumptive use of water and store the conserved water in one or more of the Initial CRSP reservoirs. The sole purpose of the program would be to assist the Upper Basin with its effort to remain in compliance with its non-depletion obligation of Article III of the 1922 Colorado River Compact.

A demand management program is not something that the State of Colorado can, or should, do on its own. Pursuant to the Upper Basin Demand Management Storage Agreement, any such program can only be done with the approval and consent of the four Upper Division states acting through the Upper Colorado River Commission (UCRC).

The endeavor of establishing a Demand Management Program is truly the creation of a government sponsored water market because the program would require compensation to be paid to willing water right owners to reduce consumptive uses. Given that this potential government-created market would most likely be funded by taxpayers, it is very important to design the program so that it has a high likelihood of success in meeting its objective, i.e., prevent a violation of compact obligations while at the same time, avoiding significant negative consequences to the communities and stakeholders within the Upper Basin. A market set up by the government, funded at least in part by taxpayer dollars, to meet a collective government obligation, by its very essence is not and never will be a free market. Restrictions designed to protect the communities and mitigate adverse impacts are appropriate and necessary.

In order for water to be considered eligible for compensation under this potential program, the Demand Management Storage Agreement requires that a water user and state claiming the contribution of the water must be able to demonstrate that the water right was physically and legally available and that but for the participation in this program that water would have been consumed in the year of contribution.



The Colorado River District, together with many partners, has previously explored potential risks and impacts of such a program through a number of efforts including, but not limited to, the Compact Risk Study, the Secondary Economic Impact Study and the Colorado River District Demand Management Stakeholder Report. The findings of those earlier works have informed the market structure presented here, but this report does not repeat and/or rehash the findings, rationale or recommendations contained in those works. We encourage all who are reading this report to familiarize themselves with those earlier works as well as the work product of the Colorado Water Conservation Board and its various Demand Management Workgroups.

The following is one suggestion for how such a demand management program or market might be structured. This proposed structure is being offered to provide a foundation for a critical dialogue by members of the Colorado River District Board of Directors and constituents of the Colorado River District. It is not a recommendation and/or policy statement of the staff and/or Board of the Colorado River District. It is important to point out that it is the State of Colorado, not the Colorado River District, that will make the ultimate decision as to whether such a program is feasible and advisable for the state of Colorado, and if such a program is deemed feasible, it is the State of Colorado that will establish the market structure and rules governing such a program. This proposal is solely intended to assist the Colorado River District staff and Board in their efforts to provide meaningful input to the State of Colorado.

II. INTERSTATE STRUCTURE

- A. Each Upper Division state shall be responsible for contributing an amount of water to the Upper Basin Demand Management Storage Account equal to that state's proportionate allocation of consumptive use of water established in the 1948 Upper Basin Compact. The respective percentages are: Colorado, 51.75%; New Mexico, 11.25%; Utah, 23%; and Wyoming, 14%.

The Upper Basin Demand Management Storage Account shall be a single account, for the sole use by and for the benefit of maintaining the Upper Basin's compliance with the 1922 Colorado River Compact. Each state must contribute its proportional share to the account. There shall be no sub-accounts. **Some comments received indicated that strict annual adherence to the pro-rata sharing by states may be difficult. A proposal to make this accounting more realistic: The proportionate allocation among the Upper Division States shall be calculated on a five year running average.**

Colorado's creation and implementation of a demand management program shall be contingent upon the other three states in the Upper Division establishing a program (though the other states may adopt different program structures and rules).

Upon establishment of a program, the UCRC, at a date certain each year (October 1) (**August 1**) shall set a total annual goal of conserved consumptive use depending upon the developing and anticipated hydrology for the following water year, (*i.e.*, dry, average, wet) and each state shall be responsible for producing its



proportionate share of that annual goal. For instance, if the UCRC predicts a wet year and sets the annual collective goal of 50,000 AF, the state of Colorado shall be responsible for producing and delivering to one or more Initial CRSP reservoir, 51.75% of 50,000 or 25,875 AF. If, on the other hand, the UCRC predicts a dry year and sets a collective goal of 10,000 AF, Colorado's share would be 5,175 AF. There were comments received that this hydrology dependent annual allocation does not work well for many water users due to the long term planning that goes into crop rotation planning and municipal water use. Some commenters suggested that, with an appropriate pricing structure, enabling active Demand Management across all year types, even in dry years when water is more valuable, can be accomplished by the appropriate pricing mechanism and other sideboards. Due to the difficulties faced by many Upper Basin agricultural users by water availability in dry years and the requirement set forth in the Upper Basin Demand Management Storage Agreement that water be physically and legally available, the River District staff continues to believe that setting realistic targets in wet, average and dry years is essential, for the realistic success of the program.

- B. There will need to be agreed upon standard, uniform measurement of consumptive uses, measurement of conserved consumptive uses, verification, and transit loss methodologies. Some comments were received on this issue, and all were favorable to the need to establish these standards.
- C. There will also need to be agreed upon consequences for states which do not meet their target numbers. Many commenters would like to see what consequences could be developed and implemented. Staff generally agrees and believes this area will require significant work and negotiation between the Upper Division States and between each state's administrators and water users.

III. INTRA-STATE COLORADO

A. Single Buyer

The State of Colorado, or its regional/local designees shall be the sole buyer in the marketplace. Many comments were received in favor of this market element, no comments advocating for other approaches were received.

B. No Additional Trans-Mountain Diversions

As a condition precedent, in compliance with Principle 4 of the Conceptual Framework of Colorado's Water Plan, and in order to avoid to the operation of a Colorado River demand management program being used as a de facto augmentation plan for new transmountain diversions, no new additional transmountain diversion projects shall be permitted, endorsed, funded or supported in any manner by the State of Colorado. Many comments in favor of this market structure element were received, with a request that this element be more clearly



defined as to what constitutes a “new additional transmountain diversion project.” Specifically, does it apply to projects which are permitted, but not constructed or those projects that are not permitted with conditional water rights? River District staff, recognizing the River District’s status as a signatory on several cooperative agreements with Front Range entities, agrees that the state will need to figure out where this line of demarcation falls. There were a few comments received that suggested no major projects resulting in significant consumptive use from the Colorado River system should be developed anywhere in the state, including the West Slope. The authors of those comments suggested that any such new projects would present the same inherent risk of having a demand management program subsidize new junior consumptive uses and therefore violate the spirit of the entire program. River District staff points out that Principle 4 of the Conceptual Framework contemplates some reasonable increase in West Slope consumptive use but we acknowledge that further discussion of this issue is warranted among policy makers including the Board of the Colorado River District.

C. Voluntary, Temporary, Compensated

Participation in the program by individual water users shall be voluntary, temporary and compensated. Comments, including from some CRD Board members, were received on this market structure element. The statements staff heard from commenters can generally be summarized as follows, if a program requires a certain quota of DM water to be produced from any one geographic area (See paragraph III.I., below) or water user segment that requirement turns this program into a mandatory, non-voluntary program. We believe that this comment ignores the practical reality about the economic value of water in different regions of the state and highlights the conflict between having a program that is purely “voluntary” versus a program that does not “disproportionately impact one geographic region of the state.” The question for consideration is, does the voluntary nature of the program operate at an individual water user level, i.e., no individual water user or water rights holder shall be required or forced to curtail their consumptive use under this program, or does the voluntary nature of the program operate at a regional or sub-basin level, i.e., the Front Range, the Yampa, or any other regional area can choose to simply not participate in a program or to “participate” by paying water users in other basins to reduce demands instead of actually contributing water? River District staff understands these comments. We believe that the “voluntary” principle has always been intended to focus on the perspective of an individual water user or water rights holder, not on the perspective of an entire geographic region. If the market is set up appropriately, the geographic regional quota becomes mandatory but the variable pricing structure ensures that no individual water user would participate unless she or he determines voluntarily that the price-paid to reduce consumption meets their individual goals and needs. It is the market pricing that determines the individual voluntariness of the program, while regional quotas would assure the avoidance of disproportionate impact on any one region or sub-



basin. Greater flexibility in the quota, i.e., the ability of water users in one sub-basin to provide more water to the program if water users in another sub-basin did not meet their quota is another approach, but River District staff is concerned that the unintended consequences of such a programmatic element could result in greater long term economic damage to certain communities.

D. Non-Injury to Vested Water Rights

No action or transaction authorized or funded by this program shall cause injury to an existing water right. The analysis of non-injury must be made by the state engineer's office through a process that involves actual notice to all potentially effected water right owners, providing at least a sixty-day notice to those parties by U.S. Mail and publication in the applicable water division resume. The injury analysis shall provide for a right to an evidentiary hearing, and the right to a de novo appeal in water court if the State Engineer makes a finding of non-injury. Many comments were received on this element. Some commenters supported this element and stated that it was absolutely necessary to protect water users who chose not to participate in this program. Other commenters stated that allowing such robust protections of the non-injury standard would present too large of a transactional cost and would discourage program participation. While River District staff is steadfast in its support for the robust protections offered in this market element, others suggested that an administrative proceeding with a non-injury analysis by the State Engineer's employees together with "resume notice" is all that is needed to protect against injury for the majority contemplated demand management transactions.

E. Non-use/Abandonment

Non-use of water through this program shall not be considered in any abandonment and/or calculation of historic consumptive use. No comments or objections to this program element were received.

F. Exclusive Program

Conserved water produced by any means other than those authorized herein or by another statutorily authorized program in the state of Colorado shall not receive funding under this or any other state program and the water produced therein shall not be counted as conserved consumptive use under the Upper Basin Demand Management Storage Agreement. No comments or objections to this program element were received.

G. No Interstate Water Marketing

Nothing in this program shall authorize and/or encourage interstate marketing of water. No comments or objections to this program element were received.



H. Reduction in Consumptive Use, Reservoir Operations

A condition precedent to water being counted as contributed to the Demand Management Program shall be that there is an actual reduction in consumptive use during the same water year. A reservoir operator cannot simply release water to the stream for delivery to a CRSP unit and count it as demand management water without also demonstrating a corresponding reduction in consumptive use of water within the water user's system equal to the amount released and delivered from the reservoir.

- i. Water released from reservoirs for delivery to a CRSP unit shall be made at the time of year to insure maximum delivery and minimum transit loss and/or shepherding complications. (*i.e.*, During winter months and/or at the peak of the hydrograph). **Comments in favor of this element were received, however, some comments supporting a modification to this element were also received. Those commenters asking for modification to this market structure element stated that the program, funded with public dollars, should be devised to achieve the maximum public good which should include not just delivery of conserved consumptive use water to the CRSP units but also consider the environmental benefits associated with the potential timing of delivery of water. Some commenters were in favor of timing deliveries out of reservoirs on certain stretches of water at times of the year when those streams were at their lowest or furthest from attaining their designated in stream flow targets (where applicable). In other words, instead of releasing water at the top of the hydrograph when the most water is likely to make it to the CRSP reservoirs, some commenters suggested that releases be made during late season, low flow events and that the costs associated with additional transit losses to the program would be worth the environmental benefits brought by such timing. In light of the likely public-funding sources of a DM program, the comments received asking for environmental considerations of the timing of the delivery of water are worth consideration and discussion by the Board and others. We look forward to the discussion on this item.**
- ii. Water conserved in one year may be stored in non-CRSP reservoirs within the state of Colorado in order for the delivery of said water to a CRSP reservoir in a subsequent year to be timed to achieve the maximum delivery and minimum transit loss on its journey to a CRSP reservoir. The calculation of optimal timing of delivery shall include evaporative losses from the reservoirs and comparative transit losses during different times in the hydrologic cycle.



I. Intra-State Proportionality

Contributions of water toward the state's obligations under a demand management program shall be geographically allocated based upon a region or sub-basin's percentage of statewide post-compact water use. However, the obligation can be satisfied by either pre- or post-compact water rights.

- i. The intrastate proportional share between the East and West Slope of Colorado shall be based on percentage of post-compact consumption. (Approximately 57% and 43% respectively from the Colorado River Risk Study Phase III). **There were comments received that if the State stuck to similar percentages, the cost of the program may be too great to bear due to the relatively higher market value of water on the Front Range. More specifically, if the state run market will pay more on the Front Range for reductions in consumptive use under this program due to the higher market value of water, the program will need to generate and spend significantly more money and may mean that the program will never succeed. These comments present a valid policy question for this Board and others, is the avoidance of disproportionate impact on any one region important enough for the state to be willing to set up market pricing within each sub-basin or region and therefore pay significantly different amounts of money for an acre foot of water in different regions of the state? This issue is directly related to the "voluntary v. disproportionate impact" discussion in paragraph III.C, above. Another way to phrase the underlying question is "should the State adopt a program that would potentially risk one region of the State becoming a sacrificial zone in order to provide greater protection of the State as a whole?" We welcome further Board discussion on this point.**
- ii. The proportional share between Colorado River sub-basins in Colorado shall be based on the percentage of post-compact consumption.



Figure 1: Colorado River Post Compact Use by River Basin

Colorado's Total Average Annual Consumptive Use for Colorado River Basin: 2.53MAF						
		Post Compact Depletion	Total Use (Pre and post compact)	Post Compact Percentage of Statewide Post Compact Use	Assumption: a 100KAF annual statewide obligation	Percent of specific basin's total Colorado River use
	Pre-Compact Acre Feet	Acre Feet	Acre Feet			
Yampa	138,544	58,438	196,982	6.30%	6,300	3.2%
White	50,173	11,887	62,060	1.30%	1,300	2.1%
Colorado In Basin	574,997	94,260	669,257	10.10%	10,100	1.5%
Transmountain Diversion	19,173	531,956	551,129	57.10%	57,100	10.4%
Gunnison	493,879	57,271	551,150	6.10%	6,100	1.1%
Southwest	322,561	178,157	500,718	19.10%	19,100	3.8%
Statewide Total Use	1.6M	931,969	2,531,296	100%		

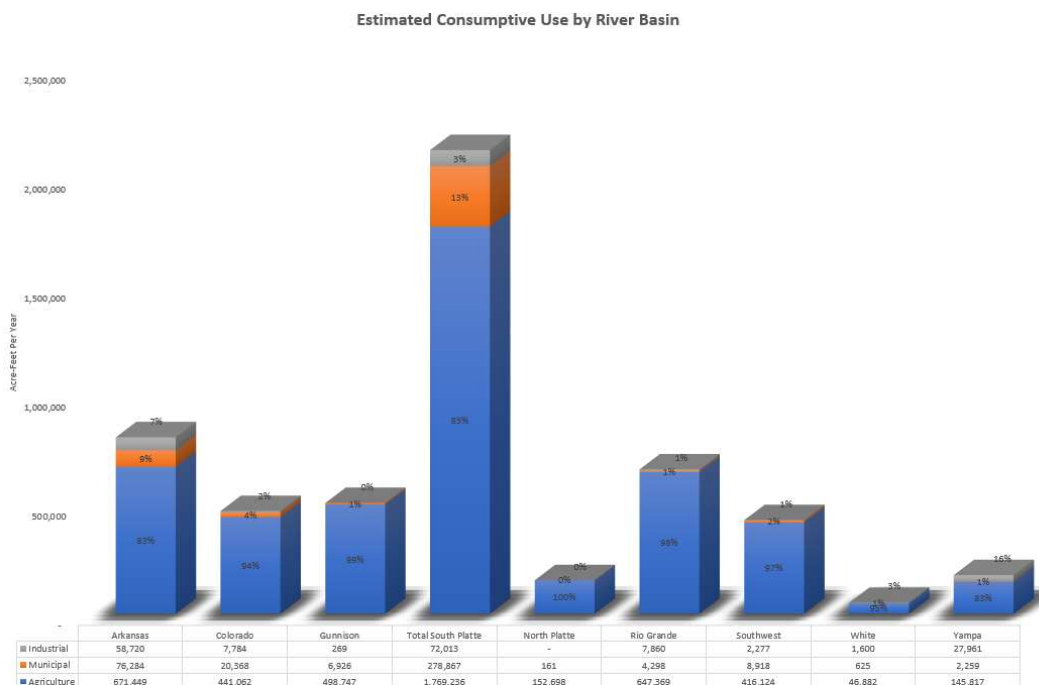
- iii. Regional targets should be roughly proportional over time (e.g., on a rolling 5 year average) and establish thresholds for each basin, while supporting voluntary participation in the program by individual water providers/users.
- iv. For voluntary participation to work to meet these desired participation levels, compensation must be adequate to encourage voluntary participation and will vary by basin and between Front Range and West Slope to reflect different water market values. Prices paid by the state and/or its regional/local designees shall be variable, set depending upon the price required in each basin to acquire enough voluntary participation to meet the regional target set above.
- v. The state of Colorado may designate regional or local agents to operate the demand management program within a specified geographic region. Any such designee shall be required to operate in an open transparent manner and shall be subject to audit and examination to assure compliance with all rules of the demand management program. **Many comments were received on this market structure element. Perhaps a few clarifying points on this element would be helpful. Staff intended "regional or local agents" to include Water Conservation Districts, Water Conservancy Districts, Irrigation Districts, and Ditch Companies and Associations with the institutional capacity to operate a local or regional program. Many individuals from larger ditch companies or associations wanted to make sure this "local control" suggestion was not an invitation to counties to run the program but did want the larger local ditch companies to be able to do so if they desired.**



-
- a. The state may grant waivers to the rules of the state program to regional or local operators so long as those waivers do not frustrate the underlying purposes of the program, (*i.e.*, contribution of water to the Upper Basin demand management storage account and/or protection from disproportionate regional impact). Some commenters suggested that local entities should have broad authority and flexibility to implement the program and that there should be very few restrictions or strings associated with the public funds as long as the localities were producing the desired amount of conserved consumptive use. Many of these comments seem to originate from the perspective that many government programs have too many mandates and regulations to be useful or implementable in real life situations and water users want to avoid this. Many of the same commenters wanted the ability to modify or eliminate the suggested market sideboards set forth under the agricultural market structure below. This is another good opportunity for the Board to discuss the burdens of regulations aimed at protecting long term viability of agriculture and the West Slope communities that depend upon it against the desire of some water users to gain as much personal benefit from such a program as possible. Board discussion may also want to consider that a Demand Management program would not involve purely private-to-private transactions. The program likely would be funded largely with public money. Thus, we believe public values should be taken into account in establishing market sideboards.
- J.** Each type of water user sector shall contribute a proportional share of consumptive use within each basin. We received many comments from agricultural operators that indicate participation from other sectors, even if their proportionate consumptive use and resulting participation is comparatively small, is essential to the perceived fairness of this program.



