



Upper Gunnison River Water Conservancy District
210 West Spencer Avenue, Suite B • Gunnison, Colorado 81230 Telephone (970) 641-6065 •
www.ugrwcd.org

BOARD OF DIRECTORS
AGENDA - REGULAR MEETING

Monday, February 28, 2022
5:30 pm

MISSION STATEMENT

To be an active leader in all issues affecting the water resources of the Upper Gunnison River Basin.

- | | | | |
|------|------|-------------|---|
| 5:30 | p.m. | 1. | Call to Order |
| 5:32 | p.m. | 2. | Agenda Approval |
| 5:33 | p.m. | 3. | Changes to Financial Reports |
| 5:40 | p.m. | 4. | Consent Agenda Items: Any of the following items may be removed for discussion from the consent agenda at the request of any Board member or citizen. <ul style="list-style-type: none">• Approval of January 24, 2022 Minutes• Monthly Budget Review• Consideration of Operating Expenses• Consideration of Non-Operating Expenses |
| 5:43 | p.m. | 5. | Legal and Legislative Matters |
| 6:00 | p.m. | 6. | Gothic Raw Water Project Presentation by Janna Hansen, Director of Parks and Recreation, Town of Crested Butte |
| 6:20 | p.m. | 7. | Basin Water Supply Report |
| 6:25 | p.m. | 8. | Dinner Break |
| 6:40 | p.m. | 9. | Treasurer's Report |
| 6:42 | p.m. | 10a. | Discussion: Coordinated Emergency Response Planning |

(continued)

10b. Discussion: Demand Management Market Concept


- 7:15 p.m. **11. General Manager and Staff Reports**
- Homestake Pitch Uranium Mine
 - Gunnison Headwaters Mitigation Bank
 - Community Banks Lake City CD Follow-Up
 - District Phone System Upgrade

 - Staff Reports
 - Wet Meadows Program (Cheryl Cwelich)
 - Grant Program (Beverly Richards)
 - Education and Outreach (Sue Uerling)
 - Miscellaneous Reports
 - Gunnison River Festival Update
 - Scientific Endeavors Update
 - Colorado Water Congress Review
 - Standard Monthly Reports – Solar Panels, Gunnison River Spreadsheet, News Articles
- 7:30 p.m. **12. Director Updates**
- 7:55 p.m. **13. Citizen Comments**
- 8:00 p.m. **14. Future Meetings**
- 8:05 p.m. **15. Summary of Meeting Action Items**
- 8:10 p.m. **16. Adjournment**

Note: This agenda is subject to change, including the addition of items or the deletion of items at any time. All times are approximate. Regular meetings, public hearings, and special meetings are recorded, and action can be taken on any item. The board may address individual agenda items at any time or in any order to accommodate the needs of the board and the audience. Persons with special needs due to a disability are requested to call the District at (970)641-6065 at least 24 hours prior to the meeting.

MEMORANDUM



TO: UGRWCD Board Members
FROM: Jill Steele, Accountant 
DATE: February 15, 2022
SUBJECT: Changes to Financial Reports

I have been working with QuickBooks Pro Advisor Kim Antonucci to streamline and improve the District's financial reporting.

Kim and I embarked on this effort in order to facilitate retrieval of information regarding the District's grants, mainly in conjunction with the Wet Meadows and Watershed Management Planning Programs.

Based on Kim's recommendations, which echoed one by our auditor, Paul Miller, we decided to re-do the District's QuickBooks file, which had become large and somewhat cumbersome. We set up the new file, migrated data from the old file, and have been working to streamline and improve reporting with a goal of providing reports that make it easier to understand the District's financial position as well as simplify data entry and reduce errors. In the past, I have manipulated Excel spreadsheets to match QuickBooks. Now I am hoping to print most reports directly out of QuickBooks in the interests of efficiency.

Attached reports:

1. Monthly Budget Summary. This report contains the same information you are accustomed to seeing, although the format may look a bit different, and some of the line item names are abbreviated or slightly modified. The biggest change for 2022 is that I added a section for Cost of Goods Sold/Cost of Grants for expenses that will be directly charged against a grant the District has received.
2. Bank and Bond Balances. Changes to this spreadsheet include a new, Cost Basis column, and the bonds are shown at their current, market value. I

anticipate continuing to provide this report as an Excel spreadsheet due to the large amount of information displayed.

3. Expenses for Approval. This report includes both operating and non-operating expenses for approval. Please note that board member board meeting fees, which accrue monthly and are paid quarterly, will appear monthly on this report even though they are not paid each month.

This is a work in progress. I am happy to answer any questions, and I welcome your suggestions or input.

AGENDA ITEM 4

Consent Agenda Items

**Upper Gunnison River Water Conservancy District
Regular Board Meeting Minutes
Monday, January 24, 2022**

The Board of Directors of the Upper Gunnison River Water Conservancy District (UGRWCD) conducted a regular meeting on Monday, January 24, 2022, at 5:30 p.m. in the District office, 210 West Spencer Avenue, Suite B, Gunnison, CO, 81230 and via Zoom video/teleconferencing.

Board members present: Sara Bergstrom, Rosemary Carroll (via Zoom), Joellen Fonken (via Zoom), Rebie Hazard (via Zoom), Stacy McPhail, Julie Nania (via Zoom), Bill Nesbitt, John Perusek, Michelle Pierce, Don Sabrowski and Andy Spann (via Zoom).

Others present:

Cheryl Cwelich, UGRWCD Watershed Programs Coordinator

Sonja Chavez, UGRWCD General Manager

John McClow, UGRWCD General Counsel

Beverly Richards, UGRWCD Water Resource Specialist

Jill Steele, UGRWCD Accountant

Sue Uerling, UGRWCD Administrative Assistant/Communications Support Specialist

1. CALL TO ORDER AND INTRODUCTION OF CHERYL CWELICH

Board President Michelle Pierce called the meeting to order at 5:30 p.m. Watershed Programs Coordinator Cheryl Cwelich was introduced to the Board. Cheryl expressed her enthusiasm for joining the UGRWCD team.

2. AGENDA APPROVAL

Director Stacy McPhail moved and Director John Perusek seconded approval of the amended agenda as circulated. The motion carried.

3. CONSENT AGENDA ITEMS

Director Bill Nesbitt moved and Director Stacy McPhail seconded approval of the consent agenda. The motion carried.

4. LEGAL MATTERS

General Counsel John McClow reported that all parties to the Memorandum of Agreement have now signed the agreement for the development of the hydroelectric generation facility proposed

by Gunnison County Electric Association (GCEA) and Uncompahgre Valley Water Users Association at the Taylor Park Dam.

John also reported that the first Legislative Committee meeting of the year was held on Friday, January 21 to discuss potential water bills that could be brought forward during this legislative session. John will continue to monitor these bills and will call more meetings as necessary during the session. Legislative Committee meetings are typically held on Friday mornings at 8 AM via teleconferencing.

5. GENERAL MANAGER’S AND COMMITTEE REPORTS

A. Treasurer’s Report

Treasurer Bill Nesbitt said the Dow was down 1100 points initially today and then came back to finish 99 points up at the end of the day. The volatile trading was due to institutional buying and selling. Bill reported that it is likely that the Fed will raise interest rates at least three times next year. Bill reported that the District will have a US Treasury Note that will come due on February 15, 2022 and that finding any replacements with a better interest rate will be challenging at best. He noted that there is also more cash than he likes to carry in the checking account. A CD at Community Banks of Colorado in Lake City will mature February 20, 2022. He would like the District to continue to keep those monies in Lake City if possible. He asked if Director Pierce could pick up a rate sheet from the Lake City bank to bring to the next Board meeting.

B. Executive Committee Update

President Michelle Pierce reported that the committee met on January 20th to discuss a possible UGRWCD Employee Home Ownership Program, a revised Board meeting schedule and a request for adjusting the General Manager’s Paid Time Off (PTO) maximum accumulation allowance.

Michelle said several questions came up during the Employee Home Ownership Program discussion, so this matter was tabled for further details.

As for changing the current 2022 Board Meeting schedule, Michelle reported the Executive Committee was not in favor of making a change to the schedule but did agree that some committee reports could be given every other month instead of monthly to reduce staff preparation time for Board meetings. General manager Sonja Chavez did say she would like to see the December meeting noted as a “Special Budget Meeting” that would occur remotely due to its shortened length and focus on the budget only. There was also a question regarding whether the board could approve the budget remotely. General Counsel John McClow confirmed that there was no issue with the Board approving the budget remotely since there is a policy that allows for voting remotely.

Michelle reported the Executive Committee was recommending a change to the General Manager's PTO maximum accrual to 432 hours. The General Manager is finding it difficult to take PTO at a frequency that allows her to stay below the current 240 hours of maximum PTO accumulation identified in her contract and maintain her responsibilities. She is losing PTO. The recommendation for 432 hours is consistent with the personnel handbook.

Director Stacy McPhail made the motion to adopt the recommendation of the Executive Committee to increase the General Manager's PTO maximum accrual to 432 hours. The motion carried.

C. Taylor Local User's Group (TLUG)

TLUG Chair Don Sabrowski reported that the District received three letters of application for the "rafting/boating interest" opening and one letter of application for "flat-water recreation interests." These letters (and any letters of recommendation) were circulated to all Board members in the Board packet as follows: Mark Schumacher (requesting renewal of his term for the "rafting/boating representative" along with a letter of recommendation from Ches Russell of Scenic River Tours); Kestrel Kunz (a new "rafting/boating interests" applicant along with a letter of recommendation from John Mason, Western Colorado University Physics Professor); Rob Childerston (a new "rafting/boating interests" applicant); and, Ryan Birdsey (requesting renewal of his term for the "flat-water recreation interests").

Director Sabrowski noted that Mark Schumacher has held the "rafting/boating interests" representative position for several years now and Don feels that Mark does a good job of weighing the flow requests and timing wishes of all of the TLUG representatives. Don noted that Mark even received a letter of recommendation from Ches Russell of Scenic River Tours, one of Mark's competitors. Don "highly recommended" that the Board renew the appointments of Mark Schumacher and Ryan Birdsey for two-year terms each on TLUG.

Director Bill Nesbitt moved and Director Joellen Fonken seconded the appointments of Mark Schumacher and Ryan Birdsey for renewal of their seats on TLUG for another two-year term. The motion carried.

D. Watershed Management Planning Committee

General Manager Sonja Chavez referred the Board to the memo included in the Board packet. Director Bill Nesbitt asked about the Upper Gunnison River Restoration & Irrigation Infrastructure Improvement Project (2021) and wanted a refresher about who was responsible for payment for the project and what it entailed. General Manager Chavez said the multi-beneficial water resource improvement project was designed to eliminate a gravel channel push-up dam in the river and included an improved headgate and other shared infrastructure. The project was funded through various grants including an Upper Gunnison District Grant to Steve Guerrieri, Colorado Water Conservation Board, Colorado River District, and US Fish and Wildlife Service. Significant cash and in-kind services were also provided by water right holders. The Upper Gunnison and Trout Unlimited also provided in-kind services in

managing the project. The project is complete. On-going maintenance for the infrastructure is the responsibility of the water right holders.

E. Grant Committee

Water Resource Specialist Beverly Richards referred to her memo included in the Board packet. Bev said the numbers were pretty slim for potential applicants who attended one of the two virtual grant trainings on January 13 and 18. There was one applicant for the first training and three for the second. Bev has emailed the training to another applicant and it is now posted on the UGRWCD website. The deadline for grant applications is February 15.

F. Education and Outreach Committee

Administrative Assistant/Communications Support Specialist Sue Uerling referred to the memo included in the Board packet. Sue reported that on Friday, January 21, staff met with representatives from the Gunnison Rotary Club and offered sponsorship funds from the “Collaboration with Water Groups” line item on the 2022 Education Action Plan to sponsor the Awards Ceremony for the Rotary Club Fishing Tournament May 7 and 8, 2022 at Blue Mesa Reservoir. With the sponsorship, the District will get to distribute water information rack cards, water bottles, dry bags for cell phones and other promotional items to the estimated 250 participants from all over the state. General Manager Chavez and/or a Board member will be able to give a brief overview of what the District does for the participants at the Awards Ceremony on Sunday, May 8 near the marina. In addition, the District’s sponsorship includes a free entry for one two-person team from the District to participate in the fishing tournament. Sue asked Board members to let her know if they were interested in being on the team and encouraged them to come to the Awards Ceremony. Sue will send more details to the Board as they become available. Sue noted that the tournament has been held for 32 years and was originally organized by the Kiwanis. When the Kiwanis Club became defunct about 6 years ago, the Rotary Club took over the management of the tournament. Proceeds from the tournament support four college scholarships for area youth and Rotary grants for area non-profits.

Director Bill Nesbitt asked how this collaboration came about and Sonja said that Sue reached out to Colorado Parks and Wildlife and the Rotary Club about how the District might be able to collaborate with them on fishing tournaments.

Bill also reported that the last of the District’s supply of the book *Water* were distributed to first graders in Crested Butte and Lake City in November 2021. Copies of the new book *Drop: An Adventure through the Water Cycle* arrived a couple of days ago and Bill said they would be distributed to Gunnison first graders in the next several weeks.

G. Basin Water Supply

Water Resource Specialist Beverly Richards referred to her report in the Board packet. She noted that while soil moisture has improved, there needs to be a lot more snow to get the

basin back to normal. Forecasters predict that we will move from a LaNina pattern now to a neutral pattern until next winter where they predict we will move into an El Nino weather pattern. This usually means a better chance of higher snowpack. With the current snowpack percentage, they are predicting streamflows at 130% of normal, but that snowpack SWE percentage will likely disappear without more precipitation. Bev reminded everyone that there is a long way to go before we see maximum snowpack accumulation amounts – typically in April.

H. Wet Meadows Program

Watershed Program Coordinator Cheryl Cwelich referred to her report in the Board packet and said that her first three weeks have been “very invigorating” as she has had meetings with all of the program partners. Cheryl reported that the transition between Paul Jones and her has gone smoothly and that Paul has been gracious and helpful. Cheryl said the kick-off meeting last week went well as they poured over restoration structure construction sites. Some tasks she will be working on is revising the original 2014 Vision Statement; standardizing monitoring processes; working with staff to develop contracts with volunteer crews and contractors; writing new copy and streamlining existing website information and moving all of the Wet Meadows website onto the UGRWCD.org website; planning for the Sage Grouse Summit at Western Colorado University and finalizing activities outside of the basin per our grant agreements so that we can turn our attention back to the Upper Gunnison as directed by the Board. Cheryl noted that the District won’t be entering into any new grant agreements for work outside of the basin.

General Manager Sonja Chavez noted that Board members may continue to see some checks payable to Paul Jones as he is contracted in 2022 to help with transition to Cheryl’s leadership.

I. Scientific Endeavors

Director Rosemary Carroll noted that she did not have much to report as everyone was just coming back from holiday break. In early January, the groups collaborating on sharing hydrologic models, including the USGS, DOE and others, held their first workshop. Rosemary noted that the DOE SAIL campaign only had good radar data from during the Christmas/New Year’s storm sequence. There are 2 ASO flights currently funded for the East and Taylor River basins. Two more are awaiting additional funding. General Manager Chavez said she hopes there will be funding available for more ASO flights going forward and that the CWCB has a grant application in front of them from a Colorado ASO coalition group. Rosemary said for now the flights will focus on the upper East and Taylor Rivers. No flights are scheduled yet to fly on the Ohio Creek basin.

J. Long Lake Stakeholder Workgroup

This group has not met recently. Director Rosemary Carroll recommended removing this item from the agenda until later when meetings are scheduled again.

K. Gunnison Basin Roundtable (GBRT) Update

General Counsel John McClow reported that the GBRT meeting on January 17, 2022 was relatively short. Steve Anderson of the Uncompahgre Valley Water Users Association received an Irrigation Leader award from Four States Irrigation. The Upper Gunnison District will be managing the CWCB funding and contract for the PEPO Chair. General Counsel McClow also answered questions about Nebraska's proposal to build an irrigation pipeline from Colorado.

L. Gunnison River Festival (GRF) Update

Director Joellen Fonken reported that the GRF Board held their annual meeting on January 20, 2022 and elected officers as follows: Sonja Chavez, President; Marlene Crosby, Vice President; Lizzy McArthur, Secretary; and, Jill Steele, Treasurer; Katie Lewinger, Sponsor Director. Joellen is excited to have Lizzy McArthur on the GRF Board as she also served on the FibArk Board for five or six years and will bring a lot of knowledge and experience to the GRF. Joellen reported that Cheryl Cwelich will serve in the role of staff representative for the GRF. She reminded everyone that the dates for the 2022 GRF are June 10-12, 2022 and that this will be the 20th Anniversary celebration. Joellen said the Lake Fork Valley Conservancy are excited to be involved again this year and will roll out activities on the Lake San Cristobal peninsula property that they purchased last year. The events schedule will be set at the February meeting and will again focus on education.

6. BREAK

7. MISCELLANEOUS MATTERS:

A. Infrastructure Bill

General Manager Chavez reported that Colorado's portion of the Infrastructure Bill funding passed by the federal government has designated \$6.15 billion for water projects and will be distributed over a five-year period. Projects that are designed to improve water treatment or water quality (e.g., PFAS or lead pipe replacement) have a separate funding designation of \$688 million and must have their project on the State Revolving Fund "Project List". Sonja said she will reach out to the municipalities in the basin to be sure that they are aware of the requirements for project submission. Reclamation will be handling the distribution of most of the \$6.15 billion and details are to be determined. None of this funding will be going through the CWCB.

B. Gunnison Headwater Mitigation Bank

General Manager Sonja Chavez reported that she and Travis Moore were not able to connect prior to the Board meeting, so this report will be tabled until the next meeting.

C. Spencer Business Park Condo Association Meeting

General Manager Sonja Chavez referred to the January 6th meeting minutes included in the Board packet and said the primary outcome was that the consensus was not to delay the roof repair. Director Nesbitt also indicated that the District should not delay in seeking repayment from B.A.M.P. LLC immediately.

D. Saguache County Public Hearing on Homestake Mine Mitigation Proposal

General Manager Chavez reported she and Directors Hazard, Nania, and McPhail were in attendance at the public hearing where the draft ordinance was reviewed by the Saguache Board of County Commissioners. Sonja was surprised that before discussing the ordinance that the public was not given much background information around Homestake's proposal to remove drinking water standards from Marshall Creek along with the proposal to drill potentially affected wells deeper into bedrock. Director Nania said that the potential for contamination is certainly a concern for the District but that she's also very concerned that this action could set a precedence for mining companies in general to get out of their responsibilities to meet EPA mitigation standards for water quality, especially as Homestake is already operating under a "Temporary Modification." Homestake also said the water quality is better now than it was in the 70's. The District has not had the opportunity to review the water-quality data Homestake is referring to but plans to do so.

There was a lot of discussion about how far the District should go in expressing our concerns to Saguache County Commissioners. While the decision around an ordinance lies with Saguache County, Director Andy Spann expressed that he does not think the District should be concerned about any political fallout from expressing our concerns about contamination within the District's boundaries and we should move forward with any action we feel best protects the water and the basin. Board members agreed. Director Hazard said that if the District elects to send a letter outlining concerns it should be addressed to all three of the commissioners.

For next steps, Sonja reported that she will draft a letter and can ask for "Active Party Status" on the matter with the Water Quality Control Commission so that the District can provide formal comment or testimony. It was also agreed that the Board should continue to monitor the issue closely and research any other potential sources for data on water quality in this area.

E. Office Renovation Update for Watershed Program Coordinator

General Manager Chavez reported that Bobby Overturf was contracted to remove the cabinetry from the former copy room and install it in the lobby area. This has been completed and the cabinetry works well for Sue Uerling to prepare Board packets. Bobby also repaired the drywall, painted all of the former copy room and installed a sliding barn door since there was no door previously on the copy room. Sonja said the final costs would probably exceed her original estimate and come in around approximately \$1500 with the need to also replace the carpet.

F. Gunnison River Spreadsheet

Director Rebie Hazard asked if the spreadsheet could be enlarged for easier reading.

Director Don Sabrowski asked if there was any progress on the new Doppler gap radar site near Blue Mesa. General Manager Chavez said that due to the Gunnison sage grouse mating season between March 15 and July 15th in the area, it was recommended that the installation of the radar be moved back until after July 15th. Sonja said this means that we may lose out on some of the federal funding that we were expecting to help cover the cost of the data but she looks forward to receiving data next year.

G. Newspaper Articles

Director Bill Nesbitt noted that he recently read an article from the Gilbert, AZ newspaper where they tout their sustained water yield from the Colorado River. Bill said this article raised concerns for him, specifically “how at risk are we?” and whether the Board should take steps now to be prepared. For instance, should the District set aside funds to buy blocks of water for shortages or set aside funds for litigation if necessary.

General Counsel John McClow noted that the Colorado Attorney General is responsible for litigating issues related to the Colorado River Compact, not the District, so setting aside funds for that potential litigation is not necessary. John said the Attorney General has a team preparing for compact compliance issues. Measuring water and how to administer any possible curtailment is the responsibility of the State Engineer. Currently, the State Engineer is developing Measurement Rules for the Yampa River, and when that is complete he will proceed to other basins. Once Measurement Rules are completed the State Engineer will begin the process for developing Compact Curtailment Rules. That process will be contentious, will likely take years, and will involve significant attorney time. So long as the District employs full-time legal counsel no special funding needs to be set aside for legal fees. John said that discussions about compact compliance will continue to happen frequently and that right now, there is not a way to know exactly what shortages we may possibly face basin to basin or state to state.

8. CITIZEN COMMENTS - No citizens were present for comments.

9. FUTURE MEETINGS - A listing of meetings was provided in the Board Packet.

10. SUMMARY OF MEETING ACTION ITEMS

General Manager Sonja Chavez will follow up on checking into CD rates in Lake City and discussing with the District’s bond dealer on possible investments to replace the US Treasury note that comes due on February 15, 2022.

Sonja will send an email out to local municipalities within the basin to make sure they understand the process to make their projects eligible for Infrastructure Bill funding.

Sonja will follow-up on writing a memo to outline the District’s concerns for the Homestake Mine ordinance to share with the Saguache Board of County Commissioners and to request “Active Party Status” with the Water Quality Control Commission on the issue. She will also reach out water quality entities to see what data might be available related to uranium measurements.

District Staff will work on enlarging the Gunnison River Spreadsheet for the packet.

11. ADJOURNMENT

Board President Michelle Pierce adjourned the regular District Board meeting for January 2022 at 7:20 p.m.

Respectfully Submitted,

John Perusek, Secretary

APPROVED:

Michelle Pierce, President

UPPER GUNNISON RIVER WATER ACTIVITY ENTERPRISE
BOARD OF DIRECTORS
REGULAR SEMI-ANNUAL MEETING MINUTES

January 24, 2022

The Board of Directors of the Upper Gunnison River Water Activity Enterprise conducted a semi-annual meeting on Monday, January 24, 2022 at 7:20 p.m. in the District offices, 210 West Spencer Avenue, Suite B, Gunnison, CO, 81230.

Board members present: Sara Bergstrom, Rosemary Carroll (via Zoom), Joellen Fonken (via Zoom), Rebie Hazard (via Zoom), Stacy McPhail, Julie Nania (via Zoom), Bill Nesbitt, John Perusek, Michelle Pierce, Don Sabrowski and Andy Spann (via Zoom).

Others present:

Cheryl Cwelich, UGRWCD Watershed Programs Coordinator

Sonja Chavez, UGRWCD General Manager

John McClow, UGRWCD General Counsel

Beverly Richards, UGRWCD Water Resource Specialist

Jill Steele, UGRWCD Accountant

Sue Uerling, UGRWCD Administrative Assistant/Communications Support Specialist

1. CALL TO ORDER

President Michelle Pierce called the meeting to order at 7:20 p.m.

2. AGENDA APPROVAL

Director Bill Nesbitt moved and Director Stacy McPhail seconded approval of the agenda. The motion carried.

3. CONSENT AGENDA ITEMS:

President Michelle Pierce asked if there were any items to be removed for discussion from the consent agenda. None were requested.

Director Sara Bergman moved and Director Bill Nesbitt seconded approval of the consent agenda items, which included Resolution 2022-1 to Set Posting Place. The motion carried.

4. MERIDIAN LAKE RESERVOIR UPDATE:

General Manager Sonja Chavez reported that she met with the dam inspector in the fall and he had no major concerns. She said there is a small seep at the outlet works that has not grown over the years and that she will continue monitor it. There are some bank erosion issues that could be

addressed but that aren't in any way urgent or critical. She recommended that bank stabilization be presented to the Long Lane Working Group.

Water Resource Specialist Beverly Richards reported that 640 base units have been sold leaving 326 available. The initial cost is \$3,500 per base unit and the annual administrative fee is \$55.00 per base unit.

5. 2022 BUDGET ADOPTION:

President Michelle Pierce referred to the draft budget included in the Board packet and asked if there were any questions or concerns. None were raised.

Director Stacy McPhail moved and Director Sara Bergman seconded adoption of the 2022 WAE budget.

6. CITIZEN COMMENTS:

There were no citizens present for comments.

7. MISCELLANEOUS MATTER:

None were brought forward.

8. SUMMARY OF ACTION ITEMS:

General Manager Sonja Chavez will follow-up on CD rates at area banks.

9. ADJOURMENT:

President Michelle Pierce adjourned the Water Activity Enterprise meeting at 7:25 p.m.

Respectfully Submitted,

APPROVED:

John Perusek, Secretary

Michelle Pierce, President

02/14/22

Upper Gunnison River Water Conservancy District
Monthly Budget Summary
January 2022

	Jan 22	Budget	% of Budget
Ordinary Income/Expense			
Income			
General Income			
Asp Water Sales	0.00	22,510.00	0.0%
Interest Income	786.56	20,000.00	3.9%
Property Tax Income	9,982.38	1,609,542.00	0.6%
Total General Income	10,768.94	1,652,052.00	0.7%
Grant Income			
BLM L17AC00255	0.00	134,666.00	0.0%
BLM L19AC00207 Silt	0.00	46,000.00	0.0%
CWCB 2019-2891 Grant Inc	0.00	40,000.00	0.0%
CWCB 2020-2113 Grant Inc	0.00	16,000.00	0.0%
NFWF Phase II Grant Income	0.00	107,400.00	0.0%
NPS 2021-4821 Grant Inc	0.00	0.00	0.0%
TU Restore Grant Inc	0.00	40,000.00	0.0%
Watershed Restore Program Inc	0.00	135,500.00	0.0%
WMP CWCB PO TBD Inc	0.00	150,000.00	0.0%
Total Grant Income	0.00	669,566.00	0.0%
Program Income			
Cloud Seeding Income	0.00	23,750.00	0.0%
Watershed Mgmt Income	35,430.75	0.00	100.0%
WQ Monitoring Inc	0.00	35,570.00	0.0%
Total Program Income	35,430.75	59,320.00	59.7%
Reimbursed Exp Income			
Cloud Seeding Reimb(CWCB)	0.00	69,000.00	0.0%
Misc Income	0.00	1,000.00	0.0%
UGRAWE 4.46% OpX Reimbursed ...	8,418.00	33,297.00	25.3%
Total Reimbursed Exp Income	8,418.00	103,297.00	8.1%
Unspent Funds from Previous Yr	0.00	9,379.00	0.0%
Total Income	54,617.69	2,493,614.00	2.2%
Cost of Goods Sold			
COST Grants			
BLM Coop L17AC00255 COST	0.00	0.00	0.0%
BLM L19AC00207 Silt COST	0.00	0.00	0.0%
Cloud Seeding COST	17,290.38	0.00	100.0%
CWCB 2019-2891 COST	0.00	0.00	0.0%
CWCB 2020-2113 COST	0.00	0.00	0.0%
CWCB WtrShd Restore Grant COST	0.00	0.00	0.0%
NFWF Phase II COST	0.00	0.00	0.0%
NPS PO 2021-4821 COST	0.00	0.00	0.0%
NRCS Grant Exp COST	0.00	0.00	0.0%

02/14/22

Upper Gunnison River Water Conservancy District

Monthly Budget Summary

January 2022

	Jan 22	Budget	% of Budget
TU Restore Grant COST	0.00	0.00	0.0%
USFS PA-2 17-PA COST	0.00	0.00	0.0%
USFS SPA 2018 COST	0.00	0.00	0.0%
Total COST Grants	17,290.38	0.00	100.0%
Total COGS	17,290.38	0.00	100.0%
Gross Profit	37,327.31	2,493,614.00	1.5%
Expense			
1 Op X			
Audit and Accounting	1,725.00	7,500.00	23.0%
Board Expenses	1,875.00	15,000.00	12.5%
Board Mtg Fees	1,100.00	13,360.00	8.2%
BOD Mileage	92.43	2,200.00	4.2%
Bonding and Insurance	0.00	12,003.00	0.0%
Building Rep/Maint	809.99	10,000.00	8.1%
Computer Exp	1,919.98		
Computer, Internet, Lexis	592.92		
County Treasurers' Fees	58.44	46,237.00	0.1%
Dues, Memberships&Subscriptions	0.00	5,222.00	0.0%
Election Expenses	0.00	0.00	0.0%
Legal Publication	2,636.32	6,000.00	43.9%
Manager's Discretionary	102.53	3,000.00	3.4%
Meeting Expenses	167.22	3,500.00	4.8%
Office Equipment Exp	2,057.30	21,500.00	9.6%
Office Supplies & Misc Expenses	5,492.32	21,250.00	25.8%
Payroll Exp			
Admin.Travel & Exp.	3,752.74	19,000.00	19.8%
CRA Retirement Plan	0.00	32,659.00	0.0%
Medical Insurance	3,261.53	34,425.00	9.5%
Payroll Taxes	3,528.05	39,092.00	9.0%
Salaries - Admin	28,250.00	339,000.00	8.3%
Salaries - Staff	17,749.28	164,117.00	10.8%
Staff Development	326.00	9,000.00	3.6%
Work Comp Ins	0.00	3,700.00	0.0%
Total Payroll Exp	56,867.60	640,993.00	8.9%
Postage	76.04	1,500.00	5.1%
Public Outreach			
Donation GRF	10,500.00	10,500.00	100.0%
Mini-Grants	0.00	2,500.00	0.0%
Public Ed./Advertising			
Internship	0.00	800.00	0.0%
Public Ed./Advertising - Other	200.00	28,140.00	0.7%
Total Public Ed./Advertising	200.00	28,940.00	0.7%

02/14/22

Upper Gunnison River Water Conservancy District
Monthly Budget Summary
January 2022

	Jan 22	Budget	% of Budget
Youth Conservation Corps	0.00	0.00	0.0%
Total Public Outreach	10,700.00	41,940.00	25.5%
Software Exp	121.29		
Telephone	802.14	7,110.00	11.3%
Utilities, Clean, Condo Dues	684.85	15,516.00	4.4%
Vehicle Expenses - Toyota Highl	53.66	4,525.00	1.2%
Total 1 Op X	87,935.03	878,356.00	10.0%
2 Non-Op X			
Asp Subordination Report	0.00	5,000.00	0.0%
Aspinall Contract Costs	0.00	18,550.00	0.0%
Basinwide Planning X	0.00	421,500.00	0.0%
Consulting/Engineering	0.00	15,000.00	0.0%
Endanger Fish Recovery Program	0.00	3,000.00	0.0%
LSC Expenses	0.00	13,464.00	0.0%
RWSI Expense	74.00	729,566.00	0.0%
Spencer Ave Res Exp	0.00	10,000.00	0.0%
Taylor Park Projects Exp	0.00	7,436.00	0.0%
Watershed Mgmt X	2,790.00		
WQ Monitoring	0.00	149,691.00	0.0%
Total 2 Non-Op X	2,864.00	1,373,207.00	0.2%
Total Expense	90,799.03	2,251,563.00	4.0%
Net Ordinary Income	-53,471.72	242,051.00	-22.1%
Other Income/Expense			
Other Expense			
Contingency	0.00	24,000.00	0.0%
Total Other Expense	0.00	24,000.00	0.0%
Net Other Income	0.00	-24,000.00	0.0%
Net Income	-53,471.72	218,051.00	-24.5%

BANK AND BOND BALANCES - UGRWCD and UGRWAE

UGRWCD		Instrument Type	Balance 1/31/2022	Cost Basis	Interest Rate	Maturity Date	Date Callable	Total UGRWCD and UGRWAE		
Account Name								Bank Name	Deposit Amount	% of Total
1 LPL Bond 13 (US Treas. Note) CUSIP 912828SF8	BOND	\$	400,250.00	\$ 399,980.00	2.000%	2/15/2022	2/15/2022	1 LPL Financial (Was Sigma)	\$ 3,094,402.71	61%
1 LPL Bond 17 (FHLB) CUSIP 91282CDH1 Treasury Note	BOND		201,668.75	204,335.35	1.680%	11/15/2024	10/18/2021	2 Mountain View Bank	106,418.73	2%
1 LPL 19 Pac. Western CD thru LPL CUSIP 69506 YRJ O	CD		247,052.12	245,000.00	1.200%	4/17/2023		3 Bank of the West	455,448.53	9%
1 LPL Bond 20 (FHLB) CUSIP 3130 AJLA 5	BOND		537,069.50	550,000.00	0.750%	5/19/2025	5/19/2021	4 Community Banks of Colo.	245,936.10	5%
1 LPL Bond 21 (Fed Farm) CUSIP 3133 EL3P7	BOND		333,453.88	345,000.00	0.530%	8/12/2025	8/12/2022	5 Gunnison Bank & Trust	240,081.31	5%
1 LPL 22 Merrick Bank CD thru LPL CUSIP 59013KLR5	CD		243,984.14	249,000.00	0.350%	12/30/2024		6 Gunnison Savings & Loan	261,551.29	5%
1 LPL Bond 23 (FEDL) CUSIP 3130ALLD4	BOND		242,610.50	250,000.00	0.875%	3/17/2026	9/17/2021	7 COLOTRUST	689,870.82	14%
1 LPL Money Market Account	M.M.		4,389.97	-	0.010%	N/A		8 Petty Cash	100.00	0%
1 LPL Bond 24 CUSIP 3130AMDY5 Fedl Home Loan Bank	BOND		486,243.50	500,000.00	1.000%	5/20/2026	5/20/2022			
1 LPL CD 25 Sallie Mae Bank CUSIP 795451 AA1	CD		242,688.67	245,000.00	0.550%	7/22/2024				
1 LPL 26 (Fed. Home Loan Banks) CUSIP 3130 APBE4	BOND		154,991.68	160,000.00	1.000%	9/30/2026	9/30/2022			
2 11475 Mountain View Bank Money Market	M.M.		106,418.73			3/27/2023		TOTAL ALL BANKS	\$ 5,093,809.49	100%
3 10100 Bank of the West Checking	CHKG		325,518.42		0.010%	N/A				
3 10410 Bank of the West CD 046907721	CD		105,411.54		0.350%	12/22/2022				
4 10420 Community Banks of Colo. CD 2577331487	CD		51,564.17		0.400%	9/26/2022				
4 11150 Comm. Banks of Colo. CD Lake City	CD		104,170.48		0.150%	2/20/2022				
4 10125 Community Banks of Colo. CD	CD		90,201.45		0.950%	6/20/2022				
5 10520 Gunnison Bank & Trust CD 26637	CD		200,000.00		1.900%	2/26/2025				
5 10540 GB&T - Spencer Avenue Reserve 2223589	SAV		40,081.31		0.150%	N/A				
6 101140 Gunnison Savings & Loan CD	CD		109,845.21		1.750%	8/10/2022				
6 101149 Gunnison Savings & Loan CD	CD		151,706.08		2.050%	10/18/2024				
7 10295 COLOTRUST PLUS+	COLOTRUST		232,092.68		0.0891%	N/A				
7 10290 COLOTRUST PRIME	COLOTRUST		168,141.27		0.0398%	N/A				
8 10200 Petty Cash	PETTY		100.00		N/A	N/A				

UGRWCD & UGRWAE INVESTMENTS BY TYPE

CD	30%	\$ 1,546,623.86
Checking	7%	350,036.99
Savings	3%	150,890.01
COLOTRUST	14%	689,870.82
Petty Cash	0%	100.00
Bonds	46%	\$ 2,356,287.81
Total	100%	\$ 5,093,809.49

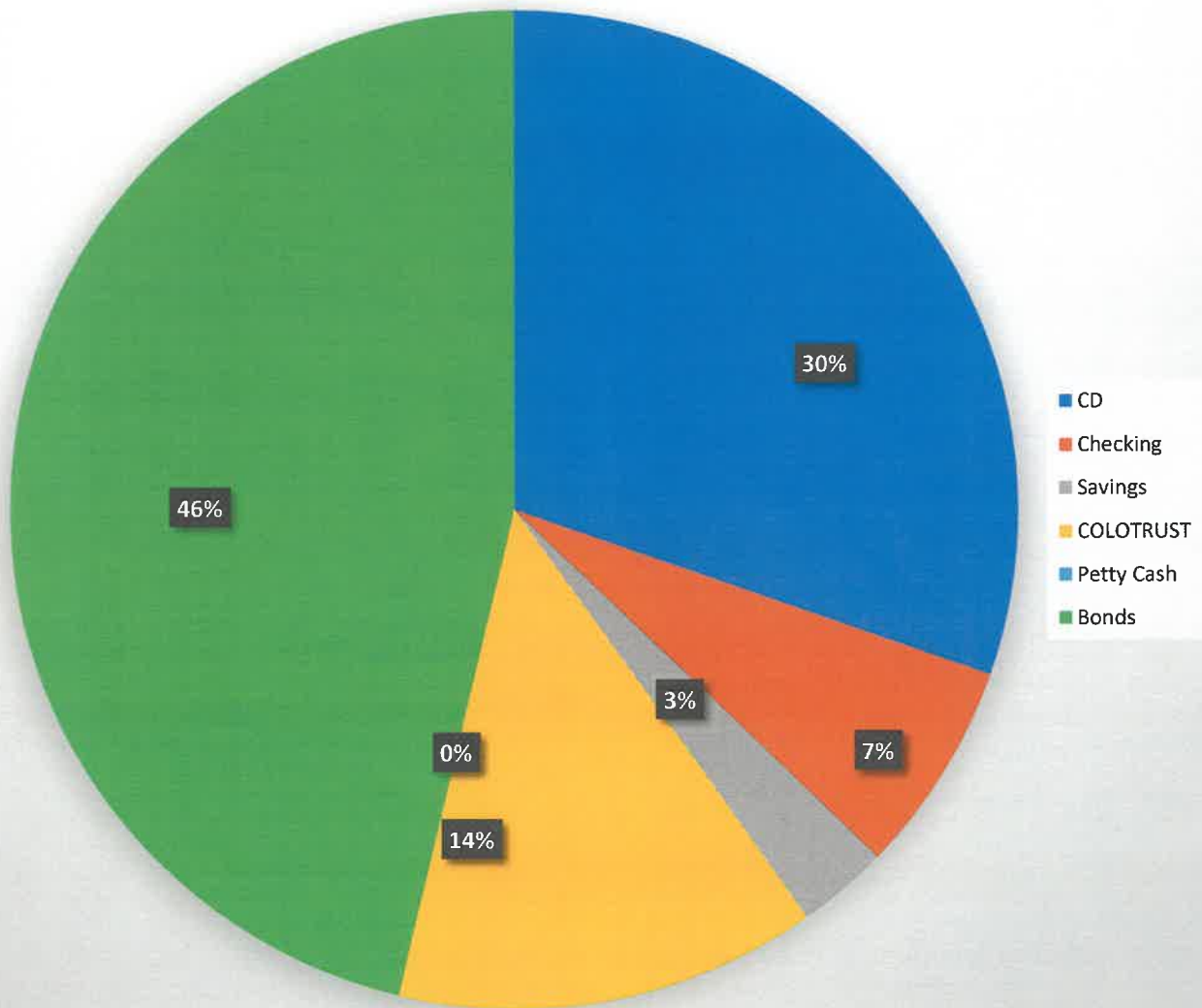
TOTAL UGRWCD \$ 4,779,654.05

UGRWAE		Balance 1/31/2022	Interest Rate	Maturity Date
Account Name				
3 Bank of the West Checking	CHKG	\$ 24,518.57	N/A	N/A
7 COLOTRUST PLUS+	COLOTRUST	289,636.87	0.0891%	N/A
TOTAL UGRWAE		\$ 314,155.44		
TOTAL UGRWCD + UGRWAE		\$ 5,093,809.49		

UGRWCD & UGRWAE INVESTMENTS BY TYPE

CD	30%	\$ 1,546,623.86
Checking	7%	350,036.99
Savings	3%	150,890.01
COLOTRUST	14%	689,870.82
Petty Cash	0%	100.00
Bonds	46%	\$ 2,356,287.81
Total	100%	\$5,093,809.49

UGRWCD + UGRWAE INVESTMENTS BY TYPE



1:34 PM
02/14/22
Accrual Basis

Upper Gunnison River Water Conservancy District
Expenses For Approval (Paid & Payable)
January 24 through February 28, 2022

Date	Name	Account	Amount
Jan 24 - Feb 28, 22			
02/02/2022	Alpine Archaeological Consultants, Inc.	Wet Meadow X	1,920.25
01/24/2022	Andy Spann BOD	Board Mtg Fees	100.00
02/04/2022	Atmos Energy	Utilities, Clean, Condo Dues	88.45
02/04/2022	Atmos Energy	Utilities, Clean, Condo Dues	151.94
01/25/2022	Bank Card Center	Telephone	79.96
01/25/2022	Bank Card Center	Building Improvements	391.03
01/25/2022	Bank Card Center	Office Supplies & Misc Expenses	4,656.51
01/25/2022	Bank Card Center	Manager's Discretionary	102.53
01/25/2022	Bank Card Center	Vehicle Expenses - Toyota Highl	53.66
01/25/2022	Bank Card Center	Board Expenses	1,875.00
01/25/2022	Bank Card Center	Meeting Expenses	167.22
01/25/2022	Bank Card Center	Office Equipment Exp	2,057.30
01/25/2022	Bank Card Center	Admin.Travel & Exp.	3,752.74
01/25/2022	Bank Card Center	Postage	76.04
01/25/2022	Bank Card Center	Staff Development	326.00
01/24/2022	Beverly Richards	Telephone	294.24
01/24/2022	Bill Nesbitt - BOD	Board Mtg Fees	100.00
01/24/2022	Bruce Bartleson	Watershed Mgmt X	2,790.00
02/03/2022	Business Solutions Leasing	Office Equipment Exp	242.89
02/09/2022	CEBT	Medical Insurance	3,218.90
01/31/2022	City of Gunnison Finance Dept.	Utilities, Clean, Condo Dues	176.93
01/31/2022	City of Gunnison Finance Dept.	Utilities, Clean, Condo Dues	76.82
01/30/2022	Crested Butte News	Legal Publication	463.04
01/30/2022	Crested Butte News	Legal Publication	13.28
01/30/2022	Crested Butte News	Public Ed./Advertising	100.00
02/03/2022	Crested Butte News	Dues, Memberships&Subscriptio...	80.00
01/24/2022	Don Sabrowski BOD	Board Mtg Fees	100.00
01/24/2022	Don Sabrowski BOD	BOD Mileage	18.72
02/02/2022	Dove Graphics	Office Supplies & Misc Expenses	366.00
02/01/2022	GL Computer Service, Inc.	Computer, Internet, Lexis	400.00
02/08/2022	GL Computer Service, Inc.	Office Equipment Exp	149.99
02/02/2022	Gunnison Rotary	Public Ed./Advertising	1,500.00
01/31/2022	Hartman Brothers, Inc.	RWSI Expense	28.99
02/10/2022	Jill Steele	Medical Insurance	615.60
02/10/2022	Jill Steele	Medical Insurance	126.09
01/24/2022	Joellen Fonken BOD	Board Mtg Fees	100.00
02/10/2022	John McClow	Medical Insurance	250.50
01/24/2022	John Perusek BOD	Board Mtg Fees	100.00
02/09/2022	Julie Nania	Board Expenses	826.07
01/24/2022	Julie Nania BOD	Board Mtg Fees	100.00
02/03/2022	JW Associates, Inc.	Watershed Mgmt X	6,432.50
01/31/2022	Kim Antonucci	Audit and Accounting	487.50
01/31/2022	LexisNexis	Office Supplies & Misc Expenses	592.92
01/24/2022	Michelle Pierce BOD	Board Mtg Fees	100.00
01/24/2022	Michelle Pierce BOD	BOD Mileage	65.52
01/24/2022	Midnight Marketing Solutions LLC	Public Ed./Advertising	100.00
02/02/2022	Mountain Surfaces	Building Rep/Maint	218.04
02/09/2022	North American Weather Consultants, Inc.	Cloud Seeding COST	13,137.63
02/03/2022	Pinnacol Assurance	Work Comp Ins	540.00
01/24/2022	Rebie Hazard-BOD	Board Mtg Fees	100.00

1:34 PM
02/14/22
Accrual Basis

Upper Gunnison River Water Conservancy District
Expenses For Approval (Paid & Payable)
January 24 through February 28, 2022

Date	Name	Account	Amount
01/31/2022	RigNet Inc	RWSI Expense	45.01
01/24/2022	Rosemary Carroll - BOD	Board Mtg Fees	100.00
01/24/2022	Sara Bergstrom BOD	Board Mtg Fees	100.00
02/01/2022	Silver World Publishing	Public Ed./Advertising	80.00
02/11/2022	Spencer Avenue Business Park Condo Assoc	Utilities, Clean, Condo Dues	550.00
01/24/2022	Stacy McPhail BOD	Board Mtg Fees	100.00
01/24/2022	Stacy McPhail BOD	BOD Mileage	8.19
02/03/2022	The Paper Clip	Office Supplies & Misc Expenses	372.84
02/01/2022	Tomichi Creek Eco Systems Services LLC	RWSI Expense	1,766.75
01/26/2022	Verizon Wireless	Telephone	213.97
02/04/2022	Verizon Wireless	Telephone	181.22
02/02/2022	Wilson Water Group	Watershed Mgmt X	6,825.00
Jan 24 - Feb 28, 22			<u>60,153.78</u>



BANK OF THE WEST
BNP PARIBAS

BANKCARD CENTER
PO BOX 84043
COLUMBUS GA 31908-4043

1245NYAB - 003332 - 0001 - 0004

UPPER GUNNISON RIVER WATER CONS DIS **N0003332
210 W SPENCER AVE STE B
GUNNISON CO 81230-2544

Account Number XXXX-XXXX-0152-7948

Payment Due Date JAN 24, 2022

Amount Due \$13,537.99

Current Balance \$13,537.99

****PRE-AUTHORIZED PAYMENT****
DO NOT REMIT PAYMENT

Amount Enclosed

\$13,537.99

Date Rec. 1-6-22 Adm. Chd. A

Mgr. Appr. Amt. Appr.

Bd. Appr. Date Bd. Initials

Pd. Date Clk

Account(s)

5868 250 13 55693 2000 15 27948

000 1353799

ACCOUNT MESSAGES

Your Bank of the West Mastercard includes an additional benefit: Mastercard ID Theft Protection with access to complimentary Identity Theft resolution services. The benefit also helps prevent identity theft by monitoring the Internet to identify compromised and potentially damaging use of personal information. To enroll your card, please visit: <https://mastercardus.idprotectiononline.com>.

CORPORATE ACCOUNT SUMMARY

UPPER GUNNISON RIVER XXXX-XXXX-0152-7948 Company Total	Previous Balance \$7,511.17	Purchases + & Other Debits \$13,537.99	Cash Advances \$0.00	Finance Charges \$0.00	- Credits \$0.00	- Payments \$7,511.17	New Balance \$13,537.99
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CARDHOLDER NEW ACTIVITY SUMMARY

UPP GUNN RIVER WATER XXXX-XXXX-0177-3377 Credit Limit \$5,000	Purchases and Other Debits \$53.64	Cash Advances \$0.00	Credits \$0.00	Total Activity \$53.64
SONJA CHAVEZ XXXX-XXXX-0153-1676 Credit Limit \$12,000	Purchases and Other Debits \$10,885.26	Cash Advances \$0.00	Credits \$0.00	Total Activity \$10,885.26
JOHN MCCLOW XXXX-XXXX-0153-1684 Credit Limit \$12,000	Purchases and Other Debits \$1,544.15	Cash Advances \$0.00	Credits \$0.00	Total Activity \$1,544.15

For Customer Service, Call:

1-866-432-8161

Account Number

XXXX-XXXX-0152-7948

Statement Date

DEC 28, 2021

Payment Due Date

JAN 24, 2022

Credit Limit

\$100,000

Available Credit

\$86,462.01

Amount Due

\$13,537.99

Disputed Amount

\$0.00

Account Summary

Previous Balance	\$7,511.17
Purchases & Other Charges	\$13,537.99
Cash Advances	\$0.00
Cash Advance Fees	\$0.00
Late Charge	\$0.00
Finance Charges	\$0.00
Credits	\$0.00
Payments	\$7,511.17
New Balance	\$13,537.99

****For Autopay Accounts, a pre-authorized
payment will be processed by your Bank
prior to the payment due date****

All other inquiries can be sent to:
BANKCARD CENTER
PO BOX 84043
COLUMBUS GA 31908-4043



IMPORTANT INFORMATION ABOUT THIS STATEMENT

Payments. You must pay at least the "Amount Due" by the "Payment Due Date." Charges, payments and credits received after the "Closing Date" will be included in your next statement. The letters "CR" following the "New Balance" amount indicate a credit balance - do not pay this amount. Payments must reach our BankCard Center during our regular business day in order to be credited on that date. Payments received after the cutoff times of 6:00 p.m. on a Friday (or Thursday if we are closed on Friday) or 4:00 p.m. on any other business day that we are open, or on a day we are not open, or at a branch open on Saturday, Sunday or bank holiday, are credited as of the following business day. Later cutoff times generally apply at branches with extended hours. Business days shall mean Monday through Friday, except for bank holidays. If you fail to properly make payments, crediting such payments may be delayed.

Order of Application. We will apply your payments first to any membership fee or other fees, next to any finance charge or late charge, next to any Cash Advances included in your "Previous Balance," then to Purchases in your "Previous Balances."

Unauthorized Use. In the event of possible loss, theft or unauthorized use Company agrees to notify us immediately. Company may be liable for the unauthorized use of any Card issued under the Corporate Credit Card Agreement. If 10 or more cards are issued pursuant to the Corporate Credit Card Agreement, Company shall be strictly liable for any unauthorized use. If fewer than 10 Cards are issued pursuant to the Corporate Credit Card Agreement, Company will not be liable for unauthorized use of the Card which occurs after it notifies us orally at 1-866-432-8161, or in writing a BANKCARD CENTER, PO BOX 84043, COLUMBUS, GA 31908-4043 of loss, theft, or possible unauthorized use, and Company's liability for unauthorized use of the Card will not exceed \$50.00 per Card for use of a Card by anyone other than an Employee prior to notice to us. However, if a Card in the possession and control of an Employee, even after his or her authority to use the Card has been revoked by Company, is not considered lost or stolen, and its use by such Employee is not unauthorized. Company must recover the Card from the Employee. Company agrees to assist us in determining the facts and circumstances relating to any unauthorized use of a Card.

