

**AGENDA**  
**UPPER YAMPA WATER CONSERVANCY DISTRICT**  
**BOARD OF DIRECTORS MEETING**  
**THURSDAY, MAY 21, 2020 (12:00 PM)**  
**ONLINE MEETING: [HTTPS://BLUEJEANS.COM/924376072](https://bluejeans.com/924376072)**  
INSTRUCTIONS ON HOW TO JOIN A BLUEJEANS MEETING FOLLOW THE AGENDA

- (1) **12:00 PM Establishment of Quorum and Call to Order;**
- (2) **12:05 PM Consent Agenda;** **Action item**
  - a) Approval of Disbursements;
  - b) Budget Comparison
  - c) Approval of the minutes of the April 8, 2020 Board Meeting;
  - d) Acceptance of the March 18, 2020, April 7, 2020 and April 8, 2020 Executive Committee Meeting;
- (3) **12:10 PM Approval of Agenda for Meeting;** **Action item**
- (4) **12:15 PM Public Input and Comment;**
- (5) **12:20 PM Report from the General Manager;**
  - a) Leonard Rice Engineers water quality standards update
  - b) ERC pricing (summary) **Action item**
  - c) Negotiations with City of SS and approval of offer letter **Action item**
  - d) Adopting Governance Manual and approval of minutes of April 16, 2020 Governance Committee Meeting **Action item**
  - e) Cost of the office move
  - f) Resolution of new GM Signer for Bank Accounts **Action item**
- (6) **2:10 PM Report from District Engineer**
  - a) Reservoir water status
  - b) Sickles lease (update not leasing) (Water Rights)
  - c) SC Fill and release policy (Updates due to water accounting)
  - d) Ditch Rider
- (7) **2:55 PM Report from Public Information Manager**
  - a) Summary of Grant Program Status
  - b) RT/River Fund/IWMP/meetings Updates
- (8) **3:15 PM Report from General Counsel**
  - a) General Manager employment contract discussion
  - b) Water contracting matters
    - i) YIA Amendment **Action item**
    - ii) YIA Carriage Contracts **Action item**
    - iii) Stillwater Ditch Amendment
  - c) Bylaw Amendments
  - d) City of Steamboat Springs CORA Request update
  - e) Election of Director and Sole officer of the Stillwater Ditch Company
  - f) Water Resumes
  - g) Status of other Water Cases, if any;

(9) **3:45 PM Executive Sessions:**

- a) Executive session under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, Contract Negotiations and City of Steamboat Springs CORA request. Mere presence or participation of an attorney at an executive session is not sufficient to satisfy the requirements of CRS § 24-6-402(4)(b). Executive sessions to discuss legal matters are not recorded.
- b) City of Steamboat Springs CORA Request **Action item**

(10) **4:00 PM Board Member Reports**


**Action item**

- a) Update on GM search, memo from General Counsel regarding GM search process and acceptance of minutes of the April 15, 2020, April 22, 2020, April 29, 2020 and May 1, 2020 Search Committee Meetings;
- b) Request by Lyn Halliday to be appointed to the GM Search Committee

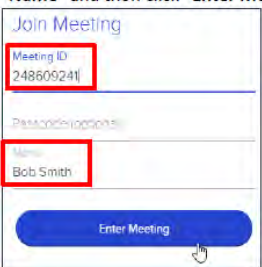
(11) **4:15 PM Next Meeting Agenda**

(12) Adjournment.


**How to join a BlueJeans meeting**

Go to: [BlueJeans.com](https://bluejeans.com) and click on "Join Meeting"  located in the upper right hand corner.


In the "Join Meeting" dialogue box, enter the "Meeting ID" (the ID number is provided in the meeting agenda) and your "Name" and then click "Enter Meeting."



You will now be launched into the BlueJeans meeting. The "Use Phone Audio" dialogue box will appear. Follow the steps to connect via phone audio. Once you are connected, or if you were already connected, click on the "X" in the upper right hand corner to close the box.



When you enter the meeting, place your phone on Mute. If have used your computer for audio, click on the "Mute Audio" button. If you are using your own phone, press the mute button. Unmute to join the conversation.



Contact Deb Bastian for any questions

- Email: [dbastian@upperyampawater.com](mailto:dbastian@upperyampawater.com)
- Phone: 970-819-0189



## BOARD COMMUNICATION FORM

**From:** Karina Craig, Chief Accountant.

**Date:** May 10, 2020

**Item: Financial Reports: Cash Disbursement Report, Budget Comparison Report**

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DIRECTION  
 INFORMATION  
 MOTION  
 RESOLUTION

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**I. Request/Issue and Background Information:**

The *Cash Disbursement Report* contains reconciled disbursements incurred through credit card through the April 16, 2020 statement and reconciled check payments through April 30, 2020. Disbursements include operating and capital expenditures.