Figure 2: Estimated Consumptive Use by River Basin



*Consumptive use estimates are based on broad consumptive use ratio estimate for general understanding of water use and are applied to industry depletions from the 2019 Colorado Water Plan Technical Update. Consumptive use ratios were approximated as follows:
Agriculture - Based on Tech Update IWR vs Diversion Demand ratio and ranged from 19%-64% consumption of diversion demands,
Municipal Indoor - 10% consumptive, Municipal Outdoor - 90% consumptive, Municipal Non-Revenue - 10% consumptive,
Industrial - 100% consumptive.

K. Municipal/Domestic Sector

- i. Contributions by municipal and industrial water providers do not need to be temporary. Municipal/domestic water providers that enact permanent water conservation plans which contribute actual wet water to the demand management storage account shall be compensated for doing so as long as the conserved water is contributed to the demand management storage account and not utilized for future growth.¹ **We received many comments in favor of this market structure element including support for modifying the Upper Basin Demand Management Storage Agreement.**
 - a. It is conceivable that a utility could enact permanent water restrictions, land use code changes, building code changes or operational reductions which result in a reduction in consumptive use, which for some period of time is contributed to the Upper Basin storage account and then later utilized for future growth within that system. In such a case, it would be appropriate to compensate the utility for the years in which water is physically contributed to the storage

¹ To the extent this requires a modification to the Upper Basin Demand Management Storage Agreement, the State of Colorado and the UCRC shall advocate for that modification.



account. Again, many comments were received in favor of this including the suggestion that Upper Basin states should receive permanent year-over-year credit for these types of conservation measures.

L. Industrial Sector

Contributions by industrial water users resulting from permanent plant closures shall be counted as contributions to the storage account for a period of 20 years. Water contributed by an industrial user during a transitional time following a plant closure, prior to that industrial water user putting that water to a consumptive use shall be considered a contribution to the storage account.² We received many comments in favor of this market structure element including support for modifying the Upper Basin Demand Management Storage Agreement. Others commented that while this may be good on its face for the state as a whole, we need to examine and mitigate the potential disproportionate impacts it may have on basins like the Yampa where there is a concentration of power plants that are scheduled to come offline. Specifically, is the conserved industrial water credited to the basin? And if so, does it eliminate the opportunity for local agricultural operators to voluntarily participate or is that a positive because less agricultural land would need to be temporarily fallowed? It is important to note that we did not receive any comments from the owners of these industrial water rights, and we would advise that prior to any market rules being established, that the State of Colorado have significant and detailed discussions with those entities.

M. Agricultural Sector

- i. Any agricultural water right, regardless of type of crop or productivity of land irrigated, can be utilized in the demand management program.
- ii. A water right owner must quantify and demonstrate the reduction in consumptive use. Such reduction in consumptive use may come from:
 - a. complete, full season fallowing;
 - b. partial season fallowing;
 - c. deficit irrigation; or
 - d. other technique resulting in a demonstrable, quantifiable reduction in consumptive use.
- iii. In order to encourage good soil health practices, prevent erosion, weed infestations, and airborne dust, participants in the program shall not allow invasive weed infestations and/or complete denuding of the crop land participating in the project. Cover crops and/or site specific soil health treatments shall be required as part of the program for any fallowed land.

² See, footnote 1.



To the extent that a cover crop and/or some water consumption is necessary to achieve this goal, the consumptive use associated with the technique employed must be subtracted from the quantification of conserved consumptive use under the program. Several comments were received from agricultural operators who felt that this cover crop requirement may be too prescriptive, and that farmers and ranchers do not need the government telling them how best to maintain their soil health.

- iv. No more than 30% of the irrigated land in any one sub-basin shall be fallowed under this program in any given year, and no more than 10% of the irrigated land in any one sub-basin shall be fallowed under this program for more than two consecutive years. Comments were received that the local agricultural operators should be the ones to decide how much land should be fallowed in any given year under this program. See, comments in section III.I. v. a. above.
- v. No more than 30% of any federal project shall be fallowed under this program in any given year. Comments were received that the local agricultural operators should be the ones to decide how much land should be fallowed in any given year under this program. See, comments in section III.I. v. a. above.
- vi. No more than 30% of any ditch system irrigating more than 200 acres shall be fallowed under this program in any given year. Comments were received that the local agricultural operators should be the ones to decide how much land should be fallowed in any given year under this program. See, comments in section III. I. v. a. above.
- vii. No more than 30% or 200 acres (whichever is less) of land owned by a single entity (person, trust, corporation, limited liability company or group of related persons or entities) shall be fallowed under this program in any given year. Comments were received that the local agricultural operators should be the ones to decide how much land should be fallowed in any given year under this program. See, comments in section III.I. v. a. above.
 - a. An exception to the rule stated above shall be made for land classified as “Marginally Productive” (The definition/classification of which will need to be agreed to at a later date). Up to 60% or 600 irrigated acres classified as Marginally Productive owned by one entity or series of related entities may be fallowed in any given year under this program and limitations with respect to the federal project or ditch system shall be increased up to 50% if all of the land fallowed qualifies as Marginally Productive. There were concerns expressed about incentivizing the fallowing of



marginal land. Some commenters correctly pointed out that most marginal land does not have high consumptive use and therefore, if a program focuses on marginal land, it will require the enrollment of more acreage to produce the same amount of water as might be conserved on fewer acres of productive land. Others pointed out that enrollment of marginal land in a program like this might have the unintended consequence of pushing residential development in valleys like the Uncompahgre and the Grand onto productive land. Others commented that if left to their own, without incentives, agricultural users will likely enroll their marginal land first anyway as it is the land they often do not irrigate in water short years. Other commenters spoke in favor of this approach and indicated that incentivizing marginal land fallowing for longer periods of time may allow for the long term success of productive agriculture on the West Slope as it provides incentive to focus scarcer water resources on land that produces better, more consistently profitable crops. Additionally, commenters suggested that this would be an excellent concept for a pilot project on the West Slope in the near future to see how such a program might work and to potentially provide facts on the ground about the negative and positive hypotheses. Given the range of opinions on this matter and the policy goals involved, it may be a good area of discussion by the Board at our meeting.

- viii. No irrigated agricultural property shall be fallowed under this program for more than 2 consecutive years or 4 total years out of any running 10 year period. Comments were received that the local agricultural operators should be the ones to decide how much land should be fallowed in any given year under this program. See, comments in section I. v. a. above.
 - a. An exception to the rule stated above shall be made for Marginally Productive land. Irrigated land classified as Marginally Productive may be fallowed under this program for a period not to exceed 10 consecutive years. See, discussion under vii., a. above.
- ix. A modified reverse auction format shall be utilized within sub-basins to achieve the price point relevant for each sub-basin market. On an annual basis, in each sub-basin, the state shall set the target number of acre feet to be generated by the agricultural sector in that basin. The state or its regional/local designee, as the sole buyer, shall start the auction, which shall be held electronically, with a price determined to be at the high end of the price range reasonably anticipated for the region.



- a. If the number of AF offered by agricultural producers is higher than the target at the initial offering price, the state shall reduce the offering price until the number of AF offered at the price is approximately equal to the target volume.
- b. If the number of AF offered by agricultural producers is lower than the target at the initial offering price, the state shall increase the offering price until the number of AF offered is approximately equal to the target volume.
- c. Conserved consumptive use water generated from Marginally Productive lands shall receive a 5% increase above the regional market price.
- d. In the event land being fallowed under this program would otherwise be farmed by someone other than the owner of the property (*i.e.*, tenant farmers) at least 25% of the payment under this program shall be made directly to the tenant farmer.

A significant number of comments were received on this market structure element. Some commenters think that a reverse auction is the only way to proceed as it assures the public gets the most impact for their investment and retains the voluntary nature of the marketplace. On the other hand, many commenters, particularly from the agricultural sector, thought a reverse auction of this nature is a race to the bottom that will cause permanent damage to the agricultural economy on the West Slope. The alternative proposed by those opposed to a strict reverse auction was that the market price should be set at the average of 125% to 150% of the average of the value of the crop production for a region or sub-basin (this approach was recommended by the Water Bank Work Group's economic consultant in the September 2020 final Upper Basin Demand Management Economic Study in Western Colorado). In the event a sub-basin market is oversubscribed, there shall be a lottery. In the event that the market in any sub-basin is undersubscribed, the program price shall be incrementally increased until the market is fully subscribed. This element is worthy of a discussion by the Board.

- x. Payments under this program shall only be made, and contributions of conserved consumptive use shall only be counted as contributed to the Upper Basin storage account, if the water supply for the underlying water right was physically and legally available in the year and during the irrigation season for which the property was enrolled in the program. Given the timing of the enrollment process (most likely, the fall preceding an irrigation season), it is possible that there will be cases of a property enrolled in the program not receiving payment under the program because the underlying water right was not physically or legally available to be consumed in that season due to poor hydrology. Many had comments on this programmatic element. Many thought the annual enrollment process carries with it far too many transaction costs and complexities and that agricultural properties should be able to enroll for a multi-year period in



order to assure certainty to both the producer and the program. Others thought that this particular market structure forces all of the risk on the producer and shifts risk entirely away from the state and program. Those commenters thought the risk should be shared by the program, i.e., the program should be on the hook for all, or at least a partial payment, even if water is not conserved because it was not legally or physically available. This is an area worthy of Board discussion as well.

N. Community Mitigation Fund

In every sub-basin, a payment equal to 5 to 15%% of the total program payments to agricultural producers shall be made by the program to an appropriate community foundation or organization who shall utilize the funds to assist businesses and individuals (other than agricultural producers who have received payment under the program), who have a documented negative economic hardship resulting from the fallowing of land under this program. There were comments received on this program element. Some agricultural producers do not believe that anyone other than the producer should be compensated for the producer's conserved consumptive use and if there are payments to be made, they should go to the producer, not the community. Others thought the community mitigation payments should only occur if it can be specifically targeted at assisting local communities in transitioning into a hotter and dryer future with different industries that are not as dependent upon water consumption.

O. Environmental Considerations

- i. In selecting offered agricultural lands for inclusion within the program, the state or its regional/local designee may consider the following environmental criteria and shall be empowered to incentivize and/or disincentivize the inclusion of lands in the program through an adjustment of payments in the range of plus or minus 5% from the regional price as determined by the reverse auction market set forth above as follows:
 - a. migratory bird habitat impacts;
 - b. endangered species habitat and/or target flow impacts;
 - c. late season return flow impacts; and/or
 - d. instream flow enhancements.

Commenters on this element by and large thought that environmental benefits or negatives should not be an "add on" but rather an integral part of determining if a particular property or proposal for conserved consumptive use is eligible for the program. In other words, the commenters envisioned an application process similar to a Request for Proposals wherein ditch companies, individuals or even sub-basins propose a particular type of conserved consumptive use program within their system or basin and the state or administrator of the program ranks the proposals based upon criteria which include the amount of water conserved as well as the environmental benefits and/or costs to the



program. All other things being equal, applications with environmental benefits would be preferred by the program.

P. Program Funding

- i. No more than 40% of the funding for this program shall come from state of Colorado tax revenues.
- ii. The balance of program funding shall come from one or more of the following sources:
 - i. Federal government;
 - ii. Other parties/sectors benefiting from the program including but not limited to:
 - a. Lower Basin states and/or water users;
 - b. CRSP power customers; and
 - c. Recreational and/or Environmental non-governmental organizations.

Lots of concern about where and how a program like this will be funded.



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: AMY MOYER, DIRECTOR OF STRATEGIC PARTNERSHIPS

SUBJECT: COMMUNITY FUNDING PARTNERSHIP – PROGRAM UPDATES AND FUNDING RECOMMENDATIONS

DATE: JANUARY 18-19, 2022

ACTION ITEMS:

(1) Staff requests that the Board approve the request to contribute, in the form of a grant, \$225,000 from the Colorado River District Community Funding Partnership to the Orchard City Irrigation District for the Fruitgrowers Dam Outlet Gates Improvement Project. Staff further recommends for the purpose of internal River District accounting that the awarded funds be attributed to the CFP funding categories: Productive Agriculture (30%), Infrastructure (50%), and Conservation and Efficiency (20%).

(2) Staff requests that the Board approve the request to contribute, in the form of a grant, \$250,000 in partial funding from the Colorado River District Community Funding Partnership to the Town of Minturn to assist with the Minturn Water Storage Tank Project. Staff further recommends for the purpose of internal River District accounting that the awarded funds be attributed to the CFP funding categories: Infrastructure (70%) and Conservation and Efficiency (30%).

(3) Staff requests that the Board approve the request to contribute, in the form of a grant, \$500,000 from the Colorado River District Community Funding Partnership to The Nature Conservancy for the Maybell Diversion and Headgate Modernization Project. Staff further recommends for the purpose of internal River District accounting that the awarded funds be attributed to the CFP funding categories: Productive Agriculture (30%), Infrastructure (40%), Healthy Rivers (15%), and Conservation and Efficiency (15%).

(4) Staff requests that the Board approve the request to contribute, in the form of a grant, \$102,000 from the Colorado River District Community Funding Partnership to The Sonoran Institute for the West Slope Growing Water Smart Project. Staff further recommends for the purpose of internal River District accounting that the awarded funds be attributed 100% to the Conservation and Efficiency CFP funding category.



STRATEGIC INITIATIVE(S):

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.

9. Water Efficiency and Conservation: 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

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.

INFORMATIONAL – Program Updates: The CFP Program closed out a successful first year with nearly \$3 million in funding to 23 projects. We continue to be humbled by the creativity and resilience of our West Slope water users as they move ideas into action and confront the realities of a hotter and drier future. Given the Program's increased popularity across the District, Staff anticipates increased demands and applications, particularly as additional sources of federal and state funding become available. Looking forward to 2022, Staff remains focused on a vision for the CFP Program to act as a leading and prominent funding source in Colorado known for its creativity, strategy, and wise use of public funds.

In November, Staff released a two-minute video highlighting the CFP Program and awarded projects. Staff hopes to release additional project-specific videos in 2022 to showcase the impact of the Program. Additionally, Staff continues to work closely with the External Affairs team to highlight opportunities for engagement and to coordinate with federal, state, and local partners on federal infrastructure funding.