1245NYAB - 003332 - 0002 - 0004 -

Statement Date	DEC 28, 2021	Payment Due Date	JAN 24, 2022
Credit Limit	\$100,000	Amount Due	\$13,537.99
Cash Advance Balance	\$0.00	New Balance	\$13,537.99
Available Credit	\$86,462.01		
UPPER GUNNISON RIVER WATER CONS DIS			
XXXX-XXXX-0152-7948			

CARDHOLDER NEW ACTIVITY SUMMARY

BEVERLY RICHARDS XXXX-XXXX-0153-1692 Credit Limit \$3,000	Purchases and Other Debits \$811.81	Cash Advances \$0.00	Credits \$0.00	Total Activity \$811.81
JILL STEELE XXXX-XXXX-0153-1700 Credit Limit \$3,000	Purchases and Other Debits \$243.13	Cash Advances \$0.00	Credits \$0.00	Total Activity \$243.13

FINANCE CHARGE SUMMARY

	Average Daily Balance	Daily Periodic Rate	Corresponding Annual Percentage Rate	Periodic Finance Charge
PURCHASES	\$0.00	0.0226%	08.24%	\$0.00
CASH ADVANCES	\$0.00	0.0493%	18.00%	\$0.00

CORPORATE ACCOUNT ACTIVITY

UPPER GUNNISON RIVER WATER CONS DIS XXXX-XXXX-0152-7948	TOTAL CORPORATE ACTIVITY \$7,511.17 CR			
Posting Date	Transaction Date	Reference Number	Transaction Description	Amount
12-23	12-23		PRE-AUTHORIZED PAYMENT	7,511.17 CR

CORPORATE REWARDS INFORMATION

For Reward Points Balance Including Earned and Redeemed Points, please visit

www.bankofthewestcorporaterewards.com or call 1-800-921-8407**CARDHOLDER ACTIVITY**

UPP GUNN RIVER WATER XXXX-XXXX-0177-3377	PURCHASES \$53.64	CASH ADVANCES \$0.00	CREDITS \$0.00	TOTAL ACTIVITY \$53.64
Posting Date	Transaction Date	Reference Number	Transaction Description	Amount
12-13	12-09	05410191344111322335514	LOVE S TRAVEL 00091157 BUENA VISTA CO Tax ID: 731220756 Mer Zip: 81211-0000 Dest Zip: 81211-0000 Dest Ctry: USA Time: 11:28 Srv Type: SELF Qty: 7.07 Unit: GAL Unit Cost: 3.70 Sale Amt: 26.16 Mer ID: 111000911570000 Mer Addr: HARRISON AVE	26.16
12-13	12-10	05410191345111332352896	LOVE S TRAVEL 00091157 BUENA VISTA CO Tax ID: 731220756 Mer Zip: 81211-0000 Dest Zip: 81211-0000 Dest Ctry: USA Time: 17:11 Srv Type: SELF Qty: 7.43 Unit: GAL Unit Cost: 3.70 Sale Amt: 27.48 Mer ID: 111000911570000 Mer Addr: HARRISON AVE	27.48

**CARDHOLDER ACTIVITY**

SONJA CHAVEZ XXXX-XXXX-0153-1676		PURCHASES \$10,885.26	CASH ADVANCES \$0.00	CREDITS \$0.00	TOTAL ACTIVITY \$10,885.26
Posting Date	Transaction Date	Reference Number	Transaction Description	Amount	
11-30	11-29	55483821334400001002839	WAL-MART #1550 GUNNISON CO Tax ID: 710415188 Mer Ref: 00100283 Mer Zip: 81230 Origin Zip: 81230 Dest Ctry: USA	78.32	
12-02	12-01	55500361335206297900254	GUNNISON FIBER-MESH NE 9702096920 CO Tran: 06916433034020002 Tax ID: 830313552 Mer Ref: 3087995810 Mer Zip: 81230 Origin Zip: 81230 Dest Ctry: USA	220.50	
12-08	12-07	55429501341852554980140	PAYPAL *LAKEFORKVAL 4029357733 CA Tran: 55498014 Tax ID: 770510487 Mer Ref: 55498014 Mer Zip: 95131 Origin Zip: 95131 Dest Ctry: USA	102.53	
12-13	12-09	72700691344900018009294	CARVERS WINTER PARK CO Tax ID: 204747586 Mer Zip: 80482	68.95	
12-13	12-10	55480771345200652700054	COLORADO WATER CONGRES 3038370812 CO Tax ID: 846011512 Mer Ref: 65270005 Mer Zip: 80203 Origin Zip: 80203 Dest Ctry: USA	625.00	
12-13	12-10	55480771345200652700062	COLORADO WATER CONGRES 3038370812 CO Tax ID: 846011512 Mer Ref: 65270006 Mer Zip: 80203 Origin Zip: 80203 Dest Ctry: USA	625.00	
12-13	12-10	55480771345200652700070	COLORADO WATER CONGRES 3038370812 CO Tax ID: 846011512 Mer Ref: 65270007 Mer Zip: 80203 Origin Zip: 80203 Dest Ctry: USA	625.00	
12-13	12-10	55480771345200652700086	COLORADO WATER CONGRES 3038370812 CO Tax ID: 846011512 Mer Ref: 65270009 Mer Zip: 80203 Origin Zip: 80203 Dest Ctry: USA	625.00	
12-13	12-10	55480771345200652700104	COLORADO WATER CONGRES 3038370812 CO Tax ID: 846011512 Mer Ref: 65270010 Mer Zip: 80203 Origin Zip: 80203 Dest Ctry: USA	625.00	
12-13	12-10	55547501345200288200315	RANDI'S GRILL & PUB WINTER PARK CO Tax ID: 261939325 Mer Zip: 80482 Tax: 7.42	73.66	
12-14	12-13	82711161347000010408987	OPENSNOW & OPENSUMMIT BOULDER CO Tax ID: 452658818 Mer Zip: 80305 Product Code: price_OHcvTu Desc: All-Access 1-Year Subscrip Qty: 1 Unit: Uni Disc: N Ext Item Amt: 39.99	39.99	
12-16	12-15	55432861349200808900289	IN *J&K SERVICES INC. 970-9016267 CO Tran: 15400 Tax ID: 770034661 Mer Ref: AQ1G47RT Mer Zip: 81230-4054 Product Code: 48 Desc: JULY 2021 JANITORIAL SCOPE OF SERVI Qty: 1 Unit: NMB Unit Cost: 580.0000 Disc: N Ext Item Amt: 580.00 Product Code: 69 Desc: ULV FOGGING SCOPE OF WORK (INCLUDED Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01 Product Code: 14 Desc: CP_DESCX Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01	560.00	
12-16	12-15	55432861349200808900297	IN *J&K SERVICES INC. 970-9016267 CO Tran: 15403 Tax ID: 770034661 Mer Ref: AQ1G4HYR Mer Zip: 81230-4054 Product Code: 48 Desc: OCTOBER 2021 JANITORIAL SCOPE OF SE Qty: 1 Unit: NMB Unit Cost: 580.0000 Disc: N Ext Item Amt: 580.00 Product Code: 69 Desc: ULV FOGGING SCOPE OF WORK (INCLUDED Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01 Product Code: 14 Desc: CP_DESCX Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01	560.00	
12-16	12-15	55432861349200808900305	IN *J&K SERVICES INC. 970-9016267 CO Tran: 15404 Tax ID: 770034661 Mer Ref: AQ1G4NW3 Mer Zip: 81230-4054 Product Code: 48 Desc: NOV 2021 JANITORIAL SCOPE OF SERVIC Qty: 1 Unit: NMB Unit Cost: 580.0000 Disc: N Ext Item Amt: 580.00 Product Code: 69 Desc: ULV FOGGING SCOPE OF WORK (INCLUDED Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01 Product Code: 14 Desc: CP_DESCX Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01	560.00	
12-16	12-15	55432861349200808900313	IN *J&K SERVICES INC. 970-9016267 CO Tran: 15399 Tax ID: 770034661 Mer Ref: AQ1G43H3 Mer Zip: 81230-4054 Product Code: 48 Desc: JUNE 2021 JANITORIAL SCOPE OF SERVI Qty: 1 Unit: NMB Unit Cost: 580.0000 Disc: N Ext Item Amt: 580.00 Product Code: 69 Desc: ULV FOGGING SCOPE OF WORK (INCLUDED Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01 Product Code: 14 Desc: CP_DESCX Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01	560.00	
12-16	12-15	55432861349200808900321	IN *J&K SERVICES INC. 970-9016267 CO Tran: 15402 Tax ID: 770034661 Mer Ref: AQ1G4E8L Mer Zip: 81230-4054 Product Code: 48 Desc: SEPTEMBER 2021 JANITORIAL SCOPE OF Qty: 1 Unit: NMB Unit Cost: 580.0000 Disc: N Ext Item Amt: 580.00 Product Code: 69 Desc: ULV FOGGING SCOPE OF WORK (INCLUDED Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01 Product Code: 14 Desc: CP_DESCX Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01	560.00	
12-16	12-15	55432861349200808900339	IN *J&K SERVICES INC. 970-9016267 CO Tran: 15405 Tax ID: 770034661 Mer Ref: AQ1G4R6Z Mer Zip: 81230-4054 Product Code: 48 Desc: DEC 2021 JANITORIAL SCOPE OF SERVIC Qty: 1 Unit: NMB Unit Cost: 580.0000 Disc: N Ext Item Amt: 580.00	560.00	

Statement Date	DEC 28, 2021	Payment Due Date	JAN 24, 2022
Credit Limit	\$100,000	Amount Due	\$13,537.99
Cash Advance Balance	\$0.00	New Balance	\$13,537.99
Available Credit	\$86,462.01		
UPPER GUNNISON RIVER WATER CONS DIS			
XXXX-XXXX-0152-7948			

CARDHOLDER ACTIVITY

Posting Date	Transaction Date	Reference Number	Transaction Description	Amount
			Product Code: 69 Desc: ULV FOGGING SCOPE OF WORK (INCLUDED Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01 Product Code: 14 Desc: CP_DESCX Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01	
12-16	12-15	55432861349200808900347	IN *J&K SERVICES INC. 970-9016267 CO Tran: 15401 Tax ID: 770034661 Mer Ref: AQ1G4BW5 Mer Zip: 81230-4054 Product Code: 48 Desc: AUGUST 2021 JANITORIAL SCOPE OF SER Qty: 1 Unit: NMB Unit Cost: 580.0000 Disc: N Ext Item Amt: 580.00 Product Code: 69 Desc: ULV FOGGING SCOPE OF WORK (INCLUDED Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01 Product Code: 14 Desc: CP_DESCX Qty: 1 Unit: NMB Unit Cost: 0.0100 Disc: N Ext Item Amt: 0.01	560.00
12-17	12-16	55480771351200652200098	COLORADO WATER CONGRES 3038370812 CO Tax ID: 846011512 Mer Ref: 65220009 Mer Zip: 80203 Origin Zip: 80203 Dest Ctry: USA	625.00
12-20	12-17	55432861351200465749644	SQ *WILDERS ORGANIC MA Gunnison CO Tran: 00023058430149769 Tax ID: 800429876 Mer Ref: 00023058430149769 Mer Zip: 81230 Origin Zip: 81230 Dest Zip: 81230 Dest Ctry: USA Product Code: 099 Desc: Grocery Item1639777495058 Qty: 100.00 Unit: NMB Disc: N Ext Item Amt: 50.00	50.00
12-20	12-16	52707151351010181333685	HOMEDPOT.COM 800-430-3376 GA Tran: WP22021775 Tax ID: 581853319 Mer Ref: 12160811913140288 Mer Zip: 303390000 Origin Zip: 303390000 Tax: 32.04 Product Code: 1005374349 Desc: 38 in. x 84 Qty: 1 Unit: EA Disc: N Ext Item Amt: 359.99	392.03
12-20	12-16	75140511351351000001298	GOBINS INC PUEBLO CO Tax ID: 900117005 Mer Zip: 81003	81.30
12-20	12-16	55458851351083725200503	DENVER POST CIRCULATIO 3038323232 CO Tran: 12392021121607304 Tax ID: 760425553 Mer Ref: 195304009 Mer Zip: 80202 Origin Zip: 80202 Dest Zip: 812302544 Dest Ctry: USA Product Code: SUBSCRIPTION Desc: DENVER POST Qty: 1 Unit: ITM Disc: N Ext Item Amt: 11.99	11.99
12-20	12-17	55436871351273512026279	GUNNISON GALLERY GUNNISON CO Tran: 2 Tax ID: 841449793 Mer Zip: 81230-2357	45.74
12-20	12-17	85179391353980003456550	ROOTED APOTHECARY GUNNISON CO Tax ID: 461281473 Mer Zip: 81230 Tax: 5.25 CR	64.25
12-22	12-22	55432861356200984981376	NBF*NATL BIZ FURNITURE 800-626-6060 WI Tran: QM616003 Tax ID: 391599078 Mer Ref: 78289315FX62MFOA Mer Zip: 53202 Origin Zip: 53214 Dest Zip: 81230 Shp: 299.00 Product Code: DEFAULT Desc: 14394 Qty: 1 Unit: EAC Disc: N Ext Item Amt: 1299.00 Product Code: DEFAULT Desc: 51039 Qty: 2.00 Unit: EAC Disc: N Ext Item Amt: 378.00 Product Code: DEFAULT Desc: SHIPPING AND HANDLING Qty: 1 Unit: EAC Disc: N Ext Item Amt: 299.00	1,976.00
12-24	12-24	55432861358200704038604	Intuit *PayrollEE usag 833-830-9255 CA Tran: T1-2e5493-126 Tax ID: 770034661 Mer Ref: T1-2e5493-126 Mer Zip: 92129	10.00

JOHN MCCLOW	PURCHASES	CASH ADVANCES	CREDITS	TOTAL ACTIVITY
XXXX-XXXX-0153-1684	\$1,544.15	\$0.00	\$0.00	\$1,544.15

Posting Date	Transaction Date	Reference Number	Transaction Description	Amount
12-01	11-30	55480771335083338217624	COLORADO POLITICS 8666326397 CO Tran: 56_63773879357162 Tax ID: 800858611 Mer Ref: 193506065 Mer Zip: 80903 Origin Zip: 80903 Dest Zip: 81230 Dest Ctry: USA Product Code: SUBSCRIPTION Desc: GAZETTE Qty: 1 Unit: ITM Disc: N Ext Item Amt: 159.00	159.00



CARDHOLDER ACTIVITY

Posting Date	Transaction Date	Reference Number	Transaction Description	Amount
12-03	12-02	55457371336612000131494	STATE OF COLORADO RCLE 3039287869 CO Tran: 431178162 Tax ID: 840600334 Mer Ref: 431178162 Mer Zip: 80203 Origin Zip: 80203 Dest Zip: 81230 Dest Ctry: USA Tax: 16.25 Product Code: 431178162 Desc: STATE OF COLORADO RCLE Qty: 1 Unit: EAC Disc: N Ext Item Amt: 325.00	325.00
12-07	12-05	55420361340630184975782	2COCOM*MALWAREBYTES Alpharetta GA Tran: 169902816 Tax ID: 260160456 Mer Zip: 30022	39.99
12-14	12-13	52704871348207688700216	TREVI LAS VEGAS LAS VEGAS NV Tax ID: 113092953 Mer Zip: 89109	55.60
12-15	12-14	02305371348100110858661	TST* CAFE AMERICANO VE LAS VEGAS NV Tax ID: 472727125 Mer Zip: 89109 Origin Zip: 89109	84.09
12-16	12-14	52704871349796840929795	CPLV GORDON RAMSEYS PU LAS VEGAS NV Tax ID: 880097966 Mer Ref: 1252D4B29A48475A8 Mer Zip: 89109 Origin Zip: 89109 Dest Zip: 89109 Dest Ctry: USA Tax: 2.18	34.16
12-16	12-15	05410191349069913744087	FEDEX OFFIC74800057489 LAS VEGAS NV Tran: 5748LXQ0554 Tax ID: 770433330 Mer Ref: EF157481496202112 Mer Zip: 89109 Origin Zip: 89109 Dest Zip: 89109 Dest Ctry: USA	0.44
12-16	12-15	02305371350000712776102	CVS/PHARMACY #10348 LAS VEGAS NV Tax ID: 880473865 Mer Zip: 89109 Origin Zip: 89109 Tax: 3.35	43.39
12-17	12-15	55500361350698949852893	GARRETT POPCORN SHOPS LAS VEGAS NV Tran: 10731511 Tax ID: 454830545 Mer Ref: 9E799129625945818 Mer Zip: 89109 Origin Zip: 89109 Dest Zip: 89109 Dest Ctry: USA	16.25
12-17	12-15	55500361350698950028276	GARRETT POPCORN SHOPS LAS VEGAS NV Tran: 10731518 Tax ID: 454830545 Mer Ref: CFD48AA4D6494E5CB Mer Zip: 89109 Origin Zip: 89109 Dest Zip: 89109 Dest Ctry: USA	16.25
12-17	12-16	55436871351733512385058	RPS MONTROSE MONTROSE CO Tran: 73351238463 Tax ID: 591162686 Mer Zip: 81401-5970 Origin Zip: 81401 Dest Ctry: USA	36.00
12-17	12-16	52704871351400783000541	A&W/LJS 8476 MONTROSE CO Tax ID: 841596646 Mer Ref: 78300054 Mer Zip: 81401 Origin Zip: 81401 Dest Ctry: USA Tax: 0.58	7.42
12-20	12-16	52704871351750126329415	CAESARS HOTEL & CASINO 8662094732 NV Arrival Date: 12/12/21 Departure Date: 12/16/21 Invoice Number: 0012632941 Tax ID: 880097966 Mer Zip: 89109	721.56
12-20	12-17	55458851352207629406226	CBI ONLINE 8008820757 CO Tax ID: 840644739 Mer Ref: 62940622 Mer Zip: 80215 Origin Zip: 80215 Dest Ctry: USA	5.00

BEVERLY RICHARDS XXXX-XXXX-0153-1692	PURCHASES \$811.81	CASH ADVANCES \$0.00	CREDITS \$0.00	TOTAL ACTIVITY \$811.81
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Posting Date	Transaction Date	Reference Number	Transaction Description	Amount
12-07	12-06	02305371341000671065911	USPS PO 0740860777 GUNNISON CO Tran: None Tax ID: 410760000 Mer Zip: 81230 Origin Zip: 81230 Product Code: 683400 Desc: St. Nick Bklt Qty: 2 Unit: NMB Unit Cost: 11.60 Disc: N Ext Item Amt: 23.20 Product Code: 676100 Desc: Snowy Day Bklt Qty: 2 Unit: NMB Unit Cost: 11.60 Disc: N Ext Item Amt: 23.20 Product Code: 683500 Desc: Otters in Snow Qty: 2 Unit: NMB Unit Cost: 11.60 Disc: N Ext Item Amt: 23.20	69.60
12-08	12-08	15270211342000113143631	MSFT * E0200GPG86 MSBILL.INFO WA Tax ID: 911144442 Mer Zip: 98052	20.00
12-09	12-07	25247801342000506519360	DOUBLE DRAGON GUNNISON CO Tax ID: 680499540 Mer Zip: 81230	65.10
12-10	12-09	05416011343142000181016	WAL-MART #1550 GUNNISON CO Tax ID: 710415188 Mer Zip: 81230	18.48
12-13	12-10	55480771345200652700088	COLORADO WATER CONGRES 3038370812 CO Tax ID: 848011512 Mer Ref: 65270008 Mer Zip: 80203 Origin Zip: 80203 Dest Ctry: USA	625.00
12-27	12-24	55432861358200778790569	Amazon Prime*4A2VD9Y13 Amzn.com/biliWA Tran: D01-9016978-07874 Tax ID: 710938319 Mer Ref: 1u0e7OqEv9i83E660 Mer Zip: 98109 Tax: 0.64 Product Code: B073XBG38V Desc: NOT USED Qty: 1 Unit: PCE Disc: N Ext Item Amt: 13.63	13.63

JILL STEELE XXXX-XXXX-0153-1700	PURCHASES \$243.13	CASH ADVANCES \$0.00	CREDITS \$0.00	TOTAL ACTIVITY \$243.13
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Posting Date	Transaction Date	Reference Number	Transaction Description	Amount
12-03	12-02	05436841337400087723090	WAL-MART #1550 GUNNISON CO Tax ID: 710415188 Mer Zip: 81230 Origin Zip: 81230	36.20
12-06	12-03	85179391339980003649245	SHERPA CAFE GUNNISON CO Tax ID: 272996084 Mer Zip: 81230	102.12
12-13	12-10	02305371345000712642120	USPS PO 0740860777 GUNNISON CO Tran: None Tax ID: 410760000 Mer Zip: 81230 Origin Zip: 81230 Product Code: FCMFMailRet Desc: First-Class Lg Env Qty: 1 Unit: NMB Unit Cost: 1.76 Disc: N Ext Item Amt: 1.76	6.44

Statement Date	DEC 28, 2021	Payment Due Date	JAN 24, 2022
Credit Limit	\$100,000	Amount Due	\$13,537.99
Cash Advance Balance	\$0.00	New Balance	\$13,537.99
Available Credit	\$86,462.01		
UPPER GUNNISON RIVER WATER CONS DIS			
XXXX-XXXX-0152-7948			

CARDHOLDER ACTIVITY

Posting Date	Transaction Date	Reference Number	Transaction Description	Amount
			Product Code: FCMFMAileRet Desc: First-Class Lg Env Qty: 1 Unit: NMB Unit Cost: 1.56 Disc: N Ext Item Amt: 1.56	
			Product Code: FCMFMAileRet Desc: First-Class Lg Env Qty: 1 Unit: NMB Unit Cost: 1.56 Disc: N Ext Item Amt: 1.56	
			Product Code: FCMFMAileRet Desc: First-Class Lg Env Qty: 1 Unit: NMB Unit Cost: 1.56 Disc: N Ext Item Amt: 1.56	
12-20	12-17	55310201351083778781298	AMZN MKTP US*R699O3LI3 AMZN.COM/BILLWA Tran: 113-5367926-91842 Tax ID: 202936165 Mer Ref: 2ANNOYQNX5V Mer Zip: 98109 Origin Zip: 98109 Dest Ctry: USA Tax: 2.88	35.25
			Product Code: B08DTDSC7Z Desc: WECARE DISPOSABLE FACE MASK INDIVID Qty: 1 Unit: PCE Disc: N Ext Item Amt: 19.58	
			Product Code: B096RX334H Desc: MOWEE SPIRAL NOTEBOOK - 5 SUBJECT N Qty: 1 Unit: PCE Disc: N Ext Item Amt: 15.67	
12-20	12-19	55432861353200205122423	AMZN MktP US*LQ0FX9RY3 Amzn.com/billWA Tran: 113-4687100-64650 Tax ID: 202936165 Mer Ref: 2YbjsSbj65bcYpxGr Mer Zip: 98109 Tax: 2.68	32.64
			Product Code: B08PVGW3BK Desc: 50 Pack Tie Dye Disposable Face Mas Qty: 1 Unit: PCE Disc: N Ext Item Amt: 16.32	
			Product Code: B08PVG8Z7G Desc: 50 Pack Tie Dye Disposable Face Mas Qty: 1 Unit: PCE Disc: N Ext Item Amt: 16.32	
12-27	12-26	55432861360200236715931	AMZN MktP US*2W76R4VN3 Amzn.com/billWA Tran: 111-9683013-20442 Tax ID: 202936165 Mer Ref: 1zXR34a4uHZZ2q0nC Mer Zip: 98109 Tax: 2.50	30.48
			Product Code: B09BD9XD7M Desc: MADE IN USA, MAVINA Disposable Face Qty: 1 Unit: PCE Disc: N Ext Item Amt: 15.24	
			Product Code: B09BD9PSGT Desc: MADE IN USA, MAVINA Disposable Face Qty: 1 Unit: PCE Disc: N Ext Item Amt: 15.24	



ALPINE ARCHAEOLOGICAL CONSULTANTS, INC.

P.O. Box 2075
Montrose, Colorado 81402-2075

Upper Gunnison River Water Conservancy District
210 West Spencer Ave.
Suite B
Gunnison, CO 81230

Invoice number 20220234
Date 02/02/2022

Project **Wet Meadows 2021**

Contract # UG2021-028

LABOR

Report and Site Forms (CO)

	Hours	Rate	Billed Amount
Senior GIS Specialist Connor C. Johnen	2.00	70.00	140.00
Office Manager Jessica L. Vergari	0.25	59.00	14.75
Principal Investigator Charles A. Reed	1.00	112.00	112.00
Project Administrator Kimberly L. Redman	0.50	115.00	57.50
Project Archaeologist Jordan M. Kluver	22.50	68.00	1,530.00
Site Records Supervisor Jessica D. Boyd	1.25	52.00	65.00
Phase subtotal	27.50		1,919.25
LABOR subtotal	27.50		1,919.25

Date Rec. 2-3-22 Adm. Chd. M
Mgr. Appr. SRC Amt. Appr. 1,920.25
Bd. Appr. Date _____ Bd. Initials _____
Pd. Date _____ Ck# _____
Account(s) Wet Meadows

EXPENSES

Report and Site Forms (CO)

	Units	Multiplier	Rate	Billed Amount
Copies	10.00		0.10	1.00
Phase subtotal				
EXPENSES subtotal				
Invoice total				1,920.25

Approved for payment – BAR - Charge to
Regional Water Supply Improvement
Project – Subline Item Wet Meadows
UG Contract No. UG2021-028

NFWF grant Phase II
Approved by:

Kimberly L. Redman

Kimberly L. Redman
General Manager

Charles A. Reed

Timesheet Date: 01/14/2022

Project	Phase	Activity	Employee Type	Sat-08	Sun-09	Mon-10	Tue-11	Wed-12	Thu-13	Fri-14	Total
21WEME6076 Wet Meadows 2021	003 Report and Site Forms (CO)	Principal Investigator	Senior Project Archaeologist					1.00			1.00
Regular total				0.00	0.00	0.00	0.00	1.00	0.00	0.00	1.00
Timesheet total				0.00	0.00	0.00	0.00	1.00	0.00	0.00	1.00

Connor C. Johnen

Timesheet Date: 12/03/2021

Project	Phase	Activity	Employee Type	Sat-27	Sun-28	Mon-29	Tue-30	Wed-01	Thu-02	Fri-03	Total
21WEME6076 Wet Meadows 2021	003 Report and Site Forms (CO)	Billable	Senior GIS Specialist					2.00			2.00
Regular total				0.00	0.00	0.00	0.00	2.00	0.00	0.00	2.00
Timesheet total				0.00	0.00	0.00	0.00	2.00	0.00	0.00	2.00

Jessica D. Boyd

Timesheet Date: 01/07/2022

Project	Phase	Activity	Employee Type	Sat-01	Sun-02	Mon-03	Tue-04	Wed-05	Thu-06	Fri-07	Total
21WEME6076 Wet Meadows 2021	003 Report and Site Forms (CO)	Billable	Site Records Supervisor				0.25				0.25
Regular total				0.00	0.00	0.00	0.25	0.00	0.00	0.00	0.25
Timesheet total				0.00	0.00	0.00	0.25	0.00	0.00	0.00	0.25

Timesheet Date: 12/03/2021

Project	Phase	Activity	Employee Type	Sat-27	Sun-28	Mon-29	Tue-30	Wed-01	Thu-02	Fri-03	Total
21WEME6076 Wet Meadows 2021	003 Report and Site Forms (CO)	Billable	Site Records Supervisor					1.00			1.00
Regular total				0.00	0.00	0.00	0.00	1.00	0.00	0.00	1.00
Timesheet total				0.00	0.00	0.00	0.00	1.00	0.00	0.00	1.00

Jessica L. Vergari

Timesheet Date: 12/03/2021

Project	Phase	Activity	Employee Type	Sat-27	Sun-28	Mon-29	Tue-30	Wed-01	Thu-02	Fri-03	Total
21WEME6076 Wet Meadows 2021	003 Report and Site Forms (CO)	Billable	Office Manager						0.25		0.25
Regular total				0.00	0.00	0.00	0.00	0.00	0.25	0.00	0.25
Timesheet total				0.00	0.00	0.00	0.00	0.00	0.25	0.00	0.25

Jordan M. Kluver

Timesheet Date: 02/04/2022

Project	Phase	Activity	Employee Type	Sat-29	Sun-30	Mon-31	Tue-01	Wed-02	Thu-03	Fri-04	Total
21WEME6076 Wet Meadows 2021	003 Report and Site Forms (CO)	Billable	Project Archaeologist			0.25					0.25
Regular total				0.00	0.00	0.25	0.00	0.00	0.00	0.00	0.25
Timesheet total				0.00	0.00	0.25	0.00	0.00	0.00	0.00	0.25

Jordan M. Kluver

Timesheet Date: 01/21/2022

Project	Phase	Activity	Employee Type	Sat-15	Sun-16	Mon-17	Tue-18	Wed-19	Thu-20	Fri-21	Total
21WEME6076 Wet Meadows 2021	003 Report and Site Forms (CO)	Billable	Project Archaeologist						1.25		1.25
Regular total				0.00	0.00	0.00	0.00	0.00	1.25	0.00	1.25
Timesheet total				0.00	0.00	0.00	0.00	0.00	1.25	0.00	1.25

Timesheet Date: 01/14/2022

Project	Phase	Activity	Employee Type	Sat-08	Sun-09	Mon-10	Tue-11	Wed-12	Thu-13	Fri-14	Total
21WEME6076 Wet Meadows 2021	003 Report and Site Forms (CO)	Billable	Project Archaeologist			2.75	5.75	6.75	0.75		16.00
Regular total				0.00	0.00	2.75	5.75	6.75	0.75	0.00	16.00
Timesheet total				0.00	0.00	2.75	5.75	6.75	0.75	0.00	16.00

Timesheet Date: 01/07/2022

Project	Phase	Activity	Employee Type	Sat-01	Sun-02	Mon-03	Tue-04	Wed-05	Thu-06	Fri-07	Total
21WEME6076 Wet Meadows 2021	003 Report and Site Forms (CO)	Billable	Project Archaeologist						5.00		5.00
Regular total				0.00	0.00	0.00	0.00	0.00	5.00	0.00	5.00
Timesheet total				0.00	0.00	0.00	0.00	0.00	5.00	0.00	5.00

Kimberly L. Redman

Timesheet Date: 12/03/2021

Project	Phase	Activity	Employee Type	Sat-27	Sun-28	Mon-29	Tue-30	Wed-01	Thu-02	Fri-03	Total
21WEME6076 Wet Meadows 2021	003 Report and Site Forms (CO)	Billable	Project Administrator					0.25	0.25		0.50
Regular total				0.00	0.00	0.00	0.00	0.25	0.25	0.00	0.50
Timesheet total				0.00	0.00	0.00	0.00	0.25	0.25	0.00	0.50

Itemized Statement – Geological Analysis of Gunnison Watershed Stream Systems – Burce Bartleson

Taylor River Geology 6 hours total

10/25/2021 - Two Hours

10/26/2021 - One Hour

10/27/2021- One Hour

10/28/2021- Two Hours

Cochetopa River Geology 9 hours total

10/29/21 – 3 hours

10/30/21 – 2 hours

11/01/21 - 3 hours

11/02/21 - 1 hour

Ohio Creek Geology 8 hours total

11/04/21 - 3 hours

11/09/21 - 3 hours

11/10/21- 2 Hours

East River Geology 11 hours total

11/15/21 – 4 Hours

11/17/21 - 2 Hours

11/18/21 - 2 Hours

11/19/21 - 3 Hours

Tomichi Creek Geology 10 Hours total

12/01/21 - 3 Hours

12/03/21 - 2 Hours

12/06/21 – 3 hours

12/14/21 - 2 Hours

Introduction 11 hours total (total for 2021 is 50 hours)

12/20/21 - 4 Hours

12/21/21 - 2 Hours

1/03/22 - 2 Hours

1/06/22 - 3 Hours

Lake Fork of the Gunnison River 7 hours total

1/11/22 - 2 Hours

Approved for Payment - SRC. General Budget Line Item
47 - Basinwide Planning - Sub-line item WMP - CWCB
PO#2019-2891

Payable to:
Bruce Bartleson
216 West Ruby Avenue
Gunnison, CO 81230

Payable Amount: \$2,790 (62 hours at
\$45 per hour, per contract number
UG2021-031)

Date Rec. 1-21-22 Addn. Ckd. _____
Mgr. Appr. SRC Amt. Appr. \$2,790 -
Bd. Appr. Date _____ Bd. Initials _____
Pd. Date _____ Ckd# _____
Account(s) _____

W-9?

1/14/22 - 2 Hours

1/17/22 - 3 Hours Up to today, the total is 62 hours

Great Escape Landscape**P.O. Box 435****Gunnison, CO 81230****Invoice**

Date	Invoice #
1/3/2022	4529

Bill To
Upper Gunnison River Water Conservation D 210 W. Spencer Av Gunnison, Co 81230

received
01/07/22

P.O. No.	Terms

Item	Qty	Description	Rate	Serviced	Amount
snow plowing a...	5	Snow plowing and shoveling- 12-10, 12-24, 12-29, 1-1, 1-2	95.00	1/3/2022	475.00
Snow Shoveling	1	Snow Shoveling- 12-15	30.00	12/15/2021	30.00
Snow Plowing	1	Snow Plowing- 12-27	65.00	12/27/2021	65.00
<div>Date Rec. _____ Adm. Ckd. _____ Mgr. Appr. _____ Amt. Appr. _____ Ed. Appr. Date _____ Ed. Initials _____ Pd. Date _____ Ckt _____ Account(s) _____</div>					
			Total		
			\$570.00		

Phone #
970-275-3600

**Hartman Brothers, Inc.**

524 North First Street
Montrose, CO 81401
Tel.: (970) 240-8535
Fax: (970) 249-6675



Sold To:

UPPER GUNNISON RIVER WATER CON
210 WEST SPENCER AVE., SUITE B
GUNNISON, CO, 81230

Shipped To:

CYLINDER RENTAL INVOICE

CUSTOMER No.		CUSTOMER P.O. No.		PERIOD				INVOICE DATE			INVOICE No.		PAGE
								Y-Y	M-M	D-D			
M05447				01/01-01/31				2022	01	31	364433		1
DESCRIPTION	DATE M-M D-D	DEL.NOTE #	INVOICE No.	CYLINDER MOVEMENT				CONTRACT	CHARGE	RATE	AMOUNT	T A X E	
				BAL	DELIVER	RETURN	NEW BAL						
NITROGEN 60CF				3			3	0					
31 days	01 31			3	0	0	3	0	93				
Total									93	0.300	27.90	XD	
<div>Date Rec. 2-10-22 Adm. Ckd. <i>[Signature]</i> Mgr. Appr. _____ Amt. Appr. _____ Bd. Appr. Date _____ Bd. Initials _____ Pd. Date 2-10 Ckd. _____ Account(s) cloud seeding</div>													
TERMS				TYPE: S - DEMURRAGE L - MONTH END D - DAILY N - FREE H - HIGHEST				SUB-TOTAL		27.90			
NET 30 DAYS								SALES TAX		1.09			
VALUE OF CYLINDER INVENTORY ON HAND								TOTAL		28.99			

THIS INVOICE IS PAYABLE IN FULL UPON RECEIPT.
CYLINDERS ARE RENTED AND REMAIN THE PROPERTY
OF THE SELLER.

Customer Copy



Invoice Number: 4 **Date:** Feb 3, 2022
Project name: Upper Gunnison River Watershed/Wildfire Assessment
Contract Number: NA
Project Manager: Brad Piehl
JWA Project Number: 283 **Period:** Dec 1, 2021 to Jan 31, 2022

Submitted to: Beverly Richards
Upper Gunnison River Water Conservancy District
210 West Spencer, Suite B
Gunnison, CO 81230

Past Due: \$0.00
Invoice Total: \$6,432.50
Total Due: \$6,432.50

Approved by: _____

Submit to: JW Associates, Inc.
P.O. Box 3759
Breckenridge, CO 80424-3759

This invoice	Past invoices	Total	Budget	Remain. Budget
\$6,432.50	\$13,937.50	\$20,370.00	\$38,000.00	\$17,630.00

Date Rec. 2-3-22 Addn. Ckd. [Signature]
Mgr. Appr. SRC Amt. Appr. \$6,432.50
Bd. Appr. Date _____ Bd. Initials _____
Pd. Date _____ Ck# _____
Account(s) WMP

Task Detail

Invoice No. 4

Date: Feb 3, 2022

Task 1 - Watershed Assessment & Prioritization**Task 1 - Labor**

Description	Staff	Week ending	Rate	Hours	Cost
Wildfire Modeling	Brad Piehl	period	\$135	8.0	\$1,080.00
Wildfire Modeling	Abby Eurich	period	\$80	23.0	\$1,840.00
Climate Change Analysis	Brad Piehl	period	\$135	6.0	\$810.00
Climate Change Analysis	Abby Eurich	period	\$80	26.0	\$2,080.00
					\$0.00
					\$0.00
					\$0.00
Labor Totals				63.0	\$5,810.00

Task 1 - Expenses

Expense description	Category	Trip Destination	Week ending	Unit cost	Units	Cost
Computer rental	tech	NA	period	\$75.00	1	\$75.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
Task Expenses						\$75.00

Task 1 - Summary

	Task Labor Cost	Task Expenses	Expense Markup (10%)	Task Totals
This Invoice	\$5,810.00	\$75.00	\$7.50	\$5,892.50
Past Invoices	\$11,775.00	\$225.00	\$22.50	\$12,022.50
Totals	\$17,585.00	\$300.00	\$30.00	\$17,915.00
Budget				\$17,965.00
Remaining Budget				\$50.00

Task Detail

Invoice No. 4

Date: Feb 3, 2022

Task 2 - Zones of Concern Analysis**Task 2 - Labor**

Description	Staff	Week ending	Rate	Hours	Cost
Zones of Concerns	Brad Piehl	period	\$135	4.0	\$540.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
Labor Totals				4.0	\$540.00

Task 2 - Expenses

Expense description	Category	Trip Destination	Week ending	Unit cost	Units	Cost
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
Task Expenses						\$0.00

Task 2 - Summary

	Task Labor Cost	Task Expenses	Expense Markup (10%)	Task Totals
This Invoice	\$540.00	\$0.00	\$0.00	\$540.00
Past Invoices	\$0.00	\$0.00	\$0.00	\$0.00
Totals	\$540.00	\$0.00	\$0.00	\$540.00
Budget				\$17,965.00
Remaining Budget				\$17,425.00

Task Summary

Invoice No. 4

Date: Feb 3, 2022

Task Summary

Task	Total Budget	This Invoice	Remaining Budget	Percent Complete
Task 1 - Watershed Assessment & Prioritization	\$17,965.00	\$5,892.50	\$50.00	99.7%
Task 2 - Zones of Concern Analysis	\$10,040.00	\$540.00	\$7,585.00	24.5%
Task 3 - Reporting	\$3,390.00	\$0.00	\$3,390.00	0.0%
Task 4 - Online Assessment Tools	\$6,605.00	\$0.00	\$6,605.00	0.0%
Totals:	\$38,000.00	\$6,432.50	\$17,630.00	53.6%

MOUNTAIN SURFACES, INC.
115 S. 14TH ST.
GUNNISON, CO 81230

Invoice

Invoice Number:
36096

Invoice Date:
Feb 2, 2022

Voice: 970-641-4712
Fax: 970-641-2496

Page:
1

Sold To:

UPPER GUNNISON RIVER WATER CONSERVANCY
210 W SPENCER
GUNNISON, CO 81230
USA

Ship to:

UPPER GUNNISON RIVER WATER CONSERVANCY
210 W SPENCER
GUNNISON, CO 81230
USA

Customer ID	Customer PO	Payment Terms	
UPPER GUNNISON RIVER		Net Due	
Sales Rep ID	Shipping Method	Ship Date	Due Date
	Courier		2/2/22

Quantity	Item	Description	Unit Price	Extension
19.33	PAD BERBERCHOICE	COMMERCIAL GRADE CPT PAD	8.03	155.22
19.33	LABOR	LABOR TO GLUE DOWN PAD	3.25	62.82
<div style="display: flex; justify-content: space-between;"> <div> Date Rec. <u>2-2-22</u> Adm. Ckd. <u>M</u> Mgr. Appr. <u>GRC</u> Amt. Appr. <u>\$218.04</u> Bd. Appr. Date _____ Bd. Initials _____ Pd. Date _____ Clk# _____ Account(s) <u>Building Repair & Exp</u> </div> <div style="background-color: yellow; padding: 10px; transform: rotate(-5deg); border: 1px solid black;"> Send tax exempt cert. w/ check </div> </div>				

Check/Credit Memo No

Subtotal	218.04
Sales Tax	13.81
Total Invoice Amount	231.85
Payment/Credit Applied	
TOTAL	231.85

North American Weather Consultants, Inc.

8180 S Highland Drive Suite B-2
Sandy, UT 84093
(801) 942-9005

Invoice

Date	Invoice #
2/9/2022	21-2223

Bill To

Upper Gunnison River Water Conservancy
Attn: Sonja Chavez
210 W Spencer Ave., Ste B
Gunnison, CO 81230

Approved for payment - BAR
General Budget Line Item 48 -
Regional Water Supply
Improvement Program - Sub-line
item - Cloudseeding.

Proj #	Terms
21-473	Net 30

Qty	Description	Rate	Amount
1	Monthly Fixed Cost	10,800.00	10,800.00
1	Operation and Maintenance of the Lake Irwin Remote Generator	1,600.00	1,600.00
70.25	Reimbursable Seeding Generator Hours @ \$10.50/hr - January Hours	10.50	737.63
<div>Date Rec. <u>2-10-22</u> Adm. Ckd. <u>[Signature]</u> Mgr. Appr. _____ Amt. Appr. _____ Bd. Appr. Date _____ Bd. Initials _____ Pd. Date _____ Ckd _____ Account(s) <u>cloud seeding</u></div>			
Total			\$13,137.63



Upper Gunnison River Water Conservancy
District
210 W. Spencer Ave
Suite B
Gunnison, CO 81230
United States

Invoice **202201_472**
Date 31 January, 2022
Account C201008

Remittance should be mailed to:
RigNet, Inc.
P. O. BOX 941629
Houston, TX 77094
Phone: +1 281 674 0683
Email: ar@rig.net

Airtime Period 1 Jan - 31 Jan 2022

Summary

Total Airtime and Fees this Period	USD	45.01
Total Amount This Invoice	USD	45.01

Terms: Net 30

Please include Invoice Number and Account Number with your payment

For Wire Transfers, please remit to:

Bank Name: Bank of America
Acct Name: RigNet, Inc.
Account No: 488025116355
SWIFT # BOFAUS3NABA
Routing # 026009593ABA
ACH# 111000025

Pay Online:

<https://www.rig.net/payment-center>

Date Rec. 2-3-22 Adm. Ckd. [Signature]
Mgr. Appr. SRC Amt. Appr. 345.01
Bd. Appr. Date _____ Bd. Initials _____
Pd. Date _____ Ck# _____
Account(s) cloud seeding

Summary per Product

Product	Charge Type	Amount (USD)
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Upper Gunnison River Water Conservancy District Reimbursement Request

Date: 2/1/2022

Project Name: UGRWCD_Tomichi Creek Ecosystem Services, LLC Transition Agreement

UGRWCD Contract Number: UG-2022-002

Reimbursement Request Amount: \$1,766.75

Match Provided: \$

Project Performance Period: 1/1/2022-6/30/2022

Date Rec. 2-2-22 Adm. Ckd. [Signature]
Mgr. Appr. [Signature] Amt. Appr. \$1,766.75
Bd. Appr. Date _____ Bd. Initials _____
Pd. Date _____ Ckd _____
Account(s) West Measures

Applicant/Payee Name: Tomichi Creek
Ecosystem Services, LLC

Check Payable To: Tomichi Creek Ecosystem
Services, LLC

Applicant Address: Post Office Box 124, Gunnison, CO 81230

Applicant Phone: 970 641-1993

Applicant Email: tomck2018@gmail.com

PROJECT DELIVERABLES:

- Task 2: Transfer WMRRBP data, contacts, files and binders to UGRWCD
 - Subtask 2A: Physical delivery of external hard drive, grant and project site binders and files. 1 hour January 7, 2022.
 - Subtask 2B: Handoff of contacts, electronic files, and data, as requested. 1 hour January 7, 2022.
- Task 3: Support Watershed Program Coordinator
 - Subtask 3A: Initial sit-down meeting to discuss the WMRRBP coordinator role, transfer of responsibilities and pending action items. 2.23 hours January 7, 2020
 - Subtask 3B: Availability to conduct additional sit-down meetings within project scope and budget, if needed.
 - Subtask 3C: Timely email or phone response to questions regarding the WMRRBP. 12.84 hours January 1-January 31, 2022

Difficulties Encountered/Corrective Action:

- Problem(s) / Changes:
- Resolution / Corrective Action:

By submittal of this reimbursement request and supporting documentation of expenditures, Applicant attests to the Upper Gunnison River Water Conservancy District that all items listed under *Project Deliverables* have been completed, all amounts due and payable for the Funded Work have been paid or, alternatively will be paid with the funds advanced by the District in response to this Request for Payment,



WATERSHED
SCIENCE + DESIGN

Approved for payment - BAR
General Budget line item 47
Basinwide Planning - WMP
CWCB PO#2019-2891

INVOICE

Watershed Science and Design
PO Box 19062
Boulder, Colorado 80308
United States

720-308-5505

BILL TO
Upper Gunnison Water Conservancy
District
Beverly Richards

Invoice Number: 260

Invoice Date: December 31, 2021

Payment Due: January 30, 2022

Amount Due (USD): \$6,231.50

Service	Hours	Rate	Amount
Upper Gunnison Geo-Fluvial Task 1 Principal Engineer: Data Collection, Field Reconnaissance, and Geomorphic Assessments	24	\$148.00	\$3,552.00
Upper Gunnison Geo-Fluvial Task 1 Project Scientist: Data Collection, Field Reconnaissance, and Geomorphic Assessments	1.5	\$103.00	\$154.50
Upper Gunnison Geo-Fluvial Task 4 Principal Engineer: Stakeholder Communication and Coordination	12.5	\$148.00	\$1,850.00
Upper Gunnison Geo-Fluvial Direct Expenses Subconsultant: Round River Design	1	\$675.00	\$675.00
Total:			\$6,231.50
Amount Due (USD):			\$6,231.50

Date Rec. _____ Adm. Ckd. _____
Mgr. Appr. SLC Amt. Appr. \$6,231.50
Bd. Appr. Date _____ Bd. Initials _____
Pd. Date _____ Ckd. _____
Account(s) _____



Round River Design, Inc.
Michael Blazewicz

WSD Invoice #260
Attachment A

Invoice

12/31/2021
20211231_GunninsonGeoFluvial

To: Watershed Science and Design
PO Box 19062
Boulder, CO

Date	Task	Description	Hours	Total
12/1	4	Fire risk meeting	1.5	\$ 202.50
12/14	4	Kickoff presentation - compiling slides/early drafting	1.5	\$ 202.50
12/16	4	Kickoff meeting - presentation prep and attending	2	\$ 270.00
		Direct Expenses (see attached sheet)		
		Total	5.00	\$ 675.00

Check payable to **Round River Design, Inc.**

Thank you!

848 G St., Salida, CO 81201
802.279.0478
michael@roundriverdesign.com

Approved for payment - BAR - Charge
entire amount to Non-perating Budget
Line Item 47 - Basinwide Planning, sub-
line item - WMP.



February 2, 2022

Sonja Chavez, General Manager
Upper Gunnison River Water Conservancy District
2010 West Spencer, Suite B
Gunnison, CO 82130

RE: Invoice #12 - Upper Gunnison Watershed Management Planning Contract UG2020-006

Sonja,

Below is an invoice for professional services of Wilson Water Group for the WMP in the Upper Gunnison River Basin from October 26, 2021 through January 25, 2022. Primary activities and progress reports follow the invoice.

Professional Services

Staff	Hours	Rate	Total
Erin Wilson	32.5	\$ 195	\$ 6,337.50
Tammi Renninger (ElephantFish)	7.5	\$ 65	\$ 487.50
Amount Due this Invoice			\$ 6,825.00

Project Accomplishments

Task 1 – Data Compilation & Gap Identification

- Completed

Task 2 – Current Use Assessment

- Completed

Task 3 – Infrastructure and Reach Assessment

- Continue assisting Applegate as necessary

Task 4 – Water Rights Allocation Model Enhancements

- Finalized analysis of current use and water rights Cebolla Creek

Task 5 – Final Report

- Completed Cebolla Creek sections, updated other subbasins to include conservation easement discussions and maps, irrigated acreage maps, and new overview map

Task 6 – Project Coordination

- General coordination and GIS mapping

Date Rec. 2-3-22 Adm. Ckd. [Signature]
Mgr. Appr. ERC Amt. Appr. \$6,825 -
Bd. Appr. Date _____ Bd. Initials _____
Pd. Date _____ Ck# _____
Account(s) WMP

Activity Anticipated for Winter 2021

Task 1 – Data Compilation & Gap Identification

- Completed

Task 2 – Current Use Assessment

- Completed.

Task 3 – Infrastructure and Reach Assessment

- Continue to be available and provide information, as requested, to Apple Gate

Task 4 – Water Rights Allocation Model Enhancements

- Continue to be available to UGRWCD to answer specific water rights/water availability questions

Task 5 – Final Report

- Address comments on draft report sections

Task 6 – Project Coordination

- Continued participation in coordination calls
- Continued developing GIS data and supporting other efforts as requested by UGRWCD

Budget Summary

Task	Budget	Month Costs	Cumulative Costs	Contract Balance	Projected Completion Date
1. Data Compilation	\$ 15,860	\$ -	\$ 15,837.50	\$ 23	Complete
2. Current Use Assessment	\$ 9,710	\$ -	\$ 9,700.00	\$ 10	Complete
3. Infrastructure/Reach Assess	\$ 10,300	\$ 2,400.00	\$ 10,265.00	\$ 35	Complete
4. Water Rights Model Update	\$ 6,420	\$ 825.00	\$ 825.00	\$ 5,595	12/31/2022
5. Final Report	\$ 10,550	\$ 2,200.00	\$ 9,351.25	\$ 1,199	12/31/2022
6. Project Coordination	\$ 13,020	\$ 1,400.00	\$ 11,055.30	\$ 1,965	12/31/2022
Total	\$ 65,860	\$ 6,825.00	\$ 57,034.05	\$ 8,826	12/31/2022

Comments and Concerns

No comments this invoice period.

WILSON WATER GROUP LLC



Erin M. Wilson
Principal

AGENDA ITEM 5

Legal and Legislative Matters



LEGISLATIVE ACTIVITY REPORT
COLORADO GENERAL ASSEMBLY
2022 REGULAR SESSION

February 17, 2022

This report summarizes bills of interest to the District introduced in the General Assembly in this session and reviewed by the Legislative Committee. The links connect to the full text of the bills as introduced.

HOUSE BILLS

[HB22-1012](#) CONCERNING HEALTHY FORESTS, AND, IN CONNECTION THEREWITH, CREATING THE WILDFIRE MITIGATION AND RECOVERY GRANT PROGRAM.

House sponsors: Cutter and Valdez D., Lynch, Snyder Senate sponsors: Ginal and Lee, Story

Wildfire Matters Review Committee. Section 1 of the bill creates the wildfire mitigation and recovery grant program (grant program) in the Colorado state forest service (forest service) to provide grants to help counties with forested areas prevent and recover from wildfire incidents and ensure that such efforts are undertaken in a manner that reduces the amount of carbon that enters the atmosphere. In expending grant money, a county, to the extent practicable, shall ensure that biomass that is removed from forests is recycled or disposed of in a manner that reduces the amount of carbon that enters the atmosphere.

The forest service shall administer the grant program and, subject to available appropriations, award grants out of money annually appropriated to the forest service for the grant program. The forest service shall review grant applications in consultation with the division of fire prevention and control in the department of public safety and with the Colorado forest health council in the department of natural resources.

The grant program is repealed, effective September 1, 2028. Before the repeal, the grant program is scheduled for a sunset review by the department of regulatory agencies.

Section 2 schedules this review.

Status: Introduced in House, Assigned to Energy & Environment

UGRWCD Legislative Committee position: MONITOR

CWC State Affairs Committee position: Monitor

HB22-1151 CONCERNING MEASURES TO INCENTIVIZE WATER-WISE LANDSCAPES, AND, IN CONNECTION THEREWITH, CREATING A STATE PROGRAM TO FINANCE THE VOLUNTARY REPLACEMENT OF IRRIGATED TURF.

House Sponsors: Catlin and Rogers

Senate Sponsors: Bridges and Simpson

The bill requires the Colorado water conservation board (board) to develop a statewide program to provide financial incentives for the voluntary replacement of irrigated turf with water-wise landscaping (turf replacement program). The bill defines water-wise landscaping as a water- and plant-management practice that emphasizes using plants with lower water needs. Local governments, certain districts, Native American tribes, and nonprofit organizations with their own turf replacement programs may apply to the board for money to help finance their turf replacement programs. The board will contract with one or more third parties to administer one or more turf replacement programs in areas where local turf replacement programs do not exist.

Status: 02/04/2022 Introduced in House, Assigned to Agriculture, Livestock & Water

UGRWCD Legislative Committee position: SUPPORT

CWC State Affairs Committee position:

SENATE BILLS

SB22-114 CONCERNING FIRE SUPPRESSION PONDS.

Section 1 of the bill makes legislative findings and declarations.