The *Budget Comparison report* was run on May 8, 2020 with transactions accrued up to and including April 15, 2020. Additional transactions for the month of April are expected.

Power *Revenues*, Routt County Tax Revenues and Moffat County Tax Revenues reported are those received through April 15, 2020, for the period January-March 2020.

*Pass through* revenues and accrued expenditures in reference to the *Upper Yampa River Basin Nutrient and Sediment Study* are shown in the report as well, for both the 2019 Fiscal Year and 2020-to-date.

**II. Summary and Alternatives:** none.

**III. Staff Recommendation:** Accept reports.

**IV. Legal Issues:** None

**V. Consistency with Board Goals and Policies:** Goal 3.

**Attachments:**

Attachment 1: Cash Disbursement Report

Attachment 2: Budget Comparison Report

Additional Attachments: none.



**Upper Yampa Water Conservancy District**  
**Cash Disbursement Report**  
**April 30, 2020.**

<b>Date</b>	<b>Name</b>	<b>Memo</b>	<b>Amount</b>
01/04/2020	NDS Northwest Data Services	Monthly Cloud Backup	131.75
01/06/2020	Verizon Wireless	Stagecoach cell phones	107.32
01/07/2020	Restaurant	Skull Creek Greek staff meeting	70.00
01/07/2020	Garmin	Monthly Support	33.30
01/07/2020	Central Park Steamboat Springs	Office supplies	5.99
01/08/2020	CrashPlan Code42	Admin Software: Cloud Backup	9.99
1/10/2020	City Market	BOD Meeting Supplies	63.14
01/12/2020	Blue Jeans Network	Conference Phone Networking 1-11-20 to 1-10-21	199.80
01/14/2020	Amazon	Office Supplies	99.93
01/15/2020	Restaurant	BOD Meeting Moes BBQ	195.00
01/16/2020	Edge Communications	4 SIP trunks 5 US DID January 2020	104.59
01/22/2020	Adobe	Monthly Acropro January	14.99
01/23/2020	YVEA	11-26-20 to 12-29-20 Shed	280.49
01/23/2020	YVEA	11-26-20 to 12-29-20 Powerhouse	236.78
01/23/2020	Restaurant	How Ya Doin Pizza Governance Meeting	93.47
01/23/2020	Adobe	monthly support	24.99
01/23/2020	Amazon	office supplies	13.93
01/27/2020	SmartVault	Software, interphase with quickbooks	42.40
01/29/2020	Neste Auto Glass	Replace truck windshield	439.24
01/29/2020	Amazon	office supplies	56.50
01/31/2020	YVEA	12-29-19 to 01-29-20 Powerhouse	341.48
01/31/2020	YVEA	12-29-19 to 01-29-20 shed	310.17
01/31/2020	Hotel	Westin Hotel CWC Convention	507.68
01/31/2020	LogMeIN	Yearly support	365.74
01/31/2020	US Postal Service	Postage	55.20
01/31/2020	Hotel	Westin Hotel CWC convention	38.00
02/01/2020	Hotel	Westin Hotel CWC Convention	167.63
02/02/2020	Hotel	Westin Hotel CWC Convention	502.89

**Subtotal**

**4,512.39**

**Upper Yampa Water Conservancy District**  
**Cash Disbursement Report**  
**April 30, 2020.**

<b>Date</b>	<b>Name</b>	<b>Memo</b>	<b>Amount</b>
02/03/2020	NDS Northwest Data Services	Cloud Services Feb bill 60320	135.00
02/08/2020	Garmin	Monthly Support	34.95
02/08/2020	CrashPlan Code42	Cloud Backup	9.99
02/11/2020	Big House Burgers	Meeting expenses	211.64
02/12/2020	Amazon	Office Supplies	167.26
02/12/2020	CenturyLink	Stagecoach telephone line. Feb1 to Feb 29.	154.05
02/12/2020	AECOM	12-13-19 SC Stem Guide Replacement Design	10,000.00
02/12/2020	Hive 180	Deposit on website	2,612.50
02/13/2020	Precision Outdoor Power Equipment Sales	Snowblower for Stagecoach	2,563.67
02/13/2020	Amazon	Office Supplies	78.67
02/19/2020	Edge Communications	4 SIP trunks 5 US DID February 2020. Bill 350067	104.59
02/20/2020	RingCentral	Annual service	215.88
02/22/2020	Big House Burgers	BOD Meeting	155.00
02/22/2020	PostNet	Office supplies	82.54
02/22/2020	Adobe	Monthly Acropro February	14.99
02/23/2020	Adobe	Monthly subscription	24.99
02/26/2020	Western Slope Health Care	Health Insurance	10,422.81
02/26/2020	Colorado Water Congress CWC	January convention for the General Manager, Directors Brenner, Woodmansee and Sharp, and the Public Information Manager, and 2020 Dues	6,124.00
02/26/2020	CBI - Consensus Building Institute	Consulting 01-01-20 to 1-31-20	5,480.00
02/26/2020	ICMA-401a	Retirement accounts	4,537.27
02/26/2020	ICMA-457	Retirement accounts	1,965.13
02/26/2020	Metlife	Dental Insurance	1,111.39
02/26/2020	Family Support Registry	Remittance	930.58
02/26/2020	Applied Industrial Technologies (Chicago)	Stagecoach maintenance supplies	671.69
02/26/2020	Jennifer Poelman	January Office Cleaning	375.00
02/26/2020	NDS Northwest Data Services	Remote consulting	326.50
02/26/2020	Steamboat Pilot CMNM	Publishing of invitation to Bid Grazing Lease	34.72
02/26/2020	ACE Hardware	Yamcolo Reservoir supplies	20.77
<b>Subtotal</b>			<b>48,565.58</b>