BOARD ACTION ITEM #1 – Fruitgrowers Dam Outlet Gates Improvement Project

Project Applicant: Orchard City Irrigation District

Request: \$225,000

Location: Delta County

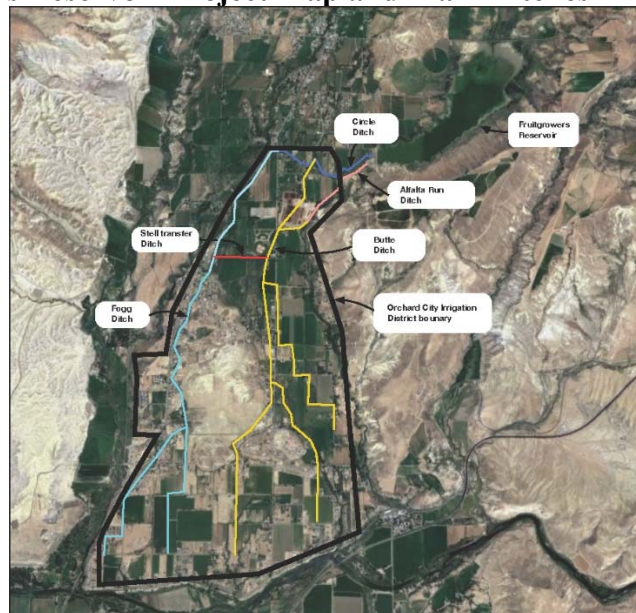
Staff Recommendation: Staff requests that the Board approve the request to contribute, in the form of a grant, \$225,000 from the Colorado River District Community Funding Partnership to the Orchard City Irrigation District for the Fruitgrowers Dam Outlet Gates Improvement Project.

Staff further recommends for the purpose of internal River District accounting that the awarded funds be attributed to the CFP funding categories: Productive Agriculture (30%), Infrastructure (50%), and Conservation and Efficiency (20%).



- I. Project Description:** Located about 1.5 miles east of the City of Eckert, Fruitgrowers Reservoir serves 590 shareholders and 2,760 irrigated acres within the Orchard City Irrigation District (OCID) across Delta County. This project will replace existing guard and regulating gate valves that were installed during the construction of the dam in the 1930's. The existing outlet and portioning gates are 90 years old and well past life expectancy and functionality. To avoid a "no fill" restriction from the Bureau of Reclamation, the planned improvements include replacing control gates with one low maintenance, long service life, standard gate valve and two triple offset butterfly valves. The applicant also will install a Supervisory Control and Data Acquisition (SCADA) control house with electrical power and ventilation, and purchase a new computer software for water management.

Figure 1: Fruitgrowers Reservoir Project Map and Main Ditches



Source: OCID

- II. Staff Analysis:** Staff has completed a full staff analysis for this project and confirmed that the project aligns with the River District Mission, Strategic Plan, and Policy Statements by supporting the refurbishment and modernization of aging water supply infrastructure. Additionally, this project supports the River District's mission to increase water use efficiency and conservation. Better control of water releases will allow OCID to optimize their water storage and releases, which results in more effective and efficient water use.
- a. Project Funding and Leverage of CRD Funds:** Table 1 below identifies the project funders and matching dollars. Colorado River District funds primarily will be used for design, environmental review, and construction. The Applicant requested the River District contribute \$225,000, representing 37% of the total project costs including a total cash match ratio of 1.7:1 (\$390,400: \$225,000).



While the reservoir is owned by the Bureau of Reclamation, the O&M responsibilities have been transferred to OCID. The Bureau has indicated that there is no direct mechanism for Reclamation to fund these activities. Staff did reach out to BOR regarding the potential for Infrastructure funding, but Reclamation staff indicated they did not see an immediate path forward for this project. The Gunnison Basin Roundtable also noted this concern as part of their funding decision, but did approve the full funding amount given the high need to replace the existing gates.

Table 1: Funding Partners

Funding Partner	Cash	Total	Funds Committed (Y/N)
Gunnison Basin Roundtable + Statewide WSRF Account	\$150,000	\$150,000	Y
Colorado Water Conservation Board Loan	\$240,400	\$240,400	Y*Pre-approval secured
Colorado River District – Requested Community Funding Partnership	\$225,000	\$225,000	
Total	\$615,400	\$615,400	

Table 2: Project Budget

Task Name	Total
Design, Review, and Construction Management	\$141,900
Environmental Review	\$46,200
Purchase of Materials	\$157,300
Gate Installation	\$121,400
SCADA Building, Wiring	\$115,500
Project Management	\$9,000
5% Contingency	\$24,100
Total	\$615,400

There are no private entities participating in a manner that will result in a profit nor will there be a revenue stream generated from the completed project.

- b. Local Community Support:** The applicant has provided letters of support from the Butte Ditch Board of Directors, the Fogg Ditch Company, and the Delta County Board of County Commissioners (signed by Commissioner Suppes).



- c. **Human Resource Requirements:** The District will not play any role in overseeing construction of this project.
- d. **Risk Analysis:** Staff has completed a risk analysis and has not identified any significant legal liability or exposure to the District due to this project. The applicant has been working with the Bureau of Reclamation to provide the design and specifications for the project. Additionally, OCID will advertise for bids, interview, and screen contractors that submit a bid on the project. Only contractors with a record of superior construction and project management work and a satisfactory bid amount will be considered for contract award.
- e. **Additional Factors to Consider:**

Promotion of Innovation and Development of applied research, science and data beneficial to the mission and strategic goals of the District: The Outlet Improvement Project will modernize an irrigation dam and reservoir that has been used continuously since 1937. The infrastructure improvements of this project will allow for more accurate flow monitoring via upgraded electric controls for new guard and regulating gates, ultimately conserving water and preventing a gate failure causing loss of irrigation water and possible damage to farmland. The motor operated regulating valve will make it possible to decrease spills and over-deliveries to irrigators. There is also installation of electrical components for Supervisory Control and Data Acquisition (SCADA) control which will be installed in a later phase.

It is anticipated that the water management software portion of this project will increase the efficiency and accuracy in setting annual water appropriations to shareholders. This will decrease the mismatch between “water on the books” and “actual water available” for delivery in the reservoir. This project is expected to help prevent a water-related crisis or conflict.

BOARD ACTION ITEM #2 – Minturn Water Storage Tank Project

Project Applicant: Town of Minturn

Request: \$500,000

Location: Eagle County

Staff Recommendation: Staff requests that the Board approve the request to contribute, in the form of a grant, \$250,000 in partial funding from the Colorado River District Community Funding Partnership to the Town of Minturn to assist with the Minturn Water Storage Tank Project.

Partial funding represents a contribution of about 8% of the total project cost reflecting a need to balance the River District's limited funds, while continuing to support large-scale municipal projects. This award acknowledges actions that the Town of Minturn has taken to review its

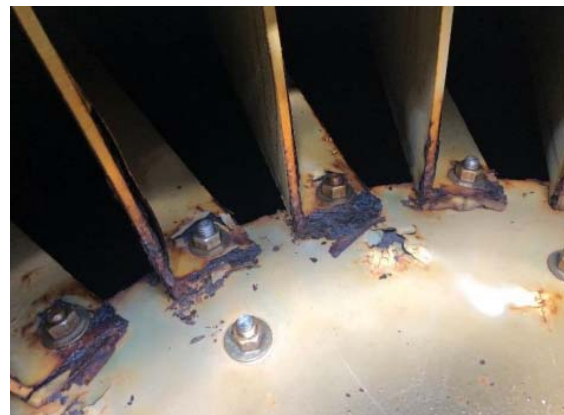


water needs, including the development of a Water Capital Improvements Plan, the completion of a Water Rate Study, and subsequent increases to their water rates.

Staff further recommends for the purpose of internal River District accounting that the awarded funds be attributed to the CFP funding categories: Infrastructure (70%) and Conservation and Efficiency (30%).

- I. **Project Description:** Located in Eagle County, the Town of Minturn seeks to upgrade its water infrastructure to address existing water loss rates, public safety concerns, and increased wildfires in the area, while preparing to meet the growth demands of the community. At 25 years old, the Town’s existing water tank is reaching the end of its useful life. A recent inspection identified deterioration, multiple active leaks in the shell plates, and significant deficiencies and violations for the CDPHE Design Criteria for Potable Water Systems. This water tank construction project will include a 280-foot access road, a leveled pad 0.8 acres in size, two new concrete tanks approximately 40-foot in diameter and 40-foot tall, and 770 feet of buried pipelines connecting the tanks to the adjacent water treatment plant.

Figure 2: Town of Minturn – Existing Storage Tank



Source: SGM Tank Inspection Memorandum

- II. **Staff Analysis:** Staff has completed a full staff analysis for this project and confirmed that the project aligns with the River District Mission, Strategic Plan, and Policy Statements by supporting the modernization of aging water supply infrastructure that poses a direct risk to public health, as current conditions exceed drinking water health-based standards. Replacing the aging water tank is critical to ensuring the health and well-being of all Minturn water users by preventing exposure to contaminated water.



In addition, the redundancy provided by these new water tanks will serve consumptive and non-consumptive water demands in the Town. With 680,000 gallons of water storage combined, these new water tanks will ensure the Town has enough water to meet current and future demands. Finally, this project builds redundancy, which is critical to addressing uncertainty resulting from climate-induced drought and/or wildfire events.

- a. Analysis of Project Funding and Leverage of CRD Funds:** Table 3 below identifies the project funders and matching dollars. Colorado River District funds will be used for construction. The Applicant requested the River District contribute \$500,000, representing 16% of the total project costs including a total cash match ratio of 5.4:1 (\$2,696,632: \$500,000).

The project will be primarily financed through a low-interest loan serviced by the Colorado Department of Public Health and Environment (CDPHE) State Revolving Fund. The Town of Minturn has secured a \$3 million loan at a rate of 2.5% for 20 years. Therefore, the CRD funding contribution will lower the Town's loan obligation and allow for investments in remaining water infrastructure needs.

The Town of Minturn recently completed a Water Capital Improvements Plan (2018), which identified necessary improvements costing over \$17 million. Following the completion of the Water Capital Improvement Plan, the Town implemented a rate study in 2019, and following initial rate increases in 2019, the Town has committed to reviewing its rate structure annually to better conform with the needs of their capital improvements.

Table 3: Funding Partners

Funding Partner	Cash	Total	Funds Committed (Y/N)
CDPHE State Revolving Loan	\$2,496,632	\$2,496,632	Y
Town of Minturn Enterprise Fund	\$200,000	\$200,000	Y
Colorado River District – Requested Community Funding Partnership	\$500,000	\$500,000	
Total	\$ 3,196,632	\$ 3,196,632	

**Table 4: Project Budget**

Task Name	Total
Construction	\$2,409,659
Mobilization/Demobilization	\$192,773
Testing	\$25,000
Stormwater Permit	\$5,000
Construction Surveying	\$10,000
Construction Engineering	\$72,300
20% Contingency	\$481,900
Total	\$3,196,632

- b. Local Community Support:** The applicant has submitted a letter of support from the Eagle County Board of County Commissioners.
- c. Human Resource Requirements:** The District will not play any role in overseeing construction of this project.
- d. Risk Analysis:** Staff has completed a risk analysis and has not identified any significant legal liability or exposure to the District due to this project. The project team has taken appropriate steps to mitigate potential project failures including undertaking a tank site analysis that considered factors such as proximity to existing infrastructure, environmental considerations, property ownership, constructability, accessibility, and operational considerations when choosing the project location. Following site selection, ground and boring samples were also taken to ensure hillside stability. Other mitigation measures have included 20% contingencies built into the budget to cover any unexpected costs that may arise throughout construction such as fluctuations in cost of labor, materials, equipment, and services or over competitive bidding or market conditions. Finally, the Town has consulted with Colorado Parks and Wildlife to identify an appropriate construction window that minimizes any wildlife impacts.
- e. Additional Factors to Consider:**

Preservation of pre-Compact Water Rights: The proposed water tank project helps to preserve pre-Compact water rights to Cross Creek (1916).

Enhancement of a project's long-term viability: The new water tanks will have an expected life cycle of 100 years. The redundancy provided will support the community during drought events, provide emergency storage supplies during power outages and wildfires, and provide enough volume to meet projected peak demands in the years to come.



BOARD ACTION ITEM #3 – Maybell Diversion and Headgate Modernization Project

Project Applicant: The Nature Conservancy

Request: \$500,000

Location: Moffat County

Staff Recommendation: Staff requests that the Board approve the request to contribute, in the form of a grant, \$500,000 from the Colorado River District Community Funding Partnership to The Nature Conservancy for the Maybell Diversion and Headgate Modernization Project.

Staff further recommends for the purpose of internal River District accounting that the awarded funds be attributed to the CFP funding categories: Productive Agriculture (30%), Infrastructure (40%), Healthy Rivers (15%), and Conservation and Efficiency (15%).

- I. Project Description:** The Maybell irrigation diversion withdraws water through two broken and antiquated headgates into the Maybell Ditch. Built in 1896, the ditch is approximately 18 miles long, flows roughly in line with the river, and serves 18 water users. The Maybell Irrigation District (MID) is one of the largest irrigators in the Yampa Basin with a decreed flow of 129 cfs.

Additionally, the Maybell reach of the river includes 21.3 river miles from the point of diversion to the end of the ditch where water returns to the Yampa River. It is home to three endangered and one threatened fish species [the Humpback chub, Bonytail, Colorado pikeminnow, and the Razorback sucker] whose movement is often constrained by low flows in the channel, especially during irrigation season (April – October).

For recreational users, the Maybell reach is noted as a hazard for recreational paddling due to landslides, large boulders that block the river, and gravel push-up dams that hinder fish and boat passage. In addition, during certain flow conditions, boaters need to portage around the Maybell diversion due to the drop in flow velocities and exposed rock in the channel. These boaters inadvertently increase erosion and damage riparian vegetation on the riverbanks as well as facing hazards themselves.

This proposed project involves reconstructing the historic Maybell diversion and modernizing the headgate in the lower Yampa River. New remote-controlled headgates will allow for easier operation and more precise allocation of irrigation water after many decades of difficult maintenance challenges. The Nature Conservancy, Maybell Irrigation District, Friends of the Yampa, and other partners are committed to increasing water users' control of irrigation water, while improving aquatic habitat for at least 20 miles by removing impediments to flow, boat, and fish passage.

**Figure 3: Maybell Diversion**

Source: TNC

II. Staff Analysis: Staff has completed a full staff analysis for this project and confirmed that the project aligns with the River District Mission, Strategic Plan, and Policy Statements by modernizing irrigation infrastructure, while protecting and conserving the efficient use of water. Additionally, the project supports irrigation efficiency and climate adaptation in response to low flows and increased irrigation demands during long-term drought. Finally, this project exemplifies multiple benefits by supporting irrigation water security, while also benefiting the natural environment through improved fish and boat passage.

a. Project Funding and Leverage of CRD Funds: Table 5 below identifies the current project funders and matching dollars. Colorado River District funds will primarily be used for construction and SCADA for the diversion upgrade. The Applicant requested the River District contribute \$500,000, representing 10% of the total project costs including a total cash match ratio of 5.4:1 (\$4,566,748: \$500,000).

This project is heavily supported by local, state, and federal grant funding with the exception of private donors funding \$650,000 and the Maybell Irrigation District providing \$20,000 of in-kind support. The high cost of the project is largely driven by difficulties in accessing the site due to its remote location and steep slopes to mobilize construction equipment to the site.

Pending Board approval, staff will continue to work with The Nature Conservancy and the Maybell Irrigation District to address ongoing O&M needs/costs and to ensure that the River District approves of any project changes should pending funding applications not be secured. The Applicant has indicated that they do not intend to scale back the project to a level that would prevent project partners from achieving the full set of project goals.

**Table 5: Funding Partners**

Funding Partner*	Cash	In-Kind	Total	Funds Committed (Y/N)
The Nature Conservancy	\$878,634		\$878,634	Y
Colorado Water Conservation Board - Roundtable	\$268,114		\$268,114	Y
Maybell Irrigation District		\$20,000.00	\$20,000	Y
BOR – WaterSMART	\$1,500,000		\$1,500,000	N *Application Submitted
Colorado Water Conservation Board – Water Plan Grant	\$960,000		\$960,000	N *Application Submitted
NRCS EQIP	\$900,000		\$900,000	N *Application Submitted
Yampa River Fund	\$60,000		\$60,000	Plans to apply for 2022 Round
Colorado River District – Requested Community Funding Partnership	\$500,000		\$500,000	
Total	\$5,066,748	\$20,000	\$5,086,748	

Table 6: Project Budget

Task Name	Total
Construction & SCADA	\$751,203
Headgate	\$420,000
Submerged Weirs and Installation	\$3,822,230
Project Management and Administration	\$93,315
Total	\$5,086,748

There are no private entities participating in a manner that will result in a profit nor will there be a revenue stream generated from the completed project.