Section 2 allows a board of county commissioners (board) to apply to the state engineer for the designation of a pond as a fire suppression pond. The director of the division of fire prevention and control (director) in the department of public safety is required to promulgate rules to establish criteria for boards, in consultation with fire protection districts, to use to identify and evaluate potential fire suppression ponds. For each pond that is identified and under consideration as a potential fire suppression pond, a board must provide notice of such fact to the state engineer and to interested parties included in the substitute water supply plan notification list established for the water division in which the pond is located. Section 2 also prohibits the state engineer from draining any pond: !

- While the pond is under consideration for designation as a fire suppression pond;
- If the state engineer has designated the pond as a fire suppression pond;
- On and after the effective date of the bill, and until the date upon which the director promulgates rules, with exceptions.

Section 2 also states that a fire suppression pond and the water associated with it:

- Are not considered a water right;
- Do not have a priority for the purpose of determining water rights; and
- May not be adjudicated as a water right.

Section 3 requires the state engineer to review applications received from boards and, at the state engineer's discretion, designate ponds as fire suppression ponds. An application is presumed to be approved if the state engineer does not respond to the application within 63

days after the application is received by the state engineer. The state engineer may not designate any pond as a fire suppression pond unless the pond existed as of January 1, 1975. Section 3 also allows the state engineer to impose reasonable requirements on a board as a condition of designating a pond as a fire suppression pond and requires a board and a fire protection district to inspect a fire suppression pond at least annually. The designation of a pond as a fire suppression pond expires 20 years after the date of the designation. Before the expiration, the board and the fire protection district must perform a needs assessment of the pond. If the needs assessment demonstrates that the pond is in compliance with criteria established in the director's rules, the board and fire protection district shall notify the state engineer of such fact, and the state engineer shall redesignate the pond as a fire suppression pond. If the needs assessment demonstrates that the pond is not in compliance with the criteria, the board and fire protection district may either:

- Notify the state engineer that the designation of the pond as a fire suppression pond should be rescinded or allowed to expire; or
- Provide to the state engineer a plan and a timeline for bringing the pond back into compliance with such criteria.

Section 4 states that the designation of fire suppression ponds by the state engineer does not cause material injury to vested water rights.

Status: 02/03/2022 Introduced in Senate, Assigned to Agriculture & Natural Resources

UGRWCD Legislative Committee position: SUPPORT

CWC State Affairs Committee position:

SB22-115 CONCERNING CLARIFYING CERTAIN TERMS AS THE TERMS RELATE TO A LANDOWNER'S LIABILITY.

Senate sponsors: Jaquez Lewis and Gardner House sponsors: Soper and Tipper

The bill clarifies the meaning of terms related to landowner liability and declares that the Colorado court of appeals and supreme court decisions in *Rocky Mountain Planned Parenthood, Inc. v. Wagner* should not be relied upon to the extent that those decisions determined:

- The foreseeability of third-party criminal conduct based upon whether the goods or services offered by a landowner are controversial; and
- That a landowner could be held liable as a substantial factor in causing harm without considering whether a third-party criminal act was the predominant cause of that harm.

Status: 02/03/2022 Introduced in Senate, Assigned to Judiciary

UGRWCD Legislative Committee position: SUPPORT

CWC State Affairs Committee position: Support

SB22-029 CONCERNING WATER SPECULATION IN THE STATE

Senate sponsors: Coram and Donovan, Bridges, Jaquez Lewis House sponsor: McCormick

Water Resources Review Committee. Section 1 of the bill prohibits a purchaser of agricultural water rights that are represented by shares in a mutual ditch company from engaging in investment water speculation. Investment water speculation is the purchase of agricultural water rights that are represented by shares in a mutual ditch company in the state with the intent, at the time of purchase, to profit from an increase in the water's value in a subsequent transaction or by receiving payment from another person for nonuse of all or a portion of the water subject to the water right.

On or after January 1, 2023, the state engineer or the state engineer's designee (state engineer) may investigate complaints of investment water speculation. If a purchaser holds, or by virtue of a proposed sale or transfer, will hold at least a minimum percent of the shares in a mutual ditch company, about which minimum percent the mutual ditch company must determine and notify the state engineer on or before December 31, 2022, there is a rebuttable presumption that the purchaser is engaged in investment water speculation. The state engineer may fine a purchaser up to \$10,000 for a violation and require, for a period of up to 2 years after a fine has been imposed, that any sale or transfer of shares in a mutual ditch company to the purchaser be subject to approval by the state engineer.

If the state engineer believes that a complaint is frivolous or was filed for the purpose of harassing a seller or purchaser, the state engineer may refer the matter to the attorney general's office for the attorney general or the attorney general's designee (attorney general) to investigate and, if the attorney general determines that enforcement is warranted, bring a civil action in a court of competent jurisdiction alleging the complaint is frivolous or was filed for the purpose of harassment. If the attorney general prevails in the civil action, the court may fine a complainant up to \$1,000, prohibit the complainant from filing any complaints alleging investment water speculation for up to one year, and grant attorney fees and court costs.

Section 2 requires the board of directors of a mutual ditch company to determine the minimum percent of agricultural water rights held by all of the shareholders in the mutual ditch company that a purchaser holds or, by virtue of the sale or transfer of shares in the mutual ditch company, will hold that creates a rebuttable presumption that the purchaser is engaging in investment water speculation.

Section 3 authorizes the attorney general to bring a civil action against a complainant if the state engineer refers the matter to the attorney general.

Status: 01/12/2022 Introduced in Senate, Assigned to Agriculture & Natural Resources

UGRWCD Legislative Committee position: OPPOSE

CWC State Affairs Committee position:

SB22-126 CONCERNING A REQUIREMENT THAT THE COLORADO WATER CONSERVATION BOARD PRIORITIZE WATER STORAGE IN THE SOUTH PLATTE RIVER BASIN IN CHOOSING PROJECTS TO FINANCE WITH MONEY FROM THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND.

Senate Sponsors: Sonnenberg and Donovan, Kirkmeyer, Lundeen, Scott, Simpson, Woodward.

House sponsor: Holtorf

The Colorado water conservation board (board) finances water projects throughout the state. Current law requires the board to prioritize projects that will increase the beneficial consumptive use of Colorado's undeveloped compact-entitled waters. The bill includes within this priority a specific priority for projects that increase or improve water storage in the South Platte river basin as a means of increasing the beneficial consumptive use of undeveloped water entitled under the South Platte river compact and in a manner that reduces reliance on transmountain diversions.

Status: 02/04/2022 Introduced in Senate, Assigned to Agriculture & Natural Resources

UGRWCD Legislative Committee position: OPPOSE

CWC State Affairs Committee position:

DRAFT

Colorado River District proposed substitution for SB22-029 (Investment Water Speculation)

37-92-402(11.5) Determination **of Abandonment.**

For the purpose of procedures under this section, failure to apply water to a decreed beneficial use for a period of at least XX-days, which days need not be consecutive, when the failure to apply water to a decreed beneficial use (a) accompanies the payment of consideration to the water right owner or user to cease use of the water right for its decreed purposes, and (b) the water right is not a recognized participant in a program or process included in Section 103(2)(a) or 103(2)(b) of this Article, shall create a determination of abandonment of a water right with respect to the amount of such available water which has not been so used, subject to confirmation by the applicable water court.

37-92-103(2) Definition of Abandonment.

"Abandonment of a water right" means the termination of a water right in whole or in part as a result of the intent of the owner thereof to discontinue permanently the use of all or part of the water available thereunder, WHICH INTENT IS PRESUMED, SUBJECT TO REBUTTAL FOLLOWING A PERIOD OF NON-USE SET FORTH IN SECTION 402(11) OF THIS ARTICLE, AND AS DETERMINED PURSUANT TO THE CRITERIA OF SECTION 402(11.5) OF THIS ARTICLE. Any period of nonuse of any portion of a water right shall be tolled, and no intent to discontinue permanent use PURSUANT TO SECTION 402(11) OR DETERMINATION OF ABANDONMENT PURSUANT TO SECTION 402(11.5) shall be found for purposes of determining an abandonment of a water right for the duration that:

- (a) The land on which the water right has been historically applied is enrolled under a federal land conservation program; or
- (b) The nonuse of a water right by its owner is a result of participation in:
 - (I) A water conservation program approved by a state agency, a water conservation district, or a water conservancy district;
 - (II) A water conservation program established through formal written action or ordinance by a municipality or its municipal water supplier;

(III) An approved land fallowing program as provided by law in order to conserve water;

(IV) A water banking program as provided by law;

(V) A loan of water to the Colorado water conservation board for instream flow use under section 37-83-105 (2); or

(VI) Any contract or agreement with the Colorado water conservation board that allows the board to use all or a part of a water right to preserve or improve the natural environment to a reasonable degree under section 37-92-102 (3).

20CA1780 Hill v Warsewa 01-27-2022

COLORADO COURT OF APPEALS

DATE FILED: January 27, 2022
CASE NUMBER: 2020CA1780

Court of Appeals No. 20CA1780
Fremont County District Court No. 18CV30069
Honorable Lynette M. Wenner, Judge

Roger Hill,

Plaintiff-Appellant,

v.

Mark Everett Warsewa, Linda Joseph, and the State of Colorado,

Defendants-Appellees.

JUDGMENT AFFIRMED IN PART, REVERSED IN PART,
AND CASE REMANDED WITH DIRECTIONS

Division IV
Opinion by JUDGE TOW
Richman and Grove, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)
Announced January 27, 2022

Alexander N. Hood, Denver, Colorado; Mark S. Squillace, Boulder, Colorado, for
Plaintiff-Appellant

Kirk Holleyman, P.C., Kirk B. Holleyman, Denver, Colorado, for Defendants-
Appellees Mark Everett Warsewa and Linda Joseph

Philip J. Weiser, Attorney General, Scott Steinbrecher, Assistant Deputy
Attorney General, Daniel E. Steuer, Senior Assistant Attorney General, Denver,
Colorado, for Defendant-Appellee the State of Colorado

Burns, Figa & Will, P.C., Stephen H. Leonhardt, April D. Hendricks, Greenwood
Village Colorado, for Amicus Curiae Colorado Water Congress

Michael J. Gustafson, City Attorney, Colorado Springs, Colorado, for Amicus Curiae City of Colorado Springs

Law of the Rockies, LLC, Kendall Burgemeister, Gunnison, Colorado, for Amicus Curiae Upper Arkansas Water Conservancy District

Hayes Pozanovic Korver LLC, David S. Hayes, Denver, Colorado for Amicus Curiae Taylor Placer, Ltd., Crystal Creek Homeowners Association, Inc., Jackson-Saw/Taylor River Ranch, LLC, and Wilder Association

¶ 1 Roger Hill appeals the district court’s judgment dismissing his complaint against Mark Everett Warsewa, Linda Joseph (collectively, the Warsewa defendants), and the State of Colorado asserting claims for quiet title and declaratory judgment. We affirm in part, reverse in part, and remand the case for further proceedings.

I. Background

¶ 2 The Warsewa defendants own a parcel of land over and through which the Arkansas River passes. For several years, Hill has attempted to fish on a particular bed of the river that is located on the Warsewa defendants’ land. Hill maintains that “the disputed portion of the bed of the Arkansas River is public land owned by the State of Colorado and held in trust for the people of Colorado by virtue of it being navigable for title when Colorado became a state.”

¶ 3 The navigability of the river at the time Colorado became a state is essential to Hill’s claim. Under what is known as the “equal-footing doctrine,” each state, upon attaining statehood, “gains title within its borders to the beds of waters then navigable.” *PPL Mont., LLC v. Montana*, 565 U.S. 576, 591 (2012). If the water was non-navigable at statehood, the United States retained title. *Id.*

The United States thus retained the authority to grant title to the beds of non-navigable waters to private landowners. *See Hanlon v. Hobson*, 24 Colo. 284, 288, 51 P. 433, 435 (1897).

¶ 4 Navigability is a matter of federal law, and encompasses those rivers that were “used, or [were] susceptible of being used, in their ordinary condition, as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water.” *PPL Mont.*, 565 U.S. at 591-92 (quoting *The Daniel Ball*, 77 U.S. 557 (1870)). Navigability is determined not for an entire river but, rather, on a segment-by-segment basis. *Id.* at 593.

¶ 5 The Warsewa defendants disagree with Hill’s claim that the river was navigable upon statehood. They maintain that the riverbed is their private property¹ and have repeatedly taken steps — including both shows of force and threats of prosecution for trespass — to prevent Hill from using it.

¶ 6 Hill brought claims against the Warsewa defendants seeking (1) to quiet title to the land in question, decreeing that it is “owned

¹ It appears undisputed that Warsewa and Joseph’s title can be traced back to an original federal land grant.

exclusively by the State of Colorado in trust for the public;” and (2) a declaratory judgment under C.R.C.P. 57 to bar the Warsewa defendants from excluding Hill from the riverbed. Hill named the State of Colorado as an “interested party” in the suit.

¶ 7 The Warsewa defendants removed the action to federal district court based on federal question jurisdiction. In federal district court, Hill amended his complaint to name the State of Colorado as a defendant. The State of Colorado shares the Warsewa defendants’ position that the riverbed at issue is private property belonging to the Warsewa defendants. All defendants filed motions to dismiss due to lack of prudential standing, lack of Article III standing, and failure to state a claim for relief. The federal district court granted the motions to dismiss, finding that Hill lacked prudential standing because he was asserting the rights of a third party.

¶ 8 Hill appealed the federal district court’s dismissal to the Tenth Circuit. The Tenth Circuit held that “[t]he district court erred by concluding that [Mr.] Hill lacked prudential standing to bring his claims,” but remanded the case for a determination whether Hill had standing under Article III. *Hill v. Warsewa*, 947 F.3d 1305, 1308-11 (10th Cir. 2020). On remand, the federal district court

held that Hill lacked constitutional standing as well. Rather than dismiss the action, the federal district court remanded the case to the state district court.

¶ 9 Back in state court, all defendants moved to dismiss the case for lack of standing under C.R.C.P. 12(b)(1) and for failure to state a claim for which relief can be granted under C.R.C.P. 12(b)(5). Accepting both theories, the district court granted the motions to dismiss.

¶ 10 Hill now appeals, arguing that the district court erred by dismissing his complaint.

II. Rule 12(b)(1) Motion

¶ 11 Hill contends that the district court erred by finding he lacked standing to sue because he failed to “sho[w] a personal legally protected right that is his to assert in a judicial forum” for both his claims. We agree with the district court as to Hill’s quiet title claim. However, we conclude that Hill has standing to pursue his claim for declaratory judgment.

A. Standard of Review and Applicable Law

¶ 12 When considering a district court’s dismissal for lack of subject matter jurisdiction under C.R.C.P. 12(b)(1), we review the

district court's legal conclusions de novo and its factual determinations, if any, for clear error. *See Monez v. Reinertson*, 140 P.3d 242, 244 (Colo. App. 2006). The plaintiff bears the burden of proving jurisdiction. *City of Boulder v. Pub. Serv. Co. of Colo.*, 2018 CO 59, ¶ 14. A party's standing to bring a claim is a question of law that we review de novo. *Ainscough v. Owens*, 90 P.3d 851, 856 (Colo. 2004).

¶ 13 A standing question involves two considerations: (1) whether the party seeking judicial relief has alleged an actual injury from the challenged action, and (2) whether the injury is to a legally protected or cognizable interest. *Wimberly v. Ettenberg*, 194 Colo. 163, 168, 570 P.2d 535, 539 (1977). The district court found that Hill sufficiently alleged an injury in fact, and appellees do not contest this finding. Thus, our analysis focuses only on whether Hill has sufficiently alleged an injury to a legally protected interest. An interest is legally protected if the individual "has a claim for relief under the constitution, the common law, a statute, or a rule or regulation." *Ainscough*, 90 P.3d at 856.

B. The Quiet Title Action

¶ 14 Hill sought to quiet title in the state, requesting that the district court declare that “the state of Colorado holds title to the subject real property in trust for the public.”

¶ 15 C.R.C.P. 105 governs quiet title actions and requires that the proceeding “completely adjudicate the rights of all parties to the action claiming interests in the property.” *Keith v. Kinney*, 961 P.2d 516, 519 (Colo. App. 1997). In a quiet title action, the plaintiff “has the burden of establishing title superior to that claimed by the defendant.” *Hinojos v. Lohmann*, 182 P.3d 692, 697 (Colo. App. 2008). Accordingly, a party seeking to quiet title must show that it has an interest in the property itself. *Buell v. Redding Miller, Inc.*, 163 Colo. 286, 290, 430 P.2d 471, 473 (1967); *see also Hinojos*, 182 P.3d at 697 (“[T]he plaintiff may not capitalize on the weakness of the defendant’s claim to title, but can succeed only by establishing the strength of his or her own claim to title.”).

¶ 16 Hill does not allege that he has title. Instead, he alleges that the State of Colorado possesses the valid claim to title to the property in question. Hill lacks standing, however, to pursue any claim the state may have to quiet that title. *See Cuddy v. Whatley*,

157 Colo. 562, 563, 404 P.2d 533, 534 (1965); *see also Meyer v. Haskett*, 251 P.3d 1287, 1292 (Colo. App. 2010) (“Courts routinely deny defendants the standing to assert a third party’s right.” (quoting *People v. Palomo*, 31 P.3d 879, 885 (Colo. 2001))).

¶ 17 Seeking to overcome this obstacle, Hill argues that by virtue of the equal-footing doctrine, the State of Colorado took title to the land at issue and holds it for the benefit of the public. As a result, he contends, he (along with all other members of the public) has the right to access the property — a right which he claims is, in essence, an easement.² He argues that Colorado courts have routinely permitted individuals to sue to enforce public easements. But Hill’s argument assumes too much.

¶ 18 True, in developing the equal-footing doctrine, the United States Supreme Court has noted that states, upon their admission

² Hill incorrectly asserts that the Tenth Circuit “found” that his interest was an easement. The first reference Hill cites was merely a restatement of his argument. *Hill v. Warsewa*, 947 F.3d 1305, 1306-07 (10th Cir. 2020). The second is, at most, analogizing his claim to that of an easement holder. *Id.* at 1310. In any event, whether a purported interest in property is an easement is a matter of state law, and we are not bound by the federal courts in such matters. *First Nat’l Bank in Fort Collins v. Rostek*, 182 Colo. 437, 441 n.1, 514 P.2d 314, 316 n.1 (1973).

to the union, took title to the navigable waters and their beds in trust for the public, see *PPL Mont.*, 565 U.S. at 604 (citing *Shively v. Bowlby*, 152 U.S. 1, 49 (1894)). But while the equal-footing doctrine is a product of federal constitutional law, “the States retain residual power to determine the scope of the public trust over waters within their borders.” *Id.*

¶ 19 Put another way, “[s]tate law determines whether the public effectively has an easement over these lands for public trust purposes, whether the state may dispose of the lands through grants to private parties, whether private landowners have always held the lands, or whether some other regime is effective.” *In re Title, Ballot Title, & Submission Clause for 2011-2012 No. 3*, 2012 CO 25, ¶ 39 (Hobbs, J., dissenting). Significantly, we are aware of no statute or published decision of a Colorado appellate court — nor does Hill direct us to one — that establishes that any right a member of the general public may have to the use of public land rises to the level of an easement or any other interest in the property sufficient to seek to quiet title.

¶ 20 Moreover, Hill’s reliance on *Turnbaugh v. Chapman*, 68 P.3d 570 (Colo. App. 2003), is misplaced. In *Turnbaugh*, the plaintiff was

suing to enforce an easement expressly created by a plat. *Id.* at 571. And, significantly, there is no indication that the plaintiff in *Turnbaugh* was permitted to quiet title to the property to which the easement attached on behalf of the public entity holding the easement.

¶ 21 Because Hill himself has no claim to title and has not shown that his claim to public access rises to the level of an easement, he does not possess a legally protected interest. He therefore has failed to carry his burden of establishing that he has standing to seek to quiet title. Thus, the district court did not err by dismissing this claim under Rule 12(b)(1).

C. Declaratory Judgment

¶ 22 Hill also sought a declaratory judgment that the Warsewa defendants “have no right to exclude . . . Hill from wading in the Arkansas River at the subject location.” In connection with this declaratory relief, Hill sought injunctive relief barring the Warsewa defendants from “threatening, assaulting or battering” him and from excluding him from the riverbed.

¶ 23 “A declaratory judgment action is appropriate ‘when the rights asserted by the plaintiff are present and cognizable ones.’”

Wainscott v. Centura Health Corp., 2014 COA 105, ¶ 17 (quoting *Farmers Ins. Exch. v. Dist. Ct.*, 862 P.2d 944, 947 (Colo. 1993)); see also *Bd. of Cnty. Comm’rs v. Bowen/Edwards Assocs., Inc.*, 830 P.2d 1045, 1053 (Colo. 1992) (Standing requires “an existing legal controversy that can be effectively resolved by a declaratory judgment.”).

¶ 24 Hill argues that, because the river was navigable at statehood, the riverbed is public land owned by the State of Colorado. Thus, he, as a member of the public, is not trespassing by wading on the riverbed. He therefore requests a declaratory judgment to that effect, as well as injunctive relief preventing the Warsewa defendants from treating him as a trespasser. Here, unlike in the quiet title claim, Hill is alleging an interest that is his own — the right to wade and fish in the river at the location in question. He further contends that, pursuant to section 18-4-504.5, C.R.S. 2021, he could not be considered a trespasser for entering or remaining in or upon the banks and beds of a navigable river. Thus, he seeks to

clarify his rights in order to be free from threats of physical violence.³

¶ 25 Our supreme court has said that the “core purpose of declaratory judgments [is] to clarify rights in advance of the commission of wrongs.” *S. Ute Indian Tribe v. King Consol. Ditch Co.*, 250 P.3d 1226, 1247 (Colo. 2011). This is precisely what Hill seeks to achieve. Therefore, he has sufficiently alleged a legally protected or cognizable interest “under the constitution, the common law, a statute, or a rule or regulation.” *Ainscough*, 90 P.3d at 856.

¶ 26 Appellees argue, however, that even if the river were considered navigable, Hill would not have a right to access as a member of the public “because there is no public trust doctrine in

³ Hill also seeks to avoid what he contends is unwarranted prosecution. He alleges that Warsewa threatened that Hill was “getting a summons,” and that Warsewa placed a note on Hill’s windshield stating, “You can and will be charged with trespassing!” The note further asserted that Warsewa was an employee of the county and that he would have the sheriff “run” Hill’s plate number. It is not at all clear that these allegations alone would demonstrate a sufficiently reasonable possibility of prosecution to permit him to pursue declaratory relief. *See Metal Mgt. W., Inc. v. State*, 251 P.3d 1164, 1175 (Colo. App. 2010). We need not decide this issue, however, as Hill’s allegations regarding the threats of physical violence are sufficient.

Colorado.” This may (or may not) be the case. *See City of Longmont v. Colo. Oil & Gas Ass’n*, 2016 CO 29, ¶¶ 61-62 (noting that Colorado had no provision similar to one in the Pennsylvania Constitution declaring that the state’s natural resources “are the common property of all the people” (quoting Pa. Const. art. I, § 27)); *People v. Emmert*, 198 Colo. 137, 141, 597 P.2d 1025, 1027 (1979) (declining to adopt a public trust theory regarding the riverbeds of non-navigable waters).⁴ But a court cannot dismiss a claim for lack of standing based on the merits of the underlying substantive claim. *See Hickenlooper v. Freedom from Religion Found., Inc.*, 2014 CO 77, ¶ 7 (Standing is a jurisdictional prerequisite that “must be determined prior to a decision on the merits.”). We therefore do not consider the question of whether Hill would actually prevail on his contention that he has a public right of access to the riverbed.

¶ 27 Appellees also contend that “Hill asserts only a generalized grievance held in common with the public that is insufficient to confer standing.” Initially, we acknowledge that the prudential

⁴ We note, however, that we are aware of no Colorado appellate decision that has addressed the issue of whether — and, if so, how — the public trust doctrine applies to the beds of navigable waters.

prong of our standing test (i.e., that the plaintiff's injury must be to a legally protected or cognizable interest) is aimed at ensuring that "the claim not be an abstract, generalized grievance that the courts are neither well equipped nor well advised to adjudicate." *City of Greenwood Village v. Petitioners for Proposed City of Centennial*, 3 P.3d 427, 437 (Colo. 2000) (quoting *Sec'y of State of Md. v. Joseph H. Munson Co.*, 467 U.S. 947, 955 n.5 (1984)).⁵ But Hill does not present an abstract or generalized challenge to the government's actions; instead, he presents a specific request for a declaratory judgment to prevent the Warsewa defendants from barring his use of the riverbed, and alleges concrete injuries (or at least threats of injuries) that have actually occurred and that he is seeking to avoid in the future. The district court observed that "[w]hatever right

⁵ That being said, as our supreme court has also acknowledged, our prudential standing analysis is not necessarily informed by federal cases cautioning against "generalized grievance[s]" because the federal analysis is concerned with the constitutionally rooted jurisdictional limitations on the federal courts to only entertain certain "cases" and "controversies." *Conrad v. City & Cnty. of Denver*, 656 P.2d 662, 669 (Colo. 1982) (citations omitted). Indeed, as the Tenth Circuit pointed out, the "generalized grievance" analysis in the federal court is relevant to constitutional, rather than prudential, standing. *Hill*, 947 F.3d at 1311. Because our district courts, unlike the federal courts, are courts of general jurisdiction, the analysis is not interchangeable.

[Hill] might possess in accessing the disputed riverbed he shares with all members of the public.” While this may be true, there is no indication that all members of the public have been threatened with physical harm and prosecution for trespass. Thus, Hill’s claim is not a generalized or abstract claim, but a particularized one.

¶ 28 Because Hill’s declaratory judgment claim sufficiently alleges an injury to a legally protected or cognizable interest, we conclude that the district court erred by dismissing this claim under Rule 12(b)(1).

III. Rule 12(b)(5) Motion

¶ 29 Having determined that the district court erred in dismissing Hill’s claim for a declaratory judgment under Rule 12(b)(1), we next consider whether the district court erred in dismissing the claim under Rule 12(b)(5).⁶

A. Standard of Review and Applicable Law

¶ 30 A motion to dismiss for failure to state a claim under Rule 12(b)(5) “is designed to allow defendants to ‘test the formal

⁶ Because we conclude that dismissal of the quiet title claim was proper under C.R.C.P. 12(b)(1), we need not address whether it was also proper under C.R.C.P. 12(b)(5).

sufficiency of the complaint.” *Coors Brewing Co. v. Floyd*, 978 P.2d 663, 665 (Colo. 1999) (quoting *Dorman v. Petrol Aspen, Inc.*, 914 P.2d 909, 911 (Colo. 1996)). To survive a motion to dismiss under Rule 12(b)(5), a plaintiff must state a plausible claim for relief. *Warne v. Hall*, 2016 CO 50, ¶ 42.

¶ 31 In ruling on a motion to dismiss under Rule 12(b)(5), a court considers the facts alleged in the complaint, taking them as true and viewing them in the light most favorable to the plaintiff. *Begley v. Ireson*, 2017 COA 3, ¶ 8. We review de novo a district court’s ruling on a motion to dismiss under Rule 12(b)(5). *See Denver Post Corp. v. Ritter*, 255 P.3d 1083, 1088 (Colo. 2011).

B. Analysis

¶ 32 After its lengthy analysis of the Rule 12(b)(1) dismissal, the district court rather summarily addressed the Rule 12(b)(5) motion. The court concluded that Hill failed “to show how the common law and constitutional law on which he relies for the substantive conclusion that the riverbed is public property also provide a private cause of action for the enforcement.” The court appears to have conflated the question of the plausibility of the claim with the

“injury to a legally recognizable interest” prong of the standing analysis.

¶ 33 Again, Rule 12(b)(5) merely requires that Hill state a plausible claim for relief. We conclude that he has.

¶ 34 If, as Hill alleges, the relevant segment of the river was navigable at statehood, then the Warsewa defendants do not own the riverbed and would have no right to exclude him from it by threats of physical violence or prosecution for trespass. In support of his claim, Hill proffers numerous factual allegations that the river was used for commerce at or near the time of statehood, including floating beaver pelts, logs, and railroad ties down the river. We certainly cannot, at this early stage, know whether Hill will be able to establish that the river segment was navigable at statehood. But we cannot say it is not plausible.

¶ 35 Moreover, as noted, the question of whether, and to what extent, the public trust doctrine should apply to the bed of a navigable river has never been resolved — or, as far as we can tell, even addressed — in Colorado. Nor has Hill’s claim that he is entitled to access to the riverbed based on English common law

been resolved or addressed. Thus, it cannot be said that the law as it stands now unequivocally bars Hill's claim.

¶ 36 Because Hill states a plausible claim, the district court erred by granting the motion to dismiss the declaratory judgment claim pursuant to Rule 12(b)(5).⁷

IV. Conclusion

¶ 37 The judgment is affirmed in part and reversed in part. The case is remanded for further proceedings consistent with this opinion.

JUDGE RICHMAN and JUDGE GROVE concur.

⁷ Of course, in light of our resolution of the standing issue related to Hill's quiet title claim, we reiterate that Hill cannot, under the guise of declaratory judgment, seek any declaration regarding the State of Colorado's title or ownership of the riverbed — only that the Warsewa defendants do not own it.

Court of Appeals

STATE OF COLORADO

2 East 14th Avenue

Denver, CO 80203

(720) 625-5150

PAULINE BROCK

CLERK OF THE COURT

NOTICE CONCERNING ISSUANCE OF THE MANDATE

Pursuant to C.A.R. 41(b), the mandate of the Court of Appeals may issue forty-three days after entry of the judgment. In worker's compensation and unemployment insurance cases, the mandate of the Court of Appeals may issue thirty-one days after entry of the judgment. Pursuant to C.A.R. 3.4(m), the mandate of the Court of Appeals may issue twenty-nine days after the entry of the judgment in appeals from proceedings in dependency or neglect.

Filing of a Petition for Rehearing, within the time permitted by C.A.R. 40, will stay the mandate until the court has ruled on the petition. Filing a Petition for Writ of Certiorari with the Supreme Court, within the time permitted by C.A.R. 52(b), will also stay the mandate until the Supreme Court has ruled on the Petition.

BY THE COURT: Gilbert M. Román,
Chief Judge

DATED: January 6, 2022

Notice to self-represented parties: The Colorado Bar Association provides free volunteer attorneys in a small number of appellate cases. If you are representing yourself and meet the CBA low income qualifications, you may apply to the CBA to see if your case may be chosen for a free lawyer. Self-represented parties who are interested should visit the Appellate Pro Bono Program page at <http://www.cobar.org/appellate-pro-bono>

AGENDA ITEM 6

**Gothic Raw Water Presentation by
Janna Hansen, Town of CB**

AGENDA ITEM 7

Basin Water Supply Report

MEMORANDUM

TO: UGRWCD Board Members

FROM: Beverly Richards, Water Resource Specialist

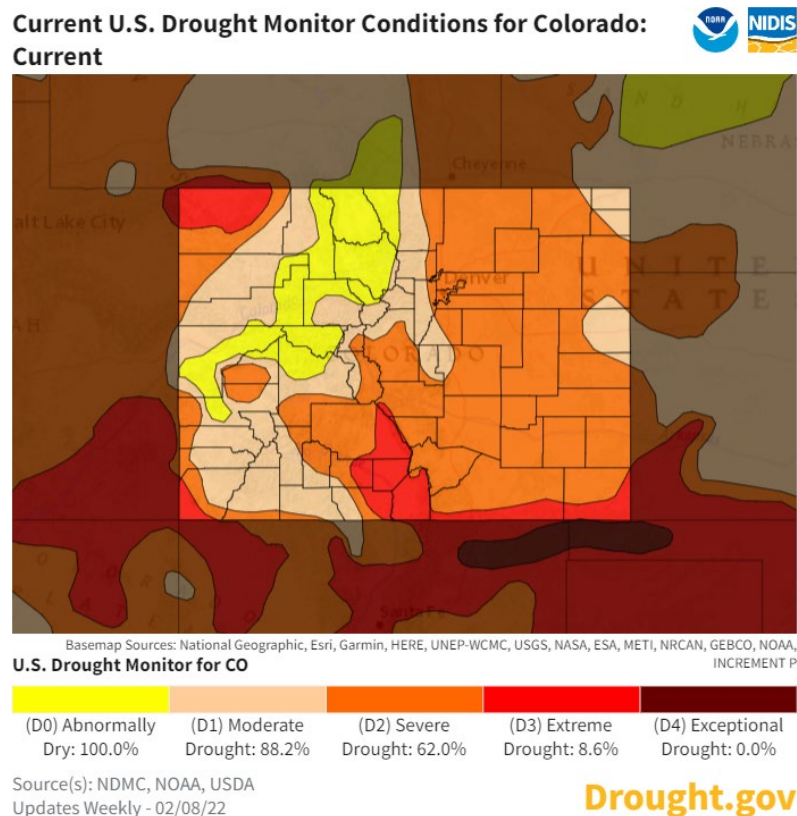
DATE: February 17, 2022

SUBJECT: Basin Water Supply Information

The information supplied as part of this memorandum is a monthly feature and includes information about drought conditions in the basin, reservoir storage, reservoir operations, and the Upper Gunnison Cloudseeding Program.

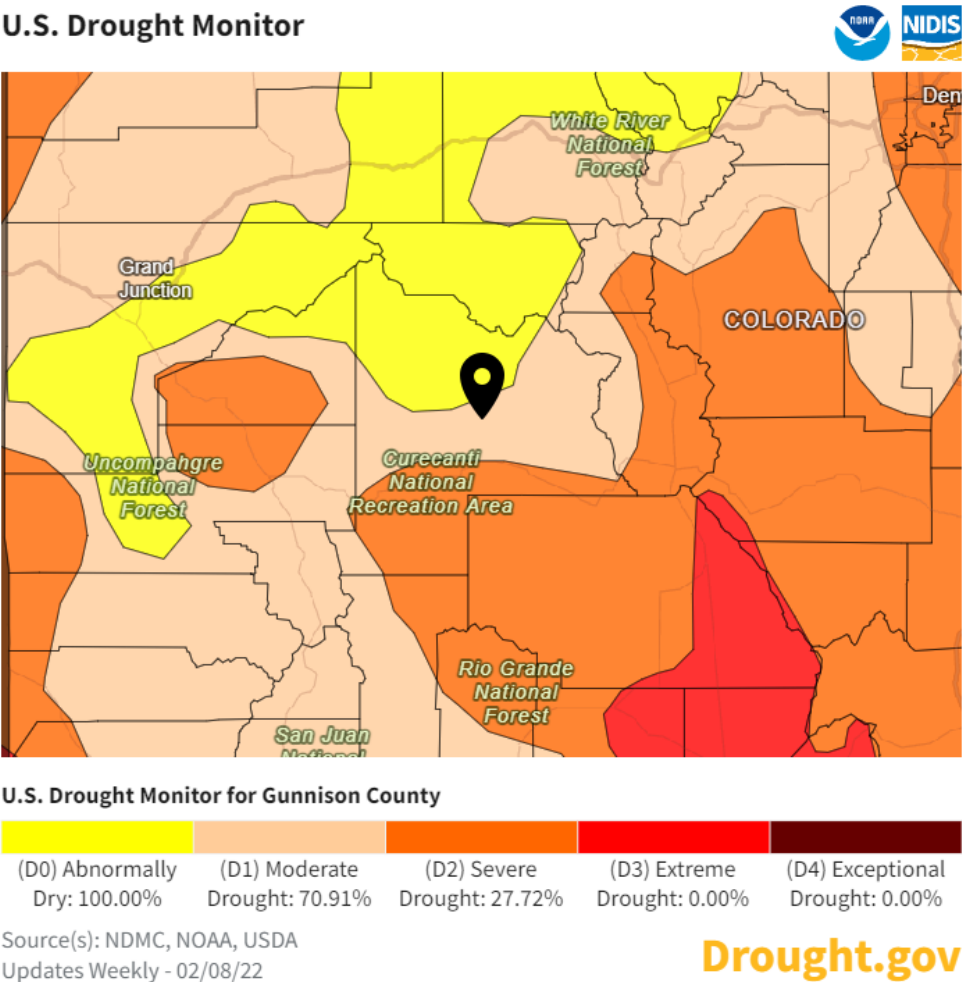
Drought Conditions:

According to the *Drought Monitor at drought.gov* as of February 8, 2022, drought conditions are slowly worsening throughout the state with 62% of the state now experiencing severe (D2) or extreme (D3) drought conditions. This is significantly worse than the November 2, 2021, report where only 30% of the state was experiencing extreme drought conditions. This is primarily on the eastern slope as precipitation has been almost non-existent through-out the winter months in that area. These conditions are reflected in the current conditions map for the state provided below.



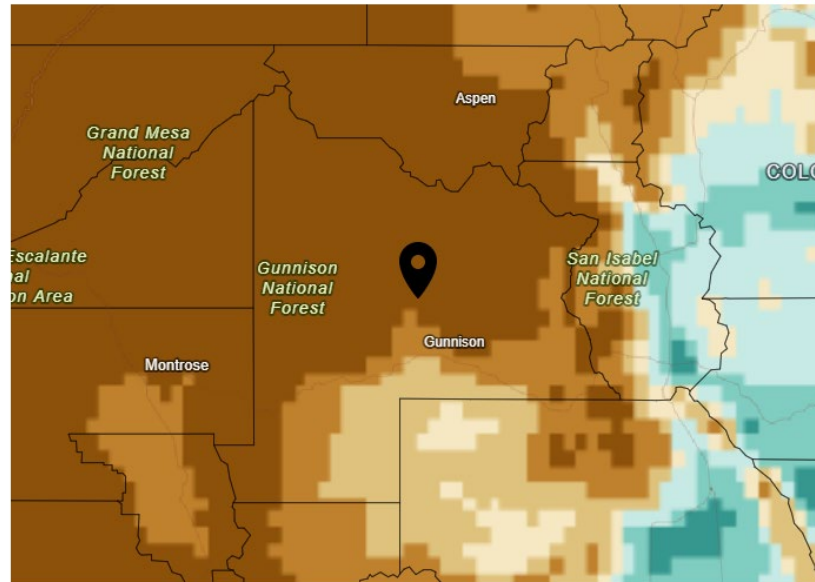
Gunnison County

Drought conditions in Gunnison County remained about the same as in January though there was an improvement in those area experiencing Abnormally Dry (D0) and Moderate Drought (D1) conditions. According to the *U.S. Drought Monitor*, dated February 8, 2022, 29% of Gunnison County is experiencing Abnormally Dry (D0) conditions, 43% Moderate (D1) conditions, and 28% Severe (D2) conditions. This is a slight improvement from the beginning of the water year when the county was experiencing only 3% of Abnormally Dry, 69% Moderate, and 28% Severe drought conditions. This is reflected in the current conditions map for Gunnison County provided below.

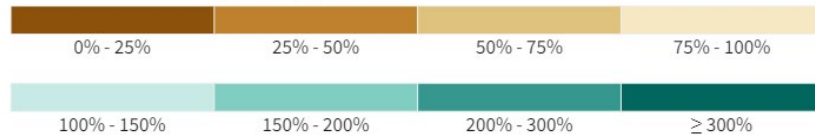


Even though drought conditions have remained about the same since the beginning of the water year, precipitation in January did not follow the same track as in December. In January, Gunnison County experienced the 20th driest January in the 128-year recorded time span and was 1.14” below normal precipitation. This is forecasted to persist through the next 30 days, as reflected in the figure below, where precipitation totals are forecasted to range from 0 to 75% below normal.

30-Day Percent of Normal Precipitation



Percent of Normal Precipitation (%)



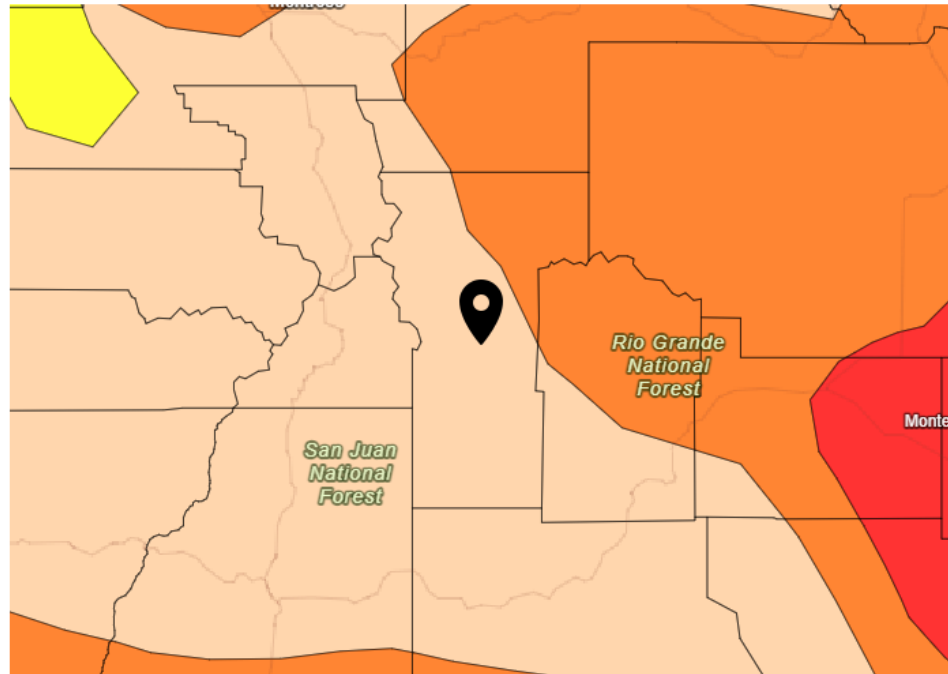
Source(s): UC Merced
Last Updated - 02/07/22

Drought.gov

Hinsdale County

According to the *U.S. Drought Monitor*, dated February 8, 2022, drought conditions in Hinsdale County have steadily worsened, with 100% of Hinsdale County experiencing Moderate (D1) to Severe (D2) conditions. At the beginning of the water year, 29% of the county was experiencing Abnormally Dry (D0), and 71% was experiencing Moderate (D1) conditions. The current conditions are reflected in the current conditions map for Hinsdale County provided below.

U.S. Drought Monitor



U.S. Drought Monitor for Hinsdale County

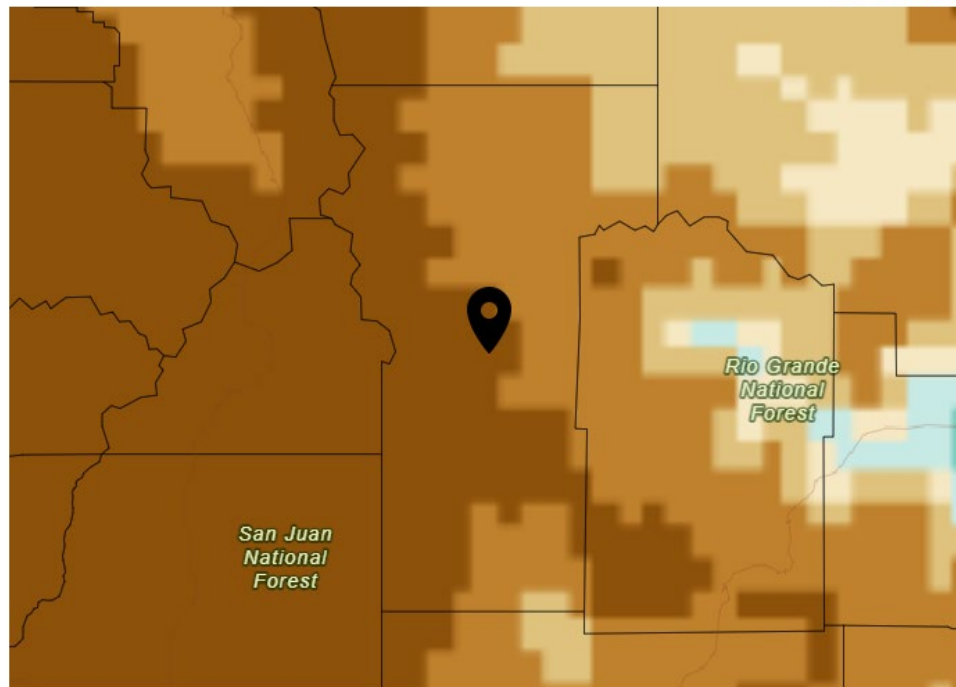


Source(s): NDMC, NOAA, USDA
Updates Weekly - 02/08/22

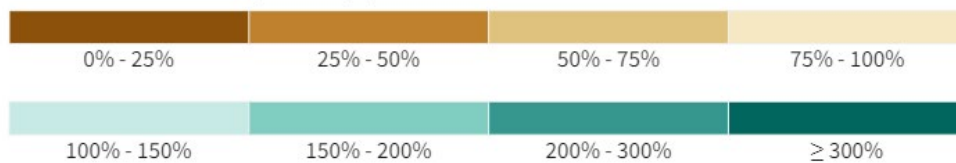
Drought.gov

Precipitation in Hinsdale County has been low with the county experiencing the 11th driest January in the 128-year recorded history and was 1.83” below normal precipitation. This is also forecasted to persist for at least the next 30 days as reflected in the figure below. Precipitation amounts are forecasted to range anywhere from 0 to 50% of normal for the entire county.

30-Day Percent of Normal Precipitation



Percent of Normal Precipitation (%)



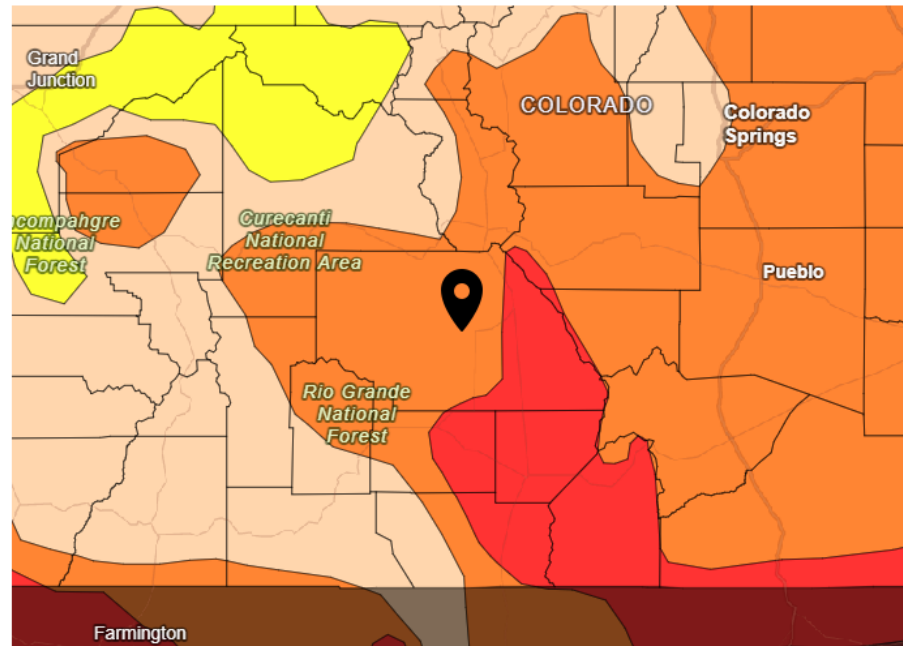
Source(s): UC Merced
Last Updated - 02/07/22

Drought.gov

Saguache County

According to the *U.S. Drought Monitor*, dated February 8, 2022, drought conditions in Saguache County have not fared as well as Gunnison and Hinsdale County and this is still the case with much of the upper Rio Grande River basin. The entire county is now listed as experiencing Severe (D2) or Extreme (D3) conditions. This is a significant change from conditions that existed at the beginning of the water year where the entire county was in Abnormally Dry (44 %) to Severe (.63%) conditions. This is reflected in the current conditions figure below.

U.S. Drought Monitor



U.S. Drought Monitor for Saguache County

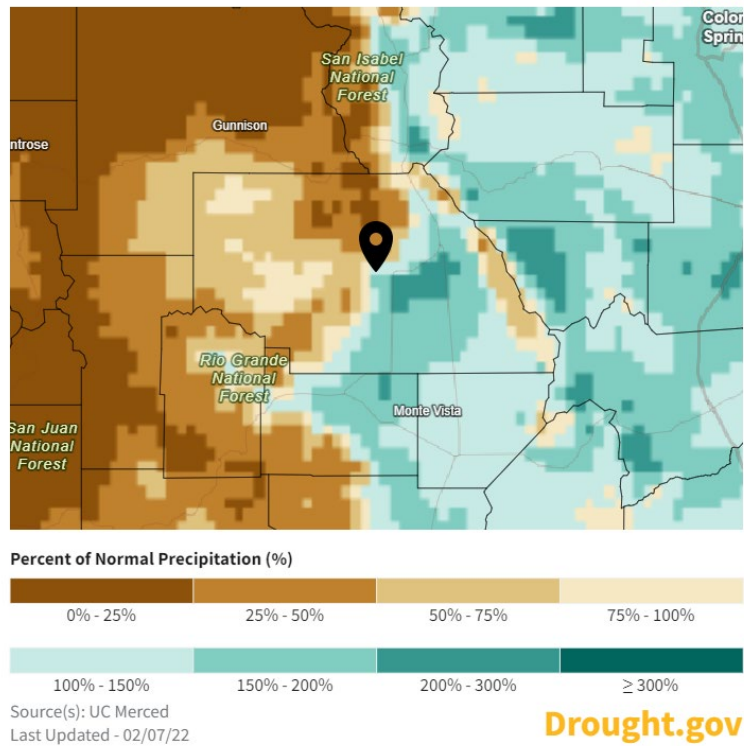


Source(s): NDMC, NOAA, USDA
Updates Weekly - 02/08/22

Drought.gov

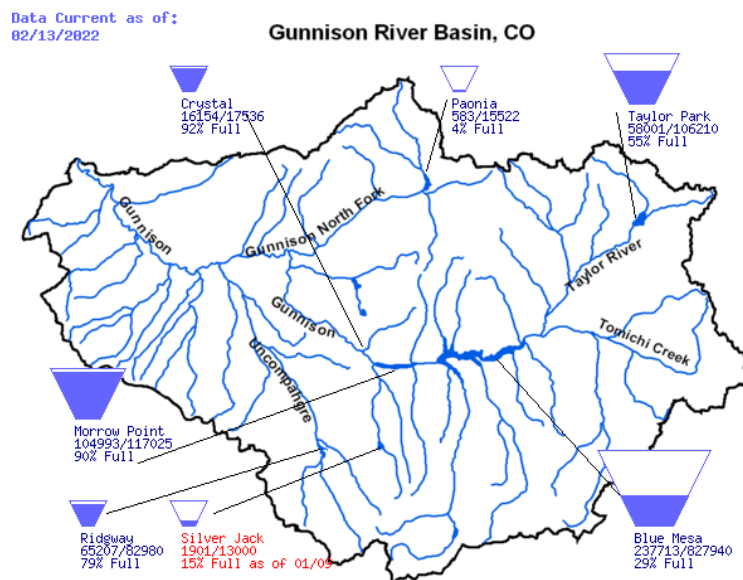
Precipitation in Saguache County has been low but not as dry as Gunnison and Hinsdale County. Saguache County experienced the 55th driest January in the 128-year recorded history and was .26" below normal precipitation. The 30-day forecast for Saguache County reflects that the eastern part of the county could receive precipitation ranging from 100 to 300% of normal as reflected in the figure provided below. Hopefully this precipitation will aid in lessening some of the drought conditions in that area.

30-Day Percent of Normal Precipitation



Reservoir Storage

Reservoir storage in the Gunnison Basin is at 52% of full. The reservoirs in the Upper Gunnison Basin, Taylor and Blue Mesa, are at 55% and 29% respectively. This is reflected in the tea-cup diagram below dated February 13.



Aspinall Unit Operations:

This update was provided by the Bureau of Reclamation from their *Aspinall Operations* page and is dated February 11, 2022.

The unregulated inflow volume to Blue Mesa Reservoir in January was 19,626 acre-feet (82% of average). Unregulated inflow volumes forecasted for the next three months (February-April) are projected to be a total of 101,000 acre-feet (75% of average). The unregulated inflow total for 2022 is currently projected to be 825,000 acre-feet (91% of average based on recorded period of 1991-2020). The inflows for the water supply period (April-July) is projected to be 585,000 acre-feet (91% of average).

Snowpack development in the Upper Gunnison Basin was very low in January but the current snowpack level is still at 111% (107% as of February 14) based of the period of record (1991-2020).