## Cash Disbursement Report

April 30, 2020.

Date	Name	Memo	Amount
02/26/2020	Routt CountyTreasurer	USGS 2020 Upper Yampa River Basin Water Quality Monitoring Program	11,535.00
02/26/2020	Weiss & Van Scoyk	Legal General Matters 12-1-19 to 12-31-19	4,669.00
02/26/2020	Jeffrey D Erickson, Lynx	Snow Removal January	2,280.00
02/26/2020	Ken Brenner	Colorado Water Congress Convention January	928.27
02/27/2020	Water Education Colorado (CFWE)	WeCO Water Educators Symposium for the Statewide Water Education Action Plan (SWEAP)	90.00
02/27/2020	SmartVault	Software, interphase with quickbooks	42.40
02/28/2020	DLT Solutions	Auto Cad Software Renewal	2,844.05
02/28/2020	Budget Conferencing Inc. - PGI	Conference Calls 1-20-2020 to 2-19-2020	151.21
03/01/2020	CenturyLink	Office Telephone. February 07 to March 06.	224.62
03/01/2020	Mountain Valley Bank	October Rent	2,900.00
03/02/2020	NDS Northwest Data Services	Cloud Services March bill 60689	123.00
03/02/2020	Big House Burgers	Travel and meetings	50.24
03/03/2020	Verizon Wireless	Stagecoach cell phones	219.18
03/04/2020	Safeway	Meeting supplies	33.83
03/06/2020	Cruisers Sub Shop	Meeting supplies	102.12
03/06/2020	Orange Peel Bicycle	Gift to retiring director.	100.00
03/06/2020	Hotel	Travel and meetings	95.00
03/06/2020	Safeway	Meeting supplies	6.45
03/07/2020	Garmin	Monthly Support	34.95
03/08/2020	CrashPlan Code42	Admin Software: Cloud Backup	9.99
03/10/2020	Safeway	Meeting supplies	27.14
03/11/2020	Cruisers Sub Shop	Meeting supplies	210.25
03/15/2020	Verizon Wireless	Stagecoach cell phones	107.09
03/16/2020	Edge Communications	4 SIP trunks 5 US DID February 2020. Bill 350067	104.59
03/17/2020	Mountain Valley Bank	Checks	141.25
03/20/2020	YVEA	SC Powerhouse & Shed 1-29-20 to 2-29-20	483.65
03/20/2020	Weiss & Van Scoyk	Legal services January 2020	14,317.50
03/22/2020	Adobe	Monthly Acropro November	14.99
<b>Subtotal</b>			<b>41,845.77</b>

## Cash Disbursement Report

April 30, 2020.