- b. Local Community Support:** The applicant has included letters of support from the Maybell Irrigation District, the Moffat County Board of County Commissioners, and the Yampa River System Legacy Project. Additionally, this is a priority project from the Yampa, White, Green Basin Roundtable.



The Maybell Irrigation District, as Owner and Operator, has been a priority partner during the planning, development, and implementation of the project. MID has played an integral role on the team in reviewing and providing input to all designs of the project as well as stakeholder and water user outreach. As a community-driven project, the project team conducts a thorough review of project operability and cross checks with ditch riders and users of the Maybell Canal and the greater community.

- c. **Human Resource Requirements:** The District will not play any role in overseeing construction of this project.
- d. **Risk Analysis:** Staff has completed a risk analysis and has not identified any significant legal liability or exposure to the District due to this project. The project team is working with a reputable contractor (JUB engineering) as their project designer and lead engineering team. Additionally, the project team has held pre-consultation and pre-permitting meetings with regulatory agencies such as the Army Corps, CDPHE, BLM, and USFWS.
- e. **Additional Factors to Consider:**

Preservation of pre-Compact Water Rights: The project helps to preserve approximately 45 cfs of pre-Compact senior water rights owned by Maybell Irrigation District. MID operates with seniority in this reach of the Yampa River.

Reduction of Operational Costs to the Operator: The remote control upgrades will eliminate the need for multiple people to access the headgate in order to manually open or close it. While the communications network will require annual maintenance, the project team has identified a communications network with technician support located in Grand Junction to ensure there are service opportunities.

Enhancement of a project's long-term viability: The project arose due to a decades-old need to remedy and update the Maybell diversion and headgate. It currently operates as an entirely manual system with antiquated and broken headgates which inefficiently convey water and pose a recreational boat and fish passage risk at low flows. The construction and modernization of the entire diversion and headgate configuration will ensure long-term delivery of irrigation water, provide remotely operable headgates, facilitate fish passage, and improve recreational boat safety. It will also contribute to drought and climate resilience in Maybell Irrigation District's operations by increasing operability in low flow conditions

Promotion of innovation within a water use sector: The project demonstrates effective, multi-benefit elements that combine irrigation system infrastructure upgrades with environmental and recreational protection. This project will use



modern telemetry equipment to enable remote operation of the headgates in an area that has previously only had access to manual controls. This innovation and deployment of this equipment in challenging, remote terrain, will serve as a model and inspiration for other similar projects and water management entities.

BOARD ACTION ITEM #4 – West Slope Growing Water Smart Project

Project Applicant: The Sonoran Institute

Request: \$102,000

Location: District-Wide

Staff Recommendation: Staff requests that the Board approve the request to contribute, in the form of a grant, \$102,000 from the Colorado River District Community Funding Partnership to The Sonoran Institute for the West Slope Growing Water Smart Project.

Staff further recommends for the purpose of internal River District accounting that the awarded funds be attributed 100% to the Conservation and Efficiency CFP funding category.

- I. Project Description:** Since 1990, the Sonoran Institute connects people and communities with the natural resources that nourish and sustain them. The non-profit organization serves Colorado and the west with a vision of a Colorado River Basin where rivers flow, landscapes are healthy, and all communities thrive.

In partnership with the River District, this project will deliver a Growing Water Smart training and assistance program for five to seven West Slope communities to catalyze implementation of water conservation and the wise use of our water assets through land use planning. The program supports implementation of land use-related water conservation and stormwater management strategies that are best suited to each community. The overall program includes three components: 1) a policy scan and opportunities report, 2) a workshop, and 3) technical assistance to support project implementation.

The Growing Water Smart policy scan and opportunities report assesses the adequacy and effectiveness of existing local policies, plans, and programs and the ability of these entities to implement them. It will also identify opportunities to strengthen both policies and implementation.

The cornerstone of the program is a three-day training workshop centered around examining and selecting strategies available to water providers and land use planners to promote the wise use of water assets, integrate water conservation and efficiency into land use policies, and plan for a community that is resilient to future water threats. The Sonoran Institute in partnership with the Colorado River District will develop team structures that accommodate participation from smaller, rural communities that often face capacity and time restrictions. Teams will leave with a detailed action plan and will be eligible to apply for follow-up assistance to implement their plans

**Figure 4: Sonoran Institute**

Source: Sonoran Institute

- II. Staff Analysis:** Staff has completed a full staff analysis for this project and confirmed that the project aligns with the River District Mission, Strategic Plan, and Policy Statements. The River District's Strategic Plan recognizes that 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. The Growing Water Smart Trainings and partnership with the Sonoran Institute moves the District's strategic initiative forward to promote, encourage, and support wise and efficient use of all of Colorado's water resources.

Additionally, this project compliments the CRD communication strategies focused on working with municipalities on both sides of the divide to establish land use and building codes emphasizing water conservation and permanent, robust outdoor watering restrictions and policies to keep water flowing West.

a. Project Funding and Leverage of CRD Funds:

Table 7 below identifies the current project funders and matching dollars. The project is intended to be a 50-50 cost-share between the River District and the Colorado Water Conservation Board. Therefore, the River District requested funds represent 50% of the total project costs including a total cash match ratio of 1:1 (\$102,000: \$102,000).

Table 7: Funding Partners

Funding Partner	Cash	Total	Funds Committed (Y/N)
Colorado Water Conservation Board – Water Plan Grant	\$102,000	\$102,000	N *Application Submitted
Colorado River District – Requested Community Funding Partnership	\$102,000	\$102,000	
Total	\$ 204,000	\$ 204,000	

**Table 8: Project Budget**

Task Name	Total
Policy Scan	\$31,200
Training Workshop	\$99,000
Technical Assistance	\$73,800
Total	\$204,000

There are no private entities participating in a manner that will result in a profit nor will there be a revenue stream generated from the completed project.

- b. Local Community Support:** The applicant has included letters of support from past participants and communities that speak to the value and impact they derived from the project. These letters of support include Grand County and the Northwest Colorado Council of Government (NWCCOG) Water Quality and Quantity Committee.
- c. Human Resource Requirements:** The River District will be a primary partner working with the Sonoran Institute through this project. This includes guiding the recruitment process for community participation, overseeing the creation of an advisory committee, providing insight into the policy scan approach, and assisting with the Growing Water Smart Trainings.
- d. Risk Analysis:** Staff has completed a risk analysis and has not identified any significant legal liability or exposure to the District due to this project. The Sonoran Institute brings over 20 years of experience designing training and assistance programs, which has allowed for continual refinement to minimize any risk of failure. Examples include:
 - i.** A team selection process with eligibility requirements demonstrating prior support and commitment to integration of water and land use planning.
 - ii.** A team-based approach to training that requires diverse local stakeholder participation in the program.
 - iii.** Development of detailed action plans outlining achievable near-term outcomes with leads, completion dates, and support needs for each task.
 - iv.** Follow-up assistance to participating communities to aid in the implementation of their action plans

e. Additional Factors to Consider:

Promotion of innovation within a water use sector: This project supports innovation in the local land use planning and policy sector by supporting innovation approaches to achieving water conservation and efficiency. As an example, Grand County carried out an inclusive process for developing a Drought Preparedness



Program that extended beyond the County’s jurisdiction to include municipalities and other entities as signatories and participants in the plan.

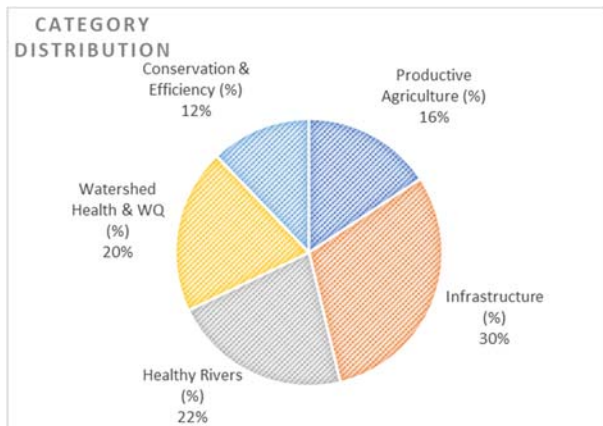
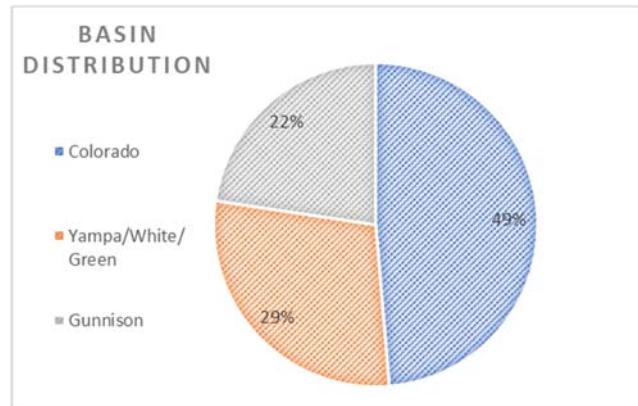
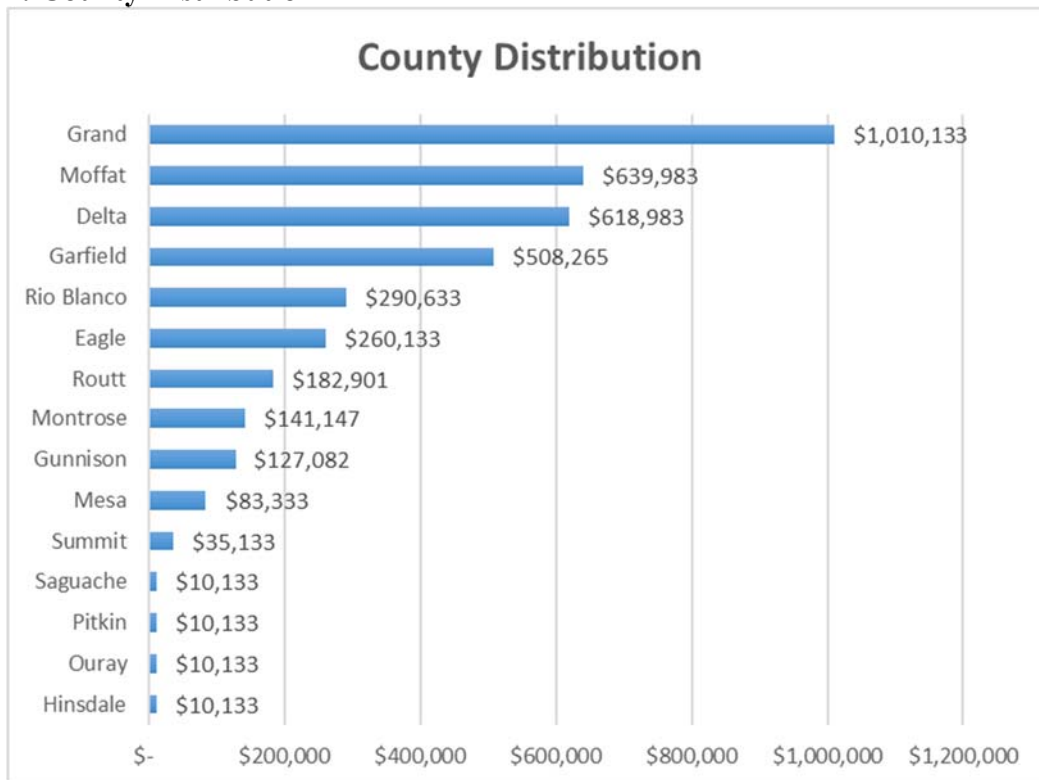
Development of applied research, science and data beneficial to the mission and strategic goals of the District: This project supports the applied research, science, and data beneficial to the River District mission by building consensus around the use of water supply and demand data and associated assumptions related water supply and demand forecasts.

INFORMATIONAL – 2022 Awarded Projects

Table 9: 2022 Awarded Projects			
	Applicant	Project Name	Awarded Amount
1*	Orchard City Irrigation District	Fruitgrowers Dam Outlet Gates Improvement Project	\$ 225,000
2*	Town of Minturn	Minturn Water Storage Tank Project	\$ 250,000
3*	The Nature Conservancy	Maybell Diversion and Headgate Modernization Project.	\$ 500,000
4*	The Sonoran Institute	West Slope Growing Water Smart Project	\$ 102,000
	*Pending Board Approval	TOTAL	\$ 1,077,000
		2021 + 2022 Total	\$ 3,938,262

INFORMATIONAL - Equity Targets

Staff continues to track the District’s category and geographic equity targets. As a reminder, the CFP Framework includes a commitment to funding each of the defined categories in approximately equal amounts on a running five-year average. In addition, the Framework includes a commitment to equitably disperse the funds geographically within the District’s boundaries both on a county-by-county basis and on a sub-basin drainage basis on a running five-year average. The following charts depict current distributions across 2021 and 2022, including staff recommendations from this memo.

**Figure 5: Category Distribution****Figure 6: Basin Distribution****Figure 7: County Distribution**

**Note: These charts include previous awards and staff recommendations contained within this memo.*



COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: AMY MOYER, DIRECTOR OF STRATEGIC PARTNERSHIPS

SUBJECT: COMMUNITY FUNDING PARTNERSHIP – ADMINISTRATIVE CHANGES

DATE: JANUARY 18-19, 2022

ACTION ITEMS:

- (1) Staff requests that the Board approve the revised Community Funding Partnership Framework. **[Exhibit A]**
- (2) Staff requests that the Board approve the revised Community Funding Partnership Grant Agreement Template. **[Exhibit B]**
- (3) Staff requests that the Board approve the Community Funding Partnership Emergency Grant Agreement Template. **[Exhibit C]**

STRATEGIC INITIATIVE(S):

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.

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.



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.

Community Funding Partnership - 2021 Year in Review: In its first year, the Community Funding Partnership (CFP) awarded nearly \$3 million in funding to 23 projects. These awards ranged in size from \$4,588 up to \$1 million with a median award amount of \$50,000. Geographically, funding was distributed across 10 counties in each river basin, and the CFP Program is on-track towards meeting its 5-year running average for categorical equity targets with Watershed Health & Water Quality (28%), Healthy Rivers (27%), Infrastructure (25%), Productive Agriculture (14%), and Conservation and Efficiency (6%).

As we look ahead to 2022, Staff proposes several administrative changes to streamline processes, particularly as our portfolio of active grant contracts grows. Overall, the intention behind these changes is to maximize the use of our limited staff resources and to position the Community Funding Partnership as a funding source that is responsive and supportive to the unique needs of our water users.

Framework Changes:

- ***General Manager Authority Caps:*** The Board has delegated authority to the General Manager to review, consider, approve and/or deny application for the Community Funding Partnership in amounts up to \$50,000 for any single project. Currently, this delegation of authority does not exceed an aggregate total of \$400,000 in any single calendar year. In 2021, staff routed 11 projects totaling \$382,778 through this approval authority. This required constant monitoring and forecasting of the \$400,000 cap and resulted in the need for Board consideration of two projects that otherwise would have met the threshold for General Manager approval.

Staff recognizes a need to extend this authority to allow for a quicker response to emergency project needs, projects operating on an accelerated timeline, or projects that are small or limited in scope. To assure accountability, Staff will continue to provide a comprehensive report on grants approved under this provision to the Board on a quarterly basis. Therefore, staff recommends amending the aggregate total from \$400,000 to \$1,000,000 in any single calendar year.

- ***Emergency Assistance:*** The CFP Program supersedes the River District's prior Emergency Grant Program. In recognition of the importance of providing funding for projects resulting from a natural hazard or unforeseen emergency, Staff proposes acknowledging the need to provide funding on an emergency basis allowing for reimbursement of project costs up to six months prior to the date of the application. To qualify, the applicant must include:



-
- A summary of the emergency which caused the repair or rehabilitation to be necessary.
 - A description, with evidence, if possible, that deferred maintenance and/or neglect of the applicant was not the cause of damage to the project.