Taylor Park Reservoir Operations:

The Bureau of Reclamation provided an update of Taylor Park Reservoir operations using the February 1 forecast from the Colorado Basin River Forecast Center. This forecast indicated that there will be 100,000 acre-feet of runoff flowing into the reservoir which is 106% of average. This forecast puts the year type in the Average Year category. Based on this year type, there is a requirement for a spring peak release of 445 cfs for 5 days.

The preliminary operations plan indicates that the reservoir could fill to a maximum seasonal content of 97,000 acre-feet which is 93% full. Releases from Taylor Park Reservoir continue at the winter flow rate of 72 cfs and will continue at that rate through the month of March.

Snowpack in the Taylor River watershed is at 108% of normal. December snow accumulation was 227% of average for the entire Upper Gunnison basin, but only 69% of average for January.

Lake San Cristobal Update:

The current elevation (February 14) for Lake San Cristobal is 8994.29 which is up slightly from the January 12 reading of 8994.17. The flows out of the reservoir are currently at 9.64 cfs. We spoke with Dan Brauch with CPW previously on the flows not meeting the winter rate of the instream flow and his response is below:

Since the base flow period through the winter is pretty long and we do not have a lot of stored water to work with to benefit the fishery, I would not recommend trying to bump flows up to meet the 20 cfs, but would also want to be sure we are maintaining base flows by passing through inflows to maintain stream habitat downstream of Lake San Cristobal, especially since we are currently not meeting the 20 cfs. – Dan Brauch

Lake Powell Update:

The Bureau of Reclamation provided an update on Lake Powell on the *Glen Canyon Dam Operations* page dated January 14, 2022.

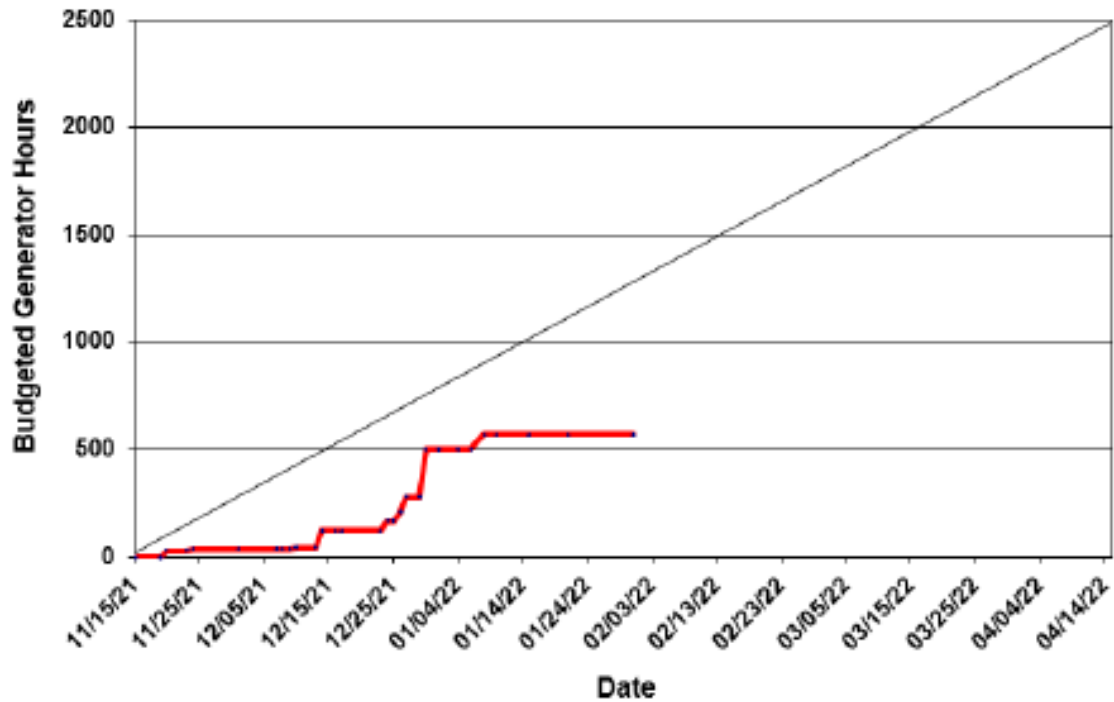
The Upper Basin Drought Response Operations Agreement (DROA) provisions to protect a target elevation at Lake Powell of 3,525 feet have been incorporated into the January 2022 24-Month Study and include an adjusted monthly release volume pattern for Glen Canyon Dam that will hold back a total of 0.350 million acre-feet (maf) in Lake Powell from January through April. There are continued discussions when and how that same amount of water (0.350 maf) will be released later in the water year.

The annual release volume from Lake Powell for water year 2022 will continue to be 7.48 maf. If future projections indicate the monthly adjustments are insufficient to protect Powell's elevation, Reclamation will again consider additional water releases from the upstream initial units of the Colorado River Storage Project later this year.

The unregulated inflow volume to Lake Powell during December was 266 thousand acre-feet (kaf) (83% of average). The release volume from Glen Canyon Dam in December was 600 kaf. The end of December elevation and storage of Lake Powell were 3,537.33 feet (163 feet from full pool) and 7.02 maf (29% of live capacity), respectively. The current inflow forecasts into Lake Powell are: minimum probable – 6.37 maf (66% of average), most probable – 8.77 maf (91% of average), maximum probable – 13.88 maf (145% of average).

Cloudseeding Report (North American Weather Consultants; NAWC) & SWE in the Snowpack:

According to the *North American Weather Consultants* report dated February 2, 2022, the weather pattern for January in this area was largely dominated by high pressure and dry weather. Many of the storms that came across Colorado brought little more than a few high clouds and colder temperatures. There was only one storm that was suitable for seeding operations and this occurred on January 8. There were a total of 78.5 generator hours used in January which was significantly lower than December where 473.75 hours were used. This is reflected in the graph provided below which shows a flatline for much of January.



The table below shows snow water equivalent for the water year as of February 1, 2022 at the five Blue Mesa SNOTEL sites.

Measurement Site	Snow Water Equivalent (inch)		Water Year Precipitation (inch)	
	2-1-22	Percent of Average	2-1-22	Percent of Average
Butte	9.9	119	11.0	116
Schofield Pass	25.4	143	26.9	146
Park Cone	8.4	140	9.7	143
Porphyry Creek	11.1	118	12.0	135
Slumgullion	6.3	72	6.4	76
Upper Gunnison Basin %		118		123

As of February 1, 2022, snow water equivalent in the Upper Gunnison Basin was above normal, with a basin-wide average of 118%. Water year precipitation was also above normal, at an average of 123%.

The figure below summarizes SWE for the entire Gunnison River Basin as of January 24, 2022. This information is provided by *NRCS*. The graph represents snowpack as the current percent of normal (125%), the current percent in comparison to last year (182%), and the percent of peak (68%), and the percent of normal needed to reach the peak (70%).

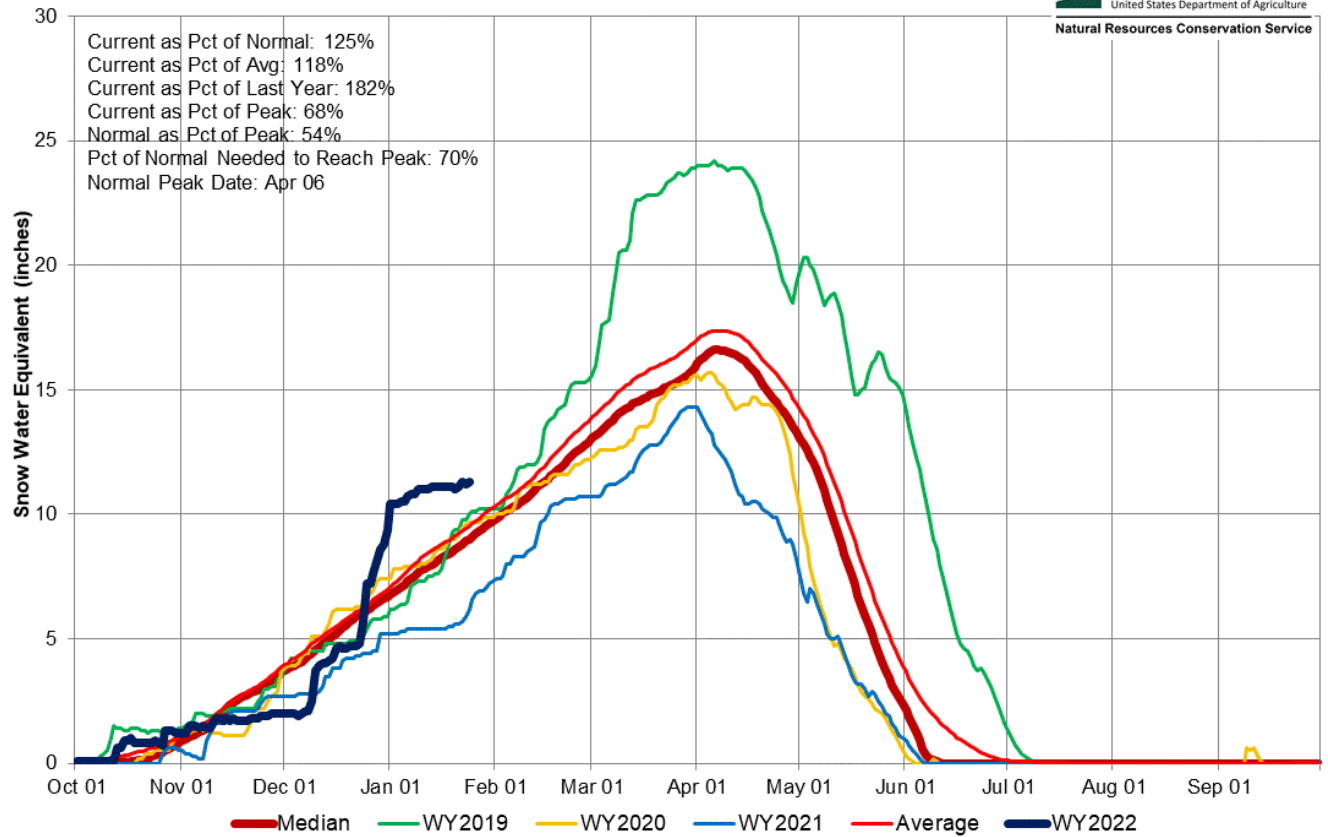
Gunnison River Basin Time Series Snowpack Summary

Based on Provisional SNOTEL data as of Jan 24, 2022



United States Department of Agriculture

Natural Resources Conservation Service



Think More Snow!

AGENDA ITEM 8

BREAK

AGENDA ITEM 9

Treasurer's Report

MEMORANDUM



TO: Board of Directors
FROM: Director Bill Nesbitt, Treasurer
DATE: February 15, 2022
SUBJECT: Treasurer's Report - February

Director Nesbitt is unable to attend our February 2022 Regular Board Meeting and has graciously provided the following Treasurer's Report to President Pierce and the General Manager via email.

- A. *Rob Casacelli, our bond investment adviser, initiated a new 1.47% purchase for approximately 18 months with maturing funds after discussions with me and Sonja. This interest rate was much better than a quote from 3 weeks ago.*
- B. *CD rates continue to be weak. I have talked with four local banks and the Lake City branch of Community Banks of Colorado and right now rates are low and not competitive and less than 1% rate of return, but my philosophy is that we need to keep funds in local banks even if the rates are not as strong as we could get with other venues. I am all ears if any board members or staff have a different opinion. I think local CD's make for good relations in the long run.*
- C. *Market instability has been cussed and discussed since before the January 25-26th meeting of the FED. Jay Powell, Chairman of the FED is no longer using the word "transitory" in defining inflation. As of yesterday, the financial pundits and economists are bandying about how many rate hikes for this year. At this time 4, 5 and 7 rate hikes have been pushed by the large investment houses and banks. Goldman Sachs is pushing for 7. Some talk about .25% for the first rate hike in March and others this week have started lobbying for a "shock" to the market of .50% or a full 1% starting in March. Yesterday, I watched James Bullard, FED Reserve President of the St. Louis branch, say on CNBC that the "FED's credibility is on the line in its quest to bring inflation down from the current 40 year high of more than 7%." There was more said but he was delivering a message to the investment community prior to the next FED meeting of "belt tightening" maneuvers that may not be palatable to the market as the FED's past policy of quantitative easing-QE-.*
- D. *In my opinion we can do nothing but be observers to the unfolding political and financial situation building between Russia and Ukraine. Russia, with the past aid of many American oil and gas companies, is the largest natural gas supplier for Europe and a number of Asian countries. Our President made a comment over the weekend about sending that Russian natural gas to Germany in the event of war. A number of large financial houses are concerned about his passing comment because of existing large contracts that are in play. Stay tuned.*

- E. *Lastly, there was a closed door meeting Valentine's Day of the FED under the auspices of "Expedited Procedures" to discuss "advance and discount rates to be charged by the Federal Reserve Bank" and it was "determined that the public interest did not require opening the meeting." I have talked with our bond dealer and a couple of long-term bankers that were a bit surprised and the common theme was "time will tell". Reuters news service picked it up but there was really nothing in the article than conjecture about the upcoming meeting and that some analysts are calling "now" for a 1.00% rate hike immediately in March.*

Our assets are safe, liquid and yielding a reasonable rate of return. In my opinion, there will be belt tightening created by events out of our personal control. Remember, the sky is not falling, although some would like to see that because as "short sellers" they can make a lot of money on the way down.

I hope this overview is helpful. There is a lot more on the European front, and Japan is issuing some central bank problems. I think there are dark clouds financially over the horizon and think we need to be attentive and conservative with our funds.

Be Well...Bill Nesbitt

Received via Email: Tuesday, February 15, 2022 8:51 AM

AGENDA ITEM 10

**Board Discussion- Coordinated
Emergency Response Planning
and Demand Management**

MEMORANDUM



TO: UGRWCD Board Members
FROM: Sonja Chavez, General Manager
DATE: February 16, 2022
SUBJECT: UGRWCD Engagement in Emergency Response Planning

Background: In the last two years Colorado has experienced four large fires. In total 600,000 acres have burned. The most recent Marshall Creek fire being one of the most destructive, burning a thousand homes and causing \$500M in damages and the loss of two lives.

These intense fires can have significant and long-lasting impacts on water-quality and watershed conditions impacting wildlife, water chemistry, and severely damaging soils. Soil damage from intense fires can lead to erosion, flooding, and debris flows that can damage infrastructure, drinking water supplies, and create public safety concerns.

Colorado has learned many lessons as communities have worked to recover from these fires. The City of Gunnison Source Water Protection Planning stakeholder group asked Raquel Flinker of the Colorado River District to prepare a list of lessons learned from the Grizzly Creek and No Name fires related to emergency response and wildfire preparedness from the perspective of a water district. Those lessons include:

- Map vulnerable infrastructure
- Develop redundant water sources with full water delivery capability and treatment for redundant supplies
- Define key water quality monitoring locations (such as turbidity meters with alarm above intakes)
- Prepare, at least have design, for sourced surface water treatment processes to handle more turbid, sediment laden water
- Establish a source water protection plan with a wildfire and watershed assessment

The UGRWCD has taken some very important first steps in the development of a prioritized list of areas and actions related to pre-wildfire mitigation planning efforts within the basin.

Activities include:

- Phase 1 Wildfire Hazard Risk Assessment that includes mapping of vulnerable infrastructure, source water protection areas, and forest areas prone to fast moving and hot crown fires.
- Phase 1 Geo-fluvial Assessment that will identify areas vulnerable to potential post-fire debris flow.

- Source Water Protection planning with the Colorado Rural Water Association and a stakeholder workgroup to complete a City of Gunnison Source Water Protection Plan.
- Working with the Upper Gunnison Shared Stewardship Council on forest treatments and wildfire planning and protection
- Leading a Wet Meadows Restoration and Resiliency Program that restores natural features across the landscape that also serve as low-tech and low-cost fire mitigation features.
- Updated Wetland Assessment for the Upper Gunnison Base (anticipate commencing this spring) to help identify areas where wetland restoration could occur as a natural landscape feature which helps to mitigate impacts from wildfire.

It is the General Manager's understanding that the District has not been an active participant in emergency response planning in our watershed. It is the recommendation of the General Manager that the District begin preliminary conversations with emergency response teams in the three counties that make up our District to gain an understanding of existing plans and any gaps in those response plans as it relates to water resources.

RECOMMENDED ACTION: Direct the General Manager to engage with emergency response planning teams and evaluate the adequacy of emergency response plans as it relates to water resources so that the District can be prepared to assist in the event of an emergency.

MEMORANDUM



TO: UGRWCD Board Members
FROM: Sonja Chavez, General Manager
DATE: February 16, 2022
SUBJECT: Demand Management Conceptual Market Structure

Background: On February 9, 2022, Colorado River District General Manager, Andy Mueller, brought the Demand Management Conceptual Market Structure back to the River District Board for additional targeted discussion based upon feedback they had received. Attached is a copy of that Memorandum.

RECOMMENDED ACTION: Have a targeted UGRWCD Board discussion facilitated by the District's General Counsel and General Manager related to comments received on the Demand Management Conceptual Market Structure. Document any additional thoughts or input we'd like to provide to the CRWCD Staff and Board.



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 chose 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						
	Pre-Compact Acre Feet	Post Compact Depletion Acre Feet	Total Use (Pre and post compact) Acre Feet	Post Compact Percentage of Statewide Post Compact Use	Assumption: a 100KAF annual statewide obligation	Percent of specific basin's total Colorado River use
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%		

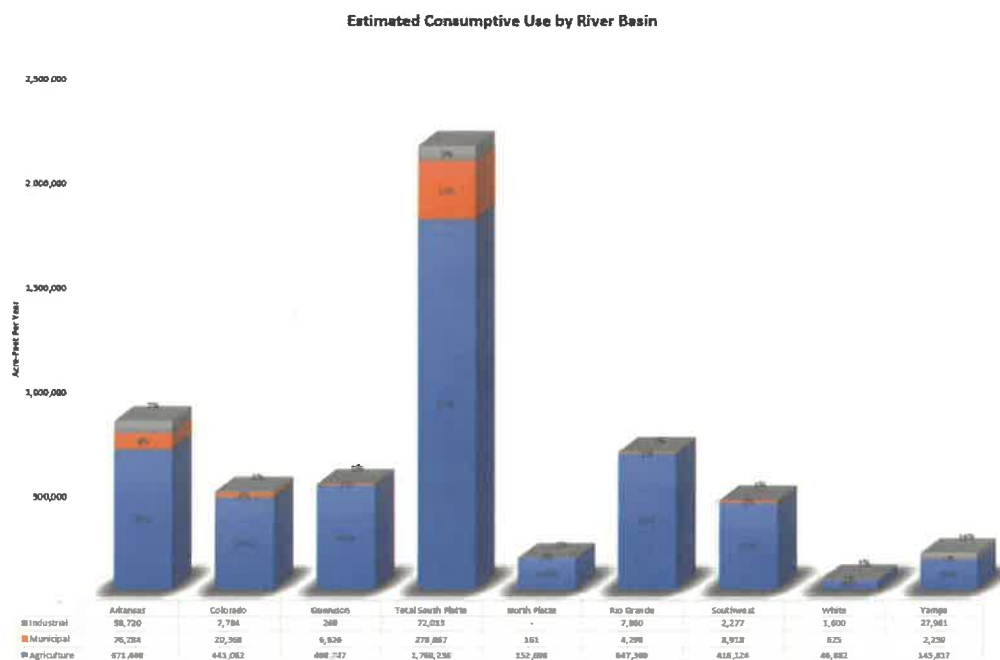
- iii. Regional targets should be roughly proportional over time (e.g., on a rolling 5 year average) and establish thresholds for each basin, while supporting voluntary participation in the program by individual water providers/users.
- iv. For voluntary participation to work to meet these desired participation 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



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.

AGENDA ITEM 11

General Manager and Staff Reports

MEMORANDUM



TO: UGRWCD Board Members
FROM: Sonja Chavez, General Manager
DATE: February 16, 2022
SUBJECT: General Manager's Report – February

I. Homestake Pitch Uranium Mine Proposal to Water Quality Control Commission

Background: The UGRWCD was concerned with a statement put forward by Homestake Mining Company to the Water Quality Control Commission (WQCC) at the November 2021 Issues Formulation Hearing related to their intention to request that the WQCC "...remove the water supply use on Marshall Creek, assuming that they could complete activities proposed...in a timely manner." Those activities included redrilling wells in the town of Sargents into the bedrock to eliminate the consideration of these wells as alluvial aquifers that might be under the influence of Marshall Creek, to ensure that alluvial wells could not be drilled along the stretch of Marshall Creek that runs from the confluence with Indian Creek to the confluence with Tomichi Creek. The concern was that this proposal would have set a precedent that permitted entities can restrict or limit future water uses or remove standards from streams in order to avoid treating pollutants they are obligated to treat under the federal Clean Water Act.

Update: The UGRWCD received word from Ashley Bembenek who consults with the Northwest Colorado Council of Governments Water Quality and Quantity Group (a.k.a. QQ) that Homestake submitted their proposal to the Colorado Department of Public Health and Environment Water Quality Control Commission on January 14th, 2022, for the upcoming June Rulemaking Hearing. The proposal ultimately did not include a request to remove drinking water standards from Marshall Creek and instead included a request to have their temporary modification extended. Staff believe that an extension to their temporary modification of the standard is better than having no drinking water standard at all. Given this fact, the UGRWCD General Counsel and General Manager decided that they should hold-off on submitting a letter to the Saguache County Commissioners and instead bring this update to the UGRWCD Board to see if they would like to reconsider their January direction to staff which was to send a letter outlining our concerns. Staff will still move forward on requesting "party status" for the Rulemaking hearing in order to be able to actively monitor the situation.

RECOMMENDATION FOR ACTION: Discussion on continued need to move forward with a letter to the Saguache County Commissioners.

II. Proposed Gunnison Headwaters Wetland Mitigation Bank: Colorado State Land Board Background:

Update: The Army Corps of Engineers (Corps) provided a letter to Rocky Mountain Mitigation, LLC, regarding their findings on the proposed Gunnison Headwaters Mitigation Bank (GHMB) as a compensatory mitigation site for wetland impacts in the Gunnison Basin (See Attachment A). In summary, the Corps determined that additional information was necessary to determine whether the proposed wetland mitigation bank had the potential to provide compensatory mitigation. Staff believe that the Corps listened to concerns identified by stakeholders in the Upper Gunnison Basin and did a thorough job of summarizing the need for missing information and areas needing additional clarity. At this point, further progress on the proposal rests with the applicant (Colorado State Land Board) and their consultant (Rocky Mountain Mitigation, LLC). The UGRWCD will continue to monitor the situation.

III. Investments:

A. Community Banks Lake City Certificate of Deposit

At the January 2022 Board meeting, the Board decided to keep our existing funding with the Community Banks in Lake City in order to support business across our basin. The Board also directed the General Manager to look into CD rates at Community Banks.

The current CD balance is \$104,326.74 and we were earning 0.15 percent interest. In email discussion with Director Nesbitt (Treasurer), it was decided that renewing the current CD for a fifteen-month term would be the best investment approach as he anticipates that rates will go up over the next year. The published rate for a 15-month CD at Community Banks is 0.35 percent.

B. U.S. Treasury Note

We had a \$400,000 U.S. Treasury Note mature on February 15, 2022. Given the current rate environment and the anticipation of rates increasing sometime over the next year, our District financial adviser suggested we purchase another \$400,000 U.S. Treasury Note at a 1.475% yield with an expiration date of December 31, 2022. This leaves us with a \$13,000 balance that will be held until our next investment.

C. District Phone System Upgrade

The District is in the process of converting our phone system to Lightspeed Voice Over Internet Protocol (VOIP). A VOIP phone system works through an internet connection rather than a telephone line. VOIP converts your voice into a digital signal which travels over the internet to its destination and has a multitude of features including voice to email conversion, call forward to our cell phones, music while on hold, an automated attendant, ability for staff to chat, intercom, call monitoring, call record, conference calling, etc.

The District reached a point where we are unable to find replacement phones or phones that can integrate with our current system which is over 16 years old. We've also been having

issues with dropped calls/connections, poor sound quality, etc. The new system will also bring added efficiency and benefits to our internal communication as well as enable improved communication while we travel.

Quotes were obtained and presentations were given on potential VOIP systems from:

- Gobins: Also provides our copy machine services with staff based in Salida; and
- Lightspeed: Works locally with GL Computers who oversees the install and integration with our network and provides trouble-shooting services. GL Computers is currently contracted with the District for IT services.

The monthly costs were comparable at approximately \$270. A decision was made to work with Lightspeed in order to keep our business in Gunnison with the added benefit of having local technical support from GL Computers. There will be an increase in our telephone operating budget moving forward of approximately \$2,200 per year.

Transition to the new system will occur on March 8th at 8:00 a.m.

D. Waters of the United States (WOTUS) Update

The U.S. Environmental Protection Agency and Army Corps of Engineers are working to repeal the 2020 definition of the WOTUS and re-instate the pre-2015 regulatory definition of WOTUS. Please see attached comments to the EPA and Corps:

- Northwest Colorado Council of Government, QQ Member Update: “*Waters of the US: ”Repeal of Trump-Era Rule, Replace with Pre-2015 Regulatory Definition* (Attachment B); and
- Colorado Water Congress *Request for Comments on Proposed Rule Defining “Waters of the United States”* (Attachment C).

E. Colorado River District Update

The following is an abbreviated list of important items coming out of the Colorado River District Board of Directors Meeting:

- Community Funding Partnership Program:
 - General Manager total annual authorization increased to \$1M for projects equal to or less than \$50,000
 - Decrease in insurance requirements for project proponents from \$2M to \$1M depending upon project scope
 - Awarded \$3M in 2021 to twenty-three projects
 - CFP Balance beginning 2022 is \$6.2M
 - Emergency Assistance: General Manager authorization for approval. Reimbursement for project costs up to six months prior.
- Colorado River District Water Quality Monitoring Program: Reducing scope and size of their water-quality monitoring program for selenium and salinity which was \$78k ,

and reallocating approximately \$30k-35k to *New Grand Valley TMDL/Stakeholder Effort*.

F. Gunnison County BOCC Discusses Cheatgrass Control Program

Cheatgrass, commonly known as Downy brome, is an annual winter invasive species that thrives in disturbed and agitated soils. A grass species natively found in Europe and eastern Asia, cheatgrass is widespread in the American West. Cheatgrass was primarily introduced through cropping and other agricultural practices. Cheatgrass invasion weakens sagebrush ecosystems in resilience and susceptibility and is a struggle for public land agencies to control. Cheatgrass has spread from the Great-Basin of Utah all the way into western Colorado. The introduction of domestic livestock like cattle and sheep in our country and overgrazing have contributed to problem because the grass overtakes any voids in native grass cover.

Characteristics that make this species a problem include:

- Completes its lifecycle quickly. Grows in the spring and then dies off in June lengthening the fire season
- Has fine leaves and stems which easily ignite causing fires to spread rapidly.
- Prolific seed producer which overpowers native vegetation, takes over landscapes and creates a continuous fuel base.
- Greater regrowth after fire due to its ability to utilize increased nitrogen in soils following a fire.
- Shallow root system concentrated in top 12 inches of soil that allows it to absorb much of the water and nutrients during the spring growing season outcompeting native plants for limited resources.
- The loss of native plants which have deeper root systems and direct effect on diversity of soil microorganisms contributes to unhealthy soils.
- Creation of grass monoculture
- Cheatgrass does not meet the nutritional or habitat needs of most wildlife species

Recommendations for how to control Cheatgrass:

- Quickly rehabilitate burned areas by seeding with native plant species
- Apply pre-emergent herbicides
- Practice good grazing management
- Strategically focus spring livestock grazing in areas where cheatgrass is dominant
- Establish fuel breaks known as “green strips” to help slow down a fire and give fire suppression forces more time to attack the fire

(Excerpts from: www.sagegrouseinitiative.com and www.gbsea.weebly.com)

Because of the strong nexus to District efforts to sustain Gunnison sage grouse populations and habitat, concerns around the impact of climate change, drought, wildfire, rangeland health and the support of our agricultural community, and our District focus on restoring wet meadows and supporting activities with broad landscape watershed benefits, the General

Manager would like to discuss making an annual District contribution to the Cheatgrass Coordinator Position in 2023 and continued support for Cheatgrass control in future watershed and forest health grant proposals.

RECOMMENDATION FOR ACTION: Discussion.



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT
400 ROOD AVENUE, ROOM 224
GRAND JUNCTION, CO 81501-2520

January 27, 2022

Regulatory Division

SUBJECT: Prospectus Initial Review – Action No. SPA-2021-00329

Stephen Decker
Rocky Mountain Mitigation, LLC
2443 S University Blvd, Suite 111
Denver, CO 80210
decker@rockymountainmitigation.com

Dear Mr. Decker:

This letter serves as the initial evaluation of the proposed Gunnison Headwaters Mitigation Bank's potential to provide compensatory mitigation for activities authorized by Department of the Army (DA) permits, as required in 33 CFR 332.8 (d)(5)(i). The evaluation process included a thorough review of the prospectus, dated September 15, 2021, and posting of a public notice (PN) on the Corps' Albuquerque District Regulatory web page on October 18, 2021. In response to a request for an extension of the PN comment period, the Corps provided for an additional 30 days for the public to submit comments on the proposed project, closing December 17, 2021. The application has been assigned file number SPA-2021-00329. Please reference this number in all communications regarding this project.

After reviewing the enclosed comments received during the PN period, we have determined that additional information is necessary to determine whether the proposed bank has potential to provide compensatory mitigation for activities authorized by DA permits. Please provide responses to the comments and concerns received in response to our PN. We have also identified the following items and issues for your response and/or additional information:

1. Please ensure that future submittals meet the *Updated Map and Drawing Standards for the South Pacific Division Regulatory Program*, dated February 10, 2016.
2. Please explain and correct the discrepancy between project size provided in the prospectus (620 acres) and in Appendix C (526 acres) of the submittal.
3. Please disclose and address existing water rights, including a discussion of the assurance (adequacy and source) of sufficient hydrology to support the long-term sustainability of the mitigation bank. This could include the acquisition of water rights of current hydrology and/or demonstrating the site currently possess adequate hydrology to sustain the site as a wetland. The sponsor must also address where and how they will obtain adequate hydrology for the site. As part of determining hydrology, please also identify any activities upstream or downstream that may have potential future impacts on this hydrology (e.g., reservoirs, water rights/water well permits, FEMA-letters of map

revision, flowage easements, etc.) including the review of the Colorado Division of Water Resources (DWR) to identify any proposals that could influence hydrology or if existing water rights upstream and downstream of the site may be affected by the proposal. If proposing hydrologic manipulation, the sponsor should consult the DWR and provide a written statement from DWR as to whether a water right or related permit is or is not required for the proposed project.

4. The description of the site conditions, habitats, and species known or potentially present, or representative photos of the site that support descriptions are missing or overly vague. The baseline information should include a delineation of the waters of the United States. It should also include the site history, past land use, surrounding land uses and zoning, along with the anticipated future development in the area with justification for claims that are made (e.g., overgrazing). Please also include a tabular summary of current delineated waters of the United States (defined under 33 CFR part 328.3 (a)) found on the proposed site, the total quantity of current delineated waters of the United States located on the project site (e.g., acres of wetland or acres/linear feet of stream), and the waterbody type (herbaceous wetland, scrub/shrub wetland, perennial stream, intermittent stream, ephemeral stream, impoundment, other) or non-jurisdictional resource (e.g., uplands, riparian buffer, prior converted croplands, other).

5. The overall goals and objectives of the proposed mitigation bank are overly vague. Describe the factors considered during site selection, the compatibility with adjacent land uses, and the practicability of an ecologically self-sustaining aquatic resource restoration, establishment, enhancement and/or preservation project on this site. Please include a detailed description of the resource type and amount that will be provided and how it addresses the needs of the watershed and/or ecoregion. Please provide in table format the amount of each type of resource mitigation that is to be performed (e.g., acres of wetland type and acres/linear feet of stream restoration, creation, enhancement, and/or preservation) and discuss the habitat or vegetated community type proposed with each resource type (e.g., scrub-shrub wetland restoration, stream channel enhancements, etc.).

6. The prospectus is vague and requires additional documentation to support credit value, especially regarding fen conditions and rationale to support reestablishment as a possible mitigation type. The proposed crediting provided for the various mitigation types proposed may be unreasonable, and it does not appear that every area proposed for mitigation was once a wetland. Please include a functional assessment (e.g., FACWet) and/or condition assessment (e.g., CSQT). Projects involving the restoration of streams must assess baseline site conditions for all required parameters in the CSQT, including supporting field data. Include an appropriate mitigation credit accounting system and credit release schedule that will be employed during the operation of the proposed mitigation bank and identify ecologically based standards that will be used to determine when objectives are met (e.g., SPD Uniform Performance Standards).

7. Credits for mitigation projects on public lands must be based solely on aquatic resource functions provided over and above those already provided by planned or in-place programs. Please identify if the Colorado State Land Board (CSLB) has identified priority areas for aquatic resource restoration or enhancement efforts, specific stewardship provisions stipulated in previous leases and any non-compliance. Please identify a baseline management effort to help explain what additionality might be provided by the proposed mitigation project. Also, please explain if the intention is to allow for public access to these public lands.

8. A detailed plan specifying the geographic boundaries of the project; construction methods, mitigation techniques, timing, and sequence; source(s) of water, including connections to existing waters and uplands; methods for establishing the desired plant community; plans to control invasive plant species; the proposed grading plan, including elevations and slopes of the substrate; soil management; and erosion control measures. For stream compensatory mitigation projects, the mitigation work plan may also include other relevant information, such as planform geometry, channel form (e.g., typical channel cross-sections), watershed size, design discharge, and riparian area plantings. This should include the construction methods, timing, sequence, and materials source to meet this desired objective. This may include descriptions of historic and existing plant communities, historic and existing hydrology, soil conditions, and other site characteristics appropriate to the type of resource proposed as mitigation. Note that mitigation banks should be designed to be self-sustaining over time to the extent possible, requiring minimal maintenance, and should include topographic surveys of the areas to be physically manipulated to ensure that spoil is removed or discharged to appropriate elevations sufficient to support the target habitats.

9. Adequate documentation and justification are not provided for expansion of the service area from the 10-digit watershed containing the mitigation bank. The level of documentation and justification the sponsor must provide increases in a stepwise progression with each additional 10-digit watershed, or portion thereof. Considerable justification is required for any additions that are outside either the 8-digit sub-basin or ecoregion containing the mitigation bank. Service areas must be appropriately sized for each credit type to ensure that the aquatic resources provided will effectively compensate for adverse environmental impacts across the service area respectively. Please describe how the service area was determined using a "watershed approach" and the basis for a mapped boundary representing the service area(s) of the mitigation bank. Approval of a service area occurs after detailed evaluation and therefore is site specific (determined on a case-by-case basis) and all impacts and compensatory mitigation must be accounted for by service area.

10. Please provide the description of property ownership, including any easements and/or encumbrances on the site along with an assessment of how it may affect bank operations or habitat values. This should include a copy of a title abstract, including a 60-

year title search performed by a title company operating within the state. The submittal shall also include a legal survey of the proposed mitigation bank site. The bank sponsor shall submit an attorney's Opinion of Title prepared in accordance with federal title standards, addressing each scheduled exception to the title and either clear said exception or explain its permissible use in the project. The title opinion may be structured in a manner similar to that used in standard American Land Title Association Title Commitment Form. This information is required to ensure that all properties being considered as potential mitigation banks have been fully researched and full disclosure has been provided relative to all liens and encumbrances.

11. Please provide assurance that the sponsor has a fully binding agreement to utilize the property. Describe the legal arrangements and documents that will be used to ensure the long-term protection of the site. In addition, identify the financial mechanism and the party responsible for long-term management of the proposed mitigation bank. Describe the proposed site protection-real estate instrument, including timing and sequence of filing of instrument, and appropriate independent third-party conservation easement holder. Please include a description and schedule of the general maintenance required to ensure continued viability of the aquatic resource once construction is completed, and credits are released. This should include the following:

- a. a description and schedule of abatement of non-target flora and fauna,
- b. a description of what long-term funding assurances are to be provided and how it is sufficient to ensure a high level of confidence that the project will remain successful, and
- c. a description on long-term ownership arrangement, including any real estate instrument holders and a description of any additionally proposed long-term land uses after the credits are sold. Include any proposed transfer of liability to another sponsor or long-term steward.

12. Please provide information on historic properties and cultural resources that may be affected by your proposal, including any correspondence or records search with the Colorado Office of Archeology and Historic Preservation.

13. The project area overlaps with designated critical habitat for the Gunnison Sage grouse and contains habitat suitable to the federally listed Southwestern Willow Flycatcher and Yellow-billed cuckoo. Please provide information related to the suitability of the site currently, how much value could be provided by your proposal, and how additional value would be measured.

14. The proposal aims to attract and sustain wildlife populations on either side of U.S. Highway 50. There is potential that the proposal will attract wildlife hazardous to the public and threaten transportation along this major highway. Please include a discussion of

associated risks and provide measures to limit potential wildlife hazards to vehicle traffic.

You may revise the prospectus to address the concerns and submit it to our office. We will circulate a revised public notice within 30 days of receipt of the revised prospectus in accordance with 33 CFR Part 332.8(d)(4). No action will be taken until the requested information has been received. Please provide the requested information by February 26, 2022. If no response is received or if you have not indicated what measures you have taken to provide us with this information, the review of this activity will be administratively deactivated. We encourage you to use this opportunity to resolve or rebut objections and to ensure all available information is in our administrative record.

If you have any questions or if additional information or assistance is required concerning this matter, you may contact me in writing at the letterhead address, by electronic mail at w.travis.morse@usace.army.mil, or telephone at 970-243-1199, extension 1014.

Sincerely,

Travis Morse
Senior Project Manager
NW Colorado Branch

Enclosures

cc: w/o encls

Gray Stevens, Sandy Creek Partners LLC, mgstevens@ameritech.net
Mindy Gottsegen, Colorado State Land Board, mindy.gottsegen@state.co.us
Nick Gallowich, Colorado Parks and Wildlife, nick.gallowich@state.co.us
Clint Evans, Natural Resources Conservation Service, clint.evans@usda.gov
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February 4, 2022



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Submitted via [Regulations.Gov](https://www.regulations.gov).


RE: Waters of the United States Rulemaking, Docket ID No. EPA-HQ-OW-2021-0602

Dear Damaris Christensen and Stacy Jensen:

These comments are submitted by Northwest Colorado Council of Governments Water Quality/ Quantity Committee (QQ) in response to the US Environmental Protection Agency (EPA) and Army Corps of Engineers ("Agencies") proposed revised definition of "waters of the United States (US)." We understand this initial rule returns to the pre-2015 definition, with some changes consistent with Supreme Court caselaw, and that a second rulemaking will propose more in-depth revisions to the definition of "waters of the US." QQ generally supports both the proposed return to the pre-2015 regulatory definition and a second rulemaking to further clarify the definition in a manner that protects water quality in the headwaters of the Colorado River.

QQ's mission is to enable its member jurisdictions to protect and enhance the headwaters of Colorado while facilitating the responsible use of water resources. Members include 40 municipalities, counties, and water and sanitation districts in the headwaters of the Colorado, Gunnison, and Yampa river basins. We collectively refer to this region as the headwaters, or headwaters region. Northwest Colorado Council of Governments is the designated Regional Water Quality Management Agency under Section 208 of the Clean Water Act (CWA), appointed by Executive Order of the governor of Colorado to prepare and implement the region's 208 Plan.

QQ commented on earlier revisions to the definition of "waters of the US" from 2014-2020. After providing detailed comments, QQ generally supported the 2015 "Clean Water Rule" as providing additional clarity and adequate water quality protection for the headwaters. QQ expressed considerable concern over the 2020



“Navigable Waters Protection Rule (NWPR),” which was not based on the best available science and reduced CWA jurisdiction in the headwaters region and throughout the arid West with potentially detrimental water quality consequences.

QQ agrees with the agencies’ current approach to replace the NWPR, which could have lasting damaging effects on the headwaters region, and to initially replace it with the pre-2015 regulatory definition. However, it’s important that a second rulemaking occur to clarify the definition of “waters of the US” while ensuring adequate water quality protection for the headwaters region.

EPA has reported that the lack of clarity as to what waters would be jurisdictional under the pre-2015 regulations after the *Rapanos* decision resulted in waters not receiving water quality protection under the CWA, additional burdens on federal agencies, and delayed timelines for permit-seekers. These problems with the pre-2015 regulations will continue. QQ has long supported, and continues to support, clarity for this definition. The pre-2015 definition should be revised based on scientific evidence of hydrological connections between rivers, streams, and wetlands.


Water quality is critically important to QQ. First, water plays an important role in the region’s economy. Tourism is the largest employment sector in the headwaters region, comprising 48% of all jobs. Tourism and recreational activities impacted by water quality include fishing, hunting, kayaking, rafting, lake recreation, hiking, camping, wildlife and bird watching, skiing, and other snow sports. Travelers to the headwaters region have an economic impact throughout the state because they purchase goods and services throughout the state. Agriculture and mineral resource development are other sectors of the headwaters economy that rely on clean water.¹ Second, water from the headwaters region flows downstream to six other states, 10 tribes, and Mexico, providing water for use by more than 30 million people. Finally, local governments like those comprising QQ are charged with protecting water quality through their stormwater, wastewater, and water treatment systems.

CWA protections help to ensure safe drinking water and robust economies. Simplifying and clarifying the jurisdictional scope of federal authority over water bodies is essential to this goal, as is continued protection of headwaters streams and wetlands which impact downstream rivers that flow through headwaters communities.

QQ offers two important considerations as the agencies prepare to replace the pre-2015 “waters of the US” definition through a second rulemaking:

1. **Maintain exemptions for local government infrastructure, maintenance, and repair in CWA Section 404 permitting exclusions.** Local governments maintain public safety water conveyances and treatment systems, municipal separate stormwater sewer systems (MS4), green infrastructure construction and maintenance projects, water reuse and infrastructure, and emergency management readiness. Likewise, local governments own and operate ditches for water supply, flood control, drainage conveyances, stormwater management, and irrigation ditches for

¹ Coley/Forrest Inc., “Water and its Relationship to the Economies of the Headwaters Counties,” Northwest Colorado Council of Governments (December 2011), http://nwccog.org/wp-content/uploads/2015/03/QQStudy_Report_Jan-2012.pdf.



parks and other public facilities. Exemptions in Section 404(d) of the Clean Water Act are critically important for local government functions and should be maintained.

2. **All wetlands and waters with a hydrologic connection to a jurisdictional water, including ephemeral and intermittent streams, should be “waters of the US.”** In the Colorado headwaters, almost all precipitation comes in the form of snow, which melts and creates headwater streams that may not have year-round flows. Protecting these headwaters streams and connected wetlands is just as important as protecting streams with year-round flows, as the impact to the downstream communities, environment, and economy is the same, and protections under the CWA should likewise be the same for these headwaters streams and wetlands.

Water quality protection in the headwaters region will become increasingly important as the region sees increased development and water use. Protecting water quality also means protecting the region’s economic backbone of tourism, recreation, and agriculture. A rule which delivers clarity on which waters are considered jurisdictional as “waters of the US” will also provide water quality protection for the headwaters streams and wetlands that deliver water to downstream communities.

Please do not hesitate to reach out with additional questions. Thank you for your consideration.

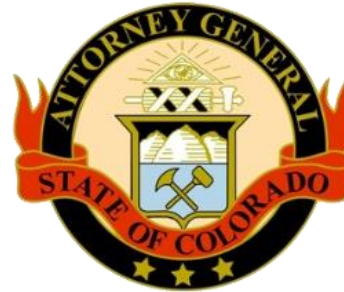
Sincerely,



Torie Jarvis

Director and Staff Attorney

Northwest Colorado Council of Governments Water Quality/ Quantity Committee



February 7, 2022

Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Office of the Assistant Secretary of the Army for Civil Works
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108 Army Pentagon
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**Re: Request for Comments on Proposed Rule Defining “Waters of the United States,”
Docket ID Nos. EPA-HQ-OW-2021-0602 and FRL-6027.4-03-OW**

The State of Colorado (Colorado or State) submits the following comments on the Environmental Protection Agency’s (EPA) and the Army Corps of Engineers’ (Corps) (collectively, federal agencies or agencies) rulemaking proposal in the December 7, 2021 Federal Register notice, 86 Fed. Reg. 69372, regarding the definition of Waters of the United States (WOTUS). Colorado greatly appreciates the opportunity to provide feedback on this proposed rule.

As a headwaters state that, like much of the western United States, is currently suffering the consequences of long-term drought and aridification on its waters, Colorado is keenly aware of the importance of the federal WOTUS definition in ensuring robust water quality protections for these invaluable resources. Colorado strongly supports the agencies’ commitment to a science-based approach to defining the reach of WOTUS that reflects well established legal requirements and will provide a consistent regulatory framework. We are supportive of the agencies’ proposal to return to the more protective pre-2015 definition and to incorporate the *Rapanos v. United States* “relatively permanent” and “significant nexus” standards into the regulatory definition.

Colorado is concerned, however, that the proposed approach to the exclusions from WOTUS is a step backwards in terms of the agencies’ stated goals. Specifically, the converted cropland exclusion in the pre-2015 rule was a source of significant controversy and confusion. The 2020 Navigable Waters Protection Rule (2020 NWPR), although flawed in many ways, resolved these issues by retaining protection of water resources while giving agricultural stakeholders the regulatory clarity that they had been seeking for decades. Returning to the pre-2015 treatment of prior converted cropland, even in the interim, undermines the agencies’ stated

purposes of clarity and durability. Additionally, while Colorado supports a limited waste treatment system exclusion, the agencies' broad definition of the term in the proposed rule will likely result in more rivers and streams being impounded for treatment purposes, to the detriment of WOTUS as a whole. Colorado also believes it is important for the final rule to expressly recognize the language of Clean Water Act § 101(g) regarding the primary authority of states over water management. Finally, Colorado does not support the agencies' proposed approach, as explained in the preamble to the proposed rule, to determining the scope of jurisdictional ditches.

I. BACKGROUND

Throughout the various iterations of the WOTUS rule as proposed by the last three presidential administrations, Colorado has generally supported the pre-2015 regulatory definition of WOTUS (referred to by the federal agencies as the "1986 Rule") as interpreted by the agencies' 2008 Guidance.¹ At the same time, we have noted that the rule could be improved by including more objective parameters to define the term "significant nexus," and we specifically called for a clearer, more common-sense approach to the agricultural exemptions and explicit recognition that the scope of federal jurisdiction under the definition of WOTUS is subordinate to the authority of states to allocate water resources as stated in Section 101(g) of the Clean Water Act.

Colorado places the highest priority on protecting the State's land, air, and water, and relies on a combination of federal and state regulations to ensure that protection. The headwaters of five major multistate river systems are within Colorado's boundaries: the Arkansas, the Colorado, the Platte, the Republican, and the Rio Grande. Many of these headwaters comprise a web of wetlands, ephemeral streams, and intermittent streams, and many are connected to traditionally navigable waters. These waters have critical importance to the quality of water used by Colorado and 19 downstream states for drinking, agriculture, recreation, and the health of both aquatic and terrestrial ecosystems. Consequently, Colorado maintains significant interests in the efficient and wise management of water resources and in preserving the State's clear authority to administer and allocate water within its boundaries.

For Colorado's water to be most useful for drinking, agriculture, aquatic life, recreation, and other critical purposes, it must be high quality. Polluted, low quality water hurts Colorado and hurts the nation. Accordingly, protecting water quality in headwater states like Colorado has been a national priority since the passage of the Clean Water Act in 1972. Over the last fifty years, Colorado and the federal government have worked together to make enormous progress in protecting water quality throughout Colorado, including the State's headwaters, and this work should continue to be a national priority.

Nearly half of Colorado's acreage is dedicated to farming, ranching, and other agricultural operations that contribute tens of billions of dollars a year to the State's economy. Because the State's agricultural commodities feed Coloradans and beyond, water is critically important to Colorado producers. To make the most responsible and productive decisions, farmers and ranchers must have certainty about whether their lands include jurisdictional waters. Unfortunately, over the last decade, we have operated in a period of considerable

¹ Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States* & *Carabell v. United States* (As revised, Dec. 2, 2008).

uncertainty as reflected by the significant revisions to the WOTUS rule in 2015, and again in 2020.

As with many western states, the large majority of Colorado's stream miles are classified by the U.S. Geological Survey as either intermittent or ephemeral and were likely excluded from federal protections under the 2020 NWPR. This lack of protection and regulatory clarity has undermined protections for Colorado's headwaters and placed new, extensive regulatory burdens on Colorado by requiring the State to act alone in this arena. The severe impacts of the 2020 NWPR led the State to pursue its own judicial challenge to the rule during which Colorado argued that the rule amounted to an abdication of the agencies' responsibilities under the Clean Water Act and abandonment of fifty years of improvement of our Nation's waters.

We therefore greatly appreciate the agencies' recommitment to the 1986 Rule and 2008 Guidance, along with incorporation of the Supreme Court's relatively permanent and significant nexus standards from *Rapanos v. United States*, to determine the scope of federally protected waters. We believe that using this interim approach while the agencies work with stakeholders to formulate a long-term durable WOTUS definition promises to finally put an end to the disruptive and unfortunate era of uncertainty and litigation we have witnessed over the last decade.

II. COLORADO STRONGLY SUPPORTS INCLUSION OF THE RELATIVELY PERMANENT AND SIGNIFICANT NEXUS STANDARDS IN THE DEFINITION OF WOTUS

Colorado supports the agencies' proposal to incorporate both Justice Scalia's "relatively permanent" standard and Justice Kennedy's "significant nexus" standard from *Rapanos v. United States* into the definitions for the WOTUS categories of adjacent wetlands, tributaries, and other waters. This approach is scientifically supportable, legally sound, and familiar, as it is consistent with the approach taken by the agencies under the 2008 Guidance.

Colorado applauds the agencies for returning to the bedrock principles of law that govern federal jurisdiction under the Clean Water Act. As Colorado argued in its challenge to the legally flawed 2020 NWPR, failing to include waters that satisfy the significant nexus standard in the definition of WOTUS is contrary to the language, structure and intent of the Act. In the proposed rule, the agencies properly recognize that "Since *Rapanos*, every court of appeals to have considered the question has determined that the government may exercise Clean Water Act jurisdiction over at least those waters that satisfy the significant nexus standard set forth in Justice Kennedy's concurrence." 86 Fed. Reg. at 69380. Under the 2008 Guidance, the agencies concluded that Clean Water Act jurisdiction exists if a water meets either the relatively permanent standard or the significant nexus standard. Colorado has relied on the water quality protections afforded by this federal baseline, particularly in the realm of Section 404 dredge and fill permitting, where Colorado lacks a corresponding permitting program. We support the agencies' effort to reinstate this long-standing regulatory framework.

III. COMMENTS ON THE PROPOSED DEFINITION OF "SIGNIFICANTLY AFFECT" AS USED IN THE SIGNIFICANT NEXUS STANDARD

The proposed definition of "significantly affect" lists five *physical* factors that the federal agencies will consider when making jurisdictional determinations for certain non-navigable waters. 86 Fed. Reg. 69430. Colorado supports including all five of these physical factors in

the final rule because they are highly relevant to determining the strength of the connection between a given waterbody and downstream jurisdictional waters. However, Colorado also supports adding a sixth physical factor to the definition. In addition, Colorado is concerned that the proposed definition is incomplete because it fails to incorporate measures directly related to maintaining the *chemical* and *biological* integrity of waters of the United States. In order to fill this gap, Colorado recommends including the ecological functions of upstream waters that are discussed in the preamble to the definition of “significantly affect,” as well as adding chemical and biological factors to the definition. We explain these recommendations more fully below.

A. Recommendation to Add a Sixth Physical Factor to Account for Soil Characteristics

Colorado recommends adding a sixth physical factor to the proposed definition that incorporates soil type, composition and transmissivity. These soil characteristics greatly influence the first proposed factor (“distance from a jurisdictional water”) and third proposed factor (“hydrologic factors, including subsurface flow”), since the extent to which these factors measure the strength of the hydrologic connections between one waterbody, and another depends on the capacity for the soil to transmit water downstream.

For example, waters will be significantly affected at greater distances and have more subsurface connections in soils with greater transmissivity, such as sandy soils or unconsolidated alluvium, compared to soils with lower transmissivity, such as highly compacted clays. The soil characteristics factor could be considered by looking at readily available soil maps and would not necessarily require field data. In conclusion, Colorado recommends incorporating a factor to account for the effects of soil characteristics (e.g., “soil type, composition and transmissivity”) to enhance the scientific basis for the definition of “significantly affect.”

B. Recommendation to Add Ecological Functions

All five proposed factors measure either the geography (e.g., “distance from a jurisdictional water”) or hydrology (e.g., “hydrological factors, including subsurface flow”) of a potentially jurisdictional water. 86 Fed. Reg. 69430. However, the 2008 Guidance recognized that considering physical and hydrologic factors alone was not sufficient to identify significant nexus waters. 2008 Guidance at 8. Beyond several physical factors that generally parallel the factors in the proposed rule, the 2008 Guidance lists four “ecological factors” that contribute to a complete significant nexus analysis: (1) “potential of tributaries to carry pollutants and floodwaters to traditional navigable waters”; (2) “provision of aquatic habitat that supports a traditional navigable water”; (3) “potential of wetlands to trap and filter pollutants to store flood waters”; and (4) “maintenance of water quality in traditional navigable waters.” *Id.* Without such factors, the proposed definition of “significantly affect” incorrectly assumes that physical metrics alone are sufficient to measure “the strength of the connections and associated effects that streams, wetlands, and open waters have on the chemical, physical, and biological integrity of traditional navigable waters....” 86 Fed. Reg. 69430. In fact, the federal agencies cannot fully evaluate the strength of chemical or biological connections or the magnitude of chemical or biological effects without considering such ecological information.

In the preamble to the proposed rule, the federal agencies describe several ecological “functions” of upstream waters that parallel the ecological “factors” listed in the 2008 Guidance that may influence the biological and chemical integrity of downstream waters. See 86 Fed. Reg. 69431. The preamble lists, among others, “sediment trapping and transport,” “pollutant trapping,” and “provision of habitat for aquatic species” as “functions of upstream waters.” *Id.* Waters that perform any one of these functions have a significant nexus if the function “has a more than speculative or insubstantial impact on the integrity of a traditional navigable water.” *Id.* Colorado supports adding these ecological factors/functions to the definition of “significantly affect” in the text of the rule.

C. Recommendation to Incorporate Chemical and Biological Factors

Even if the federal agencies include these functions of upstream waters in the definition of “significantly affect,” the proposed rule does not currently explain how the federal agencies would evaluate the presence and extent of these functions since, as explained above, physical factors are not sufficient to characterize the chemical and biological connections within stream systems.

Including specific chemical and biological factors, as well as ecological functions, in the definition of “significantly affect” will fill this gap in the proposed rule. Such additions to the definition of “significantly affect” would also align with the EPA’s own findings in support of the proposed rule, including:

1. “[T]ributaries provide organisms with both warm water and cold water refuges at different times of the year. . . . Tributaries also help buffer temperatures in downstream waters . . . [that are] many kilometers away.”
2. “Streams and wetlands can prevent excess deposits of sediment downstream and reduce pollutant concentrations in downstream waters. Thus, the function of trapping of excess sediment, along with export of sediment, can have a significant effect on the chemical, physical, and biological integrity of downstream waters.”
3. “Nutrient recycling, retention, and export can significantly affect downstream chemical integrity by impacting downstream water quality.”
4. “The provision of life-cycle dependent aquatic habitat for species located in downstream waters significantly affects the biological integrity of those downstream waters.”²

In light of our experience with the effects of intermittent and ephemeral tributaries on the chemical and biological integrity of downstream waters, Colorado offers the following recommendations for adding and implementing chemical and biological factors to the definition of “significantly affect.”

Chemical Factor

Colorado recommends adding a factor to the definition of “significantly affect” that explicitly accounts for the disproportionate effects that distant, low-flow streams and small wetlands can have on downstream jurisdictional waters depending on their chemical quality.

² [Technical Support Document for the Proposed “Revised Definition of ‘Waters of the United States’” Rule](#) (November 18, 2021) at 219-21.

Intermittent and ephemeral streams can carry disproportionately large loads of pollutants compared to their contribution of flow to downstream waters.³ For example, ambient concentrations of selenium in Boggs Creek, an ephemeral tributary to Pueblo Reservoir in Colorado's Arkansas River basin, can be up to 86 times the most stringent applicable standard, causing impairment of the aquatic life, water supply, and agriculture uses. In addition, uranium concentrations in Boggs Creek can be more than two times the water supply standard, resulting in impairment of the water supply use.⁴ Similar patterns exist throughout Colorado, such as in historic mining districts, where ephemeral and intermittent gulches draining former mine workings can deliver very high metal loads to downstream perennial tributaries during storm events and/or spring runoff, degrading water quality and changing macroinvertebrate distributions.⁵

In determining whether such streams "significantly affect" downstream jurisdictional waters, federal agencies must consider the extent to which high pollutant concentrations can drive downstream chemical quality despite physical factors, such as distance and magnitude and frequency of flow. Therefore, the definition of "significantly affect" should include a factor that explicitly incorporates water quality in a manner similar to the 2008 Guidance (e.g. "potential of tributaries to carry pollutants and floodwaters to traditional navigable waters"). The federal agencies could implement this factor by consulting relevant state water quality agencies, examining a state's 303(d) List of Impaired Waters and 305(b) Reports, and/or reviewing total maximum daily load reports.

Biological Factor

Finally, Colorado recommends incorporating a biological component into the definition of "significantly affect." Consideration of biological connections is consistent with the second ecological factor listed in the 2008 Guidance, that is, whether the waterbody being evaluated provides "aquatic habitat that supports a traditional navigable water." 2008 Guidance at 8.

For example, a Colorado Parks and Wildlife study found individual flannelmouth sucker, bluehead sucker, and roundtail chub spawning in the intermittent/ephemeral Roubideau Creek drainage that were originally tagged in the traditionally navigable portion of the Colorado River (Colorado River at Black Rocks).⁶ The spawning grounds in the Roubideau Creek drainage are important for maintaining populations of these native fish species in downstream jurisdictional waters.

³ See Goodrich, D. C., Kepner, W. G., Levick, L. R., Wigington, P. J., *Southwestern Intermittent and Ephemeral Stream Connectivity*, Journal of the American Water Resources Association (January 22, 2018), found at <https://onlinelibrary.wiley.com/doi/pdf/10.1111/1752-1688.12636> (describing how intermittent and ephemeral streams can export large amounts of fine sediment, nutrients, and organic matter during storm flows).

⁴ Colo. Dep't Pub. Health and Env't, [Total Maximum Daily Load Assessment: Boggs Creek - COARMA18a](#) (May 18, 2016) at 10, 16.

⁵ Roline, R., *The Effects of Heavy Metals Pollution of the Upper Arkansas River on the Distribution of Aquatic Macroinvertebrates*, Hydrobiologia (December 27, 1986), found at <https://af.booksc.eu/book/5758941/ef780d>.

⁶ Thompson, K. G., Hooley-Underwood, Z. E., *Present Distribution of Three Colorado River Basin Native Non-game Fishes* (August 2019), Colo. Parks & Wildlife Technical Publication 52, found at https://cpw.state.co.us/Documents/Research/Aquatic/pdf/Publications/2019_Present_Distribution_of_Three_Colorado_River_Basin_Native_Non-game_Fishes_and_Their_Use_of_Tributaries.pdf

An additional example involves the Arkansas darter, which primarily occupies tributary streams within the grasslands of the Arkansas River Basin. These grasslands are often characterized by isolated groundwater-fed pools of habitat that are occasionally connected to each other and the mainstem Arkansas River by intermittent or ephemeral flows during above-average seasonal flows or flood events. When these pools are connected, numerous individual darters move within the system, colonizing new habitat, and potentially supplementing local genetic diversity.⁷

These types of biological connections should be considered when determining whether waters “significantly affect” the chemical, physical, or biological integrity of traditionally navigable waters. The federal agencies should consult with state wildlife agencies and rely upon published reports and papers in evaluating biological connections. Consideration of biological connections could be incorporated into the rule by inserting an additional factor such as “whether the waterbody being evaluated provides aquatic habitat for a species migrating to a traditional navigable water.”

D. Conclusion Regarding the Definition of “Significantly Affect”

Overall, Colorado supports defining “significantly affect” in regulation and supports including all five of the factors that the federal agencies have identified in the proposed rule. However, Colorado is concerned that the proposed definition ignores the important role that soil type and composition play in determining hydrologic connectivity. Colorado is also concerned that the proposed definition risks limiting inquiries about the jurisdictional status of a given waterbody to considering its effect on the physical integrity of downstream jurisdictional waters, while failing to address chemical and biological integrity. To address these concerns, Colorado recommends:

1. Retaining all five proposed physical factors.
2. Adding a sixth *physical* factor to account for the effects of soil characteristics on hydrologic connectivity, such as “soil type, composition, and transmissivity”;
3. Including all the ecological functions of upstream waters as listed in the preamble in the final definition;
4. Adding a *chemical* factor that reflects how differences in chemical quality can drive significant effects on downstream waters, such as “potential of tributaries to carry pollutants and floodwaters to traditional navigable waters”; and
5. Adding a *biological* factor that reflects the significant effects of small tributaries on the population and habitat of aquatic life, such as “whether the waterbody being evaluated provides aquatic habitat for a species migrating to a traditional navigable water.”

⁷ Fitzpatrick, S. W., Crockett, H., Funck, W. C., *Water Availability Strongly Impacts Population Genetic Patterns of an Imperiled Great Plains Endemic Fish*, Conservation Genetics (February 12, 2014), found at <https://link.springer.com/article/10.1007%252Fs10592-014-0577-0>; Colo. Division of Wildlife, *Arkansas Darter Recovery Plan* (2001); Labbe, T. R., Fausch, K. D., *Dynamics of Intermittent Stream Habitat Regulate Persistence of a Threatened Fish at Multiple Scales*, Ecological Applications (October 27, 1999), found at [https://doi.org/10.1890/1051-0761\(2000\)010\[1774:DOISHR\]2.0.CO;2](https://doi.org/10.1890/1051-0761(2000)010[1774:DOISHR]2.0.CO;2).

Taking these steps would clarify and improve the definition of “significantly affect” by ensuring that it fully protects the physical, biological, and chemical integrity of the nation’s waters.

IV. COLORADO’S CONCERNS WITH THE AGENCIES’ PROPOSED EXCLUSIONS FROM THE DEFINITION OF WOTUS

A. Agricultural Exclusions

Agriculture is one of the largest economic sectors in Colorado. This industry feeds the people of Colorado and beyond, while conserving environmental resources. Because water quantity and quality are critical to agricultural operations, producers need a regulatory definition that provides certainty and a clear point at which WOTUS ends, and land begins. The requirements of Clean Water Act permitting and the significance of penalties for violating the Act make it vital that the regulated community knows what is jurisdictional and what is not.

To that end, Colorado supports the continued exclusion of prior converted cropland from the definition of WOTUS, and requests that the agencies incorporate the 2020 NWPR’s definition of that term to clarify that cropland would have to be abandoned and revert to wetland status for the exclusion to no longer apply. The 2020 NWPR clarified that abandonment means land that has not been used for, or in support of, agricultural purposes at least once in the last five years. Agricultural purposes are described in the 2020 NWPR preamble to include land use that makes the production of an agricultural product possible, including, but not limited to, grazing and haying. The 2020 NWPR also clarified that cropland left idle or fallow for conservation or agricultural purposes for any period remains in agricultural use, and, therefore, maintains the prior converted cropland exclusion. These clarifications are consistent both with the 1993 rule preamble provisions on abandonment and reversion and the change in use principle from the 2005 Corps and NRCS joint memorandum that defined agricultural use as open land planted to an agricultural crop, used for the production of food or fiber, used for haying or grazing, left idle per USDA programs, or diverted from crop production to an approved cultural practice that prevents erosion or other degradation. The 2020 NWPR’s clarifications provided some certainty to landowners that they will not lose exclusion status when modifying production practices or implementing enhanced land stewardship practices.

Colorado also supports the 2020 NWPR’s exclusions for areas of depression where irrigation water collects. These exclusions are critical for landowners to distinguish between state and federal wetlands and whether landowners require permits for activities on their land. Moreover, with a clear understanding of what is and is not jurisdictional under the Clean Water Act, producers can implement stewardship practices without the delay involved in the permitting process or the fear of legal action.

The Clean Water Act at 33 U.S.C. § 1344(f) also provides exemptions from permitting for normal farming, silviculture, and ranching activities (e.g., plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices); construction or maintenance of farm or stock ponds or irrigation ditches, or maintenance of drainage ditches; and construction or maintenance of farm roads or forest roads. However, permits may be required when discharge of dredged or fill material into the navigable waters incidental to the above activities brings the water into a use to which it was not previously subject, where the flow or circulation of navigable waters may be impaired, or the reach of such waters be reduced. By incorporating this

exemption scheme into the 1977 amendments to the Clean Water Act, Congress made a deliberate policy choice to exempt the ordinary activities of farmers and ranchers from certain permitting requirements of the Clean Water Act. Colorado believes these agricultural exemptions should be carried forward in any revised definition of WOTUS.

Colorado requests that the WOTUS definition fully incorporate the non-prohibited discharges of dredged or fill material set forth at 33 U.S.C. § 1344(f) to provide more clarity and certainty for the agricultural sector. To that end, any new WOTUS rule should include additional revisions to the exemptions at 33 C.F.R. § 323.4 to provide more clarification by better defining “upland soil and water conservation practices” in Section 323.4(a)(1)(iii). Specifically, most normal farming, silviculture, and ranching activities, including upland soil and water conservation practices (e.g., erosion control practices), do not require federal permits under Clean Water Act Section 404. However, the phrase “upland soil and water conservation practices” is not specifically defined in regulation, and the application of the exemption may be unclear at times. Therefore, Colorado proposes the agencies consider including this definition for “upland soil and water conservation practices” at 33 C.F.R. § 323.4(a)(1)(iii):

Upland soil and water conservation practices means any discharge of dredged or fill material to waters of the United States incidental to soil and water conservation practices for the purpose of improving, maintaining, or restoring uplands including, but not limited to, rangeland management practices, erosion control practices, and vegetation management practices.

Including such a definition would recognize that farmers and ranchers implement these types of practices daily, thereby reducing nonpoint source pollution and improving water quality.

B. Waste Treatment Systems

The “waste treatment system” exclusion as proposed by the agencies applies to “treatment ponds or lagoons, designed to meet the requirements of the Clean Water Act...” While Colorado supports a limited exclusion for waste treatment systems, we believe this exclusion as written is unnecessarily broad and vague.⁸ The agencies’ description of the term allows dischargers to impound WOTUS, thus sacrificing the designated uses of those waterbodies for treatment purposes. Moreover, the exclusion allows for the unmitigated discharge of untreated effluent into jurisdictional wetlands, which serve an important function to downstream WOTUS. This approach undermines protections established through other Clean Water Act regulations. See, e.g., 40 C.F.R. § 131.10(a) (“In no case shall a State adopt waste transport or waste assimilation as a designated use for any waters of the United States.”). Constructing an impoundment in WOTUS for treatment purposes or discharging industrial pollutants into a jurisdictional wetland should be a last resort. Colorado is concerned that the proposed open-ended regulatory language instead serves to endorse and even invite dischargers to use WOTUS as a component of their treatment systems. The exclusion as

⁸ The Colorado Water Quality Control Act, through its own definition of “state waters,” contains a waste treatment exclusion that differs from the federal exclusion. See § 25-8-103(19), C.R.S. Colorado is concerned, however, about the potential implications of the federal exclusion (and federal case law interpreting the exclusion) on our state framework.

written does not provide any incentive to construct treatment systems off-channel in situations where that alternative is practical.

We suggest, at a minimum, adding clarifying language to the phrase “designed to meet the requirements of the Clean Water Act” to reflect the explanation contained in the preamble. To that end, the text of the rule should specifically state that a discharger proposing to impound a WOTUS for waste treatment purposes would need to obtain an individual Section 404 permit for new construction in a WOTUS in order to ensure that states have the ability to apply state water quality requirements to these projects under their Section 401 authority. The text of the rule should also require that the discharger obtain a Section 402 permit for discharges from the waste treatment system into a WOTUS.

Alternatively, we suggest expressly limiting the exclusion to narrow circumstances, such as the valley fill scenario discussed in *Ohio Valley Environmental Coalition v. Aracoma Coal Co.*, 556 F.3d 177 (4th Cir. 2009), and making it clear that the waste treatment system exclusion otherwise applies only to lagoons or ponds that are constructed off-channel, *i.e.*, not within WOTUS. Recognizing that this would be a change to previous federal policy, the agencies could consider grandfathering waste treatment systems that were excluded under the previous regulation but that no longer satisfy the new off-channel criterion.

Revising the waste treatment system exclusion in one of these ways would also serve the agencies’ intent to make the WOTUS rule clearer and more understandable to the regulated community. The vague nature of waste treatment system exclusion as proposed is likely to cause more confusion and inconsistency in practice, leading to resource-intensive litigation to resolve those issues on a case-by-case basis.

C. Placement of the Exclusions in the Rule

Colorado suggests removing the excluded categories of waters from the list that defines WOTUS and instead placing them under a separate heading. Heading (a) of the proposed rule reads as follows: “Waters of the United States means...” 33 C.F.R. § 328.3(a); 40 C.F.R. § 120.2(a). The first seven categories under heading (a) describe waters that are all considered WOTUS. The exclusions contained in paragraphs (8) (waste treatment systems) and (9) (prior converted cropland), however, do not follow structurally. It would be clearer to insert a new heading (b) to cover the exclusions. Heading (b) would read: “Waters of the United States does not include:” and then insert numbers (1) and (2) to list the waste treatment system and prior converted cropland exclusions, respectively. New letters would need to be assigned to the remaining paragraphs of the rule, accordingly.

D. Section 101(g) and Interstate Compacts

Finally, while not an exclusion per se, Colorado also requests that the federal agencies continue to give full force and effect to the congressional purposes of Clean Water Act Section 101(g); 33 U.S.C. § 1251(g). Congress and the U.S. Supreme Court have placed important limitations on the jurisdictional reach of the Act and have consistently recognized the primary and exclusive authority of each state to “allocate quantities of water within its jurisdiction,” which decisions “shall not be superseded, abrogated, or otherwise impaired by th[e] CWA.” 33 U.S.C. § 1251(g); *PUD No. 1 of Jefferson Cty. V. Wash. Dept. of Ecology*, 511 U.S. 700, 720-21 (1994). These clear and recognizable limits to the extent of Clean Water Act jurisdiction should be recognized in the rule. Colorado requests the federal agencies include a clear statement recognizing that states retain authority and primary responsibility over land

and water resources to carry out the overall objectives of the Clean Water Act. Likewise, Colorado emphasizes the importance of Section 101(g), particularly to the western states where water resources are often limited, and water rights are carefully administered.

In addition to incorporating the language of Section 101(g), the agencies should further clarify that neither the Clean Water Act nor the rule itself can alter or impair any state's rights, duties, or obligations under interstate compacts or decrees of the Supreme Court of the United States equitably apportioning the flows of an interstate stream. This clarification should also incorporate language that includes waters that flow across, or form part of, boundaries of federally recognized tribes.

Lastly, the agencies asked for input on whether use of stream order is an appropriate method for determining the extent of a riverine "interstate water." Colorado seeks additional information as to how this methodology comports with the limits on the extent of Clean Water Act jurisdiction under Section 101(g) and the pre-2015 regulatory regime. The application of a stream order methodology to determine interstate waters is of particular concern to Colorado because some methodologies for determining stream order could extend the designation of interstate waters a great distance from state boundaries. The agencies should avoid using any methodology that would extend the reach of an interstate water for purposes of the WOTUS rule far beyond interstate borders.

V. COLORADO'S CONCERNS WITH THE PROPOSED APPROACH TO DETERMINING THE SCOPE OF JURISDICTIONAL DITCHES

Colorado would like to emphasize that any change to the federal agencies' handling of ditches in the context of a new WOTUS definition must be done in a way that also considers the scope of the longstanding agricultural exemption for dredge and fill activities impacting irrigation ditches and how the federal agencies interpret the Act's recapture provision.⁹ Colorado opposes creating a situation where the jurisdictional scope of WOTUS and the agencies' regulatory interpretations work together to effectively discourage irrigation ditch piping projects that would otherwise improve Colorado's ditch infrastructure and conserve scarce water resources. To address our water management challenges, including persistent drought and climate change, investing in water infrastructure is essential and that includes creating, enhancing, or updating ditch piping projects.¹⁰

Colorado supports the agencies' proposal as stated in the preamble, consistent with the 2008 Guidance, that "ditches created wholly in uplands and draining only uplands with ephemeral

⁹ For example, in July 2020, the Corps and EPA issued a [Joint Memorandum](#), replacing previous Regulatory Guidance Letter 07-02, that made a critical change to the agencies' interpretation of the agricultural exemption under Clean Water Act Section 404(f)(1)(C) and the accompanying recapture provision at Section 404(f)(2). See https://www.epa.gov/sites/default/files/2020-07/documents/final_ditch_exemption_memo_july_2020_with_epa.pdf. Specifically, the 2020 Joint Memorandum states that any project that relocates or converts a jurisdictional irrigation ditch into a pipe is a change in use and a reduction in reach of WOTUS. Thus, all irrigation ditch piping and ditch relocation projects on jurisdictional ditches are now recaptured and subject to regulation under Section 404. A change of this nature can be a critical barrier to important irrigation ditch piping projects.

¹⁰ Colorado Attorney General, *Prepared remarks: The Imperative of Investing in Water Infrastructure*, Colorado Water Congress Summer Conference (Aug. 25, 2021), <https://coag.gov/blog-post/prepared-remarks-the-imperative-of-investing-in-water-infrastructure-colorado-water-congress-summer-conference-aug-25-2021/>.

flow would generally not be considered WOTUS.” See 86 Fed. Reg. 69380. In the interest of clarity, Colorado encourages the agencies to consider including ditches that fit this description as a category of excluded waters in the text of the regulation. As for other ditches that do not fit this description, Colorado supports application of the relatively permanent or significant nexus test to determine whether those ditches are considered WOTUS.

Finally, the federal agencies seek input regarding whether the interpretation of “relevant reach” for ditches should consider any particular factors for situations where ditches are treated as tributaries or contain wetlands. In response, Colorado does not believe that the “relevant reach” of a ditch should pertain to an artificial drainage. If, on the other hand, a ditch is constructed within a natural drainage, the entire ditch should be considered jurisdictional (assuming that it meets the significant nexus or relatively permanent standard), thus eliminating the need for a reach determination. Importantly, however, whichever approach is used to interpret relevant reach, Colorado reiterates the need for clear permitting exemptions for construction and maintenance activities for irrigation ditches, as noted above, as well as for maintenance of drainage ditches.

VI. ECONOMIC ANALYSIS OF STATE PROGRAMS

In addition to the proposed rule itself, the agencies have requested comment on the accuracy of the assumptions regarding state regulatory programs included in the economic analysis accompanying the proposed rule (2021 Economic Analysis).¹¹ The agencies’ analysis assumes that Colorado does not regulate waters more broadly than the proposed rule requires for either the 404 program or surface waters. 2021 Economic Analysis at Table II-1, p. 50. Based on this assumption, the agencies calculate that the full benefits and costs of the proposed rule, as compared to the baseline of the 2020 NWPR, will be realized in Colorado. *Id.* at 50. Colorado agrees that the return to the status quo of the pre-2015 regulatory framework, including the 2008 Guidance, will have important benefits for the State. Colorado also wishes to highlight important state law regulatory issues the agencies should consider in their economic analysis.

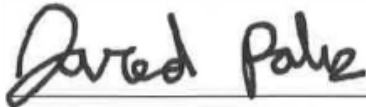
Colorado state law precludes the discharge of pollutants to state waters without a permit and defines “state waters” more broadly than any federal definition of WOTUS to date. See Colorado Water Quality Control Act, §§ 25-8-103(19) & 25-8-501, C.R.S. At the same time, state law does not specifically authorize any state-level permitting program for dredge and fill activities. As a result, Colorado, like most other states, relies on the Corps’ Section 404 permitting program to regulate dredge and fill activity and protect critical streams and wetlands. The State’s continued ability to depend on a consistent level of federal protection for these resources is another important benefit of the proposed rule.

¹¹ EPA and the Corps, *Economic Analysis for the Proposed “Revised Definition of ‘Waters of the United States’” Rule* (Nov. 17, 2021), available at https://www.epa.gov/system/files/documents/2021-11/revised-definition-of-wotus_nprm_economic-analysis.pdf.

VII. CONCLUSION

Thank you for the opportunity to provide these comments on the agencies' interim WOTUS proposal. We encourage the federal agencies to take advantage of Colorado's knowledge and expertise on the important water issues facing the State as you work through the rulemaking process. We look forward to continued conversations and developing a durable, legally sound, implementable, and scientifically justified WOTUS definition in the next phase of rulemaking.

STATE OF COLORADO
Governor Jared Polis

A handwritten signature in black ink that reads "Jared Polis". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Date: February 7, 2022

Attorney General Philip J. Weiser

A handwritten signature in black ink that reads "Phil Weiser". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Date: February 7, 2022

MEMORANDUM



TO: UGRWCD Board of Directors
FROM: Cheryl Cwelich, Watershed Program Coordinator
DATE: February 16, 2022
SUBJECT: Wet Meadows Program Update

During the month of February, the following are action items that have commenced or been completed in the Wet Meadows Restoration and Resiliency Building Program (WMRRBP):

Completed Action Items

- Finalized 2022 Wet Meadows Field Season Schedule
- Scheduled Volunteer Events
 - WRV/HCCA on September 2nd thru 5th at Miller Ranch SWA/Flat Top-Henkel
 - HCCA event on September 24th at Monson Gulch
- Reconciled funding/grant agreements with BLM Gunnison, BLM Silt, NFWF and USFS
- Developed field season budgets to close out the above funding agreements.
 - The BLM will develop a new funding agreement for 2023
 - The USFS will develop a new funding agreement for 2023 thru 2028
- Submitted concept paper for GOCO Stewardship Impact Grant totaling \$158,100
- Submitted article developed by partners on the Wet Meadows Program to the Western Association of Fish & Wildlife Agencies (WAFWA)
- Coordinated ARCPro GIS installation for program and project mapping

Action Items

- 2022 Field Work:
 - The coordinator is amending contracts with BIO-Logic and Wildlands Restoration Volunteers (WRV) to adjust for appropriate funds allocated in grant/funding agreements.
 - Contractors to perform specialized earthwork, log work, and fencing have been contacted for the 2022 field season, including Stonefly Earthworks, RangeWorks LLC, Grizzly Fence and Rocky Mountain Aggregate. The coordinator is working with staff to complete contracting and finalize schedule.
 - The RMYCC crew has been promised for two weeks of time to conduct Wet Meadows work at Bohr Flats. Cheryl is working to finalize a contract with them.
 - The General Manager and the Coordinator have been in talks with the Colorado Natural Heritage Program (CNHP) to negotiate their indirect cost rate. CNHP conducts vegetation monitoring for the Wet Meadows Program that is used to

demonstrate restoration treatment success. CNHP partners with Colorado State University (CSU) and commands a NICRA of 52%. The UGRWCD feels that this rate is unacceptable and is aware that the State of Colorado and federal agencies have negotiated indirect rates ranging from 10% to 15%. The UGRWCD feels that because we are managing state and federal grant agreements, that we should also be provided with a reduced indirect cost rate so that more of our grant funds can be put into actual on-the-ground structures. In order to get around the 52% rate, wet meadow federal partners are contracting directly with CNHP although they would prefer that the UGRWCD be the fiscal agent.

- Outreach:
 - In collaboration with Nate Seward at Colorado Parks & Wildlife (CPW), the Wet Meadows Program will be hosting a field trip day with CSU Pueblo during the 2022 field season.
 - The Gunnison sage-grouse (GUSG) Summit at Western will take place on April 4th and 5th and will be attended by the coordinator and partners at CPW and FWS.
 - As part of Natural Resource Conservation Service (NRCS) Water Festival on May 20th for 4th grade students in Gunnison, the Coordinator will assist with running the every-popular water trailer that demonstrates stream flow and erosion.
- Funding Opportunities:
 - The coordinator will be researching funding opportunities for the Wet Meadows Program, including Bureau of Reclamation (BOR) WaterSMART, Colorado Healthy Rivers Fund, Colorado River District's Community Funding Partnership and the Greater Outdoor Colorado (GOCO) RESTORE grant.
- Monitoring
 - Several partners are involved with providing data to the Conservation Efforts Database (CED), a partnership between United States Fish and Wildlife Service (USFWS) and United States Geological Survey (USGS) to spatially report conservation efforts for sagebrush ecosystems, Cutthroat trout recovery and Gunnison sage-grouse recovery. The coordinator is exploring the potential for streamlining data submission to reduce duplication and improve program partner involvement.
 - The data collection team for the Wet Meadows Program will be meeting on March 3rd to discuss standardization of data collection processes, particularly related to structure location, performance, and maintenance monitoring. Teresa Chapman of The Nature Conservancy (TNC) will be introducing a new data dictionary for the team to follow and launching field app to aid in data collection.
- Continuity & Vision:
 - The primary Wet Meadows Program partners will be meeting on March 4th to review the *2014 Scaling Up Vision & Objectives* document and update as necessary. Additional topics will include defining geographical location, relationship with Gunnison sage-grouse (GUSG) sub-populations and outreach opportunities and roles.

MEMORANDUM



TO: UGRWCD Board Members
FROM: Beverly Richards, Water Resource Specialist
DATE: February 16, 2022
SUBJECT: Grant Program

The grant packet for 2022 was posted on the website along with several fillable forms such as the cover sheet, technical proposal template, budget spreadsheets, and scope of work templates.

Two virtual grant program informational meetings were held January 13 and January 18 at 10:00 a.m. via Zoom. It was advertised in the newspapers in Gunnison, Crested Butte and Lake City, as well as posted several times on the District social media accounts and on the website. Five potential grant applicants tuned in for the meeting.

A power point was presented outlining: (1) Background of Grant Program; (2) Timeline for the 2022 Grant Program; (3) Eligible Types of Projects; (4) the Eligibility, Evaluation and Ranking Criteria for the 2022 Grant Program; (5) Elements of the Funding Agreement; (6) Timeline for Disbursement of Funds; (7) Necessary Components of a Complete Application; (8) and the 2022 Grant Program Templates.

As of February 15, the District has received 15 applications for grant funding for a total of \$346,516. These applications will be reviewed by staff and the UGRWCD Grant Committee and recommendations will be presented to the board at the March 28 Regular Board Meeting.

MEMORANDUM



TO: UGRWCD Board Members
FROM: Beverly Richards, Water Resource Specialist
DATE: February 16, 2022
SUBJECT: Mountain Roots Irrigation Grant

Mountain Roots applied for grant funding in 2020 to update the irrigation system in the Mountain Roots Community Farm. This project would accommodate the new high tunnel, perennial garden, and expanded in-ground growing space. UGRWCD funds are being used to support the purchase of new irrigation materials and supplies. These materials will allow for water use monitoring, water delivery, and will increase the water use efficiency and growing capacity at the Farm.

After some revisions, the funding agreement was completed for \$14,917 with a completion date of December 31, 2021. Due to staff turnover, and increased community-wide food relief at the beginning of the COVID and resulting delays, Mountain Roots would like to apply for a one-year extension with project completion anticipated following the growing season of 2022. Extending the deadline to December 31, 2022 would allow for all components of the project to be completed including the final reporting requirements.

Action Item: Staff recommends that the Board approve a one-year extension for the Mountain Roots Irrigation Grant Project to December 31, 2022.

MEMORANDUM



TO: UGRWCD Board of Directors
FROM: Sue Uerling, Adm. Asst./Comm. Support Specialist
DATE: February 10, 2022
SUBJECT: Education and Outreach Update

The following Education and Outreach action items have commenced or been completed since the January 24, 2022 Board Meeting:

- Radio Advertising:
 - KBUT is now running the District's "winter-based" message with the "Snow Report" at 8:30 AM daily.
 - Sonja has recorded two new 30 second spots to run on KEJJ and its sister stations which will rotate four times daily beginning next week.
- Newsprint Advertising:
 - The weekly streamflow/reservoir elevations/snowpack ads are running in the *Gunnison Country Times* and *Crested Butte News*.
 - The weekly streamflow/Lake San Cristobal elevation/Slumgullion snowpack ads are running in the *SilverWorld* newspaper.
- Collaboration with other Water Groups in the District:
 - The District has sent payment with the contract to serve as the Awards Ceremony sponsor for the Gunnison Rotary Club Fishing Tournament at Blue Mesa Reservoir May 7 and 8, 2022.
ACTION NEEDED: Determine if any Board or staff member would like to participate on a two-member team in the fishing tournament representing the District?
- Water Message Promotional Items:
 - New water bottles with the District's logo have been ordered from Kirsten Dickey at OffCenter Designs. Rack card copy has also been written and will be sent to Dove Graphics for layout and printing.
- 250 Copies of the children's book *Drop: An Adventure through the Water Cycle* by Emily Kate Moon arrived on January 21, 2022. The District has contacted Elementary School Principal Michael Seefried to check on a date that might work for distribution and confirm that the District can deliver them in person.
- The UGRWCD will partner with Aleshia Rummel of the Gunnison Conservation District/NRCS for the 4th Grade Water Festival on May 20th at Gunnison Elementary School. Watershed Program Coordinator Cheryl Cwelich will help Aleshia in the Water Trailer.
- Western Intern John Murphy has been posting water-related articles, Water22 Partner posts and updates to the District's social media platforms nearly daily. The District has seen a significant uptick in likes and visits as a result. He has also been learning how to make updates to the website and is working on consolidating and organizing the "Photo" file.

AGENDA ITEM 11

Miscellaneous Reports

AGENDA ITEM 11

Gunnison River Festival Update

AGENDA ITEM 11

Scientific Endeavors Update

AGENDA ITEM 11

CO Water Congress Review

AGENDA ITEM 11

Standard Monthly Reports

***Solar Panels, *Gunnison River
Spreadsheet, *News Articles**

Monthly Energy Production Report

Generated for Beverly Richards
on 02/16/2022

UGRWCD

Gunnison, CO

This report provides energy production for February.

Week	Peak Power	Energy Produced
02/01/2022 - 02/07/2022	5.63 kW	77.5 kWh
02/08/2022 - 02/14/2022	5.92 kW	239 kWh
02/15/2022 - 02/21/2022	5.89 kW	29.0 kWh
02/22/2022 - 02/28/2022	0 W	0 Wh
February 2022 Total:		345 kWh
Previous Month Total:		657 kWh
Year to Date:		1.00 MWh
Lifetime Production:		26.8 MWh

Your **Carbon Offset** for this month: 526.0 lbs

You have offset the equivalent of: **6 Trees**



Browser not supported

Use Microsoft Edge, Google Chrome, Firefox or Safari to access the fresh new look of MyEnlighten with the exciting new features.

Ok, Got It

TO

Daily Summary for Month -->

Feb

	Taylor Park Reservoir							Silver Jack Reservoir				Aspinall Unit						GUNNISON TUNNEL ALLOCATION																		
	River Call				Average Flow		Reservoir				1st Fill	2nd Fill	Other	Aspinall	Reservoir		BP Acctt	AU Acctt	Reservoir Contents			Total Aspinall Unit Inflow			1st Fill	Contract	Streamflow and Divs		Type of Water Diverted into Tunnel							Tot 1st fill
	Silver Jack Reservoir & Juniors In	TP Releases from TP 1st Fill (1=Yes, 0=No)	Excess Released TP Inflow and AU Nat Inflow (cfs)	Gun Tunnel (GT) Shortage after AU Nat Inflow and TP Inflow (cfs)	3-Day Ave. Excess TP Inflow (cfs)	Shortage after AU Nat Inflow and TP Inflow (cfs)																														
Day of Month	(1=Yes, 0=No)	(1=Yes, 0=No)	Nat Inflow (cfs)	and TP Inflow (cfs)	Average Excess TP Inflow (cfs)	Shortage after AU Nat Inflow (cfs)	TP Res. Content (af)	TP - outflow (cfs)	TP Computed Inflow (cfs)	1st Fill - Storage - in TP (af)	2nd Fill - Storage - in TP (af)	Other Account Storage in TP - Storage - in TP - (af)	AU Storage in TP - (af)	SJ Res Content (af)	Reservoir Storage (cfs)	BP - Storage - in SJ (af)	AU Water - Storage - in SJ (af)	BM Res Content (af)	MP Res Content (af)	CR Res Content (af)	Change In Storage (af)	In rel (cfs)	Computed from CR Aug Rel (cfs)	#REF!	UGRWCD Contract water (af)	Gun. River below East Portal (cfs)	Total Gunnison Tunnel Dirs (cfs)	GT Divs - AU inflow minus released inlow (cfs)	GT Divs - TP Released Inflow (cfs)	GT Divs - SJ Storage Inflow by AU Exch (cfs)	UGRWCD Contract Water Rel (cfs)	GT Divs - Rel from 2nd Fill Rec/Fish (cfs)	GT Divs - 1st Fill Credit in BM (cfs)	#REF!	Remain. 1st Fill Credits in TP and AU (af)	
(1)	(2)	(3)	(5)	(6)	(7)	(8)	(11)	(14)	(15)	(19)	(25)	(30)	(34)	(36)	(39)	(43)	(47)	(49)	(77)	(100)	(124)	(125)	(127)	#REF!	#REF!	(128)	(131)	(132)	(133)	(134)	(135)	(136)	(137)	#REF!	(140)	
1	1	1	369	0	311	0	58,298	73	59									237,819	104,780	16,192	134	316	311			316	0	0	0	0						
2	1	1	439	0	356	0	58,284	73	66									237,961	104,870	16,215	256	317	373			317	0	0	0	0						
3	1	1	388	0	399	0	58,270	73	65									238,009	104,946	16,250	158	316	323			316	0	0	0	0						
4	1	1	358	0	395	0	58,228	72	51									238,009	105,051	16,270	126	316	308			316	0	0	0	0						
5	1	1	335	0	360	0	58,213	73	66									237,961	105,157	16,261	49	317	269			317	0	0	0	0						
6	1	1	355	0	349	0	58,171	73	51									238,199	105,104	16,195	119	317	304			317	0	0	0	0						
7	1	1	395	0	362	0	58,157	73	66									238,342	105,119	16,203	166	318	329			318	0	0	0	0						
8	1	1	248	0	333	0	58,157	73	73									238,389	104,961	16,186	-128	373	235			313	60	60	0	0						
9	1	1	313	0	319	0	58,100	74	45									238,437	104,938	16,175	13	379	312			335	44	44	0	0						
10	1	1	353	0	305	0	58,072	74	59									238,532	104,900	16,203	86	324	294			324	0	0	0	0						
11	1	1	346	0	338	0	58,058	74	67									238,532	105,013	16,149	58	324	279			324	0	0	0	0						
12	1	1	431	0	377	0	58,029	74	60									238,675	105,127	16,134	241	324	372			324	0	0	0	0						
13	1	1	451	0	410	0	58,001	74	60									239,103	104,968	16,146	281	324	392			324	0	0	0	0						
14	1	1	288	0	390	0	57,987	74	67									239,245	104,817	16,097	-57	324	221			324	0	0	0	0						
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Total	28	28	5,071	0	5,003	0		1,026	855						0							1,503	4,591	4,322			4,485	106	106	0	0	0	0	0	0	
Tot (af)			10,059	0	9,924	0		2,035	1,695						0							2,981	9,105	8,573			8,896	209	209	0	0	0	0	0	0	
Min	1	1	248	0	305	0	57,987	0	45	0	0	0	0	0	0	0	0	237,819	104,780	16,097	-128	0	221	0	0	0	0	0	0	0	0	0	0	0	0	
Max	1	1	451	0	410	0	58,298	74	73	0	0	0	0	0	0	0	0	239,245	105,157	16,270	281	379	392	0	0	335	60	60	0	0	0	0	0	0	0	

Annual Summary (all values in ac-ft) Note: Reservoir content is the end of the month content

[illegible]

FEATURED

RWR water project faces opposition from Polis, legislators

By MARIANNE GOODLAND marianne.goodland@coloradopolitics.com
Feb 14, 2022



Cattle drink from a pond which is fed by a well in Baca County. Groundwater is crucial for the existence of farms and ranches in the very dry Baca County in the southeastern corner of Colorado. (Photo by Jerilee Bennett, The Gazette)
JERILEE BENNETT THE GAZETTE

The attention on a \$600-million proposal to pipe water from the San Luis Valley to Douglas County is gaining attention — of the negative kind — from Gov. Jared Polis and other policymakers at the state Capitol.

Polis, in a statement to Colorado Politics, took a position last week on the proposal from Renewable Water Resources (RWR) that would ferry as much as 34,000 acre-feet of water from a confined aquifer in the San Luis Valley to Douglas County. Through a spokesman, Polis said he is "against any inter-

basin transfer without local support of impacted communities. This is a proposed inter-basin transfer with deep concerns and opposition in the San Luis Valley and the governor is opposed."

Polis joins Attorney General Phil Weiser, who told Colorado Politics last month he is prepared to "take a lead role in how we in Colorado can stop this from happening because the idea of removing water from the valley at a time of a depleted aquifer is something I can't understand."

RWR argues that its proposal is a win-win solution – it would economically benefit San Luis Valley while ensuring water sustainability for Douglas County.

Renewable Water Resources proposes to tap 25 new groundwater wells in a "confined" aquifer in the valley to bring that water to the South Platte River and eventually to a yet-to-be unidentified water provider in Douglas County.

The project also came up, though not by name, in a hearing last Thursday in the Senate Agriculture and Natural Resources Committee, and it doesn't appear to have any fans on the panel, either.

The bill at issue is Senate Bill 28, which would set up a fund to finance groundwater reductions in the Republican River basin, in northeastern Colorado, and the Rio Grande River basin in the San Luis Valley.

The bill intends to help pay for groundwater limitations in the Republican River and to boost the sustainability of the large, confined aquifer in the Rio Grande River basin, the same aquifer that RWR intends to tap for its project.

Simpson, the general manager of the Rio Grande Water Conservation District, explained that the Rio Grande portion of the bill would pay farmers not to pump water in order to maintain the aquifer close to 1976 levels. Simpson told Colorado Politics that state law requires a sustainable aquifer system.

"You don't have to achieve those goals by drying up irrigated ag," although that's part of the solution, he said.

He said some strategies could include water conservation or by changing the crops being grown in the valley, such as from alfalfa to industrial hemp, for example. The latter would use about half of the water, but there's not yet enough of a market for industrial hemp, he said.

"But if Mother Nature continues to deal precipitation the way it has for the last 20 years ... we will have less groundwater-dependent irrigated acres" in the valley, he said.

The Rio Grande Water Conservation District spent \$5 million just in the last month to pay farmers to conserve or stop irrigating, although the district received \$13 million in applications for conservation funding. The target is around 40,000 acres, based on fallowing (retirement of irrigated acres), changing the crops or other water conservation measures. Whether that will be enough, however, is unknown, Simpson said, because of precipitation, including variability in snowpack.

As of January, 2022, the aquifer is at its lowest point ever for a January. That's after taking 100,000 acre-feet out of pumping in the last few years, he said.

"It's the aridification of the West. We don't have the supply of water in the Rio Grande that we had prior to 2002," he said.

In the Republican River, compacts require a reduction of 25,000 irrigated acres by 2029, based on a 2016 resolution signed by Colorado, Nebraska and Kansas. That also means cutting back on irrigation, and the money would pay farmers to do that. The Republican River district has already spent \$150 million on groundwater conservation; the Rio Grande district has spent \$70 million for the same purpose.

As proposed, funding for SB 28 would come from economic recovery dollars – about \$848 million was allocated for economic recovery efforts during the 2021 session – from the American Rescue Plan Act. Simpson pointed out that ARPA requirements allow for those dollars to be used for water conservation, and he's asked for \$80 million for SB 28.

The high prices of certain commodities — corn, for example — make taking acres out of production more difficult, according to David Robbins, the general counsel for both basins, who testified Thursday.

"If they fail in this task, they will receive orders [from the state engineer] shutting down the wells in each basin, which will have a dramatic and very difficult consequence for everyone in both basins," Robbins said.

Sen. Don Coram, R-Montrose, asked witnesses to address trans-basin diversions for an area that is already having trouble with sustainability, a direct reference to the RWR project, although he did not mention it by name.

Robbins replied that the people in the valley are attempting to pull back another 40,000 acres from production to solve the groundwater issue.

"How you can take 20,000 acre feet plus by further exacerbating the problem is difficult to understand," Robbins said. "We have significant questions about exporting water from the San Luis Valley. My client is resolved to resist it."

Sen. Kerry Donovan, D-Vail, the committee's chair, said that if the bill passes, it's a sign the General Assembly is making a statement and acknowledging the limited amount of water in the basins.

"That should be a signal to those hunting for water that this isn't the right place to look," Donovan said.

The bill passed on a 4-0 vote and is now awaiting action from the full Senate.

Several new developments have taken in the past several weeks involving the RWR proposal.

On Jan. 27, the company told the Douglas County board of county commissioners it would drop its asking price for the county's participation in the \$600 million project from \$20 million to \$10 million.

According to the January 27 letter to the Douglas County commissioners, RWR's attorneys advised them that "rules and regulations governing the use of ARPA funds may not allow the county to spend \$20 million on projects that are not completed by 2026." However, the letter continued, the attorneys believe the county could spend \$10 million of its ARPA money "as compensation for general revenue loss" outside of the deadline limitations.

In exchange, the letter said, RWR would hike the cost of the water to the end-user in Douglas County from \$18,500 to \$19,500 per acre-foot, a one-time payment from the water provider.

RWR is proposing to pay land-owners in the San Luis Valley for their water rights \$2,000 per acre-foot. While there isn't an exact valuation on water from the confined aquifer, market value for water in the valley ranges from a high of \$4,100 per acre-foot for surface water to \$3,100 per acre-foot for water in the much smaller unconfined aquifer.

RWR eventually wants to buy 34,000 acre-feet of water for its project, at a cost of \$68 million. The company also proposes a separate \$50 million "community fund" to assist local communities with schools, broadband or food banks, senior services or job training.

RWR's Sean Tonner told the Douglas County commissioners on Feb. 7 that the project will set a "gold standard" for Colorado.

As for the \$50 million community fund, Tonner said it would generate \$3 million to \$4 million per year in interest in perpetuity.

"It's a significant amount of money" for the valley, he said. Tonner also told the commissioners that what they're paying for water in the valley is "three to four times" the market rate, and they're only buying from voluntary sellers.

Tonner said two years ago, water was selling at \$80 per acre-foot in the valley, which he called "criminal."

Tonner argued that the RWR project would economically benefit the valley, which he said is among the most impoverished areas of the state at 43% below the poverty level and where population is declining and getting older.

Tonner also stated the the valley needs to diversify from its ag economy. He pointed to statements Simpson made in 2018, including that the the valley "is based 100% on irrigated agriculture from a water supply that doesn't exist anymore."

Family farms, especially the small and medium-sized farms, will be gone, Tonner predicted. There has to be a win-win solution, he said, explaining the valley has the water while the Front Range has the money.

"We can have both: we can have the Front Range being vibrant; the Front Range needs water; we can have the San Luis Valley being vibrant; it needs capital and needs to transition its economy to something lower than 90% to 95% agricultural-based," he said. "We're not saying shut down all ranching and farming, but have a more diversified economy outside of government jobs and agriculture."

Tonner claimed the RWR proposal would help the Rio Grande basin resolve its water shortage problem, maintaining the project would replace water at "one-to-one plus," defined as putting more water back into the aquifer than what's being taken out.

Those representing the valley at the Feb. 7 meeting offered a different take on the proposal's economic effects.

The \$50 million community fund won't cover the economic loss to the valley from the project, according to Chad Cochran, a banker with Farm Credit of Southern Colorado, which makes loans to farmers and ranchers. Based on U.S. Census and Colorado State University data, Cochran said that taking 34,000

acres out of agricultural production represents about 5% of the total agricultural acreage in the valley. The direct sales loss from just those 34,000 acres would be \$18 million per year, he said, adding the overall economic loss would total about \$53 million per year, Cochran said.

"A community fund of \$50 million is a band-aid. It's nominal. It's one year of trade for us," Cochran said.

James Henderson, a fifth-generation farmer in the valley and vice president of Colorado Farm Bureau, told commissioners the RWR project is "buy and dry," referring to the permanent removal of productive agriculture and putting the water somewhere else. It creates winners and losers – one community loses the water, another gets it, Henderson said.

"Why should a Douglas County citizen care what happens to some farm down some road? They didn't know about the farm before. Why would they care when it's gone? But when you lose the production off the land, you lose the farmers," he said.

RWR also appears to be considering new options on its proposal.

The original proposal would build a pipeline that would eventually reach the South Platte, to either Antero or Strontia Springs reservoirs. But Denver Water, which owns both reservoirs, has been adamant it wants nothing to do with the RWR project, and that extends to allowing the storage of the valley water in its reservoirs.

The final route hasn't been determined, Tonner told the commissioners.

Another option would be to build a pipeline from the valley to the lower Arkansas River, east of Pueblo, where infrastructure already exists to move the water north to Douglas County. That would save \$200 million, Tonner said.

The lower Arkansas River infrastructure, including storage, however, belongs to Aurora Water, and the latter is not interested, either.

"We understand that in recent conversations regarding a proposal from RWR regarding water from the San Luis Valley, it has been suggested that infrastructure owned and operated by Aurora Water could be utilized for this proposal," Greg Baker of Aurora Water told Colorado Politics. "RWR has not asked Aurora Water to be able to use our infrastructure and Aurora Water does not have the excess system capacity to move this water."

Tonner also refused to identify the project's end-user, likely to be a water district, in response to a question from Commissioner Lora Thomas.

Editor's note: This story has been updated to clarify that the water proposal is estimated to cost \$600 million. Douglas County's original proposed share of that project is \$20 million.

MORE INFORMATION



COVER STORY: THIRST FOR BATTLE | Douglas County water project hits hiccups

Douglas County goes after San Luis Valley water

OUTDOORS

Colorado appeals court revives river access, right-to-wade debate

Angler Roger Hill is suing a landowner over a right to wade in the Arkansas River, arguing that historic commerce on the river proves navigability, which requires public access.

Jason Blevins 4:00 AM MST on Feb 14, 2022



Roger Hill fishes a small creek in southwest Colorado. The angler has sued an Arkansas River landowner in effort to change Colorado's stream access laws. (Provided by Roger Hill)



For nearly 40 years, riverside property owners and recreational river users in Colorado have relied on a tenuous agreement when it comes to floating rivers and streams through private property.

The deal is this: Stay on your boat and don't touch the riverbed or you could face trespassing charges. If you wade on those rocks while fishing, a landowner might hurl rocks at you.

This story first appeared in The Outsider, the premium outdoor newsletter by Jason Blevins. Become a Newsletters+ Member to get The Outsider at coloradosun.com/join. (Current members, [click here to learn how to upgrade](#))

That agreement-but-not-a-rule could change with [a recent decision by the Colorado Court of Appeals](#) that breathes new life into a decades-old debate over public access in public water crossing private land.

“I think the decision from the appeals court is what the future is,” says Roger Hill, an 80-year-old Colorado Springs angler who sued a landowner in 2018 after the property owner threw rocks at him while he waded along the Arkansas River riverbed and fished. “We will open up navigable rivers for use by the public ... just like every other state. I expect this will be a few years before it's over, but my hope is that Colorado joins the enlightened outdoor sportsmen community found in other states that enjoys the use of navigable rivers.”


Public access on rivers that wind through private property has been a thorny issue in Colorado for decades. Traditionally the



TODAY'S UNDERWRITER



access-versus-property rights issues have revolved around a “right to float,” with landowners and boaters arguing over trespass when obstructions in the river force boaters to touch the river bottom.


A 1979 Colorado Supreme Court decision — People v. Emmert — said even though the state’s waters may be public property, that did not give the public the right to float those waters through private property. Then a Colorado Attorney General opinion in the early 1980s said rafters and kayakers could be subject to trespass charges if they touched the river bottom.

The Colorado Sun




Researchers study Colorado's thistle plant to

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The Daily Sun-Up

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In the past few decades, fights have erupted on the Lake Fork of the Gunnison, the Taylor River, the Deckers stretch and the North Fork of the South Platte and the North Fork of the Poudre River as landowners fought to block rafters and kayakers from passing through stretches of river and streams crossing their properties.