Emergency projects will follow the standard process for application consideration, including the delegations of authority granted to the General Manager to review, consider, approve and/or deny applications.

A revised Framework is attached as Exhibit A to this memo.

Grant Agreement Template: The initial CFP Grant Agreement largely mirrored the grant agreement template from the River District's previous grant program. Over the past year, Staff has identified several updates to streamline our contracting processes and better align the Grant Agreement template to the CFP Program. **The Grant Agreement is attached as Exhibit B** to this memo. Changes include:

- A standard three-year period of performance following the date of the Award Letter.
- Initial disbursement upon notification of project commencement.
- Lowering minimum insurance requirements to align with the State of Colorado grant programs and industry standards.
- Allowance to reduce the River District funding award if total project costs are reduced >10 percent than originally estimated at the time of application.

Emergency Grant Agreement Template: This template, **attached as Exhibit C**, is a slightly modified version of the CFP Grant Agreement template that acknowledges a start date of up to six months prior to the application date and in most cases provides the grant payment as a single disbursement following the completion of the emergency repairs or rehabilitation project.

Program Guidelines (Informational; No Action Required): Staff will make conforming changes to the Program Guidelines available as an additional resource to project applicants. In addition to these changes discussed above, Staff has included two additional clarifications related to past cash contributions toward a project and funding allowances for administrative and project management support. For your information, these Guidelines are attached as **Exhibit D** to this memo.

GO BACK TO MEMO

**CRD
COMMUNITY
FUNDING PARTNERSHIP
FRAMEWORK**

January ~~19, 2021~~ 2022

Introduction:

On November 3, 2020, the registered electorate of the Colorado River Water Conservation District (the District or CRD) approved Ballot Question 7A. Ballot Question 7A, in its entirety reads:

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 an additional property tax levy of 0.248 mills (for a total mill levy of 0.5 mills) to enable the Colorado River District to protect and safeguard Western Colorado water by:

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

provided that the District will not utilize these additional funds for the purpose of paying to fallow irrigated agriculture; 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?

When taking action to place this ballot question on the November 2020 ballot, the CRD Board adopted Resolution 2020-01 which included within it an Implementation Plan. The Implementation Plan articulates the River District's clear intent and commitment as to how the newly authorized funds would be used by the District if the voters approved the ballot question. Specifically, the Board committed to allocating approximately 86% of the funds annually to fund partnerships with water users and communities within the District on projects identified as priorities by local communities and Basin Roundtables.

The Implementation Plan adopted by the Board pledged that 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; and

- conservation and efficiency.

The Board indicated that 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 sources.

In Resolution 2020-01, the District expressly stated that it will not utilize the funds raised by this ballot question for the purpose of paying to temporarily or permanently fallow irrigated agriculture and the Implementation Plan affirms the River District's commitment to coordinating and consulting local elected officials in all relevant counties prior to committing funds to any specific project or activity pursued by the District.

The purpose of the following document is to provide a transparent framework and common understanding as to how this program will function for all Colorado River District stakeholders, i.e. our taxpayers, water users, potential applicants, elected officials, community members, and River District Board members and staff.

Commencing with the 2021 budget cycle, the CRD shall create a line item in the General Fund Budget which identifies the funds available in the budget year for appropriation for project funding. Except as otherwise provided for herein, these funds shall only be allocated and committed with Board approval. The District recognizes and values the importance of transparent and public accounting and allocation of these funds; therefore, CRD staff shall be charged with conducting the following analysis and recommendation to the Board for each request to allocate project funding.

Purpose: To provide District Board and staff with an appropriate, objective and transparent tool and process to evaluate any new external or internal request for project funding in order to determine the appropriateness of the request within the District's mission, the District's commitment to the citizens of the District as set forth in ballot question 7A approved on November 3, 2020 and as more specifically articulated by the Board in Resolution 2020-01.

Intent: To provide an objective framework and transparent process by which staff will initiate or receive, evaluate and potentially recommend to the Board of the CRD, requests for project funding from funds received by the District as a direct result of Ballot question 7A's passage. Additionally, this document is intended to provide guidance to the CRD Board members as they evaluate and make approval decisions on these project funding requests.

Process: All requests for funding under the CRD Community Funding Partnership shall be analyzed by staff pursuant to the following criteria. Projects that the staff determines meet the criteria shall be recommended to the Board for funding at the regular quarterly meeting or special Board meeting following staff's analysis hereunder. Staff members receiving requests for assistance from any party, (i.e. constituent, other government, Board Member, or non-governmental organization) and/or desiring to initiate any new project with funding from these funds on behalf of the District must collaborate with ~~their department head~~ the Director of Strategic Partnerships to work through the analysis set forth below and, utilizing the District-approved form, draft a concise written analysis recommending or advising against providing the assistance requested.

Required Elements to Staff Analysis and Recommendation:

I. Mission Alignment:

Does the request/project fit within the Mission of the District as expressed in the Board's Mission Statement, its Strategic Plan, and the language of question 7A?

- Staff should be able to objectively articulate which (hopefully multiple) strategic plan initiatives the request fits within.
- Is the requested activity in compliance with or contravene any written policy of the District? Staff should provide a reference to relevant policies and if no policies apply, explain why the project should be funded.

II. Identification of which Categories from the Implementation Plan are Fulfilled:

A. Category Allocation: Staff shall identify which of the following categories or buckets apply to the proposed project and if more than one (which is preferred) identify the approximate percentage applied to each applicable category. This section of the analysis should contain a narrative prepared by staff which articulates the rationale supporting the identification of and allocation between categories.

- (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 for the purpose of permanently or temporarily fallowing 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 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.

B. Fund Distribution by Category:

To implement the District's commitment to funding each of these categories in approximately equal amounts over time, the District shall exert a reasonable effort to expend these project funds in a such a manner that the above five listed categories will receive approximately equal funding on a running five-year average. In order to assist the District Staff and Board, the District accounting staff shall keep a current year and a running five-year average as to how the District has allocated Community Funding Partnership funds. Staff shall include the effect of any recommended funding to the current year and running five-year average allocation when presenting any recommendation to the Board.

C. Geographic Equity:

The District has committed to expending the project funds in a manner which equitably disperses the funds geographically within the District boundaries over time. The District staff shall keep track of a five-year running average of where project funds are allocated, both on a county by county basis and on a sub-basin drainage basis (i.e. Gunnison, mainstem Colorado and Yampa/White/Green). When considering equitable geographic distribution, the staff and Board will consider all relevant factors, including but not limited to: the running average distribution of funds, the relative population of counties and basins, the relative financial contribution, the number of requests for funding from certain counties and or drainages and the relationship of any particular request to the strategic goals of the District. With each funding recommendation, the staff shall provide the current running five-year allocation of funds by basin and staff's analysis on the factors listed in this paragraph.

III. Analysis of Project Funding and Leverage of CRD Funds:

The intent of the District is that District funds shall not be the sole source of funding for any project. It is the expectation and intent of the District that the applicant or project proponent will contribute funds and utilize District funds to leverage state, federal or private funds to the project. While there is, at this time, no minimum percentage contribution required by a project proponent, the extent of project proponent and non-District funding shall be a factor in evaluating any project for District funding.

For any Community Funding Partnership request recommended for CRD funding, District staff shall require applicant or project proponent to provide a complete disclosure of all funds and

funding sources being utilized to complete the project. If District funds are to be used as matching funds from a different source (i.e. federal, state or private funding sources), the District may award funds in a manner that is contingent upon the applicant receiving the matching funds.

Community Funding Partnership awards may be made in the form of grant, loan and/or investment in a project. If a project has funding from a non-public entity (whether in-kind or direct funding) and that entity has the intent to receive a profit from the operation or construction of the project, the applicant or project proponent shall disclose and deliver to the staff of the CRD all relevant funding agreements, letters of intent or understanding, contracts, operating agreements or corporate documents which serve as the basis of the agreement between the proponent and the non-public entity. In some circumstances, non-public partner projects may profit from projects funded by the River District. In such circumstances, staff may suggest conditions for the approval of project funding that provides a return on the River District's investment that is equitable in comparison to the rate of return to the private entity. In doing so, District staff shall evaluate all risks posed to the District related to this investment and/or loan and staff shall not commit the District to any obligation which is not authorized by law or may be considered a multi-year fiscal obligation.

IV. Local Community Support:

The District is committed to coordinating and consulting local elected officials in any and all relevant counties prior to committing funds to any specific project or activity pursued by the District.

Any applicant or project proponent shall, as part of the application process submit a letter of support for the project from the board(s) of county commissioners in which county the project is located and/or water from the project will be utilized. If a project is proposed to occur within the boundaries of a municipality, it is strongly recommended that the project proponent provide a letter of support from the governing body of said municipality. Should a letter of support for a project not be available from the appropriate local government(s), project proponents shall provide a detailed explanation of the reasons. Prior to recommending a project for funding to the Board in which there is not a letter of support from the local board(s) of county commissioners, the staff member in charge of processing the request shall work with the Director of Government Affairs and the General Manager to communicate with the District Director from the affected county and the relevant board(s) of county commissioners. Staff shall accurately convey any concerns or opposition to the project expressed by the board(s) of county commissioners to the CRD Board as part of the recommendation.

V. Human Resource Requirements:

It is the intent of the District that the project funding shall primarily be a financial relationship with the project applicant. There are, however, instances where the District may desire or need to contribute technical, legal, administrative or government advocacy resources to the project. Projects for which staff recommends staff involvement beyond the project funding shall require staff to conduct the following additional analysis.

Staff should prepare a detailed and realistic analysis of the short, and long-term number of staff

hours and the nature of the staff involvement.

- Identify who would be the lead District staff on any new project.
- The estimate should include the number of months/years of involvement, the number of hours for each anticipated staff member on a monthly or quarterly basis and a computation of the actual, loaded cost for each of the involved employees.
- If such request involves multiple departments, those department heads shall be brought into this initial analysis process.
- Need to have an affirmative finding that proposed staffing needs can be met by existing District staff capacity.

VI. Risk Analysis:

Staff shall conduct a thorough risk analysis of any funding request. Areas of risk to be analyzed shall include but not be limited to:

- Public health, safety and welfare;
- Consequences of project failure;
- Potential injury to vested absolute water rights;
- Potential for ongoing financial need (whether operational or during construction phase);
- Reputational risk to the District;
- Potential for District staff involvement beyond that identified above; and
- Evaluation and disclosure of any potential conflict of interest by District staff or Board members.

VII. Additional Factors to be Evaluated:

The District recognizes that the scope and type of projects which will be funded by this program will cover a wide spectrum of water projects and as such the District desires to keep funding criteria broad enough to be inclusive of as many different types of projects as possible. However, there are a number of elements that the District may consider when evaluating a funding request:

- A. Preservation of pe-Compact Water Rights;
- B. Non-injury to other water users;
- C. Negative effects caused by reduction in return flows;
- D. Reduction of water consumption;
- E. Reduction of operational costs to the operator;
- F. Enhancement of a project's long-term viability;
- G. Promotion of innovation within a water use sector;
- H. Development of applied research, science and data beneficial to the mission and strategic goals of the District;
- I. Size, complexity and importance of a project which may warrant consideration of multiple sequential funding awards; and
- J. Any other factors deemed relevant by the District.

VIII. Timing and Process:

- A. Application Forms. The District staff shall create an application form and an internal staff evaluation form. The District shall provide access to those forms together with the District's strategic plan, written policies and this framework to any interested applicant or project proponent.
- B. Application Timing. The program will be funded annually with a rolling application process. The Board may consider any staff recommendation at any of its regular quarterly or special meetings. For a project proponent's request to be considered at a meeting of the Board, the project proponent shall submit all information required by staff no later than six weeks prior to the next regularly scheduled District Board meeting. The General Manager may make exceptions for emergency situations which, in the opinion of the General Manager, warrant such consideration. Neither the staff or Board shall be required to evaluate a request that is not complete or contain all relevant information and documentation. While the District will make every attempt to process funding requests in a timely manner, the District reserves the right to delay consideration of any request if the District has other business which it determines is of higher importance to the mission of the District.
- C. Reconsideration Process. Should staff make a determination not to fund a project which is within the delegated authority of the General Manager (see, Section IX below), or make a determination not to recommend funding for a project of any size that does not satisfy all applicable criteria, an applicant may, within 30 days of receiving a notice of adverse determination, request that the River District reconsider the request. Such request shall be delivered in writing to the General Manager and shall specify the grounds for reconsideration. Upon receipt of a timely request for reconsideration, the General Manager shall schedule the request on the agenda of the next quarterly meeting of the Board at which there is practicable time to consider said appeal. The Board shall review and consider the request and may grant the applicant the opportunity to present their case or the Board may act on the request based on its review of the written reconsideration and any material submitted by the General Manager. The Board's determination of a request for reconsideration shall be final. The River District's determinations with respect to project funding is a purely discretionary policy-making function of the River District and there are no adjudicatory or substantive rights associated with funding requests from the River District's Community Funding Partnership.
- D. Execution of Funding Program. Staff shall create and implement processes for successful applicants with respect to disbursement of funds, progress reports and completion reports and inspections and methods for appropriate recognition of District Funding on project literature and location. Applicants shall adhere to any such requirements.

IX. Delegation of Authority to General Manager:

The Board hereby delegates authority to the General Manager to review, consider, approve and/or deny application for the Community Funding Partnership in amounts up to \$50,000 for any single project. This delegation of authority shall not exceed an aggregate total of ~~\$400~~1,000,000 in any single calendar year. The General Manager shall abide by the terms of this Framework in considering any grant requests which fall within this delegation of authority. The General Manager shall provide a report to the Board on a quarterly basis of all requests approved or denied under this authority.

X. Emergency Projects:

The District recognizes the need to support emergency infrastructure repair and related activities that arise from a natural hazard or unforeseen emergency through no fault or lack of action on the part of a water right holder. The District staff shall develop a process to provide funding on an emergency basis with an allowance to reimburse prior costs upon staff review and approval by either the General Manager or Board. Emergency projects will follow the standard process for application consideration, including the delegations of authority granted to the General Manager to review, consider, approve and/or deny applications.

X.XI. Board Discretion:

The Board reserves the right to modify this Framework at anytime in the future and further reserves the right to waive any requirement set forth herein.

Community Funding Partnership Contract

This Contract is made and entered into by and between the COLORADO RIVER WATER CONSERVATION DISTRICT (herein the "River District") and _____ (herein "Awardee") effective as of the date of the River District's execution hereof.

RECITALS

- A. The River District is charged by its organic statute, C.R.S. § 37-46-101, *et seq.*, with securing and ensuring adequate water supplies, both present and future, for beneficial uses within the River District's boundaries.
- B. In 2020, the registered electorate of the River District approved Ballot Question 7.A. authorizing a mill levy increase to generate additional funding further enabling the River District to protect and safeguard western Colorado water.
- C. The River District has adopted the Community Funding Partnership Framework ("Framework") and the Community Funding Partnership Guidelines ("Guidelines") articulating its clear intent on how the additional funding would be used to assist its constituents such as the Awardee.
- D. To assist its constituents, including the Awardee, the River District has established its Community Funding Partnership ("CFP")
- E. Awardee proposes to complete the project described herein and has made application to the River District's CFP for financial assistance pursuant to and in compliance with the River District's Framework and Guidelines.
- F. The River District has reviewed the Awardee's project proposal pursuant to its Framework and Guidelines and desires to assist with the funding of the project subject to the terms and conditions of this Contract, and Awardee desires to receive such financial assistance from the River District as provided herein.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises agreed to herein, the parties agree as set forth below.

1. Awardee's Project Plan and Budget. -The Awardee shall, in a satisfactory manner as determined by the River District, use the River District CFP funding consistent with the Project Plan and Budget ("Project") as described herein and attached as Exhibit A. The funding provided by the River District to Awardee shall be used only for the Project. In the event the Awardee needs or desires to make changes to the Project as described in Exhibit A, any expenditures of River District's CFP funds shall be contingent on the prior written approval of the change by River District.

~~A. The total cost of the Project is estimated by Awardee to be \$_____ as documented in Exhibit A.1 (Budget).~~

~~A. The estimated date for commencement of~~The period of performance for the Project is three years following the date of the Award letter.