Fly fishing in the Fryingpan River near Aspen. (Jesse Paul, The Colorado Sun)

Public access to rivers through private property is still based on that 1983 Attorney General opinion. No court cases have tested that legal opinion or challenged the state's murky access laws. And neither property owners nor boaters have seemed particularly eager to push the issue, with both sides reluctant to see a statewide resolution that could potentially limit either access or property rights. In 2011, then-Gov. Bill Ritter created a River Access Dispute Resolution Task Force to help resolve access conflicts between landowners and boaters. That task force, which has not met since 2015, created a procedure for resolving conflicts and that has largely controlled the volatility of occasional issues.

In most cases, groups like American Whitewater have worked with landowners and boaters to settle squabbles without pushing the fight into court.

“What we’ve got is far from perfect, that’s for sure, but it is working for most part,” said Hattie Johnson, American Whitewater’s stewardship



director for the Southern Rockies, who advocates more for boaters' right to float than anglers' right to wade. "This is a case we have been watching closely and are very interested in."

Johnson said it's important to note that this appeals court decision is not addressing navigability or how to define that in Colorado. The appellate court's decision gives the lower court another chance to possibly determine that.

"It doesn't mean anything yet. We have got a ways to go until we know what this actually means in terms of public access," she said.

Colorado is not alone in its disputes over who and how river users can access waters that thread private property. The New Mexico Supreme Court will soon weigh the issue after three conservation and public access groups sued the governor and New Mexico Game Commission over a 2017 Department of Game and Fish rule that allowed landowners to restrict access to riverbeds on private property. That rule came after years of somewhat peaceful agreement that the public could access any river that was used for commerce when New Mexico became a state.

TODAY'S UNDERWRITER

Hill's case, which involves the right to wade more than that the right to float, would apply a federal standard of navigability to river access. If a stretch of water was used for commerce when Colorado became the country's 38th state in 1876 — like if the waterway was used by sawmills to float trees downriver or by trappers to float beaver pelts — then riverbeds are public property, navigable and open for public use.



Utah's recently proposed Navigable Water Determinations

bill would apply the same standard that Hill is seeking. So if a river or stream was “used or susceptible to being used as a highway of commerce” at the time of Utah’s statehood in 1896, then it is navigable and open to public recreation. In 2017 the Utah Supreme Court used the federal commerce standard of navigability to uphold public access to the state’s rivers and streams without addressing ownership of the land beneath the moving water.

The standards in Utah create an interesting legal dynamic on the Colorado River at the Colorado-Utah border, said Mark Squillace, a University of Colorado professor who is working as Hill’s pro bono attorney. As soon as the Colorado River crosses from Colorado into Utah on the popular Ruby-Horsethief stretch, the river legally moves from not navigable to navigable, he said.

“The test of historic commerce could settle this and determine navigability” for every river and stream in Colorado, Squillace said.

Squillace said his arguments will include evidence of sawmills floating railroad ties down the stretch of Arkansas River near Cotopaxi for building railways.

“If commerce was not allowed on that river, then that would mean any individual landowner could have blocked those tie drives,” Squillace said. “We will have evidence showing commerce beyond just log floating.”

Squillace said that showing historic commerce on a river could prevent having to litigate access on every stretch of water in the state.



“If we establish the principle that if a river was used as a highway for commerce at statehood, then there is a public right to the bed of the river,” he said.

It's the second time an appeals court has sided with Hill. In 2020 the 10th U.S. Court of Appeals overturned a federal district court's dismissal of Hill's case. Hill moved his case over to the state district court in Fremont County, which dismissed his claim. The Colorado Court of Appeals decision sends the case back to Fremont County.

TODAY'S UNDERWRITER

The state of Colorado has waded into the case, arguing that only state officials, not residents, can sue for public access to rivers. (A spokesman for Attorney General Phil Weiser said the office is reviewing the appeals court ruling.)

Hill acknowledges his case “will have staggering implications,” if he prevails. (Namely, if riverbeds are suddenly deemed public property, will landowners be reimbursed for acreage they no longer own?)

“I want the public, which is everyone under the sun, to have the ability to use the land that the state owns. Right now, the land owned by the state is being claimed by people who own adjacent land. That is wrong,” Hill said. “The people of Colorado should be able to use the land the state owns.”

Hill, a retired physicist, has fished the Arkansas River for more than 50 years. In 1991, he wrote a guidebook to fishing on the South Platte.

He said landowner Mark Warsewa threw rocks at him as he waded the Arkansas River near Warsewa's home in 2012. (Warsewa in 2018 said his



property line extended across the river. “I own the riverbed,” he said. Warsewa did not return phone calls last week.)




That could change with Hill’s case, which would step beyond Emmert and the Attorney General’s 1983 opinion with a new standard for determining navigability and access.


Squillace dismisses the idea that allowing public access to riverbeds would constitute a taking of privately owned property. He called that “a silly argument.”

“The title to the bed passed to the state on the day that Colorado became a state in 1876,” he said. “So any claims, deeds or documents that say someone else owns the riverbed are invalid because the state owns the bed. So it cannot be a taking because the property was never privately owned.”






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State of the County

February 10, 2022

Happy 148th birthday, Hinsdale County! We are excited to share our third annual State of the County snapshot of accomplishments and our goals for the upcoming year.

Respectfully, Commissioner Robert Hurd, Commissioner Kristie Borchers, Commissioner Greg Levine

MISSION Hinsdale County works to preserve the past while developing future opportunities.

VALUES Hinsdale County will promote citizen confidence through community engagement, transparency, accountability, strategic planning, collaboration, stewardship, and fiscal responsibility.

2021 Accomplishments

- Welcomed new building official, new deputy clerk/treasurer, three new Road & Bridge employees, new custodian, two new part-time deputies, and one full-time deputy.
- Implemented fifth Electronic Recording Technology Board (ERTB) grant to allow historic records to be digitized and indexed into a web-based search program in Clerk's Office. Continued work on indexing all recent and historic county documents into a County Search system, including Contracts, Agreements, Intergovernmental Agreements, Land Use, Commissioner Minutes, Ordinances, Resolutions and Variances.
- Implemented credit card tax payments (in person or by phone) for Treasurer's Office. Acquired software program and hardware at a very reduced rate to implement online access to constituents for tax payments and accounts.
- Conducted ribbon cutting at Peninsula Park; created Master Plan with DHM Design and community; received funding from Anschutz Family Foundation, Gates Family Foundation, El Pomar Foundation, Ben Brownlee Memorial Fund, Fishing is Fun! grant; installed signage and dog waste station; amended boat slip policy; created a boat slip lottery; operated Wupperman Campground including upgrades and maintenance of water system and additional campground signage; installed access barriers and signage at Slumgullion Creek Inlet; provided support for Slumgullion Earthflow Evaluation; conducted evaluation and repair of Lake San Cristobal dam outlet with the Upper Gunnison Water Conservation District.
- Hired vacant, full-time deputy position; hired one part-time POST certified deputy to patrol Alpine Loop; received Body Worn Camera (BWC) grant for purchase and implementation of state mandated BWC program; added one non-certified reserve deputy to volunteer roster; expanded square footage of Sheriff's Office by 120 square feet in order to provide adequate office space for all full-time employees; moved Search and Rescue (SAR) supplies and operations into Coursey Annex enabling faster response times and easier access to equipment; all certified personnel completed POST-mandated training by November; four members gained instructor certifications in three areas of POST mandated training (Firearms—pistol and rifle, Defensive Tactics/Arrest Control, Driving); currently have certified instructors in 3 of 4 mandatory training areas; entered Intergovernmental Agreement with Archuleta County for jail services, law enforcement and emergency response agreement.
- Installed east entrance sidewalk to Courthouse; installed memorial bench for Jack Nichols with regional Building Official group; installed porch on administration office.
- Attended multiple professional trainings for administration office; managed multiple grants for project revenues; implemented ability to accept credit card payments online for administrative and building department fees; implemented new county-wide voice over internet phone (VOIP) system; issued Request for Proposals for Asset Inventory & Evaluation; completed 2020 audit; created zoom-room for remote meeting capabilities; updated personnel policy and investment policy and amended grant policy.
- Amended Joint Resolution with Silver Thread Public Health District to add two commissioners per county; participating in Southwestern Colorado Opioid Regional Council.
- Amended zoning regulations to allow Communication Sites by special use permit.



- Expanded and enhanced coordination between Hinsdale County and the West and SLV All-Hazards Regions; conducted multi-agency trainings; coordinated multi-agency plan and implementation for Wine & Music Festival; expanded multi-agency coordination (MAC) group; created All-Hazards Office of Emergency Management (OEM) team for deployment; implemented Emergency Management Program Grant (EMPG); hosted IC 100 and IC 200 classes for multi-agencies; hosted debris mitigation incentive program; participating in Upper Gunnison Shared Stewardship Council.
- Added one paramedic and four EMTs to Hinsdale County Emergency Medical Services; placed new 2021 Ford Transit ambulance (Med 95) in service; created Peer Support Team; added five CPR instructors; hosted ECG certification for providers; introduced new pediatric care system.
- Responded to 28 Search and Rescue (SAR) missions; received funding from the Ben Brownlee Memorial Fund and hosted Avalanche 1 training, Swiftwater 1 training; purchased additional rescue gear for swiftwater, avalanche, high angle response rescue gear, satellite repeater, phones, NReaches, other comms support; received two state grant awards for training and equipment.
- Reclaimed County Road 30 to a crushed asphalt/gravel finish and used EarthBind for dust abatement; completed the Resource Advisory Council (RAC) project to repair culverts and overlay with gravel on USFS Road 788 (Deer Lakes); constructed a new pullout for the Hidden Treasure Dam; opened County Road 20 and County Road 30 after multiple mudslides and washouts; made substantial improvements to several County roads and FS roads, widening roads and repairing and cleaning culverts including Oleo Rd and County Road 50; added dust abatement to more county roads and subdivisions; installed road signs at four intersections in the Upper Piedra; added material to soft spots on County Road 50; provided support for installation of cell tower in Upper Piedra; provided snow plowing services and opening of Engineer and Cinnamon passes; replaced Windy Point interpretive panels.
- Approved permit for Commnet Wireless Communication Tower; approved site leases for Visionary and Simply Broadband; approved permit for Visionary for Upper Piedra tower on County land; entered contract with Digitcom to maintain radio services; working with Region 10, Town of Lake City, and Gunnison County Electric Association (GCEA) for backbone communication project.
- Supported installation of County Road 520 interpretive signs led by Sandra Wagner, resident; concessionaires hosted soft opening at historic 30-Mile Resort; attended Rio Grande dam outlet opening ceremony; planning for off-highway vehicle (OHV) education grant for Upper Rio Grande.
- Hosted Year One of the Pilot Project; increased OHV penalties; implemented Know Before You Go education campaign with partners; installed additional signage; hired additional law enforcement.
- Hosted Winter Tourism Colorado Tourism Office (CTO) workshop for grant received by Marketing Committee; supported and received national designation for America's Byways Silver Thread Scenic & Historic Byway; participating in Restart Destinations planning grant.
- Coroner duties carried out with professionalism and compassion; Coroner & Chief Deputy Coroner each attended 20 hours of American Board of Medicolegal Death Investigator approved Continuing Education; Coroner attended First Responder Resiliency training and participated in the ensuing First Responder Resiliency Program, as member of Peer Support Team; Chief Deputy Coroner will complete 40-hour, 17 section MedicoLegal Death Investigator Course, complete investigation & reports for 10 fatalities & attend 5 autopsies to attain MedicoLegal Death Investigator Certification.
- Installed new hardware for current geographic information system (GIS) software in Assessor's Office; received values range of .95-1.05 of actual comparative sales to pass assessor audit.
- Building official received certification in Onsite Water Treatment System (OWTS) inspections and implemented streamlined inspection process; installed information signage on County Road 50, Pearl Lakes, and Hermit Lakes area; overall improvement & maintenance of facilities and grounds.
- Completed visioning for workforce housing under Small Housing Innovation Projects (SHIP) with Colorado Finance & Housing Authority (CHFA), Williford Housing, and Gunnison Ranger District.
- Opened middle portion of the Ute Ulay to pedestrian traffic; installed additional sign; conducted minor trail work & other maintenance; entered contract with Ayers Associates for EPA grant.
- Partnered with Archuleta County for noxious weed treatment; implemented noxious weed grant.



- Entered agreement with Lake City Continental Divide Snowmobile Club for grooming program.
- Hosted meetings in Mineral County and Upper Piedra of Hinsdale County; testified for House Bills 21-245 and 21-249 for SAR and Keep Colorado Wild; testified in CDOT Planning Commission's Rulemaking Hearing regarding the Proposed Greenhouse Pollution Reduction Standards for Transportation Planning; participated in statewide work group for Backcountry SAR study; held four Commissioner field trip days to outlying areas of Hinsdale County. Participated in Wayfinding Plan process; participating in High Alpine Partnership for roadmap recovery grant; received motorized trails grant on behalf of the four counties; provided restricted grant-funding raised to Lake Fork Valley Conservancy for Philip H. Virden Dark Skies Observatory; received Parks & Wildlife impact grant.
- Work on proposed Sheriff's Office / administration building; negotiated agreement with Lake City Community School for sale of WeeCare building.

Department & Commission Goals and Strategic Actions 2022

ECONOMIC FOUNDATIONS

- Partner to create a vibrant year-round economy and business-friendly climate that enables citizens, business owners, employees, entrepreneurs and tax payers the opportunity to prosper.
- Promote economic development by supporting local organizations and events.
- Partner with tourism-based organizations on efforts to market Lake City and Hinsdale County as a tourism destination. Work to support destination management and infrastructure needs.
- Capitalize on opportunities for economic diversification.
- Develop funding and enter lease for workforce housing project with USDA Forest Service.

HISTORIC & NATURAL RESOURCES

Promote responsible stewardship of historic and natural resources.

Planning and Land-Use

- Monitor water-related issues relevant to the County.
- Work with Planning Commission to identify opportunities and priorities to update land use regulations with a focus on housing options and nontraditional camping structures.
- Coordinate at least two joint Planning Commissioner/Board of County Commissioner meetings.
- Planning Commission to continue to streamline/update planning and zoning review procedures.
- Planning Commission to review and update Land Use and Development Regulations as needed to stay current.
- Planning Commission to review and update regulations related to avalanche building hazards and other disaster mitigations efforts related to building and land use.

Local Sites and Amenities

- Complete Asset Inventory & Assessment on all County infrastructure.
- Complete plans for Sheriff's Office/Administration building; seek funding.
- Continue work with the Ute Team to further develop the Ute Ulay into a heritage tourism destination, including penstock stabilization, drainage work, and install two interpretive signs.
- Implement National EPA (Environmental Protection Agency) Brownfields grant.
- Fund and implement infrastructure proposed for Lake San Cristobal peninsula and boat launch facilities; address safety concerns on bridge and install new toilet.
- Plan, find funding for and install new water delivery system for Wupperman Campground; update Red Mountain Day Use Area.
- Review assessment work on Slumgullion Earthflow with Lake Fork Valley Conservancy.
- Continue minor restoration work at Debs Schoolhouse to include plaster work, paint, window repair, exterior board replacement, and interpretive signs.
- Support Lake Fork Valley Conservancy's project of Philip H. Virden Dark Skies Observatory on Slumgullion Pass with Gunnison Ranger District.
- Partner with Main Street, Town, Scenic Byways, and Colorado Department of Transportation (CDOT) for wayfinding project; implement if funds are secured. Review options for local vendors to be included.
- Evaluate county-owned property for potential sale and highest/best use.



Noxious Weed Control

- Continue partnering with Archuleta and Gunnison counties for weed control.
- Continue to review County Weed program for efficiency and effectiveness.
- Provide information and education to landowners concerning noxious weeds and control.

PUBLIC SAFETY

Provide a safe and secure community that protects life and property.
Develop an all-agency volunteer roster with qualifications and associated training schedule.
Identify all-agency short-term and long-term emergency communication needs.



Sheriff's Office (SO)

- Ensure a safe and secure environment for all persons by providing professional law enforcement through responsive, caring, and dedicated service.
- Provide timely and professional response and stewardship of public funds.
- Continue improving SAR & Wildland Fire capabilities by recruiting more, capable volunteers.
- Provide appropriate training opportunities to certified personnel for the continued advancement of their skills and careers.
- Complete an SO legacy plan for implementing crucial programs, and equipment needs as well as a solid succession plan for maintaining a fully staffed and capable office for years to come.
- Collaborate with all of our partners (USFS, BLM, Town of Lake City, Lake City Community School, etc.) in order to find ways to strengthen our relationship and provide constantly improving services to all.
- Implement Search and Rescue (SAR) funded trainings, equipment purchases, shed, and new drone program.



Emergency Management (EM)

- Continue to support an EM Program that includes preparedness, response, recovery, and mitigation through implementation of updated plans and exercises.
- Support existing efforts for Multi-Agency Coordination (MAC), training and exercises.
- Foster and build partnerships with San Luis Valley and West Region partners.
- Complete 2022 EMPG work plan and enhance the Hinsdale Office of EM program.
- Continue program to incentivize debris management for wildfire risk mitigation.
- Build an All-Hazards Response Program that will enhance the training, response capability of the OEM, Hinsdale County Emergency Response Agencies and our SLV and WR OEM partners.
- Continue to work towards updated county-wide Community Wildfire Protection Plan (CWPP).



Emergency Medical Services (EMS)

- Enhance education program by implementing quarterly Education and Quality Improvement conferences with EMS team.
- Continue to work on Community Outreach Program with addition of community CPR training.
- Begin work on Public Access Defibrillator program.
- Support successful Advanced EMT training for volunteer providers.
- Continue the important work of the Peer Support Team.
- Provide specialized adult and pediatric training for providers.
- Continue to provide quality emergency medical care in the shadows of the San Juans.

COUNTY SERVICES

Provide resources to Elected Officials and Departments for efficient, high-quality services.



Administration Office

- Continue to review and streamline processes for greater efficiency and consistency.
- Support positive and professional culture and work environment.
- Continue positive working relationships with department heads and other partners.
- Increase availability of online customer services.
- Continue to provide increased access to meetings through virtual platforms.
- Continue to provide access to information on county website.
- Continue to review budget and expenditures regularly for fiscal responsibility together with the Treasurer's Office.



- Quarterly review of Grants Path to supplement County budgets.
- Implement ongoing policy review process.
- Continue to provide current public information through website and social media.
- Provide access and services to community and visitors according to ADA (Americans with Disabilities Act) regulations.
- Continuing to participate in position appropriate training and professional conferences.
- Participate in ongoing county project planning.

Assessor's Office

- Finalize geographic information systems (GIS) parcel overlay.
- Implement public computer terminal for GIS map use and parcel record search.
- Verify first responder information, new zoning maps, digitization of flood zone mapping.
- Work with Tyler Technologies to find an affordable and practical method to put computer aided mass appraisal (CAMA) system online for public use.

Building Official and Enforcement

- Provide high quality building safety and code enforcement services for property owners, builders and contractors.
- Focus on community public health and safety while working to maintain the quality and economic viability of construction.
- Provide education to homeowners and potential builders on the importance of adopted building codes and the building process, including permits and other requirements.
- Continue to monitor FEMA's development of new digital floodplain maps.
- Work with partners and public on construction within potential natural disaster areas to help prevent loss of life and property.
- Provide required onsite water treatment system (OWTS) inspections for Silver Thread Public Health while providing OWTS education to homeowners.
- Provide education and assistance to property owners in relation to radon exposure.
- Increase online access of building documents and applications.
- Continue professional training and education in order to obtain appropriate certifications.

Clerk's Office

- All County Offices are committed to being good public servants and team players by respecting the public and providing quality services with integrity and excellence. We work to be courteous and treat all equally with professionalism and efficiency.
- To be provided with the resources needed for efficient, high-quality services.
- Increase storage for historic records.
- Continue to input current and historic records into the county search system.

Treasurer's Office

- Use and maintain a comprehensive accounting system within the Treasurer's office. This has been accomplished by the implementation of the Eagle Treasurer system and a more in-depth use of Incode, an evolving process in which the Treasurer's Office and the Finance Director will continue to work together.
- Implement online access of tax accounts for constituents.
- Implement online tax payment abilities for constituents.
- Implement credit card payments for traffic tickets.
- Attend continuing education courses to maintain certification for County Treasurer/Public Trustee through the Extended Studies Program at Colorado Mesa University.

Veterans' Services Office

- Continue to utilize social media & Silver World for veteran's outreach.
- Work with real estate companies to identify veterans as they move into the area.
- Host quarterly meetings with veterans and spouses to maintain contact.
- Attend training programs with CO Dpt of Military & Veterans Affairs Western Region.
- Attend Colorado County Veteran Service Officer annual training conference.
- Work on renovation of Hinsdale County Veteran's Memorial Park—upgrade flags to include Space Force, USS Hinsdale information sign, new benches, etc.



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ONE TEAM

2022 State of Hinsdale County, page 6

Coroner's Office

- Carry out the duties of the Coroner's Office with professionalism and compassion.
- Coroner and Chief Deputy Coroner will each attend 20 hours of American Board of Medicolegal Death Investigator approved Continuing Education through the Colorado Coroner's Association.
- Coroner will remain active as a member the Hinsdale County Peer Support Team.
- Chief Deputy Coroner will complete the 40-hour, 17 section MedicoLegal Death Investigator Course, complete investigation and reports for 10 fatalities and attend 5 autopsies to attain MedicoLegal Death Investigator Certification.
- Coroner will assist in the search for a replacement.

HEALTH AND HUMAN SERVICES (HHS)

- Promote prosperous, collaborative and healthy communities.
- Deliver high quality services throughout the valley.
- Ensure sound infrastructure.
- Continue prevention services for all.
- Embrace health equity within our community.
- Participate in Southwest Colorado Opioid Regional Council.
- Establish MOU between Hinsdale County and Prowers County for hotline calls for child and adult protection.
- Continue to measure and meet goals related to the Colorado Department of Human Services.

TRANSPORTATION

Road and Bridge Department (R&B)

- Continue partnership grooming trails with Continental Divide Snowmobile Club.
- Upgrade and or rebuild equipment in the shop as time and budget permits.
- Assist Bureau of Land Management (BLM) in the high country with campsite designation and trash removal.
- Remove decommissioned toilets at Slumgullion Pass, Spring Creek, and Red Mountain Gulch.
- Continue to work on all Forest Service (USFS) Schedule A roads, culverts and drainages.
- Removal of excess over burden in Slumgullion Creek from the lake up in to the canyon.
- Continue to stockpile and screen gravel from multiple places around the county.
- Continue our progress on regreaveling CR 20 from the Ute to Capital City and beyond.
- Work on the high country sections of both CR 20 and 30 to repair landslide areas that damaged those roads last summer.
- Remove decommissioned toilet at the boat ramp on Lake San Cristobal.
- Implement drainage project at Ute Ulay.
- Continue to improve and implement a safety program/culture for R&B employees.
- Keep the Transfer station running as efficiently as possible and make improvements as able.
- Add two newer pieces of equipment to the fleet: 2019 CAT Roller and a 2010 CAT 140M motorgrader.

COMMUNICATIONS

- Update Communication Plan for Hill 71 with technical assistance.
- Repurpose solar panels through partnership, if possible.
- Review opportunities to connect communications to the south with San Luis Valley REA.
- Complete cell tower construction in the Upper Piedra area.
- Continue conversations with public land management agencies about the possibility of small repeaters in outlying areas for safety communication.
- Secure grant funding for Lake City / Hinsdale County Broadband Project.
- Create a Carrier Neutral Location (CNL) in Lake City to serve as a hub for Broadband.
- Begin Phase One of fiber connection to Lake City.

Commissioner Robert Hurd, Commissioner Kristie Borchers, Commissioner Greg Levine
Treasurer Lori Lawrence, Clerk Joan Roberts, Assessor Luke de la Parra, Coroner Jerry Gray
Sheriff Chris Kambish, Administrator Sandy Hines, Finance Director Lynn McNitt
Building Official Gabe McNeese, EMS Director Buffy Witt, Emergency Manager Phil Graham
Road & Bridge Supervisor Don Menzies, Gunnison/Hinsdale HHS Director Joni Reynolds
Veterans' Services Officer Erin Cavit



GUNNISON RIVER BASIN DROUGHT PERSISTS

🕒 February 9, 2022 👁 147 Views



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Local reservoir storage expected to be up overall

[By Katherine Nettles]

Water experts are monitoring closely how the series of big storms at the end of 2021 and beginning of 2022 will affect local stream runoffs, or if the dry spells since then will counteract the gains made in snowpack and snow water equivalency. Drought conditions have worsened across the state, becoming more widespread and more extreme in general, and a large portion of Gunnison County is now considered ‘abnormally dry.’ That may be the new normal, even with sporadic large snowstorms. However, the runoff forecast for both Blue Mesa and Taylor Park reservoirs look on track to fill up to 90 percent of capacity or more, as of February 1 calculations. No additional emergency releases are expected out of Blue Mesa at this time.

Upper Gunnison River Water District (UGRWD) water resource specialist Beverly Richards gave an overview of the Upper Gunnison Basin water supply as of early February to Gunnison County commissioners during a

work session on February 8, and said overall conditions have worsened this water year.

Drought

“There are no areas now in the state of Colorado that have no drought conditions,” she reported. “Last summer there was quite a big area that was considered not in drought, however that is changing slowly and there has been an increase in the area where extreme drought conditions are worsening.”

Areas of the state characterized as in ‘extreme drought’ have increased from 7 percent to about 19 percent since the beginning of the water year on November 1, said Richards.

Richards shared a photo of the Gunnison Whitewater Park at 4,400 cfs (cubic feet per second) from a few years ago. That is at the upper end of flow levels for the Gunnison River, which ideally ranges from 600 to 5,000 during the spring and summer seasons, according to American Whitewater. “It’s still kind of up in the air whether we will have that much water going through there,” said Richards of this year.

“In Gunnison County, 29 percent of [the area] is abnormally dry. We’ve seen a decrease in the severe drought conditions, however areas to the south and east of us are really getting hit with bad drought conditions and that is starting to affect parts of Gunnison County as well,” said Richards.

Precipitation in the last 30 days has created some setbacks from December gains. In December snow accumulation was around 227 percent of average, and then January was 69 percent of average. “We’ve gone pretty far away from the snow accumulation that we received in December, and that includes the snow water equivalent,” said Richards.

The entire Gunnison Basin is at 110 percent of normal for snow water equivalent, having fallen from 150 percent of normal. The upper basin has fallen from 160 percent of normal to 118 percent of normal and is expected to fall further unless meaningful precipitation arrives.

“Hopefully we’ll get some snow,” said Richards.

She also reviewed that there were six storms in December in which cloud seeding generators were used, but only one in January.

Reservoir outlooks

Reservoir storage is up overall in the Gunnison River basin at 52 percent of average, with Taylor Park reservoir standing at 55 percent of capacity as of February 6 and Blue Mesa still at 29 percent of capacity.

Based on early season projections from the Colorado River Basin Forecast Center (CRBFC), the Bureau of Reclamation has projected the total 2022 unregulated inflow into Blue Mesa will be at 825,000 acre-feet, or 90 percent of average. “Hopefully the snowpack will continue to grow so that we do actually see that,” said Richards.

At Taylor Reservoir, the CRBFC has forecasted runoff into the reservoir to be 1000,000 acre feet, which is 106 percent of average. The Taylor is projected to be 93 percent full after runoff, which is considerably higher than last water year. "The next couple of months, the forecast is going to be really important," said Richards, as releases will be planned and adjusted based on those.

County commissioner Roland Mason asked the UGRWD general manager Sonja Chavez about potential Blue Mesa flow releases like what occurred last summer.

“We don’t anticipate any more emergency releases like that in the near future,” answered Chavez. She said the Navajo Reservoir had not been called upon last year so the next release, if needed, would come from Navajo first.


County commissioner chairperson Jonathan Houck commented that water resources are on a lot of people's minds. "We are beyond the point where a miracle March or miracle May or big December/January storm saves the day," he said. "And so keeping that in perspective, as much as we are happy to see that kind of significant precipitation, we know we are a long ways from solving the issues being driven by climate change and drought."





MT. CB WATER AND SANITATION BRINGS NEW WATER PLANT ONLINE


🕒 January 26, 2022 👁 158 Views



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Significant capacity increase to handle growth

[By Mark Reaman]

A new \$23 million water treatment plant is online as of early January and it is operating in the Mt. Crested Butte Water and Sanitation District. The overall project is not expected to be completed until the middle of the summer. It will take that much time to totally transition from the old plant to the new and then decommission the old plant and bring out the old equipment.

Mt. CB Water and San district manager Mike Fabbre explained that the project included the new plant, a new pipeline and a new pump station. The old pump station was built in 1976 and the plant in 1985. “Both were reaching the end of their useful life,” he said. “This project brought everything up to date and has provided the system with redundancy we didn’t have. The project is on schedule and within budget at this time.”

The old plant could treat and produce 1 million gallons of water per day while the new one can produce 1.5 million gallons. It is designed so that with some adjustments and upgrades the capacity can easily move to 2.3 million gallons. That would handle full build-out of the district. “That is quite a ways out,” Fabbre admitted.

Given the people fluctuations of a tourism-based community, the old plant came close but never reached the 1 million gallon per day threshold during peak season. In recent years it came close to capacity during busy periods such as Christmas or the Fourth of July. Fabbre emphasized that while the new plant increased capacity by 50 percent, that number can be deceiving given the ups and downs of a tourist town. Off-season might see the need to produce 250,000 gallons of water a day while July Fourth might soon require 1 million gallons or more in the future.

District set up with water for growth

The district has enough absolute water rights and physical water to run the new plant to its new capacity. The district also has what are called conditional water rights to accommodate more extensive growth in the district. That would entail constructing water holding reservoirs in Washington Gulch and the North Village to capture the water. Basically, Fabbre said that the district has enough water on paper to serve the district when it is 100 percent built out with development. “We have a tangible path forward when it is needed to meet the demand of full build out,” he explained.

Fabbre said the \$23 million price tag for the new facility might sound expensive, but he said it is within the normal cost for that type of major infrastructure. He noted that other Colorado mountain communities are also dealing with the need to upgrade water treatment facilities and the price is never cheap.

“We have a 20-year bond through the Colorado Water Resources and Power Development Authority to pay off the \$23 million,” he said. “It seems like a big number, and it is for a small community like ours, but it is average for Colorado. The good news is that because of timing and the COVID pandemic we also have the lowest leveraged loan interest rate ever locked in through the state at 1.29 percent. That is excellent and is saving us hundreds of thousands of dollars over the life of the loan. As a comparison the interest rate on our 2001 wastewater plant improvement ended up at more than 4 percent. This recent timing worked out very well for us.”

Fabbre said because the board proactively instituted some rate increases in anticipation of the improvement projects no further major rate increases are expected. “We are pretty set up because the

board was proactive,” he explained. “We might have to increase rates slightly to keep up with inflation and certainly anything can happen, but our 20-year outlay is looking at single digit increases.”

The new plant also includes the latest state of the art technology to treat water for the district. “The bottom line is that this new plant was needed and puts us in a good position for the future,” concluded Fabbre.

The plant was officially online as of January 12.



HCCA CELEBRATES MAJOR COAL MINE SETTLEMENT AGREEMENT

🕒 January 26, 2022 👁 441 Views



Arch Coal to comply with pollution reduction, Clean Air Act

[By Katherine Nettles]

A federal judge approved a settlement agreement last week that obligates one of the largest coal mines in Colorado to operate pollution control equipment and obtain and comply with a Clean Air Act permit for its operations in Gunnison County. West Elk Coal Mine is located in the West Elk Mountains between the towns of Paonia and Crested Butte, and owned by Mountain Coal Company, a subsidiary of Arch Coal. The company has also reportedly remediated its highly controversial work to clear forests and expand drill pad operations in the Sunset Roadless Area of the North Fork and abandoned those previous efforts to take advantage of an exemption granted by the U.S. Forest Service.

This is a double win for Gunnison County-based High Country Conservation Advocates (HCCA), which together with WildEarth Guardians, the Sierra Club, the Center for Biological Diversity and the Wilderness Workshop has challenged the mine’s expansion and the U.S. Forest Service’s allowance of it for years. After a number of legal actions, which included suing Arch Coal over illegally polluting without permits at the West Elk mine, it appears the HCCA coalition has prevailed in securing compliance with the Clean Air Act for the mining operation and protecting the Sunset Roadless Area from future road building.

Clean Air compliance settlement

The two-year settlement agreement, approved by U.S. District Judge Raymond P. Moore on January 18, obligates Mountain Coal to both operate pollution control equipment, and obtain and comply with a Clean Air Act permit for the West Elk mine. Under Title V of the Clean Air Act, major sources cannot emit air pollutants without an operating permit. The permit requires flares that will burn mine gases, reducing methane and volatile organic compound (VOCs).

The agreement will expire after Mountain Coal has complied with the terms of its pollution permits for two years.

Matt Reed, public lands director at HCCA, commented to the *Crested Butte News* that the settlement is a significant step in the right direction.

“While this doesn’t prevent coal mining at the West Elk, it does ensure that formerly voluntary methane pollution mitigation is now legally mandatory. But also critical in this settlement is that the mine is required to proceed with the Title V permitting under the Clean Air Act, which will ensure compliance with the Clean Air Act’s pollution control provisions. That’s a big deal.”

According to the HCCA, the mine emitted more than 312,000 tons of carbon dioxide in 2020, which is equal to the annual emissions from nearly 68,000 vehicles.

“Today’s agreement is a critical step forward in holding Arch Coal accountable to protecting clean air and to limiting harmful methane emissions,” said Jeremy Nichols, climate and energy program director for WildEarth Guardians, in a press release. WildEarth was one of the plaintiffs in the multi-year legal battle against the coal mine expansion and methane emissions.

“While we ultimately need to transition completely away from coal to protect our climate, we have certainty in the meantime that the West Elk mine will be reducing harmful methane and other toxic gases.”

“The settlement will hold Arch’s feet to the fire so it gets and complies with the required permit and reduces the mine’s pollution,” said Allison Melton, an attorney at the Center for Biological Diversity. “This settlement means tangible benefits for Colorado’s air quality, the public’s health and the climate. Protecting our health and climate also requires that we transition away from coal entirely.”

Sierra Club attorney Nathaniel Shoaff echoed those sentiments. “Today’s agreement helps protect the air we breathe and limits the climate damage that can be caused by this massive coal mine,” he said. “Fossil fuel companies shouldn’t get a free pass to bypass the Clean Air Act, and this agreement assures this will not happen at the West Elk mine.”

A new outlook for Sunset Roadless area

The HCCA coalition first filed a lawsuit in 2014 to protest the West Elk Coal Mine’s expansion into the Sunset Roadless area of the North Fork using a “North Fork Exception” granted by the Forest Service. This exemption had allowed the Mountain Coal Company to develop roads and other surface-level infrastructure to expand its mining operations on Forest Service land, despite a 2012 Colorado Roadless Rule that prohibits road construction in roadless areas.

The Colorado Roadless rule protects more than four million acres of Roadless forests in Colorado from most road construction and commercial logging. After the coalition's successful challenge, the Colorado Division of Reclamation, Mining and Safety (DRMS) ordered the mine to stop bulldozing a forested area in 2020 and constructing and expanding drill pads within the Sunset Roadless area.

Then on January 12, 2022, DRMS determined that Mountain Coal had reclaimed this road and modified its mine plan to no longer include any further surface disturbance in the Roadless area. If Mountain Coal were to seek approval in the future to construct roads under its state permit, it would have to request a technical revision in a public process, according to Reed.


"However, because the North Fork Coal area exemption has been vacated, Mountain Coal no longer maintains a legal right of entry, a requirement for such a revision to be approved," stated Reed, noting the DRMS declaration. That declaration letter asserts: "[Mountain Coal Company] does not maintain legal right of entry for the Sunset Roadless area."

Reed believes re-implementation of the former exemption is unlikely to occur. "This is great news for the future of the Sunset Roadless area," he said.

Arch Coal did not respond to requests for comment on abandoning Sunset Roadless expansion efforts or the settlement as of press time.

NEGOTIATIONS UNDERWAY BETWEEN WATER AND SAN AND MERIDIAN LAKE TO UPDATE AGREEMENTS


🕒 January 26, 2022 👁 270 Views



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Figuring out a fair rate for Meridian Lake area owners

[By Mark Reaman]

Negotiations are ongoing between the Mt. Crested Butte Water and Sanitation District (MCBWSD) and Meridian Lake Park Corporation (MLPC) officials over how best to proceed with rates for services. Both entities agree there are many issues under the current agreement that need straightened out and talks have been going on for more than a year-and-a-half. A possible solution is being drafted and could be looked at by both boards as early as February.

Meridian Lake Park (MLP) and nearby subdivisions like Pristine Point joined the Mt. CB Water and San District in 1995 because the original water and san infrastructure in MLP was not adequate. A study done by the government consulting company Raftelis in 2019 indicated that the overall district has been subsidizing rates paid for by MLP residents for the water and san services but figuring out how to proceed has been difficult.

At the time of the original annexation into the district, a Memorandum of Agreement (MOA) was signed by both entities and was meant to detail how the district would absorb MLPC. The 1995 MOA was modified in 2013 but as is so often the case with agreements from that period, there were some grey areas in the agreement that made things confusing for both sides and so now the entities are trying to clean up the agreements and make clearer what is expected from both sides.

According to minutes of the negotiation meetings found on the MCBWSD website, it is obvious the negotiations are sometimes contentious over the substance which has a stated goal to “determine an equitable and fair approach to address the financial discrepancy created by the MOA so that the District and its MLP customers can move forward together in a financially sustainable manner.”

The study done by consulting company Raftelis to determine costs of operating water and sanitation services for the MLPC found “that all revenues collected from MLP, less the expenses to run MLP, are not

near enough to operate MLP independently. If the entities were to go down the sub-District path, the MLP bills would be significantly higher than they are today.”



In other words, members of the district as a whole are basically subsidizing the service costs provided to Meridian Lake Park property owners. The Raftelis report indicates more than \$4 million could be considered the “cumulative variance” in what MLP property owners have paid since 1995 and what it has actually cost to run their system in more than two decades. But some on the MLP negotiating committee felt the study was not complete and details of the dam and Meridian Lake ownership and operating costs weren’t fully explored.

MCBWSD district manager Mike Fabbre explained that both entities have appointed water committees to negotiate details of a potential new agreement and conversations were held regularly. “But it is a slow process. We are still going back and forth,” he said. “All this is being done transparently. Updates are given regularly at our board meetings and the history can be found on our website. I don’t know when there will be something the boards can vote on, but we are continuing to work hard to get to that point.”

According to the MLPC website, homeowners there have been paying a \$36/month surcharge to the MCBWSD for service over the rest of the district members. In the MLPC board minutes from November of last year, it was conveyed that the MCBWSD had made two proposals moving forward. The first would continue a surcharge on MLPC homeowners in perpetuity and perhaps at a higher rate. The MLPC would also be responsible for funding future capital costs. The second proposal would keep the current \$36 surcharge for six more years before eliminating the surcharge and charging MLPC members the same as the rest of the district. Minutes indicate the MLPC board was interested in pursuing the second proposal.

MCBWSD board chairperson Brian Brown said the negotiating committees have spent a lot of time trying to untangle the history of the annexation and come up with a fair solution moving forward. “A formal proposal for consideration is not available at this time. However, the district is expecting to have a draft for review by the district board soon,” Brown said. “Based on the most recent discussion, the draft proposal for option 2 would terminate the existing MOAs upon agreement. At that time, the district would no longer distinguish between different areas of the district. The current \$36.27 surcharge for MLPC would continue for six years as part of the draft settlement agreement. Traditionally, other components of the district’s rates have been consistent across the district, and there are no plans to change that approach to district rate structures. The details of this draft proposal have yet to be formally considered by the district board and are subject to change.”

The next MCBWSD meeting is February 8 and while not yet certain, it is possible the board could have a draft proposal to begin considering at that time.



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TOWN CATCHING UP WITH SNOW STORAGE AFTER THE SANTA SLAMMER

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Looking for more places to store the snow in the future

[by Mark Reaman]

An incredible amount of snow has been transported by dump truck from around Crested Butte and the North Valley to the Crested Butte gravel pit in the last two weeks. Approximately 5,000 tons of the white fluffy stuff is now piled and melting along and into the Town Ranch wetlands.

Crested Butte public works director Shea Earley said more than 2,000 loads have been taken to the permanent snow storage lots in the gravel pit and along the hillside. He said typically they haul 10-12 cubic yards per truck which would roughly amount to 5,000 pounds in each load.

“We have quite a considerable amount of snow pack that has developed due to the amount of snow that accumulated on the roadways during the daytime hours of the storm cycle,” Earley explained. “The plan now is to peel the pack and widen the core streets in town, the bus route, the emergency route, and areas where surface drainage collects. From there, we will need to start addressing some of our snow storage lots

in town, which on a typical year we do not haul. We normally just let the snow sit at the Four-way, the tennis courts, the green strips on Eighth Street, etc.). At the same time, we will begin widening and peeling pack on non-critical roads in town, clearing enforcement signage such as parking and speed limit signs, and clearing fire hydrants.”

Given almost 100 inches of snow fell in two weeks, Earley said the situation has gone very well. “The primary snow crew has done an amazing job. They were working 12-14 hours a day throughout the storm cycle,” he said. “They really had everything prepped and ready when the storm came. That has put us in a good position.”

What isn’t necessarily in a good position is the number of vacant lots the town uses to store snow. Because people are building on empty lots, the town snow storage plan is sometimes having to adjust on the fly. Town manager Dara MacDonald said that the town council would meet in executive session next week to consider the purchase of some vacant lots to be used for winter snow storage.

“Losing some traditional storage lots generally means that we have to haul our temporary lots more,” Earley said. “Fortunately, we have not lost a lot that strategically is critical to operations as of yet. If that were to happen, we may have to address operational changes in that part of town.”

As for the present situation, Earley predicts it will take another two to four weeks to catch up from the Santa Slammer depending on how January weather plays out. The budget impact of this major snow hauling program is not yet settled as invoices from private companies helping with the program have not yet come in. Earley admits it will probably ding the budget pretty good given the amount of work involved.



GUEST COMMENTARY

Twenty below? Apparently so



Bruce Bartleson

Alright, I should have stayed with my long-term vow — “I never forecast, I only back-cast” — and kept my big mouth shut about no more 20 below days.

The official temperature at the GCEA site was 23 below on Friday, Feb. 4, the airport reported 20 below, and there were Wunderground readings of as low 28 below a few miles north of town. As I said, it does vary some locally. However, there was one important station here in town, the West Ruby weather station, which showed the lowest that day as exactly 19.7 degrees below zero (which they rounded off to 20 below).

Now first, I want to thank my good friend and operator of the West Ruby station for going out at sunrise and using his wife’s blow-dryer on the thermometer, so as to save my reputation. Since that station is Wunderground Gunnin (the first in the valley), and is in town, you might say that it is the “official weather station” for the city of Gunnison, so therefore ...

Some friends have suggested that now that I have established my reputation as a “negative forecaster,” I should consider hiring out to get the weather you want for a cer-

tain day or week. Do you want warm, sunny weather? For a small fee, I’ll predict a cloudy, rainy day, no problem!

To get on with business, the official weather report from GCEA for January 2022 is now in. The daytime highs averaged 28.6, which is almost three degrees above long term average. The overnight lows averaged minus 3.9°, and the average temperature for January was 12.3°, a little over three degrees above long term average. The coldest temperature was 19 below, which is somewhat unusual.

In case you’ve forgotten, the average temperature for January 2018 was 17.3°, but the record is 21.4° set in 1981.

As far as precipitation, as you are all aware, it’s still dry. January shows 0.23” of moisture, and only 1.8” of snowfall, compared to the long term average of 11.6” of snow. Our total seasonal snowfall so far is only 10.1”, which puts us on track for another low year of snow, and well below our long term average of 50”. Since our record year of 2007/08, when we had 101.4” of snow, we have had 10 years of below-average snowfall and are heading to a new normal of about 40” per year.

(Bruce Bartleson is a retired geology professor from Western Colorado University who now spends his days with an eye to the sky, keeping close tabs on the weather.)

Vote For ASHLEY



Gunnison local finalist in America's Favorite Pet Contest!

Ashley is a beautiful 15-year-old Border Collie and lifelong resident of Gunnison. She has served with her owner in the Gunnison Fire District for many years- she was even voted Fireman of the Month after finding a missing person in a snowstorm!

Vote for Ashley at:
americasfavpet.com/2022/ashley-8531
OR SCAN THIS QR CODE

Ashley had a close call in 2018, when she went missing for 3 days. She was eventually found trapped 400ft underground in a mine shaft. Many local fireman and residents helped in the search, and thankfully she was rescued unharmed!

Vote

SCAN ME



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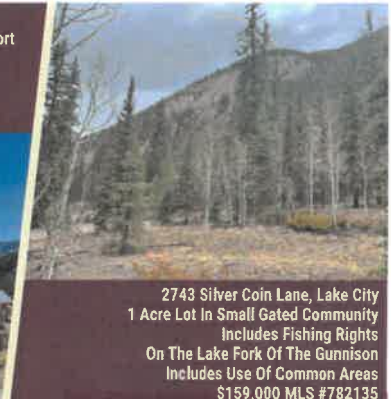
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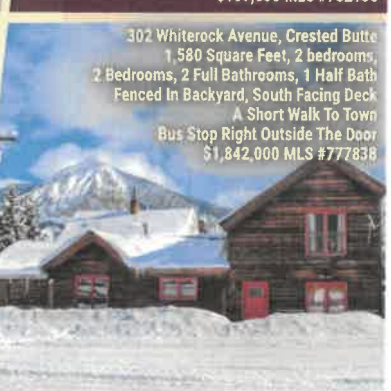
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Jacob Spetzler

Final-second win

Western Colorado University wrestling assistant coach Glenn Garrison, center, reacts to a last-second match win by sophomore Jimmy LaConte in the team's Saturday night dual against Colorado School of Mines. LaConte's victory tied the score for the moment but Western would eventually lose the dual 22-17.

Doctors find housing prices too high

Physicians decline GVH job offers as health system looks to own more homes for staff

Sam Liebl
Times Editor

Gunnison Valley Health has kept its hospital up and running throughout the pandemic. But the related staffing shortage recently prompted an unusual step: the health system offered

GVH Housing A7

School board considers five-day schedule for Lake Preschool

Change would align with district's early release Wednesdays

Bella Biondini
Times Staff Writer

Gunnison Watershed School District (GWSD) Superintendent Leslie Nichols is proposing to align the Lake Preschool schedule with the rest of the district's early release Wednesday schedule for the upcoming fall school year.

When the district switched Gunnison schools to early release last fall, the decision came after the preschool's registration went out to families. With it being too late to make the shift, the preschool's programming stayed the same, causing disruptions for families and staff as the Lake School ran preschoolers and kindergartners on different schedules. Nichols' proposal is an attempt to alleviate those problems.

Presently, the preschool's main program runs Monday through Thursday, 8:30 a.m. to 3:30 p.m., with an additional day of childcare for four year-

Lake School A9



Trudy Pfingston-Orr teaches her busy bee preschool class at the Lake School on Wednesday.

Wetland mitigation bank proposed at Tomichi Creek

Project could cause problems downstream

Bella Biondini
Times Staff Writer

In partnership with the Colorado State Land Board, a private water equity firm is proposing to build a wetland miti-

Wetland Mitigation A10



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STOR names projects for 2022 Stewardship Fund

Projects include trail maintenance, wetland restoration and a new toilet for Hartman Rocks

Bella Biondini
Times Staff Writer

In January, the Sustainable Tourism and Outdoor Recreation (STOR) Committee made its final funding recommendations for projects that requested money from the 2022 Gunnison County Stewardship Fund.

The committee received six project proposals this year, with an overall request for over \$250,000 and an anticipated \$223,000 available to work with. Proposals developed by the Crested Butte Mountain Biking Association, the Crested Butte Land Trust, Gunnison Trails, High Country Conservation Advocates (HCCA), the Nature Connection and the Bureau of Land Management were selected for implementation.

The fund has raised more than \$585,000 since its launch in 2018 and is devoted to supporting the stewardship of Gunnison County's public lands and trails. It is managed by the National Forest Foundation

(NFF), which aggregates capital from numerous local partners within the community.

On Jan. 27, NFF Program Manager Joe Lavorini presented the committee with suggested funding recommendations for each of the six projects, to help start the conversation. The NFF took into consideration whether a project or program was relying on the stewardship fund for their entire budget or just a portion of it, he said.

Out of the six proposals, STOR has previously worked on projects with each applicant except the Nature Connection. Supported by the Delta County School District, the program is "dedicated to eliminating the barriers to getting outside by providing fun, active and educational outdoor experiences for youth and families in our community," according to the group's website.

John Norton, Gunnison-Crested Butte Tourism Association's appointed member, suggested that the committee fund each local proposal at 100% of its request and grant the remainder to the Nature Connection.

Five proposals are from organizations that "we have worked with for years (and) we know they do great work," Norton said.

In CBMBA's case, Norton drew attention to the amount of volunteerism that Executive Director Dave Ochs and the board have been able to generate, something that is "far above" their budget request.

NFF Rocky Mountain Regional Director Emily Olsen acknowledged that there is a precedent for starting out a group on the smaller side in the first year of funding a new program. Gunnison Trails had a "modest start in this program," she said. As its programs grew, so did the amount of funding they received.

Mark Voegeli, who represents Crested Butte Mountain Resort on the committee, said he disagreed with fully funding CBMBA and Gunnison Trails and "tossing the Nature Connection to the side."

Although the proposed work would be conducted by a crew out of Delta, the trails listed in the organization's request are within county lines and in "horrible shape," he said.

"We need some work to happen on this side of Kebler that we're not addressing that is in our district," Voegeli said. "If somebody is going to come forward and make a request to do that, I think we need to honor that to a degree, and see what kind of work they do."

The committee members unanimously voted to fully fund the BLM proposal for a new toilet at Hartman Rocks, HCCA's beaver dam restoration project and the Crested Butte Land Trust proposal. The remaining dollars were distributed between the three trail groups, with a final recommendation to grant about 90% of CBMBA and Gunnison Trails' original ask and the Nature Connection at approximately 70%. Members

THIS WAS A BIG YEAR FOR THE STEWARDSHIP FUND, SAID NFF PROGRAM MANAGER JOE LAJORINI, A FUND THAT HAS CONTINUED TO GROW EACH YEAR. THE "EXCITING SLATE" OF PROJECTS TO RECEIVE FUNDING INCLUDE:

- > The Crested Butte Conservation Corps stewardship crew, requested by the Crested Butte Mountain Bike Association.
- > Signage and amenity improvements and restoration work at Long Lake and Peanut Lake Road, as well as defining parking areas at the Peanut Mine, Slate River and Slate River Road trailheads, requested by the Crested Butte Land Trust.
- > A professional trail crew requested by Gunnison Trails.
- > A two-hole permanent toilet to replace the porta potty at the Top of Kill Hill, a popular entry point at Hartman Rocks Recreation Area, requested by STOR Committee Member Kim Schappert.
- > Taylor Park beaver analogues, or man-made beaver dams to restore the wetland ecosystem at Trail Creek, requested by High Country Conservation Advocates. This will be phase two of the project that started during the summer of 2021.
- > A wilderness trail crew that will maintain and restore trails along the Kebler Pass corridor, requested by the Nature Connection, a program out of the Delta County School District.

involved in project proposals abstained from the vote.

The NFF will continue working with each applicant while they flesh out their proposals and will begin awarding funds within the next six weeks. Once the real work begins, Lavorini said he will prioritize "telling the success" of what each applicant is doing throughout the season.

"Because it should be celebrated," Lavorini said. "The Gunnison Stewardship Fund is a really unique funding model. There's not many like it out there and because of that, we want to be able to tell our story here locally, but also regionally across the state."

(Bella Biondini can be contacted at 970.641.1414 or bella@gunnisontimes.com.)

Case count drops closer to pre-omicron levels

92 positives reported in last week of January



Jacob Spetz/NTV

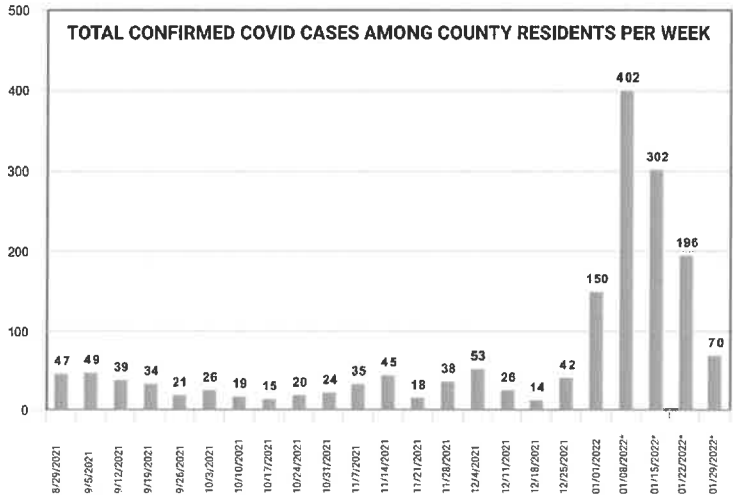
COVID testing continues on South 14th Street near the fairgrounds.

ly — over the nose and with a tight-fit to the face.

In addition to utilizing masks when transmission is elevated, Gunnison County recommends that the community members continue to monitor for symptoms, stay home/isolating when sick, and get vaccinated.

The community testing site continues operations at the S. 14th Street location. Testing is available Monday-Thursday from 9 a.m.-4 p.m. On Friday, testing will continue from 8-11 a.m.

With the overnight low temperatures throughout the week, it is quite likely that the start of testing will continue to be delayed periodically. The county advises that you check the weather forecast before scheduling or heading over for a morning time test.



(Editor's note: From 01/08/2022 to present, Gunnison County has not differentiated between county residents and non-residents in its count of confirmed positives.)

Appointments for testing can be scheduled at my.primary.health/1/gvh.

Rapid antigen tests are now available for all U.S. households through the federal government. You can request tests through a quick order form at covidtests.gov/or by calling 800.232.0233.

With the increased use of rapid antigen tests at home, the county recommends that residents learn to properly utilize these tests. Rapid antigen tests, like a BinaxNOW, are meant to be used in sequence. For example, BinaxNOW tests are designed to be used twice

in a 36-hour span with at least 24 hours in between. If you test with a BinaxNOW test, the county asks that you report the result — particularly if it is positive — through covidbinax.colorado.gov.



The project site is located at the edge of Gunnison County and stretches along each side of Hwy. 50 near Sargents.

Courtesy Rocky Mountain Mitigation

Wetland Mitigation

from A1

gation bank at the headwaters of Tomichi Creek. The project, which aims at creating and restoring wetlands in the area, could impact senior water rights downstream.

The proposed Gunnison Headwaters Mitigation Bank is situated at Daley Gulch, a 620-acre parcel at the headwaters of Tomichi Creek. The property, owned by the Colorado State Land Board (CSLB), is located at the edge of Gunnison County and stretches along each side of Hwy. 50 near Sargents. The bank's conceptual design includes the reestablishment of 73 acres of wetlands, the enhancement of 103 wetland acres by removing cattle ranching and haying and improving Gunnison-sage grouse habitat.

The project is still in the early stages of a lengthy planning process while it seeks public and agency feedback. Final approval must be made by the U.S. Army Corps of Engineers if site studies confirm the property is suitable for a bank.

A wetland mitigation bank is a restored and enhanced ecosystem created to compensate for other wetland areas that have been degraded or destroyed near the bank. For example, if Gunnison County is proposing to widen a county road in a certain section, eliminating wetlands along the roadway, the Army Corps of Engineers requires new wetlands be built to make up for the loss, said Sonja Chavez, general manager at the Upper Gunnison River Water Conservancy District.

If the entity can't find a suitable place to build, it can go to a wetland mitigation bank within the basin and purchase a "credit." Depending on the quality of the wetland habitat created, a credit can cost up to \$200,000,

she said.

"If you look at the size of this parcel, what they're proposing, and the fact that someone might pay \$120,000 to \$200,000 a credit, this could be a multi-million dollar project," Chavez said.

CSLB leases 2.8 million acres of trust land for agriculture, recreation, commercial real estate, renewable energy, oil, gas and ecosystem services like the proposed wetland bank. The agency is self-funded and has earned \$2 billion for public schools in the last 15 years.

CSLB spokesperson Kristin Kemp said the agency is supportive of mitigation bank leases, because credits can be sold to offset negative impacts of development elsewhere in the watershed. In turn, the CSLB would receive a portion of the profit, which provides revenue for public schools.

The State Land Board is working with SCP Conservation, LLC and Rocky Mountain Mitigation (RMM), LLC, who hold an ecosystem services planning lease on the property, to determine if the area is feasible for a bank.

"RMM chose to work with (the) Colorado State Land Board because we not only fully support raising money for Colorado schools, but we align with their mission of environmental stewardship," RMM president Stephen Decker wrote in an email. When restoring wetlands and streams to their native state, restoration projects "can have countless benefits that amplify downstream the higher they are in the watershed."

Decker said the site was chosen because it's in the headwaters of the Gunnison, a "huge watershed that provides benefits to millions of downstream users."

The Gunnison River Basin encompasses approximately 8,000 square miles in western Colorado, and flows 180 miles west through Gunnison, Montrose and Delta counties. Rather than just serving the immediate Tomichi Creek and



GUNNISON HEADWATERS MITIGATION BANK - Land Ownership

State Private
Bureau of Land Management US Forest Service

0 5 10 Miles

Courtesy Rocky Mountain Mitigation

The proposed site near the Hwy. 50 turn off near Whitepine.

North Fork areas, the mitigation bank is intended to serve the entire basin, allowing anyone to purchase a credit, even if the impact occurred in the lower basin, Chavez said.

"Ecologically, it doesn't make sense," Chavez said. "Wetlands serve to filter water for water quality and, or to capture and retain water when you have flooding events. It's not going to do you any good if it's all the way up here if your impact is in the lower Gunnison."

Looking downstream

Local landowners that could be potentially affected by the wetland bank drafted letters of comment to the Army Corps of Engineers with their thoughts on the proposal. Both Cross Bar Ranch and Irby Ranches hold agricultural leases with the State Land Board on the proposed mitigation bank site. If the mitigation bank moves forward, their leases can be terminated or adjusted with a minimum of 12 months notice.

Although the proposal states that RMM considered water availability when it selected a site, the organization provided no comment on whether water rights were needed to proceed with the bank.

The project is located about 10 miles downstream of Razor Creek Ranch owner Greg Peterson's diversion point on Tomichi Creek. He said he worried his water rights could be harmed if the proposed project is approved.

The wet meadows at the site are also irrigated with private ditch water, a source that will no longer be available for use if the agricultural leases are discontinued, Peterson said. The landscape will instead be dewatered, "resulting in a net loss of wetlands instead of a gain."

"My fundamental problem with the proposal is that they're trying to take a healthy wetland in my estimation, and broker it out to create more development in the Western Slope without really mitigating it," Peterson

said.

Stan Irby owns irrigation water on site, and has used it for 80 years to grow hay on nearly 230 acres of state land. If the proposal moves forward, Irby said he'd have to remove his cattle as well the water from the state lands so he could continue to use its water rights.

"They do not own any water," Stan Irby said. "The only water they claim they could use would be the in-stream flow on Tomichi Creek and that's not truly what it was established for."

Relating to Gunnison sage-grouse habitat improvements, Irby described the proposal as "very unrealistic." The habitat mapped is dissected by power lines, Hwy. 50 and a well-lighted chain station, which "all fragment this property greatly."

"The goals that were set are unattainable," Irby said.

(Bella Biondini can be contacted at 970.641.1414 or bella@gunnisontimes.com.)

BRIEFS

CPW suspends Blue Mesa lake trout tournament

After hosting two lake trout harvest incentive tournaments at Blue Mesa Reservoir in 2020 and 2021, Colorado Parks and Wildlife has documented that lake trout numbers are now at a more appropriate level at the reservoir and will suspend the cash-prize tournament in 2022.

CPW regularly monitors Blue Mesa Reservoir's lake trout population, and the success of the two previous harvest incentive tournaments — which offered up a \$10,000 cash prize purse — has helped aquatic biologists achieve their management goals of providing trophy lake trout opportunities for anglers, while also protecting the kokanee salmon population.

Based on current numbers, a harvest incentive tournament was not recommended in 2022. CPW does still encourage anglers to harvest smaller lake trout to maintain numbers at desired levels. It is expected that tournaments will be held in future years with recommendations made annually based on lake trout and kokanee population monitoring.

"Through the tournaments, we invited anglers to be part of the solution of controlling the lake trout population," said CPW senior aquatic biologist John Alves. "We're suspending it because the science shows we have reduced numbers of smaller lake trout while still maintaining opportunities for trophy lake trout."

North Valley trails project

Public lands managers and recreation advocates have released a plan, that if implemented, would see the creation of nine miles of trails around Crested Butte. The U.S. Forest Service has started a public comment period on the proposal.

The Gunnison Ranger District has partnered with the Crested Butte Mountain Bike Association and the Sustainable Tourism and Outdoor Recreation Committee on the project. Infrastructure improvements will include eight new trails, one trail reroute and three trailhead parking or day use area expansions across the northern half of the valley.

Approximately 19 acres of disturbance are proposed for the expansion of existing parking areas and enhancement of the infrastructure at the Brush Creek Trailhead, Tent City day use and designated camping area and Walrod Trailhead.

Correction

A Jan. 20 story in the *Times* titled "Empowering people through adventure" included a confusing quote about the electric bike (e-bike) rebate offered by the Gunnison County Electric Association (GCEA). The e-bike rebate offer is 25% of the cost up to \$150 with a maximum rebate of \$300 and two e-bikes per GCEA member account per year.

CITY OF GUNNISON CHOSEN TO PARTICIPATE IN NATIONAL NONPROFIT'S RURAL WELCOMING INITIATIVE

WELCOMING AMERICA



BUILDING A NATION OF NEIGHBORS

We proudly announce that the national nonprofit organization Welcoming America has chosen the City of Gunnison, Colorado, to participate in their Rural Welcoming Initiative. Only ten communities across the nation were selected for participation in this initiative. Through a competitive process, the City of Gunnison was chosen because of its commitment to building a more welcoming and inclusive community. We will receive formal training and expertise to develop a framework for incorporating and celebrating diversity, equity, inclusion, and belonging throughout our Valley.

Immigrants and refugees come to this country searching for safety and opportunities for education, employment, and become a contributing part of a thriving community. Many of these immigrants and refugees follow opportunities in smaller cities and more rural parts of the country, such as Gunnison.

Rural communities, like Gunnison, have much to offer these newcomers: employment, strong schools, a sense of belonging, and for many, the chance to be part of a thriving community. Immigrants and refugees feel welcomed when communities have created programs, partnerships, policies, and opportunities that engage them.

Welcoming America will provide the City of Gunnison and its partners with ideas and support for enhanced communication practices, technical assistance, coaching, and access to ongoing peer learning opportunities. This will increase our

capacity to create and implement more welcoming policies and practices. Gunnison City Clerk Erica Boucher, City of Gunnison Outreach Community Liaison Ricardo Esqueda, Community Impact Coordinator of the Community Foundation of the Gunnison Valley Scott Krieger, and Gunnison County Commissioner Liz Smith are the direct participants in the program.

With guidance and engagement from a variety of stakeholders and community members, we will focus on three essential topics in 2022. One: Government and Community Leadership. We will put resources and individuals into places to support immigrant participation, inclusion, and equity in leadership arenas. Two: Connected Communities. Our objective is to continue working to build connections and trust between residents, with government officials, and local leaders. Three: Economic Development. We are committed to having a Valley where all residents — including immigrants — can fully participate in the economy.

Throughout 2022, we will be engaging in training, network opportunities, listening, and taking thoughtful actions for the Gunnison Valley to more clearly emerge as a welcoming community for all residents. Results from the 2020 Census revealed that 12% of the City's residents identify as Hispanic or Latino. Within the LatinX population is a distinct population of Cora people, an indigenous ethnic group of northeastern Mexico who have chosen to make Gunnison their home in the United States.



Since 1911, one of the cornerstones of Gunnison has been Western Colorado University. Its students, faculty, and staff are a vital, powerful part of this Valley. The University has drawn students and staff from throughout the world, including Jamaica, Poland, South Africa, Venezuela, and many other countries. It is also the place where young, curious people of diverse cultural and socio-economic backgrounds come from across the nation and the state to grow, engage, and challenge themselves in an incredible natural classroom and academic setting.

Gunnison, with its foundation in agriculture, mining, and outdoor recreation, strives for its residents and guests to experience a vibrant western community where everyone can learn, earn, and live in harmony with the incredible natural surroundings. The City of Gunnison aspires to be that important bridge to connect the diverse immigrant community with existing residents so common ground and shared leadership can be realized.

About Welcoming America
(www.welcomingamerica.org)

Welcoming America is a nonprofit, nonpartisan organization that leads a movement of inclusive communities becoming more prosperous by ensuring everyone belongs. We believe that all people, including immigrants, are valued contributors and vital to the success of our communities and shared future. Through the Welcoming Network, we work to help communities develop the roadmap they need to create welcoming policies and share new approaches to inclusion to create an environment where everyone can truly thrive.

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TOWNHOME with attached one car garage features: carpet & interior paint, 3 bdrm/2.5 bath, pool, chools, trails & downtown. Great first time home rental investment. 408 N. 11th St: **\$449,000.**

NEW LISTING

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BUSINESS OPPORTUNITY Twisted Fork is a turn key restaurant that includes all fixtures, furniture, inventory & recipes. Indoor and outdoor seating option as well as a bar. 206 N. Main St: **\$249,000.**

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MOUNTAIN GETAWAY Home on 5 mining claims in Ohio City features an excellent mixture of wildlife, nearby trails, aspen, pines & 300 feet of Gold Creek frontage. 3 bdrm/2 bath house, huge attached garage, large detached barn, touched by Forest Service lands. Gold and Silver mine. 5498 County Road 771: **\$1,750,000.**

NEW LISTING 43 acres on Highway 149 near the Iola boat ramp at Blue Mesa. Power runs through the property. Need to drill a well and install septic. No covenants with potential lake views. 33011 Highway 149: **\$110,000.**

BEAUTIFUL custom home situated on 9 acres. Under contract. Home is 3 bdrm/2.5 bath with an attached 2 car garage with office above & detached 3 car garage for 3 cars or toys with a studio apartment. 710 Sierra Vista Way: **\$1,300,000.**

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Member
2022

The battle for water in the Gunnison Country



Phil Klingsmith

In the late 1800s, when places like the Gunnison Country were being settled, with the emergence of coal mining and cattle ranching, somehow it was recognized that water was limited. Later, this part of Colorado was recognized as a high mountain desert, with an average of 13 inches of rainfall per year. Concurrently, leaders in what were to become all the states, except Colorado and seven other states, adopted what is known as "riparian water rights" — that is, an individual or entity's right to access water sources depends on being adjacent to the water source, or "riparian" to the water source.

Amazingly, a second method of access to water emerged, known as the "prior appropriation doctrine," which contemplated a right to use, even own, water rights not riparian to the source, or adjacent to the source of water. Today, because Colorado adopted the prior appropriation doctrine, a business interest, such as a mine or ranch, can own and use water some distance away.

For example, Rancher B — not riparian to the water source — can own the right to use water in the Tomichi Creek, Ohio Creek, East River or Taylor River, all tributaries to the Gunnison River, and do so by building ditches across Rancher A's land in order to irrigate Ranch B. The quid pro quo is that Rancher A can share in the use of ditch rights. Another example: a homeowner in Dos Rios can own water in his or her household well, even though the home isn't adjacent to a river or lake.

So, what's the point? Colorado has become a magnificent place to live and work, in part because of the "prior appropriation doctrine." Even towns like Gunnison, Crested Butte, Mt. Crested Butte and Parlin can own water rights. So also can the county, the state and the U.S. government own water rights in Colorado, according to the doctrine. This is one of the rare examples in American history, where the federal government has deferred to a state government's law.

In 1922, Colorado agreed that "we" would deliver a significant amount of our water to Arizona, Nevada and California every year, per an agreement called the 1922 Colorado River Water Compact. We participate in delivering 7.5 million acre-feet of our water to those states. It's a lot of water. For example, Blue Mesa Reservoir holds 900,000 acre-feet when full to the brim. Blue Mesa is now down by 74%. Why? Because we are delivering significantly more than our share of the 900,000 acre-feet of water which is in Blue Mesa.

Let's be clear: Blue Mesa isn't down dramatically because

of global warming or climate change. It is down because of "demand management." Over every 10-year period, the upper Colorado River Basin states of Utah, Wyoming and Colorado have to deliver on average 7.5 million acre feet per year to Arizona, Nevada and California (the lower basin states). We are now delivering over 9.5 million acre feet per year, and Blue Mesa Reservoir and the Gunnison Country are delivering a significant percentage of that increased "compact demand."

Since the Gunnison River is the largest tributary to the Colorado River (thus the name Grand Junction), it is important that we the people of the Gunnison Country live up to our obligations. But, it's equally important that we not be bullied by the fact that Arizona and California have millions of new residents, and that "we" have to solve the problems of two states which seem to have little concern about their unfettered growth.

By the by, we in the Gunnison country also have new "residents," but who are citizens of other states. California and Arizona have millions of new residents, who may not be citizens of other states, but of other nations. Good for them. California and Arizona are losing citizens but gaining residents, but our obligation is to meet the 1922 obligations, and then to take care of our time-honored obligations to the people of the Gunnison Country.

We need, as "the people," to send a clear message to the Colorado River Water

Conservation District, located in Glenwood Springs, and the Upper Gunnison River Water Conservancy District, located here in Gunnison, that we support the courageous efforts of these two organizations, and we also honor our obligation under the 1922 compact. But, we are not going to be intimidated by innumerable "compact calls," poor judgment in other states, or political power brokers, even at the federal level, into the destruction of the Gunnison Country, which for us must include every town, nook and cranny between Gothic and Marble to the North, Lake City to the South, and every jewel we hold near and dear to our hearts, from Sargents to the east and Cimarron to the west.

One closing thought: great potential leadership often fails for one of two reasons: because the leader has the skill but not the courage, or the leader has the skill and courage, but is suffocated by demands from people close to the leader who realize he or she will be too busy leading to provide namby-pamby care to those closest to the leader.

We currently possess at every governmental, bureaucratic, educational, business and enterprise level, the leadership to carry forward in the battle over water, and every other aspect of our lives in the Gunnison Country. Let's make sure our leaders know we trust, respect and believe in them.

(Phil Klingsmith is a former lawyer and Western Colorado University professor.)

Unemployment fund balance a big deal to local businesses

Celeste Helminski
Special to the Times

The insolvency of the Unemployment Insurance Trust Fund affects every business in Colorado — even our local business community. Business leaders are urging the state to follow Governor Jared Polis' plan being put forward during this legislative session. A group of 75 statewide business associations, local chambers of commerce and individual companies sent a letter on Jan. 18, 2022 to legislative leaders asking them to put at least \$600 million toward making the fund solvent again. The call is for legislators to put significant money into the fund this year to cut down on future burdens.

The Common Sense Institute Colorado released an analysis estimating the cost to employers from increased fees and

taxes needed to refill the fund. The report determined that putting Polis' proposed plan into place would save companies \$560 million, because of the way it would avert some fees and lower other employer costs. The report can be found on the organization's website.

Due to the influence of the pandemic and the state government's policy responses, Colorado's unemployment levels spiked in early 2020 and caused the Unemployment Insurance Trust Fund to become deeply insolvent. As of July 2021, the fund balance is \$1.014 billion in the red and is not projected to become solvent until the 2024 fiscal year. Because employers are responsible for paying payroll taxes to the fund, a depleted balance forces Colorado businesses to pay high payroll taxes on each employee.

Between 2023 and 2027, Colorado employers stand to pay \$5.3 billion more in state and federal unemployment insurance taxes than they would at the pre-pandemic 2020 baseline rates. Total unemployment insurance taxes are projected to peak in 2025 at \$1.98 billion, which will be a 184% increase from the 2020 level of \$697 million.

In an attempt to alleviate this tax burden, the governor's FY23 budget proposal includes a \$600 million cash infusion into the fund — of this amount, \$500 million will come from the state's general fund and \$100 million will come from discretionary pandemic relief funds allocated to Colorado by the federal government. Despite this, employers will still owe a solvency surcharge for two years and will still be responsible for repaying a loan of over

\$1 billion from the federal government given to Colorado due to the insolvency of its unemployment insurance system.

In Colorado, employers pay payroll taxes to the Unemployment Insurance Trust Fund based upon a rate schedule in state law. When the fund's balance is low, the state charges higher rates in order to refill it; when the fund is completely depleted, as it is now, the state charges high rates and additional "solvency surcharges" which are also set according to each employer's utilization history. The Governor's proposal to allocate \$600 million directly to the fund, therefore, will decrease the amounts employers pay in the future by bolstering the fund's reserve, which thereby triggers lower rates.

What can any employer do?

continued on A13

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Snowpack gets a boost

Water supply forecasts improve after holiday storms

Bella Biondini
Times Staff Writer

Snow accumulation was off to a slow start in November and in the beginning of December. On Dec. 2, snowpack throughout most of Colorado hovered around 50-60% of average, with precipitation nowhere to be seen.

But holiday storms — dropping over 100 inches of snow in some parts of the mountains — have boosted the Gunnison River Basin's snowpack to 142% of average.

"It's still very early in the snow accumulation season," said Ashley Nielson, senior hydrologist at the Colorado Basin River Forecast Center. "But we are off to a good start."

In January, forecasters only know about 40-50% of the season's total snowpack accumulation and the previous fall's soil moisture conditions. Weather from January to May still leaves four months of the unknown.

Even so, December snow storms "drastically" improved the January water supply forecasts, which currently range from 90-115% of average for the Gunnison River Basin, Nielson said.

Soil moisture conditions within most of the basin have also improved, but the area will

likely still deal with a deficit entering the new year, a factor that can impact the efficiency of spring runoff once the snow begins to melt, she said. The timing and magnitude of runoff is driven by a combination of factors, including snow and soil moisture conditions and spring weather.

There are years that spring weather will "make or break the water supply season," Nielson said.

Nielson said there are questions to ask like: Is the spring warm and dry, or cool and wet? How does the snow melt? When does the snowpack accumulation season end? The answers are all "important to determining what our actual runoff looks like," she said.

According to the National Weather Service, the Gunnison Basin will remain in a La Niña-driven pattern until late winter, resulting in a higher chance for below average precipitation and above average temperatures in the basin. The trend is expected to continue into the summer. La Niña is the name given to cyclical temperature variations in the Pacific Ocean that can affect weather patterns around the world.

Despite sitting at 142% of normal snowpack at the beginning of the month, current levels are only 66% of the Gunnison River Basin's normal peak, which usually occurs in April.

Blue Mesa forecast

Blue Mesa Reservoir ended the calendar year at an elevation of 7,434.5 feet. This was half a foot lower than the levels seen

at the reservoir at the end of 1977, setting a new record low for elevation on Dec. 31. As of Jan. 18, the reservoir sat 85 feet below full pool, or 28% full.

According to projections from the Bureau of Reclamation (BOR), the January most-probable runoff forecast for Blue Mesa is 650,000 acre-feet between April and July, filling the reservoir to about 64% in 2022.

The forecast places Blue Mesa projections in the "dead center" of the historical record and in the middle of an average dry year, said Erik Knight, a hydrologist for the BOR.

December snow accumulation in the upper basin exceeded the total amount normally received in both December and January combined, but "we would need a lot more snow to arrive in the springtime to get us up to those wetter years we saw back in 2019 or 2017," Knight said.

Last year, water from the Blue Mesa and Flaming Gorge reservoirs was sent downstream in emergency releases to protect the critical elevation of Lake Powell. The BOR is not planning additional releases in 2022.

Instead of calling for water from the upper reservoirs again, the BOR will withhold 350,000 acre-feet of water in Lake Powell until April, to allow spring runoff to reach the reservoir, said Robert Henrie, BOR regional dam safety coordinator. The same amount will be released later in the year.

(Bella Biondini can be contacted at 970.641.1414 or bella@gunnisontimes.com.)



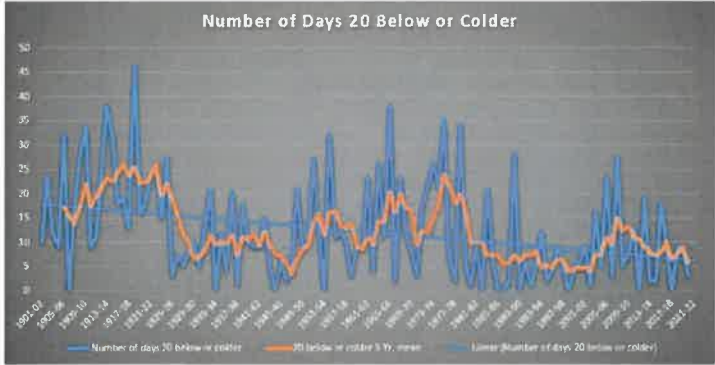
—Jacob Spiller

Picking on the strings, feasting on the pies

Pie Zans Pizzeria hosted live music Friday night. Jim Lovelace, pictured, was among the musicians who took the stage.

GUEST COMMENTARY

How common is 20 below zero or colder?



Bruce Bartleson
Special to the Times

Being a weather historian, I am not in the habit of forecasting or predicting weather, but I might make an exception this year as to extreme temperatures. We are not going to get to 20 degrees below zero this winter!

So, what's so special about that? Well, it's fairly unusual (about 10-11 times in our observational record) and a good indicator of the severity of the winter. More on that later. We have now passed through the coldest period of our winter, and we still haven't had an official reading of 20 degrees below zero in Gunnison.

The official Gunnison County Electric Association (GCEA) site shows a cold snap in early January of minus 17, 19 and 17 degrees (three day clusters of extreme weather are fairly common), and that was it — nothing has been close since. The coldest we have had in town at the Ruby Avenue weather station is 15.5 below zero and the airport regis-

tered 16 below as the coldest.

As of Jan. 25 we are running about 5-6 degrees above long term averages — for example the day time highs are averaging 30 degrees and the lows about 1 degree below zero. Snowfall (0.2") and snow on the ground (1") are also way below normal. Are we really in Gunnison?

Interestingly enough, our neighbor to the north, Crested Butte, is having a more old-fashioned winter, listing a bunch of colder than 20-below-zero readings (26 below on Jan. 2), and tons of snow, especially in December, but snow falling off to less than half of normal in January.

Many of you know that, although Crested Butte gets four times as much snow as we do, they are usually warmer in the winter — but this seems to have changed in recent years.

Okay, let's look at this 20 below zero stuff. From the graph you can see there seem to be rough cycles of about 20-25 years in duration, and that they show a roughly continuous trend in getting warmer (note the sloping line, which is a linear trend line calculated by the Excel program). Also note that the number of days where we did not get to 20 below (that is, it stayed warmer than 20 below all winter) are increasing.

And finally, just to raise a few hackles on some of you, how

about the number of 40-below-zero days? According to official records going back to 1894, we have had only 16 times when the temperature reached 40 below zero, and all but two of those were before 1933. I believe there is one more 40 below reading that is not listed due to missing records in the late 1980s and early 1990s, probably in January 1993, so let's say there were 17.

I know many of you veteran ranchers and others recall many more days of 40 below, and I understand that. Your thermometer may have said 40 below, and it could well be; but, depending on location — some places are colder than others, and some thermometers are more accurate than others — you might be absolutely right. However, I can only go on official records. Prior to 1961, the official weather station was in town or on the college campus, where it is definitely warmer than on most of the ranchlands along our river systems. Since 1993, the official site has been at the GCEA close to the Gunnison River west of town.

(Bruce Bartleson is a retired Western Colorado University geology professor who now spends his time tracking the Gunnison Valley's weather.)



Fundraising for groomed trails

The Gunnison County Sno-Trackers will host a fundraiser and member appreciation night at Pitas in Paradise in Crested Butte on Feb. 5 from 5-9 p.m. The Sno-trackers Snowmobile Club operates a Prinoth Cat at the Kebler winter trailhead. The group grooms over 50 miles of multi-use road and trails, from Kebler Pass to the Ohio Creek trailhead to Splain's Gulch and to Lost Lakes and Erickson Springs. It operates on grants from the Colorado Snowmobile Association and under a permit from the National Forest System. The public is invited to come out, join the fun and join the club. There will be door prizes, a great silent auction and info about future plans including a trail to Sargents and a cat barn.

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RECORD-SETTING
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SPORTS, B4

GUNNISON COUNTRY TIMES

\$1.00
Vol. 141, No. 3
Thursday,
January 20,
2022

SPORTS B4

OPINION A9, A12-A13, A20

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OBITUARIES A3-A5

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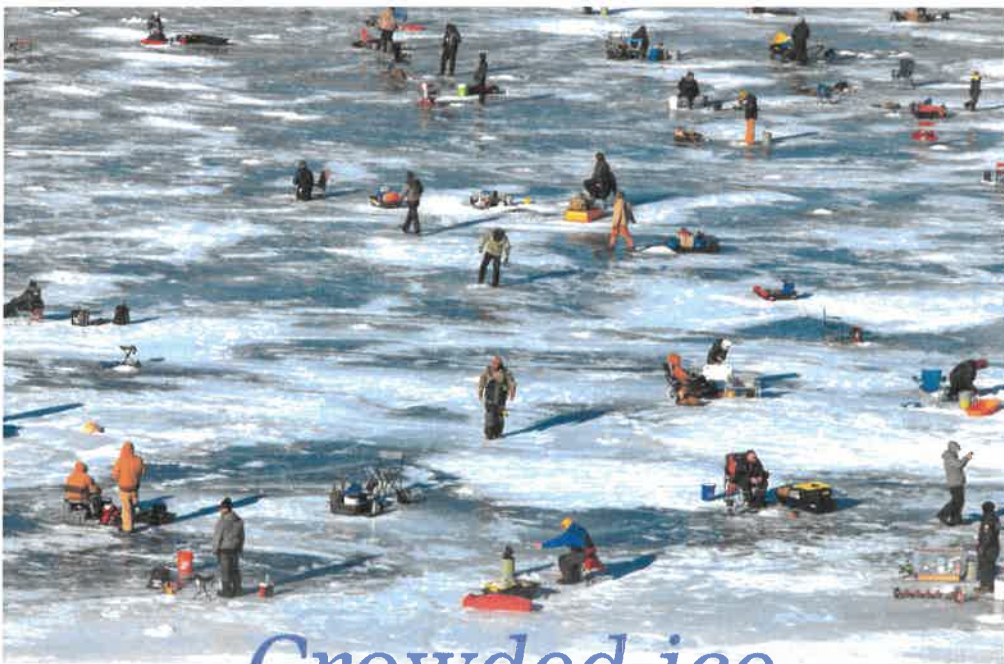
Sargents mine pollution raises worries

Company
seeking
standards
change

Bella Biondini
Times Staff Writer

A mining company plans to propose that water quality standards on a creek near Sargents be lowered, a move that could allow more radioactive material to enter the Gunnison River watershed.

Homestake Mining Company
Uranium A6



Crowded ice

Jacob Spitzler

Around 840 anglers took to Blue Mesa Reservoir on Saturday to compete for prizes and cash.
Read more about the Ice Addiction tournament on page B2.

A step for future growth

Electrical
substation
expansion
to enable
development at
Gunnison Rising

Bella Biondini
Times Staff Writer

The City of Gunnison is in the process of annexing properties north of city limits to support the expansion of the city's power grid. Plans include expanding the city's second substation on the annexed property on the east side of Hwy. 135 near Clark Boulevard.

Substation A6

COVID surge hits local business

Staffing
shortages
put strain on
operations

Anna Coburn
Times Staff Writer

Gunnison County has seen a spike in COVID cases over the past month. While hospitalizations have remained low, the increase has put a strain on some local business.

Jason MacMillan is the sales manager at ID Sculpture, a Gunnison company that designs and distributes play sculptures for playgrounds and parks, like the newly-installed rocks at IOOF Park. MacMillan said the company is open and its employees are masked, but manufacturing has been slowed because "everybody has had it or at least has had a family member with COVID."

"It's not like we've shuttered our doors, but it is interrupting

us," said MacMillan.

"COVID has been a roller coaster. It's not just one problem — it's evolving problems," said Chief Operating Officer and owner Andris Zobs. Approximately 30 employees work at ID Sculpture, and Zobs said the omicron variant's disruption to their labor force is "continuous."

MacMillan has a positive outlook on the rest of the year, however.

"(It looks) super bright. We've entered 2022 in the first quarter with more in the pipeline than ever before," he said. "An incredible local team made us more resilient."

Chief financial officer of Alpha Mechanical Solutions Lisa Niederer said COVID has hit their company hard, as well. Niederer said in the span of these past two years, they had never had more than one employee out at a time with the illness. In the last few weeks, however, there have been "a ton" of employees absent, she

COVID Business A10



Jacob Spitzler

ID Sculpture employee Robert Helbig stands on the company's factory floor in Gunnison. Staff shortages caused by COVID have slowed the firm's production of playground structures.

inside
today

COVID CASES
FALL
NEWS, A10

CB SOUTH TO
REDO ELECTION
NEWS, A7

TRUSTEES MULL
SIGNAL PEAK RANCH
NEWS, A8

Substation

from A1

The substation will ensure power is available for Gunnison Rising and other new housing projects under development and pave the way for the construction of more electric vehicle charging stations in Gunnison, according to city officials.

An annexation petition was signed by former Mayor Jim Gelwicks in August with support from the property owners at Gunnison Secure Storage LLC, and Rocky Mountain Christian Ministries. City Manager Russ Forrest said he expects the annexation to be finalized by March. Once complete, the city will only own about .9 acres for the substation expansion and the rest will remain private within the newly annexed city boundaries.

The construction project, which includes the addition of a new transformer and distribution lines, is expected to cost about \$5 million and will be paid for by Gunnison Rising developers. A public hearing on

the proposal is scheduled for Feb. 22.

Although the city's electrical infrastructure can handle the new Bureau of Land Management headquarters and the FedEx facility planned at Gunnison Rising, "as far as the rest of it, we will need to have power over there before it can get fully developed," said Public Works Director Gardner.

"We're not talking about just one or two houses, we're talking about one third of the size of the city," Gardner said. "It's like building another city ... It's my job to make sure that utilities plan for that and can be poised and ready."

John Clement, a pastor at Rocky Mountain Christian Ministries, said he initially wasn't looking to sell the property the church owns adjacent to one of the existing substations east of Hwy. 135. But with no plans to build, he accepted the city's offer to purchase nearly an acre for the expansion project.

"The city really needed it," Clement said. "And we figured it would help toward growth in the future and housing."

Gunnison Rising, coupled

with other proposed housing projects like Signal Peak Ranch on North Colorado Street, will create a significant strain on Gunnison's utility system, which was not designed to support large-scale future development.

Along with the substation expansion, the city is also drafting plans to upgrade both its water and sewer systems, where bottlenecks could also restrict further housing development.

"It's been very hard for us, because we don't really have the staff to do all of this," Gardner said. "We're having to hire some people out to help us with it. It's a big, big undertaking."

A 2021 water management plan discovered the need for a \$20-30 million surface water treatment plant that would add a layer of security by decreasing the risk of contamination and insufficient municipal water supply. In addition, a sewer repair project, with a projected cost around \$1.6 million, will upsize main lines and allow more housing projects to come online without overwhelming the system. The city will also be replacing the transformers at the main substation at the public



Bella Biondini

works facility on West Virginia Street as it nears the end of its lifetime.

City Manager Russ Forrest said city infrastructure improvements will not only benefit Gunnison Rising, but are also intended to serve the whole community.

A large component of these projects is "being resilient and prepared for the future," said Forrest. "The city wants to be prepared to do more EV charging stations and more electrification of homes."

High speed charging stations

require nearly the same electrical capacity as a facility the size of City Market, Forrest said.

"We would love to have as many of them as we can, but it takes an investment to do that," Forrest said. "We see our charging station beside City Hall used every day. It's something that I think we all anticipate greater use and greater demand of, particularly in the future."

(Bella Biondini can be contacted at 970.641.1414 or bella@gunnisonintimes.com.)

Uranium Mine

from A1

intends to ask the Colorado Water Quality Control Division to remove the drinking water standard on Marshall Creek, a tributary of Tomichi Creek. Tomichi Creek enters the Gunnison River in Gunnison. If granted, the change would increase the amount of contaminants, particularly uranium, permitted to flow into Marshall Creek from the Pitch Mine Reclamation Site, an inactive uranium mine in Saguache County.

The Pitch Mine is located 6.5 miles due east of Sargents, a small unincorporated community along Hwy. 50. Underground uranium mining operations began in 1959 and were shifted to open pit mining when Homestake acquired the site in 1979. Reclamation started in 1984 after the mine was closed.

To support its proposal, Homestake is working with Saguache County to develop an ordinance that would prohibit the drilling of any future wells in areas near Marshall Creek in addition to creating plans to drill existing wells deeper to avoid surface contamination. If the company decides to proceed, Homestake intends to bring the proposal before the Colorado Water Quality Control Division at a hearing in June.

The uranium concentrations measured in Marshall Creek at Sargents range up to 65 micrograms per liter, exceeding the maximum contaminant level of 30 micrograms per liter in drinking water established by the Environmental Protection Agency (EPA). According to the EPA, long-term exposure to elevated levels of uranium can harm the kidneys and cause an increased risk of cancer.

Sonja Chavez, general manager at the Upper Gunnison River



Marshall Creek flows through the town of Sargents.

Courtesy

Water Conservancy District, said that when a particular stream such as Marshall Creek isn't meeting a water quality standard, a mining company can request a temporary modification from the Water Quality Control Division. Under a temporary modification, the mine is allowed to be above the set standard for a short period of time, usually between three to five years.

During Homestake's temporary modification of the uranium standard, which they received in 2017, the company spent over \$20 million exploring different treatments to try and lower uranium concentrations in water leaving the site.

The temporary modification expires on Dec. 31, 2022. Instead of continuing to work to meet the original standard, Homestake is potentially proposing to remove the original drinking water standard entirely.

Stan Irby's ranch sits on Tomichi Creek, about five miles downstream of the confluence with Marshall Creek. His family has been in the valley since

1942. Irby described it as a "no-win situation for the mining company, because there's no way out."

"Uranium has been in this water, it's naturally there," Irby said. "It was there before the Pitch Mine was ever developed."

When he was a kid, the pitch mine "was just a tunnel and you could see the yellow flowing out," he said. "And that is not happening now, I can guarantee you."

"As far as reclamation up there, it's amazing what they've done," Irby said. "They've done a really good job."

Homestake offered to place a conservation easement on Irby's property. If pursued, the family would have to drill wells at a certain depth to avoid groundwater from Marshall Creek and would not be able to sue the mine if uranium or contamination enters the well in the future, Irby said. He considered Homestake's offer acceptable.

"We feel like it would benefit us and yet still allow us the option of possibly doing some development in the future if we

needed to," Irby said.

Another part of Homestake's proposed solution includes working with Saguache County to prevent the drilling of new alluvial wells — wells supplied by surface water — in areas adjacent to Marshall Creek, from its confluence with Indian Creek to its intersection with Tomichi Creek. Homestake also plans to redrill existing wells in Sargents deeper into the bedrock aquifer.

Clark Burton, director of closure operations with Barrick Gold, the corporation that merged with Homestake in 2001, said the proposal was prompted by the state's designation of that section of Marshall Creek as a water supply due to its proximity to Sargents.

Any water source within 200 feet of Marshall Creek is considered connected and deepening the wells would "remove any uncertainty of that connectivity," Burton said. "The uranium is not the issue in Sargents, there is no elevated uranium in Sargent's wells."

Homestake instead noted elevated levels of coliform and E.

coli because Sargents discharges its septic systems into the same aquifer. Burton said that the community is supportive of the proposal because "they see this as an opportunity to get their wells redrilled into a much cleaner aquifer."

Julie Nania, water program director at High Country Conservation Advocates, said that although redrilling wells might fix the problem for some households, it would prohibit future users of the water source from benefiting from cleaner water.

"I think that should be a big red flag for communities," Nania said. "We should be looking to preserve the water source and the stream as a whole."

Along with its potential to affect future water users, letting the mining company "off the hook" for water treatment is "shifting the burden downstream," Nania said.

Ashley Bembeneck, a water quality scientist at Alpine Environmental Consultants, is interested in the potential downstream effects it could have on Tomichi Creek. She estimated that roughly 300 ditches divert water from the creek between Sargents and Gunnison.

"And if you assume that each ditch has a house associated with it, that's about 300 homes that may rely on groundwater wells for their drinking water," she said. "So the potential change can impact Gunnison County."

"If this is approved, it may send a message that dischargers can prevent future water use or provide alternate water supplies rather than fully clean up pollution," Bembeneck said. "And I just think that's the wrong approach."

(Bella Biondini can be contacted at 970.641.1414 or bella@gunnisonintimes.com.)

OPINION

Adapting the Law of the River for a dry hydrology — part two

Lake Powell storage levels began declining in 2000, and by the end of 2004 were at an alarmingly low elevation. As a result, the U.S. Secretary of the Interior ordered the seven Colorado River Basin states to work with the Bureau of Reclamation (BOR) to reach an agreement to address reservoir operations in dry hydrology.

The parties complied, and the result is the 2007 Interim Shortage Guidelines, which will remain in effect through Dec. 31, 2025. The 2007 Guidelines provide for coordinated operation of Lake Powell and Lake Mead during the interim period, the objectives of which are to avoid curtailment of uses in the Upper Basin, minimize shortages in the Lower Basin and not adversely affect the yield for development available in the Upper Basin.

Annual releases from Lake Powell are determined according to storage levels in Powell and Mead so that equalization of storage in the two reservoirs can be achieved as nearly as practicable each year. The Guidelines establish the conditions under which the Secretary of the Interior will declare a shortage in the Lower Basin and apportion the shortage between Arizona and Nevada.

The 2007 Guidelines were the beginning of a new era of collaboration among the seven Colorado River Basin states and the BOR to address the need to adapt the Law of the River to historically dry conditions.

The 2007 Guidelines were moderately successful in meeting their objectives. Still, by summer 2013, the extent of the



John McCLOW
Special to the Times

2012-13 drought created concerns among Colorado River Basin water managers, including the Secretary of the Interior. All of the models reached similar conclusions: without adjustment to reservoir operations, there was a 20% probability that reservoir levels could reach critical levels within two years, if current conditions continued.

The seven states convened meetings of legal and technical working groups, and they developed a Drought Contingency Plan (DCP) for each basin, finalized in 2019.

The Lower Basin DCP directs that as Lake Mead reaches lowering storage levels, the states must reduce their consumptive use of Colorado River water (called "taking shortages") based on storage tiers contained in the 2007 Guidelines and supplemented by the DCP. The DCP also provides that California will also take shortages if Lake Mead declines to critical storage levels. Lake Mead storage has fallen to the point that, in 2022, the DCP requires Arizona to take a shortage of 512,000 acre-feet and Nevada, 21,000 acre-feet.

The Lower Basin states announced the "500 Plus Plan"

in December 2021. Under the plan, they pledged to collectively preserve 500,000 acre-feet of storage in Lake Mead in 2022 and 2023 — evidence of additional adaptation in response to the dry hydrology.

The Upper Basin DCP consists of three elements:

- Expand existing weather modification (cloud seeding) and phreatophyte removal
- Extended operations of the upper Colorado River Storage Project (CRSP) reservoirs (Blue Mesa, Flaming Gorge, Navajo)
- Development of a demand management program

Although its contribution is relatively small, the states have aggressively pursued the first element, especially cloud seeding. To implement the second element, the Upper Basin states entered into a Drought Response Operations Agreement (DROA), which provides for additional releases from the upper CRSP reservoirs to maintain critical storage levels at Lake Powell.

In July, the Secretary of the Interior exercised her emergency authority under the DROA to release 161,000 acre-feet from Flaming Gorge and Blue Mesa Reservoirs. (Navajo was spared.) The states and the BOR are developing additional criteria for future releases under the DROA, but the BOR does not presently contemplate further releases in 2022.

Instead, spring releases from Glen Canyon Dam will be reduced to maintain the storage level in Lake Powell. The Upper Basin states are heavily involved in evaluating the advisability and feasibility of the third ele-

ment, a demand management program that contemplates voluntary, temporary, compensated reductions in consumptive use by Upper Basin water users of all types to maintain compliance with the 1922 Colorado River Compact. Water preserved under the demand management plan would be stored in Lake Powell under the control of the Upper Colorado River Commission.

In addition to the drought contingency plans, the U.S. has negotiated supplements to the 1944 treaty under which Mexico has agreed to share shortages by taking reductions in its deliveries in amounts comparable to the shortages taken by the Lower Basin states under their DCP.

What Does the Future Hold?

Despite these significant collaborative efforts by the Colorado River Basin states and the BOR to adapt the Law of the River to changing conditions, reservoir levels have continued to decline, so a significant challenge remains. As the states and the BOR begin renegotiating the 2007 Guidelines — to further adapt to drier hydrology — all parties have pledged to continue collaborating on mutually beneficial solutions to address that remaining challenge.

History indicates that they will succeed.

(John McCLOW is general counsel to the Upper Gunnison River Water Conservancy District.)

LETTERS

A pandemic thought experiment

Editor:

In last week's opinion piece, Alan Wartes seems to contend that the COVID pandemic is much ado about nothing. He feels the main impacts from the bug come from the misguided and overblown steps we have taken to try to combat it. That may come as news to the 850,000 people who have died of the disease so far. That number isn't mentioned but dismissed as a "small fatality rate."

The Civil War, when we actively tried to kill each other, cost 650,000 lives over four years. COVID managed to exceed that number by 30% in just 22 months. I would say that is cause for some concern. The fact that number continues to grow by 2,000 per day suggests the threat hasn't yet subsided.

Alan pondered what future historians might say about our

reaction to the pandemic — an interesting thought experiment. He supposed we would be berated for "self-destructive overreaction." He granted that caution was appropriate in the early days of the pandemic because we were dealing with an unknown threat. But after we saw that it wasn't killing millions, but only hundreds of thousands, we should have relaxed. We shouldn't have bothered anyone with lockdowns or mask mandates or school closures. We certainly shouldn't do anything that would affect businesses, because some folks think making money is more important than protecting people's lives. Heck, we probably shouldn't have even bothered making those vaccines.

We know what we have lost in terms of lives, inconvenience, disruption of social and economic systems. The loss of lives has been deeply tragic. This is

especially true considering that losing many of those lives was largely avoidable. Very safe and effective vaccines were widely available by mid February 2021. Many were wise enough to take advantage of that life saving measure. Those who allowed themselves to be misinformed about the vaccines make up the vast majority of the 350,000 that have died since then. I suspect historians won't be impressed with that.

There have been social and economic disruptions to be sure, just as there are after hurricanes, floods, wildfires and other disasters. It isn't reasonable to believe we should be able to manage an extended major emergency, affecting the whole world at the same time, without some disruption. I don't want to downplay that disruption, but I don't agree that it was as devastating as some believe.

Employment dipped sharply,

but is now back higher than usual. Financial markets slipped a few days but have largely held their value. Schools and businesses were shuttered for a while, but most are back open and operating with some appropriate modifications and safety measures. Much of the conflict and psychological impact could have been avoided if folks had recognized these measures as inconvenient but necessary safety steps rather than nefarious plots to steal their freedom.

Here in Gunnison County our economy actually did better than normal over the last two years, in part, because of the steps and precautions we took. I think historians may be impressed with that.

What we don't know is how much worse things would have been if we hadn't taken the steps we did to try to manage the pandemic. Future historians will have to speculate on that.

continued on A12

ALANWARTESMEDIA

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Ice Addiction returns to Blue Mesa



The tournament took over a the reservoir near the Elk Creek Marina.

Jacob Spetzler



Kids leap from the starting line to chase down prizes such as Tightline hats and fishing rods.



Erich Zeeb places a fish on the scale.

Tournament draws crowds from across the country

Jacob Spetzler
Sports Editor

By the nature of the location, ice fishing on Blue Mesa Reservoir is a quiet sport. The immensity of the landscape dwarfs almost every sound, even when there are 840 participants out on the ice for a tournament like Ice Addiction, the one that took place at Blue Mesa on Saturday.

Water levels are historically low, making the reservoir look more like a river that runs between gently rising beaches, eventually transitioning into steep hills and cliffs where the water line lies when the lake is full.

During the tournament, the quiet would occasionally be broken by the electronically amplified voice of Nathan Zelinsky — the organizer and owner of Tightline Outdoors, the entity that puts on the event — proclaiming prizes and sponsors. Tightline brought the tournament back to Blue Mesa after holding it for several years at different lakes across the state.

He credits Celeste Helminski



David "Mario" Zulian from Grand Junction happily participates in his first ever ice fishing tournament.

from the Gunnison Country Chamber of Commerce with helping him bring the action back to the valley.

"We always want to be there, but we need town support because we sell out every hotel," he said. In addition to attracting local anglers, the tournament draws participants from thirteen states and over 300 area codes, Zelinsky said.

Ice fishing tournaments traditionally boast big prizes for those who catch the heaviest fish, and Ice Addiction is no different. The first-place winner, Jalen Lee, was awarded a \$7,500 check for snagging a hefty lake

trout weighing in at 3.06 lbs. An unfortunate side-effect of the large prizes is an added incentive to cheat, a problem that plagues the tournament circuit across the country. Cheating strategies range from the relatively benign, such as beginning earlier than the scheduled start time, to the potentially environmentally destructive — using non-native minnows as bait. In Colorado in 2013, two anglers were banned for life after declining to take a polygraph test when illegal minnows were found in their vehicle. And in 2018 in Utah, two men were convicted of felonies

after bringing frozen fish in a cooler and introducing them to their fishing hole.

Ice Addiction was founded, in part, as an antidote. It's run through an independent company, Tightline Outdoors, rather than the township. Tightline pre-drills all of the holes on the morning of the contest and has made the use of shelters against the rules.

On Saturday though, there were no allegations of cheating. The sun shone on the pre-drilled holes and kept the anglers relatively warm even without a shelter.

David "Mario" Zulian, from

“That was my first ice-fishing tournament, and though it was one of my ‘exercises in futility’, myself and my neighbor had fun.

David “Mario” Zulian

Grand Junction, had a wonderful time at his first ice fishing tournament, he said, despite an absence of fish biting.

"That was my first ice-fishing tournament, and though it was one of my 'exercises in futility', myself and my neighbor had fun. I've never seen so many people all on the ice with 4x4s, sleds and even toddlers — all having a great day!" he said by email after the fact.

Zelinsky also saw the event as having been a success.

"The fishing was awesome, it was fun and fair. We had great attendance and a great event," he said.

(Jacob Spetzler can be contacted at 970.641.1414 or jacob@gunnisonontimes.com)



Little ones get on skis

Gunnison Nordic held its first of two Parent & Tot Nordic Ski classes on Sunday. Kids as young as three were outfitted with cross country skis and given coaching by Western Colorado University cross country competitive skier Bria Rickert. Above, Hazel Kugler carries a ball while nordic skiing.

Jacob Spetler

COVID cases soar

County ponders
possible public
health order

Sam Liebl
Times Editor

Positive COVID cases continued to climb exponentially in Gunnison County, hitting a record 402 confirmed cases over the past week with an additional 40 probable positives among county residents. The resulting workforce absences have strained providers of essential services like the hospital and schools, as well as local businesses. At the same time, the incidence of severe illness due to COVID remains low, and Gunnison Valley Health (GVH) continues to find beds elsewhere for patients needing intensive care.

With a new testing site set up on vacant land near the fairgrounds, Gunnison County reported that 924 people were tested for COVID from Jan. 1 through Jan. 8. The total also includes home tests



Courtesy

The county's main COVID testing site has moved from GVH to vacant land near the fairgrounds. About one in every 40 Gunnison residents tested positive last week.

reported to the county. In all, 402 positives were confirmed using PCR testing, while the 40 probable were rapid tests. Given that the county's population is just below 17,000, about one in every 40 people in the county tested positive for COVID last week.

The combined number of 442 positive results yielded a staggering 44% positivity rate. For comparison, the school district's mask exit strategy calls for the positivity rate to be below 10%. Gunnison

County was near a 10% positivity rate for most of 2021. Centers for Disease Control and Prevention (CDC) data show that the 44% positivity rate is the highest the metric has climbed in the county since the pandemic began.