Project Performance Start Date:

Project Performance Termination Date:

~~is _____. The estimated date for the completion of the Project is _____. Awardee shall repay the full amount of any funds received if the Project is not commenced on or before [add date: 90 days after the commencement date identified above].~~

2. River District's Financial Assistance.

A. River District agrees to provide financial assistance to the Awardee in an amount not to exceed \$_____ (the "Total Award").

B. After execution of the contract and within 90 days of project commencement, the Awardee will notify the River District of the intended date of project commencement. Within thirty (30) days following notification, Within thirty (30) days after Awardee complies with subparagraph 6.C below by providing the River District with the required certificates of insurance, the River District will forward to Awardee \$_____, which constitutes twenty-five (25%) of the Total Award.

C. Once the Contract has been fully executed by all parties, and all other required documentation has been received fifty percent (50%) of the Total Award will be paid through "progress payments" in no more than two twenty-five percent (25%) increments. The remaining twenty-five percent (25%) will be paid upon a determination that the Project is substantially complete and the District has received a completed "Request for Final Payment" form including all required documentation from the Awardee in accordance with Paragraph 54, below.

D. Within thirty (30) days of Awardee submitting River District staff approval of a completed "Request for Final Payment" form, in compliance with subparagraph 54.A below, the River District will forward to Awardee the remaining amount of the Total Award. If the total cost of the Project is greater than 10 percent less than originally estimated at the time of application, the River District may reduce the River District award proportionally at the discretion of the General Manager.

E. If determined necessary by the River District, the River District will issue Awardee an IRS 1099 form and other applicable federal or state revenue reporting forms for each year in which funds are distributed pursuant to this Contract. Awardee is and shall be solely liable and responsible for any federal and state taxes applicable to this Contract and any financial assistance received hereunder. Awardee shall

indemnify the River District for any liability resulting from non-payment of such taxes.

3. Awardee's Compliance with Applicable Local, State, and Federal Laws. The work performed pursuant to this Contract shall comply, at all times, with all applicable local, state, and federal laws and regulations. Awardee shall not discriminate against any person because of age, sex, race, national origin, ancestry, disability, religion, or other protected classification.

(1)Compliance with C.R.S. § 8-17.5-102:

- (a) Awardee shall not knowingly employ or contract with an illegal alien to perform the Work.
- (b) Awardee shall not enter into a contract with a subcontractor that fails to certify that the subcontractor shall not knowingly employ or contract with an illegal alien to perform the Work.
- (c) Awardee will participate in the e-verify program^[1] or department program^[2] in order to confirm the eligibility of all employees who are newly hired for employment to perform the Work.
- (d) Awardee shall not use the e-verify program or department program to undertake pre-employment screening of job applicants during the term of this Agreement.
- (e) Awardee obtains actual knowledge that a subcontractor performing the Work knowingly employs or contracts with an illegal alien, the Awardee shall:
 - i) Notify the subcontractor and the River District within three days that the Awardee has actual knowledge that the subcontractor is employing or contracting with illegal aliens; and
 - ii) Terminate the subcontract if the subcontractor does not stop employing or contracting with the illegal alien within three days of receiving such information. If the subcontractor provides information to establish that the subcontractor did not knowingly employ or contract with an illegal alien, then the Awardee shall not terminate the subcontract.

^[1]E-verify program means the electronic employment verification program created in Public Law 104-208, as amended, and expanded in Public Law 108-156, as amended and jointly administered by the United States department of homeland security and the social security administration, or its successor program.

^[2]Department program means the employment verification program established pursuant to C.R.S. §8-17.5-102(5)(c).

- (f) Awardee shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation of whether Awardee or a subcontractor has hired an illegal alien.
- (g) If Awardee violates any of the terms of this section D.(1), or otherwise fails to comply with C.R.S. § 8-17.5-102, the River District may terminate the Agreement for breach of contract and the Awardee shall be liable for actual and consequential damages to the River District.

_____[Option: if Awardee is an individual as opposed to a corporate entity:] Compliance with C.R.S. § 24-76.5-103. Awardee must provide an executed affidavit, attached hereto as Exhibit B, verifying Awardee's lawful presence in the United States and a photocopy of Awardee's valid driver's license or other proof of lawful presence in the United States. [reminder: if individual cannot provide a driver's license or other proof, individual must provide a request for waiver--Page 2 of the affidavit]. The River District, in its sole discretion, reserves the right to request additional proof of Awardee's lawful presence in the United States.

4. Final Payment and Repayment of River District Grant.

- A. Within ~~thirty-sixty (3060)~~ days after completion of the Project, Awardee shall submit to the River District a completed "Request for Final Payment" form, ~~which is attached hereto as Exhibit _____.~~ Timely submission shall be required for final payment pursuant to subparagraph 2.D. above.
- B. If completion of the Project is interrupted or delayed beyond the ~~estimated completion~~contract termination date stated in subparagraph ~~21.B~~A above, Awardee shall notify the River District on or before **[estimated-60 days prior contract completion-termination date]** and request a Contract Amendment to extend the ~~estimated completion date~~termination date.
- C. Awardee shall not be eligible for final payment if the River District does not receive ~~either a completed Request for Final Payment form, or a request for a Contract Amendment to extend the estimated completion date,~~ on or before **[add 30-60 days to following estimated contract completion-termination date]**.

5. Awardee's Additional Responsibilities and Liabilities.

- A. Awardee shall be responsible for making all contracts and assuring the acquisition of all interests in property or other rights and all permits or other governmental approvals needed to complete the Project.
- B. Awardee shall be responsible for the acts, errors and omissions of itself and its employees, consultants, agents, and any other persons employed or retained on behalf of Awardee in connection with the Project and for the acts, errors and

omissions of the Project's owners and users. Awardee agrees to indemnify, hold harmless, and defend the River District and its directors, officers, employees, agents, and attorneys for the actions, errors and omissions of Awardee and Awardee's employees, consultants, agents, and any other persons employed or retained on behalf of Awardee in the performance of this Contract and for the acts, errors and omissions of the Project's owners and users. The parties recognize that the River District is a governmental entity subject to the provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

- C. At its sole cost Awardee or its contractor(s) shall purchase and maintain in effect through Project completion insurance which will protect it and the River District from claims which may arise out of, result from or be related to Awardee's performance of the work on the Project, whether such performance be by itself or by anyone directly or indirectly retained or employed by Awardee or by anyone for whose acts, errors, or omissions any of them may be liable. Such insurances required herein shall be written for limits of liability as follows:
- i. Commercial General Liability:
 - (1) Bodily Injury and Property Damage:
\$21,000,000 each occurrence/\$21,000,000 aggregate
 - (2) Personal Injury:
\$21,000,000 each occurrence/\$12,000,000 aggregate
 - ii. Commercial Automobile Liability:
 - (1) Bodily Injury & Property Damage:
\$12,000,000 any one accident or loss
 - iii. Workers' Compensation and Employer's Liability:
 - (1) Workers' Compensation: Statutory
 - (2) Employer's Liability:
\$100,000 each accident
\$100,000 disease - each employee
\$500,000 disease - policy limit
- D. The Commercial General Liability and Commercial Automobile Liability policies required hereunder shall include the River District named as additional insured. If Awardee's Contractor is providing the necessary insurance Awardee shall also be named an additional insured. Awardee shall supply the River District with a certificate of each insurance policy required herein prior to or along with the notice of project commencement in accordance with Paragraph 2.B. at least thirty (30) days prior to the estimated commencement date stated in subparagraph 2.B above, unless otherwise agreed upon by the parties. The certificates of insurance shall evidence that the premium has been paid and contain a valid provision or endorsement that the policies may not be canceled, terminated, changed or modified without thirty (30) days written notice to the River District. Each certificate of

insurance **must** reference the contract number assigned to this Agreement (_____).

- E. Awardee warrants performance of this Contract and the completion of all work required for the Project. Awardee and any persons working on its behalf shall at all times comply with all applicable local, state, and federal laws and regulations. Not by way of limitation of the foregoing, it is specifically agreed that neither Awardee nor any persons working on its behalf on the Project shall discriminate against any person because of age, race, sex, national origin, ancestry, disability, or religion.

6. Authorized Representatives.

- A. The River District designates Amy Moyer, as its representative for primary contact for the River District in connection with this Contract. The address, telephone number and email address for notices and communications is: 201 Centennial Street, Suite 200, Glenwood Springs, Colorado 81601, phone: (970) 945-8522, amoyer@crwcd.org.
- B. Awardee designates _____ as its representative to act for Awardee in connection with this Contract. The address, telephone number and email address for notices and communications is: _____, phone: _____, email: _____.

7. Miscellaneous.

- A. Assignment. This Contract involves the grant of public money. Consequently, this Contract shall not be assigned by Awardee without the River District's prior written approval, which may be withheld in the River District's sole discretion.
- B. Binding Effect. This Contract shall be immediately binding upon both parties and their respective successors, if any.
- C. No Partnership, Joint Venture or Third Party Beneficiaries. This Contract is not intended to and does not create any legal partnership, joint venture or similar relationship between the River District and Awardee or any other persons or entities. The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement shall be strictly reserved to the River District and Awardee, and nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other third person or entity. It is the express intent of the parties to this Contract that any person or entity receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.
- D. Additional Limitations on the River District's Responsibilities. The River District's involvement with the Project's construction and operation shall be limited to payment of the above sum to Awardee. The River District shall not be responsible

for or in control of the Project's feasibility, implementation, operation, maintenance, repair, or replacement.

- E. Remedies. If Awardee is in breach or default of any obligation under this Contract, the River District may give Awardee written notice of such breach or default. Upon receipt of such notice, within thirty (30) days Awardee shall both cure such breach or default and provide the River District evidence of such cure. If Awardee fails to cure any such breach or default within thirty (30) days, the River District may terminate this Contract and Awardee shall be required to promptly repay to the River District the full amount of any grant funds received. In any action for breach or for enforcement of this Contract, the River District shall be entitled to recover its attorneys fees and litigation costs.
- F. Notices. All notices required or appropriate pursuant to this Contract shall be given in writing to the parties' designated representatives at the addresses stated in paragraph 7. ~~Notices shall be deemed received upon hand delivery or three (3) days after first class mailing thereof with return receipt requested.~~
- G. Entire Agreement/Amendments. This Contract is the complete integrated understanding between the parties. No prior or contemporaneous addition, deletion, or other amendment to this Contract shall have any force or effect unless stated in writing approved and executed by both parties.

(continued on next page)

IN WITNESS WHEREOF, the Parties hereto have accepted, made and executed this Contract upon the terms, conditions and provisions stated herein.

**COLORADO RIVER WATER CONSERVATION
DISTRICT**

DATE: _____

By: _____
Andrew A. Mueller, Secretary/General Manager

ATTEST:

APPROVED AS TO FORM:

Audrey Turner, Chief of Operations

By: _____
Jason V. Turner, Senior Counsel

[Name of Awardee]

By: _____
Name: _____

**Community Funding Partnership Contract
Emergency Projects**

This Contract is made and entered into by and between the COLORADO RIVER WATER CONSERVATION DISTRICT (herein the "River District") and [REDACTED] (herein "Awardee") effective as of the date of the River District's execution hereof.

RECITALS

- A. The River District is charged by its organic statute, C.R.S. § 37-46-101, *et seq.*, with securing and ensuring adequate water supplies, both present and future, for beneficial uses within the River District's boundaries.
- B. In 2020, the registered electorate of the River District approved Ballot Question 7.A. authorizing a mill levy increase to generate additional funding further enabling the River District to protect and safeguard western Colorado water.
- C. The River District has adopted the Community Funding Partnership Framework ("Framework") and the Community Funding Partnership Guidelines ("Guidelines") articulating its clear intent on how the additional funding would be used to assist its constituents such as the Awardee.
- D. To assist its constituents, including the Awardee, the River District has established its Community Funding Partnership ("CFP")
- E. Awardee proposes to complete the project described herein and has made application to the River District's CFP for financial assistance pursuant to and in compliance with the River District's Framework and Guidelines.
- F. The River District has reviewed the Awardee's project proposal pursuant to its Framework and Guidelines and desires to assist with the funding of the project subject to the terms and conditions of this Contract, and Awardee desires to receive such financial assistance from the River District as provided herein.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises agreed to herein, the parties agree as set forth below.

1. Awardee's Project Plan and Budget. The Awardee shall, in a satisfactory manner as determined by the River District, use the River District CFP funding consistent with the Project Plan and Budget ("Project") as described herein and attached as Exhibit A (Completed Application). The funding provided by the River District to Awardee shall be used only for the Project. In the event the Awardee needs or desires to make changes to the Project as described in Exhibit A, any expenditures of River District's CFP funds shall be contingent on the prior written approval of the change by River District.

- A. The period of performance for the Project begins up to six months prior to the application date.

Project Performance Start Date: [up to 6 months prior to the application date]

Project Performance Termination Date: [no more than three years following the Start Date]

2. River District's Financial Assistance.

- A. River District agrees to provide financial assistance to the Awardee in an amount not to exceed \$ [redacted] (the “Total Award”).
- B. Within thirty (30) days of River District staff approval of a completed “Request for Final Payment” form, in compliance with subparagraph 4.A below, the River District will forward to Awardee the amount of the Total Award. If the total cost of the Project is 10 percent less than originally estimated at the time of application, the River District may reduce the River District award proportionally at the discretion of the General Manager.
- C. If determined necessary by the River District, the River District will issue Awardee an IRS 1099 form and other applicable federal or state revenue reporting forms for each year in which funds are distributed pursuant to this Contract. Awardee is and shall be solely liable and responsible for any federal and state taxes applicable to this Contract and any financial assistance received hereunder. Awardee shall indemnify the River District for any liability resulting from non-payment of such taxes.

3. Awardee’s Compliance with Applicable Local, State, and Federal Laws. The work performed pursuant to this Contract shall comply, at all times, with all applicable local, state, and federal laws and regulations. Awardee shall not discriminate against any person because of age, sex, race, national origin, ancestry, disability, religion, or other protected classification.

(1)Compliance with C.R.S. § 8-17.5-102:

- (a) Awardee shall not knowingly employ or contract with an illegal alien to perform the Work.
- (b) Awardee shall not enter into a contract with a subcontractor that fails to certify that the subcontractor shall not knowingly employ or contract with an illegal alien to perform the Work.

- (c) Awardee will participate in the e-verify program^[1] or department program^[2] in order to confirm the eligibility of all employees who are newly hired for employment to perform the Work.
- (d) Awardee shall not use the e-verify program or department program to undertake pre-employment screening of job applicants during the term of this Agreement.
- (e) Awardee obtains actual knowledge that a subcontractor performing the Work knowingly employs or contracts with an illegal alien, the Awardee shall:
 - i) Notify the subcontractor and the River District within three days that the Awardee has actual knowledge that the subcontractor is employing or contracting with illegal aliens; and
 - ii) Terminate the subcontract if the subcontractor does not stop employing or contracting with the illegal alien within three days of receiving such information. If the subcontractor provides information to establish that the subcontractor did not knowingly employ or contract with an illegal alien, then the Awardee shall not terminate the subcontract.
- (f) Awardee shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation of whether Awardee or a subcontractor has hired an illegal alien.
- (g) If Awardee violates any of the terms of this section D.(1), or otherwise fails to comply with C.R.S. § 8-17.5-102, the River District may terminate the Agreement for breach of contract and the Awardee shall be liable for actual and consequential damages to the River District.

[Option: if Awardee is an individual as opposed to a corporate entity:] Compliance with C.R.S. § 24-76.5-103. Awardee must provide an executed affidavit, attached hereto as Exhibit B, verifying Awardee's lawful presence in the United States and a photocopy of Awardee's valid driver's license or other proof of lawful presence in the United States. [reminder: if individual cannot provide a driver's license or other proof, individual must provide a request for waiver--Page 2 of the affidavit]. The River District, in its sole discretion, reserves the right to request additional proof of Awardee's lawful presence in the United States.

^[1]E-verify program means the electronic employment verification program created in Public Law 104-208, as amended, and expanded in Public Law 108-156, as amended and jointly administered by the United States department of homeland security and the social security administration, or its successor program.

^[2]Department program means the employment verification program established pursuant to C.R.S. §8-17.5-102(5)(c).

4. Final Payment of River District Grant.

- A. Within sixty (60) days after completion of the Project, Awardee shall submit to the River District a completed "Request for Final Payment" form. Timely submission shall be required for final payment pursuant to subparagraph 2.B. above.