Leslie Nichols, Gunnison Watershed School District superintendent, said Monday that she remains confident that schools will stay open. And GVH CEO

Council COVID A6

City to use COVID funds for sewer upgrade

Increased capacity will
support Gunnison Rising

Bella Biondini
Times Staff Writer

The City of Gunnison plans to use over \$1.6 million in COVID recovery funds to upsize main sewer lines and remove pinch points that could restrict the growth of future housing developments.

Gunnison received the funds from the Coronavirus State and Local Fiscal Recovery Funds program toward the end of 2021. The award, granted for COVID relief to governments across the country, is only eligible for certain uses including addressing public health and negative economic impacts, providing pay to essential workers and investments in water, sewer and

Council A5

Airport navigates busy holiday season

Lodging projections
stay strong

Bella Biondini
Times Staff Writer

Despite winter storms and ongoing construction, the Gunnison-Crested Butte Regional Airport successfully navigated the holiday season as the number of visitors flowing through the facility dramatically increased.

After some airport facilities were moved outside during the summer months, staff began moving all of its operations indoors after Thanksgiving, just in time for the arrival of ski season flight increases. The first week of January kicked off the biggest booking week of the year, with momentum driven by the recent snow accumulation at Crested Butte Mountain Resort.

Airport Manager Rick Lamport said the pre-ski flight season was difficult because "we

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OPINION

COMMENTARY

COVID has moved on, we have not



Alan Wartes
Times Publisher

When the retrospective story of the time of COVID is finally written, I predict that hundreds of thousands of those pages will be devoted to a single burning question: How did a virus with such a small fatality rate, and mostly threatening only a limited stratum of the population, ever manage to inspire so much fear and self-destructive overreaction in everyone else?

They will also certainly ponder how it came to be so risky for someone like me to say such a thing in public; how these few months put the practice of our cherished First Amendment rights so steeply into retrograde. Sadly, they'll have many examples of bannings, firings and other sanctions to study.

I expect those historians and sociologists will be inclined to give us all a pass for the first few weeks of 2020, when so much was unknown and some really big-brained people were turning out scary estimates of just how bad this thing was likely to get. Millions and millions dead, they calculated. Under those circumstances, caution is most definitely the better part of valor.

Back then, the idea was to "flatten the curve" and slow the arrival of what was widely accepted as inevitable: the infection of nearly everyone, and the protective "herd immunity" that this would confer. The reason for going

slow was a good one, to keep the consequences from arriving all at once and overwhelming our capacity to keep up. Fair enough.

But it didn't take long for actual numbers and real research to start accumulating and for early predictions to be revealed as massive overstatements. Yes, it was tough there for a bit, but not anywhere near as bad as we first feared.

That should have been good news, a cause for celebration. It might have signaled that we could devote ourselves to safeguarding the vulnerable (using verifiable data to define that demographic), but stand down from DEFCON 1 so that we didn't unnecessarily scorch the economic and social earth in every direction.

Clearly, that didn't happen. Somehow, the narrative morphed from managed adaptation to a novel virus to a no-holds-barred strategy of zero spread and total victory — even though many in the medical

community disputed the feasibility and the wisdom of such an approach.

Why? It will be for those future thinkers — when the panic has subsided — to try and nail down definitive answers. For now, we can only do our best to untangle the knot of conflicting studies and contradictory policies and competing narratives to find a way forward.

And we very much need to find a way forward — one that reinstates our ability to talk calmly together and consider multiple possibilities, not just those that are approved by officialdom. The way forward we need so badly will put basic principles of logic and the (real) scientific method of inquiry back into the tool box. It will welcome dissenting voices as necessary to the process of investigation and discovery. It will separate imagined dangers from real ones and take seriously the collateral damage to vital social and economic interests that follows overly restrictive public health policy.

Current events in the Gunnison Valley (and beyond) perfectly illustrate this need. That shift in narrative I spoke of a moment ago — from managing spread to stamping it out entirely — has trapped us now in a conundrum. We're stuck measuring positive test results alone while seemingly unable to evaluate what they really mean,

given changing threat levels. There's no doubt now that the omicron variant is a long way from where we started — more transmissible, sure; but radically less dangerous, according to all available evidence.

Could another, more dangerous variant yet emerge? Sure. Then again, maybe not. Ignoring today's favorable conditions to hedge against a theoretical development tomorrow — at enormous social and economic cost — is a strategy that has outlived its sensibleness, if ever it had any.

Judging solely by the numbers we report in today's *Times* you could conclude that COVID is back in force. But another possibility presents itself, if we allow ourselves a different way of looking. The chief source of disruption right now is not severe illness — it's outdated and overly restrictive CDC quarantine guidelines in the face of a variant proving itself to be on par in severity with the common cold. The virus has moved on, but we have not.

In this sense, much of the present impact of critical staff shortages in our community might just be self-inflicted. I hope those future historians are able to write that we figured that out sooner rather than later.

(Alan Wartes can be contacted at 970.641.1414 or publisher@gunnisonintimes.com.)

GUEST COMMENTARY

Can the Law of the Colorado River adapt to an increasingly drier hydrology?



John McClow
Special to the Times

The Gunnison River is a major tributary of the Colorado River. The Colorado River Basin has suffered from drought conditions throughout the 21st Century. The two major reservoirs in the Colorado River System, Lake Mead and Lake Powell, are at historic and dangerously low storage levels. Locally, Blue Mesa Reservoir is a stark illustration of the effects of the current dry conditions. Scientists are warning that "drought" is a term that no longer applies because it implies a temporary condition from which the Basin will recover. A more accurate term is "aridification" because the conditions we have experienced during the past 20 years will continue — or worsen — for the foreseeable future, as hotter and drier conditions make matters worse. Recently published projections indicate that river flows may decline 20% by midcentury and 35% by the end of this century. There is debate about the causes of the decline, but little disagreement that it will continue to happen. Can the Law of the Colorado River

— numerous compacts, federal laws, court decisions and decrees, contracts, and regulatory guidelines, founded on a one hundred-year-old Compact — adapt sufficiently to meet the challenge of aridification?

A Brief Summary of the Law of the Colorado River

The foundation of the Law of the River is the Colorado River Compact, signed by the seven Colorado River Basin States and the United States in 1922. The Compact is a contract among the signatories ratified by the seven states and Congress and became state and federal law. The Compact divides the Colorado River Basin into an Upper Basin (Colorado, Wyoming, Utah, New Mexico) and a Lower Basin (Nevada,

Arizona, California). It apportions to the Upper and Lower Basins the beneficial use of 7.5 million acre-feet of Colorado River water per year. It requires that the states of the Upper Basin will not cause the flow of the river to be depleted below an aggregate of 75 million acre-feet for any period of ten consecutive years — measured at Lee Ferry, the dividing point between the basins. It also describes how the basins will share water delivery to Mexico. The Compact contains no reference to "curtailment" or a "Compact call."

In the 1928 Boulder Canyon Project Act, Congress authorized construction of Hoover Dam (Lake Mead) and directed that the 7.5 million acre-feet allotted to the Lower Basin under the 1922 Compact be apportioned: California, 4.4 million acre-feet; Arizona, 2.8 million acre-feet; Nevada, 300 thousand acre-feet.

The United States signed a treaty with Mexico in 1944 that guarantees an annual delivery of 1.5 million acre-feet of Colorado River water

to Mexico. In 1948, the Upper Basin States signed the Upper Colorado River Basin Compact, which apportioned the 7.5 million acre-feet allotted under the 1922 Compact: Colorado, 51.75%; Utah, 23%; Wyoming, 14%; New Mexico, 11.25%. The 1948 Compact created the Upper Colorado River Commission (UCRC), consisting of a commissioner appointed by the governor of each state and a federal Commissioner appointed by the president of the United States. It also provides that if curtailment of use in the Upper Basin is necessary to maintain the flow at Lee Ferry required by the 1922 Compact, the UCRC will determine each state's extent and timing of curtailment. It is important to note that neither the 1922 Compact nor the 1948 Compact affect water right administration within the states. In Colorado, that authority remains vested in the state engineer.

In 1956, Congress passed the Colorado River Storage

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Project Act (CRSP). The Act authorized construction of the reservoirs, dams and power plants of the initial units of the Project: Wayne N. Aspinall (originally the Curecanti Unit), Flaming Gorge, Navajo (reservoir and dam only), and Glen Canyon (Lake Powell), along with numerous participating

projects, "making it possible for the States of the Upper Basin to utilize, consistently with the provisions of the Colorado River Compact, the apportionments made to and among them in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively." The CRSP power plants are an important source of hydro-power in the Western United

States, and the revenue from the sale of that hydropower supports operation of the Project and important salinity control and endangered fish recovery programs.

The Colorado River Basin Project Act, passed by Congress in 1968, authorized construction of the Central Arizona Project (CAP), which can divert 1.5 million acre-feet from the

Colorado River to central and southern Arizona. Construction of the CAP allowed Arizona to develop its full apportionment of Colorado River water. The act confirms California's senior priority to 4.4 million acre-feet of Colorado River water, meaning that Arizona and Nevada must bear any shortage in the Lower Basin.

Next week will be part two:

adapting the law of the river for a dry hydrology.

(John McClow is the general counsel for the Upper Gunnison River Water Conservancy District.)

LETTERS

Vandenbusche, the Gunnison Valley icon

Editor:

I join the growing sentiment in support of Dr. Duane Vandenbusche during his recent ordeal. He has been a coach, mentor and trusted friend to me since 1972 while attending (then) Western State College.

He is well known throughout the Gunnison and Crested Butte communities, the Western Slope and Colorado for his overall knowledge and expertise of history and coaching. I only hope now multiple people at the university will step up and do all the positive things Duane has done over the 60 years he has been here. He has done so much more than expected for past and present students and community members over the years that will be hard to replace.

Don't let one event tarnish the many years he has supported all here in the valley as well as throughout the state. How many professional sports people have had issues over the years and yet still get to play, sign bigger contracts and remain lions in their sport and community? Forgive and forget, folks! Time to move on and have someone on the staff at Western be as productive or more as Duane has been. Enjoy retirement, Duane, for you deserve it.

Frank Mencin
Montrose

Questioning challenge to GOP

Editor:

Hello there, David Haedt. It may be safe to say that many folks who harbor lifelong in their comfort zones don't value someone else's opinion, perhaps this displays an internal flaw within the benevolent side of their inhumanity, but I do value what others have to say if they say it rightfully.

That being said, I have a few questions to pose concerning your recent letter titled: "Challenge to local GOP."

Concerning the University of Massachusetts at Amherst poll you stated in the letter, did the school's political writer, Tatisha Nreta, write it? The vast majority of poll sites I checked pretty much agreed with one another that around 71% of Republicans and Republican-leaning independents still believe the 2020 election was 'stolen' from Mr. Trump, leaving 29% who believe the election was legitimate. So where did your 6% number come from? I mean, even NPR's very blue political writer Domenico Montanaro disagrees

with your figures.

You also referred to a Colorado State Representative named "Tom Hanks," cool. Did you mean the talented actor? Because there is a Colorado Rep from District 60 with the name of Ron Hanks, who ran and lost in California a bit ago, but, unfortunately, no Tom Hanks that I'm aware of in our legislature.

In regards to Mr. Trump and his ego-fueled fixation on his alleged 'stolen' election, I'm looking forward to that opinion letter from you concerning Hillary Clinton and Stacey Abrams' stolen election claims, and your insight on how come the Democratic National Committee got away with paying for a proven bogus hit-piece 'dossier' on a sitting president they despised. Oh, and I almost forgot, why any GOP politician would actually be naïve enough to discuss voting law changes (Shh... don't tell anybody, Ms. Alcindor, so we can win), to a deeply partisan "journalist," such as PBS' Yamiche Alcindor.

Mr. Haedt, the local GOP has nothing to be ashamed of around here, besides holding no offices of power, but the Democrats in Washington, D.C. surely do.

Jon Matuszczak
Gunnison

Handling of Vandenbusche case demonstrates dereliction of duty

Editor:

Recent reporting by the *Times* highlighted the case against Dr. Duane Vandenbusche, a distinguished Western Colorado University history professor of 60 years who has maintained a large community and statewide profile. The March 2020 incident, which allegedly included sexist and derogatory comments towards a female Western employee, reportedly also involved Vandenbusche slapping the woman twice and forcing her to hug him.

As reported by the *Times*, the woman involved in the incident alleges that Vandenbusche has a history of making misogynist remarks towards her that spanned several years. Vandenbusche pled guilty to the harassment charge on Dec. 15, receiving a plea deal which will keep him out of prison and which dropped the more severe assault charge (which carries a maximum of 18 months jail time.)

His punishment includes a year-long probationary period, the coverage of court costs (less than \$250), fewer than 50 hours of required community service

and the completion of a sexual harassment course. Should he complete these terms adequately, the harassment charge will be dismissed and the court case sealed.

Legal matters aside, Vandenbusche's resignation was finally called for by Interim President Nancy Chisholm after the court appearance and guilty plea and officially announced in an all-campus email from President Chisholm on Dec. 17. The grievance report filed by the injured party was received by Western's Human Resources Department in mid-January 2021, and a police report was later filed in mid-February.

Yet, Vandenbusche remained in the classroom during the spring of 2021 and through the recently completed fall semester (teaching a half load), even after charges were filed in May 2021 and the 83-year-old Vandenbusche appeared in court in August 2021. As mentioned in the article, Vandenbusche also acted as a critical component of the "Elevate Western" fundraising campaign and played a large role in the October Homecoming festivities.

The whole Vandenbusche saga raises several questions, beginning with why Vandenbusche was not suspended during the legal proceedings. Was it his reputation and status within WCU and amongst the greater Gunnison Valley that sheltered him from more immediate consequences? What message is the university sending to Western donors that a key person in the fundraising campaign was actively under legal investigation for harassment and assault, and yet was allowed to continue teaching on campus and serve as the face of a multimillion-dollar donor campaign?

Let's set aside the financial concerns to focus on the most important matter: safety. With the decision not to suspend Vandenbusche during the legal and investigation process, it is clear that the reputation of a long-tenured professor with deep-seated community ties and connections was prioritized over the immediate safety and well-being of students and other faculty and staff at Western. What are parents of young students, particularly women, to think of the Vandenbusche case should they stumble across it online?

In keeping Vandenbusche in the classroom, former President Salsbury and Interim President Chisholm, amongst other top Western administrators, failed in their duty to protect WCU's community, and the university's broader reputation, against someone credibly accused of

assault, sexual harassment and repeated instances of gender-based discrimination, including incidents in front of multiple witnesses.

Students, parents and other interested parties should not be initially hearing of such a serious incident from their local newspaper nearly a full calendar year after it was first reported, and more than 20 months after it initially occurred.

Western must do better moving forward to rapidly respond to allegations on this scale with swift and meaningful actions. This should include issuing suspensions amidst thorough internal investigations, and relaying clear communications outlining both process and consequences to students, faculty, staff and the broader Western community.

Brian Wagenaar
Student
WCU

Happy and Healthy New Year

Editor:

Shalom B'nai Butte and Friends! Happy and Healthy New Year! We begin 2022 optimistic for the future despite the COVID pandemic challenges.

Jewish tradition proffers the teaching of four different New Years. Rosh Hashana — the new year birthday of the world (September), Tu B'Shevat — the birthday for trees, a Jewish earth day (January), first day of Elul — new year for cattle and animals (August), first day of Nisan — New Year for the Jewish people redeemed from Egyptian slavery, and a recognition of Kings and taxes (March/April). We also observe the new year calendar cycles in the lands and times we live. Thus, we wish each other a good, happy, and healthy new year 2022.

The new year dates above come from the Mishna written some 2,000 years ago and are occasions to mark time meaningfully and opportunities to shift our ways to better our lives. A teacher once shared with me that changing one's direction by a single degree will lead one along a different pathway. Perhaps, intentions for the coming year are preferred instead of resolutions.

As we deal responsibly with the uptick in COVID cases we will not be meeting in person next weekend, Jan. 14-16 as planned. Instead, with the intention for our community to connect we will meet virtually for a Shabbat experience, Torah learning and online socializing. Stay tuned for details and links. Our intention is to meet in person next month.

I am hopeful that we consider our best intentions for the coming year and follow through on those aspirations. Here are intentions to consider: self-care and compassion, kindness and openness to others, and learning and engaging your Jewish sensibilities.

With this in mind I note the coincidence that my first Shabbat together with B'nai Butte last month was Hanukkah and this Shabbat's Torah portion is Bo. Both consider darkness and light. On Hanukkah, we light the Menorah, ever expanding light amidst darkness. The portion of Bo describes the last three plagues, including the ninth plague, darkness. This next-to-final plague described in Exodus 10:23 has the Israelites enjoy light, while the Egyptians suffer thick, stifling darkness. In all likelihood, this deep darkness left the ancient Israelites grappling with their faith and what the future would bring. This overwhelming darkness had the feeling of desperation and fear. The imagery of both pervasive darkness and pockets of hopeful light plaguing our ancestors resonate with us today. Sometimes, our current times feel heavy with darkness and despondency. However, there are always pockets of light, hope and shalom. I pray that we embrace this intention for 2022. Know that darkness plagues our world. Yet, at the same time, there are profound and powerful lights of redemption moving us in a positive trajectory.

Please be in contact if I can be of support or if you simply wish to talk. I look forward to celebrating Shabbat virtually with you next week and my visit Feb. 11-13, 2022.

Much Blessing and Shabbat Shalom!

Rabbi Mark Kula
B'nai Butte

LETTERS POLICY

The *Gunnison Country Times* welcomes Letters to the Editor. Letters should be under 700 words, clear, concise and free of profanity or inflammatory language. They can be mailed to our office at 218 N. Wisconsin in Gunnison, delivered in person or, preferably, e-mailed to: editor@gunnisonstimes.com. All letters must be signed and include a phone number. Anonymous letters will not be printed. We cannot guarantee that every letter will be used, but we do try to reflect the viewpoints of the community, subject to our space limitations. We reserve the right to edit letters for grammar, clarity or space.

PEOPLE & HAPPENINGS

Western Movie Tryouts

Come try out for a locally-shot western film written by Sam Schaefer and John Mark Sibley. Auditions will occur Jan. 18-20 at 5:30 p.m. and will be on the university campus in Taylor Hall, room 130. If you have any questions, reach out to John and Sam at johnymarky@gmail.com or samantha.schaefer@western.edu. We will be eager to hear from you.

Living Journeys

Living Journeys hosts free, confidential support group meetings that are open to all Gunnison County residents. Experienced professional therapists facilitate meetings in-person and via Zoom, no RSVP required.

Our Conscious Caregivers Support Group and the Navigating Grief and Loss Support Group are open to all situations — the care or loss does not need to be cancer-related. Find out more at livingjourneys.org.

Upcoming Support Group Meetings:

Monday, Jan. 17 at 6 p.m.: Cultivating Hope Cancer Support Group

Monday, Feb. 7 at 6 p.m.: Conscious Caregivers Support Group

CB Museum Nordic Ski and Snowshoe Event

Join the Crested Butte Museum on a historic nordic ski and snowshoe out to the magic meadows yurt on Jan. 30 from 11 a.m.-2 p.m. Learn about the history of the area, including the Big Mine, Peanut Lake Mine, Pittsburg and Augusta Mines during the trip out to the yurt and enjoy a light lunch and a refreshment of your choice. This trip meets at the Crested Butte Nordic Center. The cost is \$50 Members (Museum and/or Nordic Center) and \$65 for non-members. There is a \$15 optional ski or snowshoe rental.

League of Women voters of the Gunnison Valley

Many programs of interest are on tap locally, state and nationally. Think about your interests and how you'd like to participate. Topics range from Colorado health care, voting rights, voting methods and voter security, housing, food security and much more.

Follow the calendar on our

website and announcements on LWVG Facebook Page.

Mental Health Topics

Executive director for the GVH Foundation, Jenny Birnie will lead a panel discussion on mental health topics, including partnerships with law enforcement. Mariah Davidson and Kimberly Behounek are expected to be part of the panel. Join the Zoom meeting on Jan. 11 at 11:30 a.m.

Defending Democracy Webinar on Voting Rights

On Jan. 11 from 5-6 p.m., LWVG is co-sponsoring this event with LWV Piedmont, California. The speaker will be Carol Moon Goldberg, president of LWV California.

Visit lwvgunnison.org to register and attend.

The Gunnison River Festival

The 2022 Gunnison River Festival Board of Directors are just beginning to plan for the three-day 20th Anniversary of the Gunnison River Festival. The title sponsor of the festival continues to be the Upper Gunnison River Water Conservancy District.

A full schedule of programming will be released in the Spring of 2022, but rafting, kayaking, a foot race and educational clinics throughout our watershed are anticipated. Watch the festival website at gunnisonriverfestival.com for updates.

Gunnison Gallery "Ice Art Show"

Local artists entered photos embracing the beauty of the ice of our winter season and the \$5 entry fee was donated to the Gunnison Country Food Pantry. The photographs show amazing ice circles, heart shaped ice, fern window frost, frozen ice close ups and frozen lakes with skaters. Stop by 124 N. Main Street to see the show on display until Jan. 29.

Call 970.641.6111 for more information.

"The Quickborn Odyssey"

Local Crested Butte author Phil Coleman's debut novel releases on Jan. 13. "The Quickborn Odyssey" is a juvenile (ages 9-15) fantasy adventure that takes place in a bizarre, comical and outlandish setting at the end of the world. An author event and reading will be held at the Old Rock Library in Crested Butte as part of Messy Mondays at 3:45 p.m. on Jan. 31.



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How will you make an impact? #MentoringAmplifies

THANK YOU TO OUR 2021 MENTORS!

Callie Acre
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AJ Alt
Asher Arell
Alyssa Atzenbeck
Charles Auran
Sidney Bare
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Brianna Baros
Chloe Beaupre
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Kara Boothe
Liz Boyatt
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Nathan Chubbuck
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Andrew Diehl
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Celestina Dofez
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Noelia Espinoza

Ricardo Esqueda
Joseph Evan
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Zach Flanders
Hayes Freeman
Dan Gagen
Grecia Garcia
Skyler Gardner
Jefferey Gearhart
Daniel Gomez
Anna Goodin
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Bailey Hosier
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Hannah Hyde
Heidi Immel
George Kamberelis
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Elhan Kaufmann
Ginny Kaulike
Lance Lakoski

Sami Lakoski
Caleb Linville
Evelyn Loperfido
Billy Loring
Mark McCoy
Kelsey McDonald
Tina McGuinness
Megan Jelinek
Patrick Mcwain
Elizabeth Mense
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Jessica Noll
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Dori Scott
Valeria Scribner
Elizabeth Shaw
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Elizabeth Dawn Sietz
Petar Simic
David Sneesby
Juliet Stillman
Tom Stumpf
Brian Sutphin
Nocona Swindell
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Oliver VanTiel
Erica Vernon
Nancy Vogel
Mitchell Volz
Ivy Walker
Erik Wasinger
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Ethan White
Josh Whitton
Veronica Wilde
James Woodberry
Payton Wyckoff
Charles Young
Jill Young
Chloe Zimmer

GVM BOARD OF DIRECTORS 2021

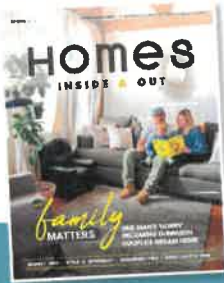
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A CALL FOR PHOTOGRAPHERS



ARE YOU A PHOTOGRAPHER, REALTOR, BUILDER...ETC?

WE'D LOVE TO SHOWCASE YOUR WORK IN OUR 2022 HOMES INSIDE AND OUT MAGAZINE.

Contact Sales Director Bobbie
bobbie@gunnisontimes.com
DEADLINE FOR SUBMISSIONS:
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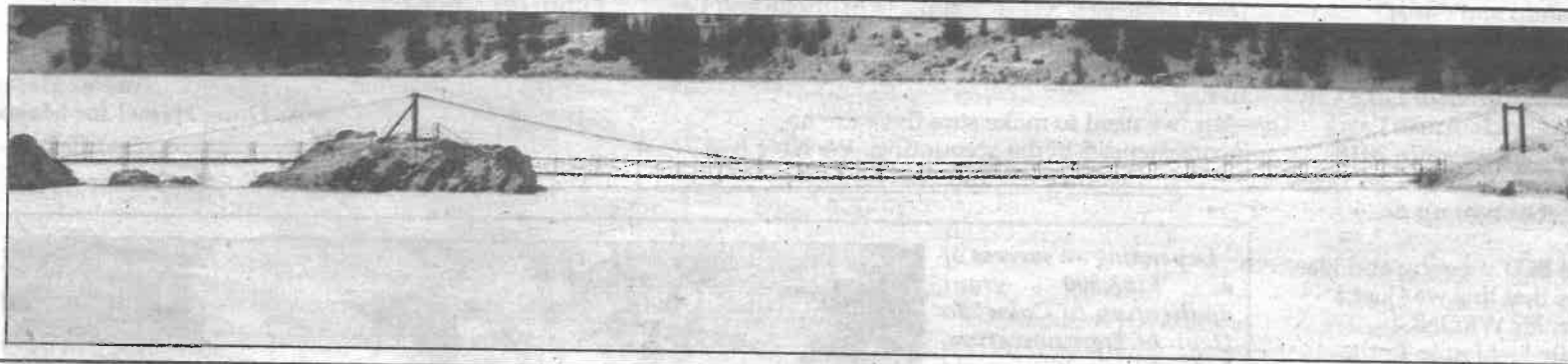
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Peninsula Park's notable suspension bridge at Lake San Cristobal will be brought up to public safety code as the result of a \$56,000 county contract with Terry Klug to install a gridwork railing and added support to the bridge's vertical cables.

Peninsula Amenities

County Commissioners finalizing plans for structural retrofit of suspension bridge, upgraded toilet facilities, ADA-accessible fishing pier

Hinsdale County is making great strides with its development of environmentally-sensitive, public-friendly improvements at its new Peninsula Park at Lake San Cristobal.

Public improvements at the lake are being funded as the result of a lively scramble for donations and philanthropic grants under the oft-repeated mantra that no county funds will be spent on the endeavor.

Peninsula Park on the Morning Side Lode Claim adjacent to the existing county boat dock, was acquired last year for \$1.45-million thanks to a \$1.305-million award from Colorado Great Outdoors and public donations resulting in a \$218,000 match.

Purchase of the well known lake peninsula property was just the start of the process, however, as

the county board, headed by Commissioner Kristie Borchers, continues work with the public and Walker Christenson's DHM Designs out of Durango, Colorado, finalizing low-environmental impact improvements while also providing public amenities at the intensely popular recreation area.

As former county grant writer prior to being elected District 2 Commissioner, Borchers is once again heading up efforts to pay for the envisioned amenities with outside dollars.

Success to date includes continued largesse of the Ben Brownlee Memorial Fund, as well as a succession of grant funding from the Colorado-based Anschutz, Gates, and El Pomar Foundations.

The Colorado foundations, together with \$13,770 from Brownlee, will fund the peninsula's first major brick-and-mortar construction, a new concrete-encapsulated two-room restroom which will replace the existing 1970s-era facility serving the county boat dock.

Spearheaded by Commissioner Greg Levine, CXT, Inc., of Nampa, Idaho, has been awarded the bid for a \$52,654 precast two-room toilet with subsurface double concrete vault, concrete siding replicating barnwood and concrete gabled roof in shake shingle

pattern which will be delivered to Lake City and put in place at the county boat dock sometime later this spring. CXT was one of two bidders — the other being Missoula Concrete — which bid on the project.

County Commissioners have budgeted up to \$61,000 for the Peninsula Park toilet project, the figure including actual cost of manufacture, delivery, and installation, plus related costs of demolition of the existing frame, two-room, two-toilet outhouse which was built in 1979.

Demolition costs, which are included in the total anticipated cost figure, include Hinsdale Road & Bridge demolishing the old structure and hauling the debris to Gunnison landfill, dump fees, pumping costs in advance of demolition and excavation to remove the existing single vault in preparation for the new double vault.

The new restroom (see conceptual view/page 3) will be a much larger facility with two doors for ADA unisex double-units facing east and with vault pumping access to the rear of the building facing west.

The new gabled concrete design is the prototype for other toilet facilities which will be erected at Lake San Cristobal in the future and which are tentatively planned — funding yet to be identified — to replace outdated existing bathroom facilities at the county's Wupperman Campgrounds and Red Mountain Gulch Day Use area.

At the county board's January 5 meeting approving CXT's bid for the Peninsula Park restroom, Commissioners Borchers, Hurd, and Levine also approved optional added costs for the bathroom to include \$100 hand sanitizers to be included in each

continued page 3

**New Town Park
Restroom Planned
with CDOT Funding**



Planned improvements at Lake San Cristobal prior to summer, 2022, include removal of 1970s-era outhouse at Peninsula Park, above, and replacing it with a \$52,654 concrete restroom, above right, fabricated and installed by Idaho-based CXT, Inc.

the notable suspension bridge which was acquired in the land purchase.

The suspension bridge dates to Brad Griffiths' ownership of the property prior to Hinsdale County's purchase of the property. It was designed by a Telluride, Colorado, engineer and built by Terry Klug of Cowboy Steel.

Since county acquisition of the property, the bridge has been



closed to the public but may now reopen this summer with certain parameters, notably necessary public safety improvements and closure with no public access during Canada Geese breeding and nesting season.

The suspension bridge connects the south end of the peninsula to several atoll islands which extend out into Lake San Cristobal. At the extreme south end of the property and completely surrounded by water is a small island which, in addition to stupendous views, is noted for its cactus colonies and an historic geese nesting ground.

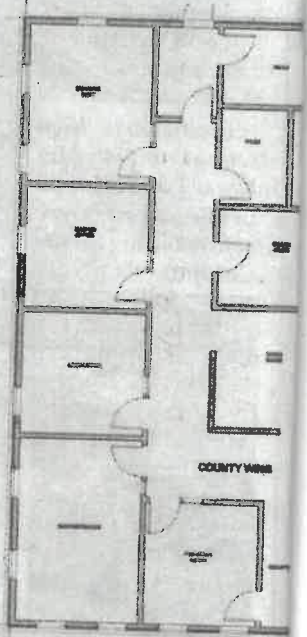
For the bridge project, Commissioner Robert Hurd has worked with Klug who is noted for his blacksmith and metalwork skills. At the county board's Wednesday, January 19, meeting, commissioners reviewed and voted to accept Klug's \$53,634 bid for public safety re-enforcement of the bridge, including a \$21,450 prepayment for materials. Metal for the project was delivered as of last week, and Klug is scheduled to begin work late this winter and into spring in advance of a tentative summer, 2022, bridge reopening.

Money covering the \$21,450 prepayment is the result of a \$19,800 award to the project from the Ben Brownlee Memorial Fund administered by Lake Fork Valley Foundation, specifically donations to the fund which were made by Jennifer Brownlee and Dr. and Mrs. Lee Rutherford.

Ironworker Klug is identified as a sole-source contractor for the county, and no other bids were sought for metalwork on the bridge retrofit project. Criteria for accepting Klug's sole bid for the bridge work consists of his work fabricating and installing the metal fire escape at Hinsdale County Courthouse and the fact that he built and installed the suspension bridge for the original owner.

Klug's retrofit of the suspension bridge will include fabrication of two hinged entrance gates on either end of the bridge and installation of new metalwork to bring the bridge up to code for public safety.

Metalwork consists of reconstructing the bridge's railing up to mandatory 42" height and installing a metal



Lake Amenities,

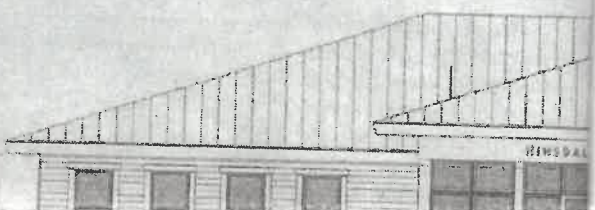
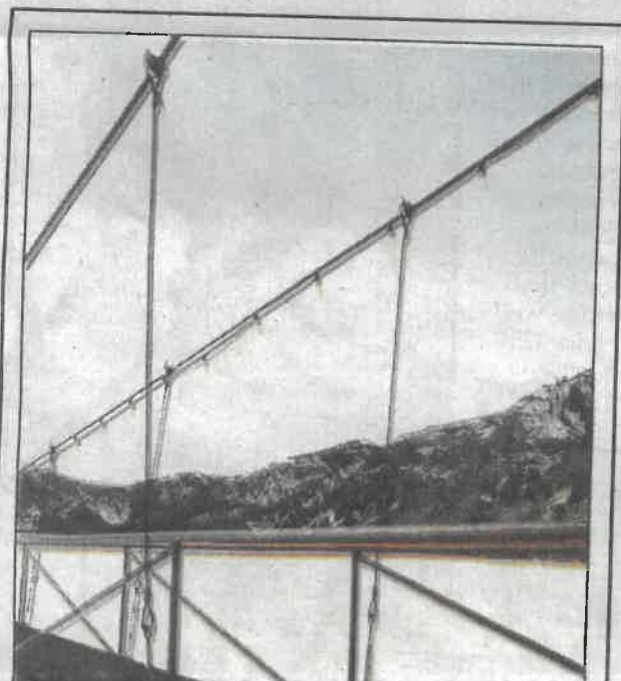
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room, \$1,800 for a solar illuminating kit lighting the structure, and \$1,500 solar-powered fan for ventilation.

In addition to a new restroom, Peninsula Park is slated for a handicapped-accessible fishing pier, together with walkway from the existing parking area, which is being funded through a \$150,000 Colorado Parks & Wildlife "Fishing is Fun" grant awarded last year.

The pier and walkway is scheduled for construction in 2022, final details now awaiting a waiver from Army Corps of Engineers for the construction utilizing innovative helical piers extending out into the water on the north side of the boat dock cove. Above water level, the pier will be built with weather-resistant composite decking material requiring minimal maintenance. Depending on cost requirements for the pier and walkway, both designed to ADA requirements, any residual funding from the \$150,000 grant might go toward additional boat slips at the boat dock.

Simultaneous with funding which has been obtained for the new fishing pier, walkway, and restroom facility, Hinsdale County is finalizing funding sources for public safety improvements to



Lake Amenities,

continued from page 3

county administrator, finance, and building enforcement officer.

The building would be built with possible expansion through the addition of a second story at some point in the future, conceptual design by Crested Butte architect Ben White whose talents assisted in the restoration of Hinsdale County Courthouse several years ago, and architectural design of the Wee Care building at 5th and Henson Street.

A primary funding source for the new sheriff/administration building is Colorado Dept. of Local Affairs' Energy Impact funding which is tailored to state communities which have historically impacted by extraction of energy resources such as mining.

Cost of the new county building is roughly estimated in the \$1.2 to \$1.25-million range and, in addition to Energy Impact, would require a hefty local match.

Hinsdale County's earlier Energy Impact funding application for financial assistance on the new administration/sheriff's building was declined last fall, since which time commissioners have been working with Dept. of Local Affairs representative Dana Havac to remedy perceived shortfalls in the application.

Among the elements being beefed up in advance of a planned September, 2022, resubmittal for Energy Impact to aid in construction of the new county building is a "robust" inventory of the county's assets for which \$10,000 was budgeted in 2022; also needed prior to application is subsurface archaeological review of the site to be carried out by Alpine Archeology of Montrose and, a major component, indepth drawings — one step down from formal construction plans which are put out for bid — of the envisioned new building.

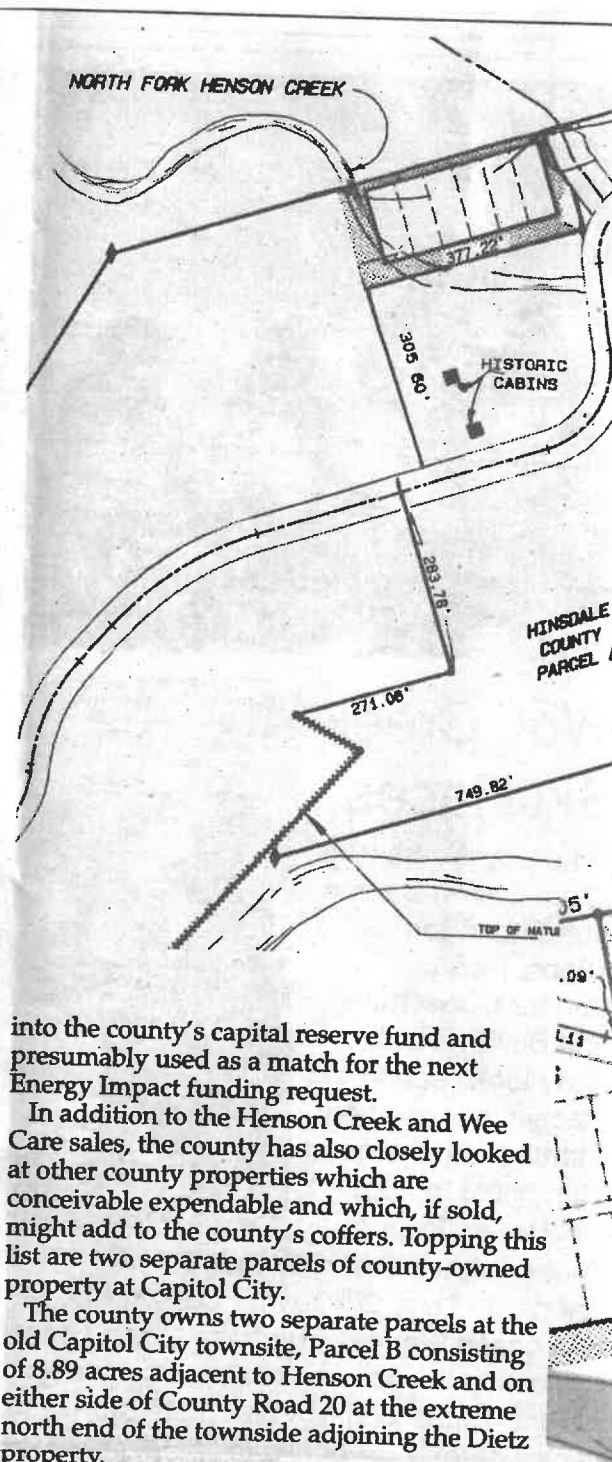
For the new indepth plans of the structure, Crested Butte architect Ben White has once again been drafted. White is somewhat familiar with the project after initially preparing basic conceptual drawings showing the rough dimensions and interior makeup of the new building with central meeting room separating offices for county administration and county sheriff departments.

Also lacking in the county's initial 2021 Energy Impact application which was denied was a definitive source for where the county's requisite matching funds would be derived.

Toward that end, the county has taken a close look at its sundry real estate holdings and that is the driver for the county's decision to sell the county-owned Mt. Morris Claim near the mouth of Henson Creek and the Wee Care property at 5th and Henson Street.

As previously reported, the Mt. Morris Claim is under contract to Josh Gray for \$20,000, although its sale is complicated as the county attempts to clear convoluted title to the property. Also under contract with a February 28 closing date is sale of the five lots and Wee Care building for \$300,000 to Hinsdale County School District.

Proceeds from both the Mt. Morris and Wee Care property sales, if both sales are culminated, would go



into the county's capital reserve fund and presumably used as a match for the next Energy Impact funding request.

In addition to the Henson Creek and Wee Care sales, the county has also closely looked at other county properties which are conceivable expendable and which, if sold, might add to the county's coffers. Topping this list are two separate parcels of county-owned property at Capitol City.

The county owns two separate parcels at the old Capitol City townsite, Parcel B consisting of 8.89 acres adjacent to Henson Creek and on either side of County Road 20 at the extreme north end of the townsite adjoining the Dietz property.

Hinsdale County also owns more expansive Parcel A consisting of 14.64 acres at the intersection of CR20 and the North Henson Creek Road, and including the well-known historic Capitol City Post Office building and a smaller adjoining cabin which was historically used as a blacksmith shop.

In order to separate the parcel to retain the corner block with the two historic structures from the remainder of the land, a boundary line adjustment will be required using CR 20 as the separation.

At the commissioners' January 19 and February 2 meetings, it was suggested that the Parcel B property is marketable at this time with plans for a survey of the property, and a listing agreement which will be arranged with either of Lake City's local Realtors; commissioners will identify a price for the land through research of similar properties and advice from the listing agent. Preparations to sell the Parcel A land excluding the corner where the historic structures are located is more complicated

gridwork on both sides of the public bridge walkway with the challenging goal of eliminating any open gaps in excess of 4" width.

From an engineering standpoint, the peninsula bridge's support structure consists of vertical cables utilizing a combination of adjustable 1/2" and 3/4" turnbuckles, all of which under terms of Klug's contract with the county will now be upgraded to 3/4" turnbuckles with the goal of added vertical suspension in terms of public safety.

Even with the added structural support, the county will be posting signage advising a weight limit on the bridge with a maximum number of people on the bridge at any given time.

Based on Klug's \$56,634 bid and the fact 40 percent — \$21,453 — has now been pre-paid for materials, a \$31,500, 60 percent, funding gap remains, the sources of which need to be identified between now and late this coming spring. Hinsdale Commissioners are scratching their heads as they ponder sources for those funds, including the potential of a T-Mobile grant which is being looked into by Commissioner Levine, and the possibility of a \$5,000 AARP (American Assoc. of Retired People) challenge grant which is geared to safety improvements benefiting individuals age 50 and up.

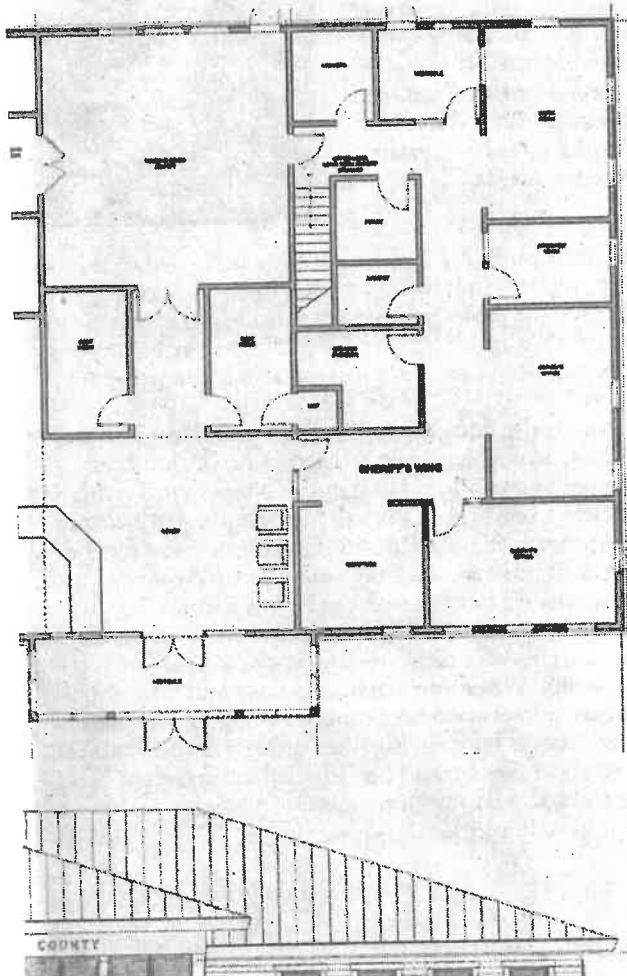
Also a potential to fund the \$31,000 bridge retrofit project are two Lake Fork Valley Foundation grant requests, \$2,500 each, which may be submitted prior to next month's deadline citing two specific projects for bridge guardrail and gate fabrication/ installation.

Hinsdale Commissioners will issue their annual "State of County" report on the county's 148th birthday on February 10. In that report, the county highlights successes such as the Peninsula Park acquisition and ongoing improvements with bathrooms, handicapped pier, and suspension bridge retrofit.

The report also cites upcoming funding challenges such as asphalt paving or overlay of the four-mile section of County Road 30 between State Highway 149 and the inlet to Lake San Cristobal. Other funding challenges for the cash-strapped county include a new 5,500-s.f. single story frame building to be built on the site of the old county road & bridge building at the southwest corner of 4th and Henson Streets.

The new facility would consist of a public meeting room, on either side of which in equal proportion would be offices for Hinsdale County Sheriff and county administration offices such as commissioners,

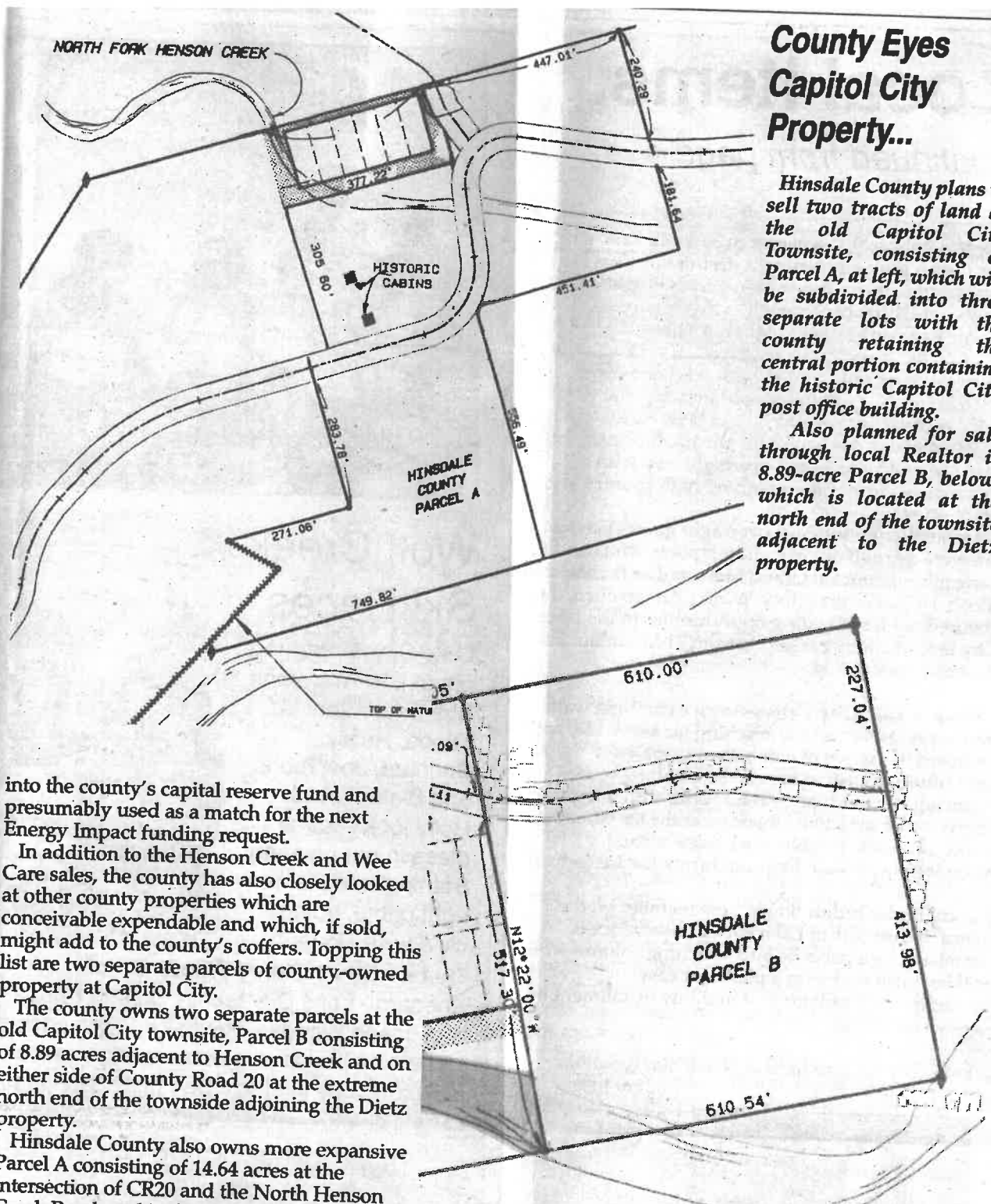
continued page 6



County Eyes Capitol City Property...

Hinsdale County plans to sell two tracts of land at the old Capitol City Townsite, consisting of Parcel A, at left, which will be subdivided into three separate lots with the county retaining the central portion containing the historic Capitol City post office building.

Also planned for sale through local Realtor is 8.89-acre Parcel B, below, which is located at the north end of the townsite adjacent to the Dietz property.



into the county's capital reserve fund and presumably used as a match for the next Energy Impact funding request.

In addition to the Henson Creek and Wee Care sales, the county has also closely looked at other county properties which are conceivable expendable and which, if sold, might add to the county's coffers. Topping this list are two separate parcels of county-owned property at Capitol City.

The county owns two separate parcels at the old Capitol City townsite, Parcel B consisting of 8.89 acres adjacent to Henson Creek and on either side of County Road 20 at the extreme north end of the townsite adjoining the Dietz property.

Hinsdale County also owns more expansive Parcel A consisting of 14.64 acres at the intersection of CR20 and the North Henson Creek Road, and including the well-known historic Capitol City Post Office building and a smaller adjoining cabin which was historically used as a blacksmith shop.

In order to separate the parcel to retain the corner block with the two historic structures from the remainder of the land, a boundary line adjustment will be required using CR 20 as the separation.

At the commissioners' January 19 and February 2 meetings, it was suggested that the Parcel B property is marketable at this time with plans for a survey of the property, and a listing agreement which will be arranged with either of Lake City's local Realtors; commissioners will identify a price for the land through research of similar properties and advice from the listing agent. Preparations to sell the Parcel A land excluding the corner where the historic structures are located is more complicated,

potentially requiring a subdivision of the property based on CR 20 as the boundary.

In addition to the Capitol City property, the county had briefly considered disposal by sale of other county-owned tracts, including a boundary line adjustment separating portions of unused pasture land owned by the county adjacent to the Debs school house in the South End of the county and the Crown Mountain Lode which is a precipitous, non-accessible property located on the flanks of the mountain above the Guy Corder house at Vickers Ranch. The county acquired Crown Mountain for \$10,000 in the 1990s as public access for the envisioned Lake to Lake walking trail.

Crown Mountain with a complicated overlay of adjoining property and Debs School pasture land would both require formal surveys and have been removed from consideration for disposal at this time

AGENDA ITEM 12

Director Updates

AGENDA ITEM 13

Citizen Comments

AGENDA ITEM 14


Future Meetings

FUTURE MEETINGS/EVENTS

- ▶ Gunnison Water Smart Group-March 1, 2022 at 1:00 PM
- ▶ Grant Committee meets for grants review-March 2, 2022 at 3:00 PM
- ▶ Legislative Committee-March 4, 2022 at 8:00 AM
- ▶ Forest and Watershed Health Technical Group-March 9, 2022 at 10:00 AM
- ▶ Legislative Committee-March 11, 2022 at 8:00 AM
- ▶ Watershed Management Planning Committee-March 14, 2022 at 1:30 PM
- ▶ Legislative Committee-March 18, 2022 at 8:00 AM
- ▶ World Water Day-March 22, 2022
- ▶ Legislative Committee-March 25, 2022 at 8:00 AM
- ▶ UGRWCD Board of Directors Meeting-March 28, 2022 at 5:30 PM
- ▶ UGRWCD Board of Directors Meeting-April 25, 2022 at 5:30 PM
- ▶ UGRWCD Sponsors Gunnison Rotary Club Fishing Tourney-May 7 & May 8, '22
- ▶ Gunnison 4th Grade Water Festival at Elementary School- May 20, 2022

**UPPER GUNNISON RIVER WATER CONSERVANCY DISTRICT
UPPER GUNNISON RIVER WATER ACTIVITY ENTERPRISE**

2022 BOARD MEETING DATES

- 
- Monday, January 24, 2022*
 - Monday, February 28, 2022
 - Monday, March 28, 2022
 - Monday, April 25, 2022
 - Tuesday, May 24, 2022 – Held in Lake City**
 - Monday, June 27, 2022 - Annual Meeting
 - Monday, July 25, 2022*
 - Monday, August 29, 2022
 - Monday, September 26, 2022
 - Monday, October 24, 2022
 - Monday, November 28, 2022
 - Monday, December 12, 2022 – Special Budget Meeting

***These meeting dates will include the Water Activity Enterprise Board Meeting**

****This meeting will include the Lake San Cristobal Water Activity Enterprise Board Meeting**

All meetings will be held at the District's Offices, 210 West Spencer, Suite B, Gunnison and by Zoom video/teleconferencing. Meeting dates, times, and locations are subject to change. Please check our website for updated information: www.ugrwcd.org. Persons with special needs due to a disability are requested to call the District at (970)641-6065 at least 24 hours prior to the meeting.

AGENDA ITEM 15

Summary of Action Items

AGENDA ITEM 16

Adjournment