5. Awardee's Additional Responsibilities and Liabilities.

- A. Awardee shall be responsible for making all contracts and assuring the acquisition of all interests in property or other rights and all permits or other governmental approvals needed to complete the Project.
- B. Awardee shall be responsible for the acts, errors and omissions of itself and its employees, consultants, agents, and any other persons employed or retained on behalf of Awardee in connection with the Project and for the acts, errors and omissions of the Project's owners and users. Awardee agrees to indemnify, hold harmless, and defend the River District and its directors, officers, employees, agents, and attorneys for the actions, errors and omissions of Awardee and Awardee's employees, consultants, agents, and any other persons employed or retained on behalf of Awardee in the performance of this Contract and for the acts, errors and omissions of the Project's owners and users. The parties recognize that the River District is a governmental entity subject to the provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*
- C. At its sole cost Awardee or its contractor(s) shall purchase and maintain in effect through Project completion insurance which will protect it and the River District from claims which may arise out of, result from or be related to Awardee's performance of the work on the Project, whether such performance be by itself or by anyone directly or indirectly retained or employed by Awardee or by anyone for whose acts, errors, or omissions any of them may be liable. Such insurances required herein shall be written for limits of liability as follows:
- i. Commercial General Liability:
 - (1) Bodily Injury and Property Damage:
\$1,000,000 each occurrence/\$1,000,000 aggregate
 - (2) Personal Injury:
\$1,000,000 each occurrence/\$1,000,000 aggregate
 - ii. Commercial Automobile Liability:
 - (1) Bodily Injury & Property Damage:
\$1,000,000 any one accident or loss
 - iii. Workers' Compensation and Employer's Liability:
 - (1) Workers' Compensation: Statutory
 - (2) Employer's Liability:

\$100,000 each accident
\$100,000 disease - each employee
\$500,000 disease - policy limit

- D. The Commercial General Liability and Commercial Automobile Liability policies required hereunder shall include the River District named as additional insured. If Awardee's Contractor is providing the necessary insurance Awardee shall also be named an additional insured. Awardee shall supply the River District with a certificate of each insurance policy required herein prior to or along with the notice of project commencement in accordance with Paragraph 2.B. The certificates of insurance shall evidence that the premium has been paid and contain a valid provision or endorsement that the policies may not be canceled, terminated, changed or modified without thirty (30) days written notice to the River District. Each certificate of insurance **must** reference the contract number assigned to this Agreement ().
- E. Awardee warrants performance of this Contract and the completion of all work required for the Project. Awardee and any persons working on its behalf shall at all times comply with all applicable local, state, and federal laws and regulations. Not by way of limitation of the foregoing, it is specifically agreed that neither Awardee nor any persons working on its behalf on the Project shall discriminate against any person because of age, race, sex, national origin, ancestry, disability, or religion.
6. Authorized Representatives.
- A. The River District designates Amy Moyer, as its representative for primary contact for the River District in connection with this Contract. The address, telephone number and email address for notices and communications is: 201 Centennial Street, Suite 200, Glenwood Springs, Colorado 81601, phone: (970) 945-8522, amoyer@crwcd.org.
- B. Awardee designates as its representative to act for Awardee in connection with this Contract. The address, telephone number and email address for notices and communications is: , phone: , email:
7. Miscellaneous.
- A. Assignment. This Contract involves the grant of public money. Consequently, this Contract shall not be assigned by Awardee without the River District's prior written approval, which may be withheld in the River District's sole discretion.
- B. Binding Effect. This Contract shall be immediately binding upon both parties and their respective successors, if any.

- C. No Partnership, Joint Venture or Third Party Beneficiaries. This Contract is not intended to and does not create any legal partnership, joint venture or similar relationship between the River District and Awardee or any other persons or entities. The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement shall be strictly reserved to the River District and Awardee, and nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other third person or entity. It is the express intent of the parties to this Contract that any person or entity receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.
- D. Additional Limitations on the River District's Responsibilities. The River District's involvement with the Project's construction and operation shall be limited to payment of the above sum to Awardee. The River District shall not be responsible for or in control of the Project's feasibility, implementation, operation, maintenance, repair, or replacement.
- E. Remedies. If Awardee is in breach or default of any obligation under this Contract, the River District may give Awardee written notice of such breach or default. Upon receipt of such notice, within thirty (30) days Awardee shall both cure such breach or default and provide the River District evidence of such cure. If Awardee fails to cure any such breach or default within thirty (30) days, the River District may terminate this Contract and Awardee shall be required to promptly repay to the River District the full amount of any grant funds received. In any action for breach or for enforcement of this Contract, the River District shall be entitled to recover its attorneys fees and litigation costs.
- F. Notices. All notices required or appropriate pursuant to this Contract shall be given in writing to the parties' designated representatives at the addresses stated in paragraph 7.
- G. Entire Agreement/Amendments. This Contract is the complete integrated understanding between the parties. No prior or contemporaneous addition, deletion, or other amendment to this Contract shall have any force or effect unless stated in writing approved and executed by both parties.

(continued on next page)

IN WITNESS WHEREOF, the Parties hereto have accepted, made and executed this Contract upon the terms, conditions and provisions stated herein.

**COLORADO RIVER WATER CONSERVATION
DISTRICT**

DATE: _____

By: _____
Andrew A. Mueller, Secretary/General Manager

ATTEST:

APPROVED AS TO FORM:

Audrey Turner, Chief of Operations

By: _____
Jason V. Turner, Senior Counsel

[Name of Awardee]

By: _____
Name: _____



[GO BACK TO MEMO](#)

Program Guidelines

Published January 20, 2022

A. Background:

The Colorado River District's Mission 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.**

On November 3, 2020, the registered electorate of the Colorado River Water Conservation District (the District or CRD) approved Ballot Question 7A. Ballot Question 7A, in its entirety reads:

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 an additional property tax levy of 0.248 mills (for a total mill levy of 0.5 mills) to enable the Colorado River District to protect and safeguard Western Colorado water by:

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

provided that the District will not utilize these additional funds for the purpose of paying to fallow irrigated agriculture; 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?

When taking action to place this ballot question on the November 2020 ballot, the CRD Board adopted Resolution 2020-01 which included within it an Implementation Plan. The Implementation Plan articulates the River District's clear intent and commitment as to how the newly authorized funds would be used by the District if the voters approved the ballot question. Specifically, the Board committed to allocating approximately 86% of the funds annually to fund partnerships with water users and communities within the District on projects identified as priorities by local communities and Basin Roundtables.

CFP Program Guidelines

Published January 20, 2022

Page 2

The Implementation Plan adopted by the Board pledged that 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; and
- conservation and efficiency.

The Board indicated that 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 sources. In Resolution 2020-01, the District expressly stated that it will not utilize the funds raised by this ballot question for the purpose of paying to temporarily or permanently fallow irrigated agriculture and the Implementation Plan affirms the River District's commitment to coordinating and consulting local elected officials in all relevant counties prior to committing funds to any specific project or activity pursued by the District.

B. Pre-Application Applicant Activity:

Applicants are encouraged to review these guidelines, the Community Funding Partnership Framework, the District Application form, and Budget Worksheet prior to applying for and/or consulting with District Staff. After reviewing those documents, Applicants are strongly encouraged to contact the District at partnerfunding@crwcd.org to arrange for a staff level pre-application meeting. Applications which are submitted without the pre-application consultation will be strongly disfavored.

C. Project Eligibility:

A project proponent within the District's 15-county boundaries is eligible to apply for funding. Project proponents include stakeholders such as individuals, local governments, corporations, private entities such as mutual ditch companies, non-profit corporations, and partnerships. Completed projects are not eligible for funding.

D. Project Categories:

Project Categories that were outlined in the Implementation Plan are 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 for the purpose of permanently or temporarily fallowing irrigated agriculture;

CFP Program Guidelines

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- 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 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.

E. Local Community Support

The District is committed to coordinating and consulting local elected officials in all relevant counties prior to committing funds to any specific project or activity pursued by the District.

Applicants are required to submit a letter of support for the project from the board(s) of county commissioners in which county the project is located and/or water from the project will be utilized. If a project is proposed to occur within the boundaries of a municipality, it is strongly recommended that applicants provide a letter of support from the governing body of said municipality. Should a letter of support for a project not be available from the appropriate local government(s), applicants must provide a detailed explanation of the reasons.

F. Matching Criteria

The Community Funding Partnership, at this time, has no minimum percentage contribution required by an applicant. However, it is the intent of the District that project funds will not be the

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sole source of funding for any project. It is the expectation and intent of the District that the applicant will contribute funds and utilize District funds to leverage state, federal or private funds to the project. The River District will accept past, cash contributions specific to the water activity or project as part of the Total Project Cost if the expenditure occurred within the last six months prior to the date of application.

G. Administrative and Project Management Support:

The District recognizes the need to support the full project costs of running a program or developing a project. Applicants may request up to 10% of the total funding request for overall administrative and project management support. These costs must be identified as a separate line item in the project budget.

H. Evaluation Criteria:

Applicants must submit a completed application and all supporting documentation to be considered for funding.

The following are required elements for staff analysis and recommendation:

- I. Mission Alignment
- II. Category Allocation, Fund Distribution by Category, and Geographic Equity
- III. Analysis of Project Funding and Leverage of CRD Funds
- IV. Local Community Support
- V. Human Resource Requirements
- VI. Risk Analysis
- VII. Additional Factors

Further information can be found in the Community Funding Partnership Framework adopted by the CRD Board of Directors.

I. Timeframe & Process for Internal Application Review:

This is a rolling program and therefore, applications and requests for funding can be submitted at any time. Applicants should anticipate six to eight weeks for internal application review, analysis and funding recommendation, contingent upon receiving a complete application.

If the funding request requires Board approval (typically applications over \$50,000), complete application and all materials must be submitted no later than six weeks prior to the next regularly scheduled District Board meeting. The River District's regularly scheduled quarterly meetings fall on the third Tuesday of January, April, July, and October. To ensure sufficient time for staff review and analysis, CRD recommends the following deadlines for applications that require Board approval:

- November 15th (January Board Meeting)
- February 15th (April Board Meeting)
- May 15th (July Board Meeting)
- August 15th (October Board Meeting)

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The General Manager may make exceptions for emergency situations which, in the opinion of the General Manager, warrant such consideration. Neither the staff or Board shall be required to evaluate a request that is not complete or contain all relevant information and documentation. While the District will make every attempt to process funding requests in a timely manner, the District reserves the right to delay consideration of any request if the District has other business which it determines is of higher importance to the mission of the District.

To discuss application deadlines, we encourage applicants to arrange for a pre-application meeting about your proposed application.

J. Emergency Projects:

The District recognizes the need to support emergency infrastructure repair and related activities that arise from a natural hazard or unforeseen emergency through no fault or lack of action on the part of a water right holder. For projects resulting from a natural hazard or unforeseen emergency, the River District will reimburse for project costs up to six months prior to the application date. In addition to the standard application, the applicant must include:

- A summary of the emergency which caused the repair or rehabilitation to be necessary.
- A description, with evidence if possible, that deferred maintenance and/or neglect of the applicant was not the cause of damage to the project.

Emergency projects will follow the standard process for application consideration, including the delegations of authority granted to the General Manager to review, consider, approve and/or deny applications.

K. Community Funding Partnership Approval Authority:

I. General Manager Delegated Authority. The Board has delegated authority to the General Manager to review, consider, approve and/or deny application for the Community Funding Partnership in amounts up to \$50,000 for any single project. This delegation of authority shall not exceed an aggregate total of \$1,000,000 in any single calendar year.

II. Board Level Approval. Any request in the amount more than \$50,000 for any single project will be evaluated by the staff and, upon a favorable staff recommendation will be considered and denied and/or approved by the Board. A request for funding of more than \$50,000 for any single project not recommended for funding by the staff will not be considered by the Board.

III. Re-consideration. An applicant whose request is denied by the General Manager, or not recommended to the Board for funding may request re-consideration of their request by the Board pursuant to the process and subject to the time limits contained in section VII. C. of the Colorado River District Community Funding Partnership Framework. The River District has no obligation and an Applicant has no right to receive funding for any request. The River District's determination with respect to the Community Funding Partnership is a purely discretionary policy-making function of the River District and there are no adjudicatory or substantive rights

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associated with funding requests from the River District's Community Funding Partnership.

L. Funding Agreement Terms:

Upon approval of project funding, the CRD will enter into a contractual funding agreement with the project proponent. The contract will include appropriate special conditions, including but not limited to: 1) limitations on the use of Community Funding Partnership funds; 2) proponent's indemnification of the District; 3) proponent's insurance requirements; 4) proponent's repayment requirements for breach of contracts; and 5) a reporting schedule and requirement which may include interim and final progress reporting requirements.

The project proponent and all other interest holders, such as facility owners, shall accept all responsibility and liability associated with the proposed project, including, but not limited to, property interests, water rights, environmental and permit compliance, on-site and off-site project impacts, project construction, project operations, project maintenance and other obligations.

The CRD's minimum requirements for insurance for contractual agreements are as follows:

1. Commercial General Liability:
 - a. Bodily Injury & Property Damage:
\$1,000,000 each occurrence
\$1,000,000 aggregate
 - b. Personal Injury:
\$1,000,000 each occurrence
\$1,000,000 aggregate
2. Commercial Automobile Liability:
 - a. Bodily Injury & Property Damage:
\$1,000,000 any one accident or loss
3. Workers' Compensation and Employer's Liability:
 - a. Workers' Compensation: Statutory
 - b. Employer's Liability:
\$100,000 each accident
\$100,000 disease - each employee
\$500,000 disease - policy limit

M. Funding Agreement & Distributions of Funds:

The CRD's standard distribution of funds is as follows:

- Upon execution of the contract, receipt of required certificates of insurance and notification of project commencement, the CRD will forward 25% of the Total Award.
- Two progress payments will be made in 25% increments of the Total Award based upon evidence of paid invoices provided by the project proponent.
- The remaining 25% of the funds will be paid upon a determination that the project is substantially complete and the CRD has received a completed "Request for Final Payment" form with all required documentation.

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Disbursements of project funding must be completed within three years of the contract date unless there is an extension requested and approved by District staff and/or board action.

The CRD reserves the right to modify the funding disbursement of project funds.

N. Branding and Signage

We encourage successful applicants to share the news of your funding award and project with your network, project partners, and community members. Upon award, District staff will coordinate with project proponents on award announcements and communication guidelines. For projects that include public access or public signage, you will be required to recognize the District's funding contribution using logos and signage approved by the District.

O. Right to Modify Guidelines, Framework and Application:

The District reserves the right to add, modify or otherwise revise these Guidelines, the Community Funding Partnership Framework, Application, and Budget Worksheet at any time without advance notice. It is the Applicant's obligation to confirm that they have the most up to date program documents.

GO BACK TO AGENDA

15. Project Operations and Updates (an Enterprise Matter).



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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 UPDATES

DATE: DECEMBER 29, 2021

ACTIONS:

Staff requests Board authorization for General Manager to enter into the following contracts all subject to review and approval by legal counsel:

- 1. Geotechnical Laboratory Testing of Ritschard Dam material samples not to exceed \$100,000.*
- 2. A three-year continuing services agreement for surveying of Ritschard Dam with Landmark Consultants, Inc. for \$91,534.*
- 3. A three-year continuing services agreement for water delivery, water system maintenance and repair, and excavation at Wolford Mountain Project with Edexco Inc. for \$90,000.*

STRATEGIC INITIATIVES:

- 13. A. Asset Management. The River District will carefully plan and implement operation, maintenance and replacement (OM&R) activities to ensure the reliable and safe operation of District assets.*

This memorandum provides an update on the Wolford Mountain Project, including dam deformation investigation activities and a recreation area and fishery update, and provides background for three board action requests.

Drilling Investigation and Geotechnical Analysis.

Authentic Drilling Inc. completed five borings at Ritschard Dam over 20 days during November and December of 2021. The borings included in-situ geotechnical testing to understand better the dam materials' physical properties, installation of two inclinometers, and material sampling for forthcoming laboratory analysis. Our consultant, HDR Inc., is preparing a laboratory analysis plan. The River District will contract with a geotechnical laboratory to perform testing once the program is refined, based on input from our consulting Subject Matter Experts and the State Dam Safety Office. Staff requests the Board authorize the General Manager to execute an agreement for geotechnical laboratory testing with Advanced Terra Testing, Inc. not to exceed \$100,000.



Surveying.

The River District has contracted with Landmark Consultants, Inc. since 2014 for surveying at Ritschard Dam. Landmark uses conventional techniques to survey the ninety-one survey monuments three times annually. Implementing a recommendation from the 2020 Comprehensive Dam Safety Evaluation report, Landmark now also collects a 3D LiDAR scan of the downstream surface of the embankment to provide more comprehensive data and a visualization of dam deformation. Staff requests the Board authorize the continued surface monument monitoring and LiDAR scans through a three-year continuing services agreement with Landmark Consultants Inc. not to exceed \$91,534 total.

Water Delivery.

An onsite water system fed by storage tanks filled with trucked water provides potable water for the shop and campground facilities at Wolford Mountain Reservoir. The storage tanks are cleaned each spring before the year's first fill. The River District contracts with Edexco Inc. (d/b/a Raindrop Water Inc.) for water deliveries, tank cleaning, water system maintenance, and excavation. This contract expires on March 1, 2022. Staff researched alternative water delivery providers and determined that Raindrop is the most cost-effective due to the lack of alternative local providers. Staff requests the Board authorize the General Manager to execute a three-year agreement for water delivery and tank service not to exceed \$90,000.

Recreation Area Management.

2021 is the second year of Pass Creek Investment's three-year contract acting as the Recreation Area Concessionaire. The River District has recouped a more significant portion of the Recreation Area costs during the past two years, thanks to increased user fees and a more favorable revenue split with the concessionaire, resulting in gross revenue to the River District during 2021 of approximately \$180,000 based on numbers available at the authoring of this memorandum. The net income to the River District is still negative, with an operating loss to the River District in 2021 of approximately \$82,000. Staff will be meeting with Pass Creek Investments in early January to discuss operations during the 2022 season. Please remember, the operation of the recreation area is required by the District's 1041 permit from Grand County and the net costs of such program are born proportionally with Denver Water.

Fishery Management.

Wolford Mountain Reservoir has an invasive pike population that is managed through annual trapping in the spring and a pike bounty program. Fishers are provided a \$20 reward for every pike turned in. In 2020, Colorado Parks and Wildlife (CPW) did not conduct their usual pike trapping due to the challenges presented by COVID social distancing protocols. Likely due to that gap in trapping, the pike population has swelled. The total amount rewarded for pike bounties has correspondingly increased from less than \$10,000 in previous years to approximately \$40,000 in 2021. Staff has worked with CPW to maintain the pike bounty program while mitigating the River District's financial burden. CPW staff have tentatively agreed to fund 50% of the pike bounty costs above \$10,000 in 2022 and beyond, while continuing their annual spring trapping efforts. We anticipate working with CPW staff over the next few months to enter into an agreement to that effect.



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COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

TO: BOARD OF DIRECTORS, CRWCD

FROM: BRENDON LANGENHUIZEN, DIRECTOR OF TECHNICAL ADVOCACY

SUBJECT: CWCB RUEDI RESERVOIR CONTRACT FEE WAIVER

DATE: JANUARY 5, 2022

ACTION:

Staff requests the Board waive the contract application processing fee of \$400 as requested by the CWCB for their contemplated contract for up to 1,750 AF from Ruedi Reservoir in 2022 for anchor ice mitigation and any remaining amount for delivery to enhance flows in the 15-Mile Reach.

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.*

3.C. The River District will engage in and support water supply planning efforts, local and regional, which include adapting to climate change impacts.

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.*

Strategic Initiatives

12.A The River District will evaluate all projects and investments for the potential impact on cash flows.



During the October 2021 River District Board Meeting, the Board approved staff to contract with the CWCB for up to 1,750 AF from Ruedi Reservoir in 2022 for anchor ice mitigation, with any remaining amount of the 1,750 AF not used for anchor ice mitigation to be available for delivery to enhance flows in the 15-Mile Reach. At the current in-channel use rate this contract would cost the CWCB up to \$122,062.50. The CWCB has requested a waiver of the \$400 application processing fee typically applied to new water lease applications per the River District's Water Marketing Policy. The Board has waived this administration fee for the CWCB in the past for similar anchor ice mitigation contracts from Ruedi Reservoir. Staff recommends the Board waive the \$400 application fee as requested by the CWCB for their considered 1,750 AF contract from Ruedi Reservoir for anchor ice mitigation and enhanced flows in the 15-Mile Reach.



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COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

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

FROM: IAN PHILIPS, CHIEF ACCOUNTANT
DON MEYER, SENIOR WATER RESOURCES ENGINEER

SUBJECT: WATER MARKETING

DATE: DECEMBER 23, 2021

ACTIONS:

Staff requests that the Board approve the 2022 Water Contract Pricing and recommends an increase of 5.00%.

STRATEGIC INITIATIVE(S):

- 6. Agricultural Water Use*
 - 7. Water Needs/Project Development*
 - 12. Financial Sustainability*
-

BACKGROUND

In 2006, the Board changed the District's water marketing policy to allow annual price increases up to the 'Denver-Aurora-Lakewood' (FKA 'Denver-Boulder-Greeley') Consumer Price Index (CPI) plus New Growth Index (NGI), a measure of annual property value stemming from new growth. Contracts entered subsequent to the policy change allow for this annual increase. Prior contracts are limited to increases based on CPI every five years and only for the operation and maintenance (O&M) component of the fee. The price structure for the pre 2006 contracts was last updated in 2018 and are therefore due for review next in 2023.

Last year the CPI and NGI were 1.70% and 1.43% respectively, totaling 3.13%, and the Board approved a 1.70% increase. This year the CPI and NGI are 3.70% and 1.30% respectively for a total of 5.00%. It is important to note that the CPI figure of 3.70% is only a projection, and current as of September 2021. At the time of writing this memo, the December projection was not yet released on DOLA's webpage. The United States is currently facing the highest annual rate of inflation in more than three decades, and there are no signs of it slowing down in the near term. As such, staff's recommendation is an increase equal to the CPI plus the NGI for a total increase of 5.00%.



CURRENT AND RECOMMENDED PRICING

Current and 2022 recommended pricing are shown in the following table:

Post-2006 Contract Pricing Per Acre Feet			
	Current	Recommended	Proposed 2022
	Pricing	Increase	Pricing
Blue River	\$ 1,163.00	5.00%	\$ 1,221.25
Colorado River above Roaring Fork – Ag	\$ 154.00	5.00%	\$ 161.75
Colorado River above Roaring Fork	\$ 387.00	5.00%	\$ 406.50
Colorado River below Roaring Fork – Ag	\$ 47.00	5.00%	\$ 49.50
Colorado River below Roaring Fork	\$ 201.50	5.00%	\$ 211.50
Eagle River	\$ 1,550.50	5.00%	\$ 1,628.00
Eagle River – Ag	\$ 464.25	5.00%	\$ 487.50
Elkhead Reservoir	\$ 197.25	5.00%	\$ 207.00
Elkhead Reservoir – Ag	\$ 33.25	5.00%	\$ 35.00
<i>Identified Source</i> Colorado River above Roaring Fork – M&I	\$ 581.00	5.00%	\$ 610.00
<i>Identified Source</i> Colorado River above Roaring Fork - Ag	\$ 231.00	5.00%	\$ 242.50
<i>Identified Source</i> Colorado River below Roaring Fork – M&I	\$ 302.00	5.00%	\$ 317.00
<i>Identified Source</i> Colorado River below Roaring Fork - Ag	\$ 69.75	5.00%	\$ 73.25
In-Channel – Identified Source: Welford	\$ 231.00	5.00%	\$ 242.50
In-Channel – Identified Source: Ruedi	\$ 69.75	5.00%	\$ 73.25

AVAILABLE SUPPLIES

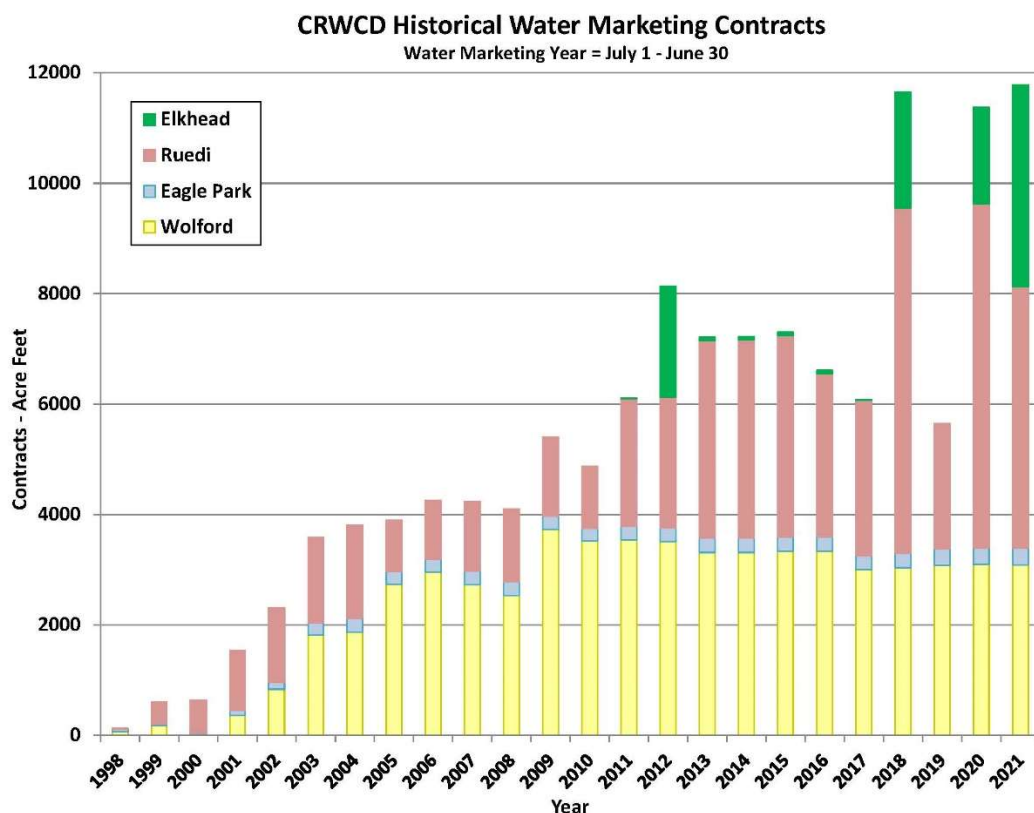
Currently contracted (*excluding in-channel use*) and remaining long-term supplies available for contracting in summer 2022 are shown below. The Ruedi amount available shown in the table does not reflect the additional 4683.5 acre-feet of Ruedi water supplies purchased from Reclamation by the General Fund in 2013 to fully contract Ruedi Round II water, as that water was purchased with Capital Fund monies and is therefore not currently an Enterprise asset and not included in the marketable pool of water available for lease.



Source	Available	Contracted	Pending	Remaining	Right of Refusals	Remaining w/ ROR & Pending
Wolford	8,100 AF	3,086 AF	1 AF	5,013 AF		5,013 AF
Ruedi	6,730 AF	2,730 AF	0 AF	4,000 AF	900 AF	3,100 AF
Eagle Park	432 AF	308 AF	0 AF	124 AF		124 AF
Elkhead	4,457 AF	10AF	0 AF	4,447 AF		4,447 AF
TOTAL	19,719 AF	6,134 AF	1 AF	13,584 AF	900 AF	12,684 AF

HISTORICAL CONTRACTING

The following graph shows the amount of water contracted over time from the Enterprise' dedicated water marketing pools in Elkhead, Wolford, Eagle Park and Ruedi, *including in-channel use*. Without single year in-channel leasing, the volume leased under long-term contracts has generally remained flat, or slightly declined.



Ruedi In-Channel Leases

In 2018 and again in 2020, the Colorado Water Conservation Board contracted for 3,500 acre-feet of Ruedi supply (one-year contracts) for mitigation of anchor-ice in the Fryingpan River, which



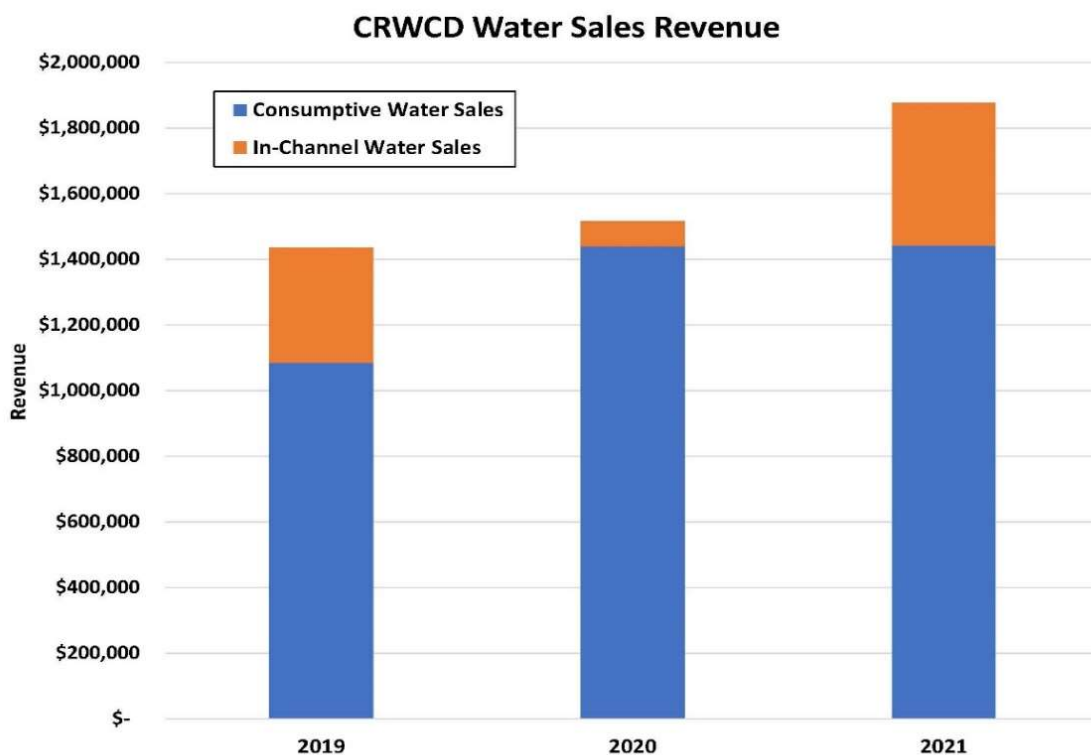
was released early in the following year. In July of 2020, the Colorado Water Trust contracted for 1,000 AF of Ruedi Supply to assist with flows in the 15-mile reach. The chart also includes a Colorado Water Conservation Board proposal for the lease of 2000 acre-feet for mitigation of anchor ice to be released in early 2022, see related memo in the Board packet.

Elkhead Leases

In 2021, Yampa Water Supplies were fully contracted (less evaporative loss), including 1500 acre-feet under the Community Funding Partnership. In August of 2021, the Colorado Water Conservation Board contracted for 677 acre-feet of Elkhead supply (one-year contract) for drought relief assistance to farmers and ranchers in the Yampa Valley. The chart also includes Elkhead water leased in 2012, 2018, 2020 and 2021 from the dedicated contract pool for in-channel use pursuant to the USFWS Short Term Lease Program, to supplement Recovery Program deliveries to the Endangered Fish Critical Reach.

Importance of In-Channel Leases

The Enterprise Fund is mainly supported by annual water sales. Consumptive water contracts have remained relatively stagnant over the past decade. Since 2019, the In-Channel water leases have generated \$861,500 dollars. In certain years the percentage of In-Channel water sales revenue is as high as 24% of total water sales revenue. The following chart reflects recent revenue increases due to in-channel use (single year) leases relative to consumptive (long term) leases.



GO BACK TO AGENDA

16. Future Meetings.

- a. Second Regular Joint Quarterly meeting, April 19-20, 2022, Glenwood Springs, CO.
- b. Third Regular Joint Quarterly Meeting, July 19-20, 2022, Glenwood Springs, CO.
- c. CRWCD Budget Workshop/Special Joint Meeting, September 15, 2022, Location (TBD).
- d. CRWCD Annual Seminar, September 16, 2022, Colorado Mesa University.
- e. Fourth Regular Joint Quarterly Meeting, October 18-19, 2022, Glenwood Springs, CO.
- f. Other Meetings:
 - i. Lower Basin Fact Finding Tour: November 2-4, 2022, Location (TBD).