Date	Name	Memo	Amount
03/23/2020	CenturyLink	SC Telephone. March 1, 2020 to March 31, 2020.	145.26
03/23/2020	Adobe	Monthly subscription	24.99
03/24/2020	Conoco Universal WEX	Gasoline. Stagecoach and Travel and Meetings.	386.38
03/24/2020	USGS	19REJFACO050 Characterization of streamflow, suspended sediment, and nutrients in the Upper Yampa.	20,781.57
03/24/2020	Weiss & Van Scoyk	Legal services, February 2020	10,197.50
03/25/2020	Internal Revenue Service	Federal Taxes	13,554.62
03/26/2020	Western Slope Health Care	Health Insurance	10,422.81
03/26/2020	Weiss & Van Scoyk	Yamcolo and General Legal Matters November	6,083.50
03/26/2020	Yampatika	Annual Grant for Yampatika's water education program 2020	5,000.00
03/26/2020	ICMA-401a	Retirement accounts	4,537.27
03/26/2020	CBI - Consensus Building Institute	Consulting 02-01-20 to 02-29-20	3,520.00
03/26/2020	Environmental Solutions	USGS Nutrient & Sediment Study. 12-12-19 through 2-2-20	3,355.00
03/26/2020	NDS Northwest Data Services	Troubleshoot VPN connectivity, Server checks.	2,314.50
03/26/2020	Steamboat Pilot CMNM	Business Manager Ad 1-29-20 to 2-25-20	1,785.49
03/26/2020	ICMA-457	Retirement accounts	1,659.54
03/26/2020	Arrow Performance Group	Consulting services January and February	1,344.00
03/26/2020	Metlife	Dental Insurance	1,111.39
03/26/2020	Community Agriculture Alliance Inc	Ag Week Sponsorship and CAA Annual Membership	1,000.00
03/26/2020	Family Support Registry	Remittance	930.58
03/26/2020	Resource Engineering	Stagecoach Reservoir. Water rights accounting, February 2020.	648.00
03/26/2020	Sidney Peak Ranch	Minigrant. Parshall Flume Lyons Ditch #1	500.00
03/26/2020	Western Bionomics LLC	Wetlands monitoring.	493.25
03/26/2020	Jennifer Poelman	February Office Cleaning	225.00
03/26/2020	Advanced Copier Solutions, Inc.	Savin Printer. February	164.51
03/26/2020	BlueChannel, Inc.	Domain Name Renewal	50.00
03/27/2020	SmartVault	Software, interphase with quickbooks	42.40
03/30/2020	CenturyLink	Office Telephone. March 7 to April 7	221.96
03/30/2020	Quickbooks Payroll Service	Created by Payroll Service on 03-27-2020	34,732.02

**Subtotal****125,231.54**

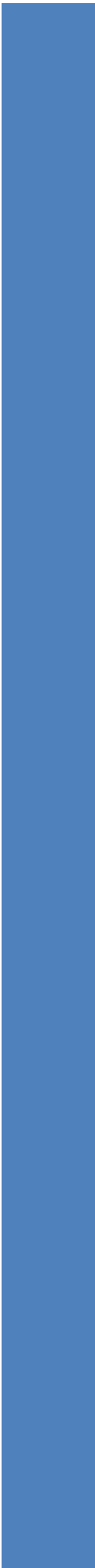


## Cash Disbursement Report

April 30, 2020.

Date	Name	Memo	Amount
03/31/2020	Water Education Colorado (CFWE)	Conference registration	1,395.00
03/31/2020	Budget Conferencing Inc. - PGI	Conference Calls 2-20-2020 to 3-19-2020	65.10
04/01/2020	Mountain Valley Bank	October Rent	2,900.00
04/02/2020	NDS Northwest Data Services	Cloud Services April bill 61289	132.25
04/03/2020	DropBox	Cloud backup	119.88
04/13/2020	Balcomb & Green, P.C.	18CW3020 Opposition to MWW, 19CW3005 Oppositon to Tristate and Miscellaneous Matters. Jan 1, 2020 to March 31, 2020	2,264.00
04/15/2020	CNA Surety	Policy Effective dated 5-7-20 to 5-7-21	100.00
04/16/2020	NDS Northwest Data Services	IT consulting. VPN set up, new employee account set up	589.00
04/16/2020	Napa	Oil and oil filter RAM	45.72
04/17/2020	Conoco Universal WEX	Gasoline. Stagecoach and Travel and Meetings.	398.79
04/29/2020	Quickbooks Payroll Service	Created by Payroll Service on 04-28-20	37,047.50
04/30/2020	Colorado Department of Revenue	State Tax Withholdings, quarterly payment.	6,048.00

**Subtotal****51,105.24****Total****271,260.52**



UPPER YAMPA WATER CONSERVANCY DISTRICT - 2020 BUDGET COMPARISON REPORT, AS OF APRIL 15, 2020

	2018 ACTUALS	2019 BUDGET	2019 ACTUALS	2020 BUDGET	2020 YTD ACTUALS	2020 PROJECTIONS
<b>Fund Opening Balance including Encumbered Funds</b>	12,683,250	14,274,361	14,274,361	14,945,119	14,945,119	14,945,119
<b>Encumbered Funds</b>	919,734	919,734	919,734	6,222,280	6,222,280	6,222,280
Emergency Facilities Reserve				4,485,814	4,485,814	4,485,814
Capital Maintenance Reserve				752,436	752,436	752,436
Stagecoach Wetlands Mitigation Reserve	419,734	419,734	419,734	419,734	419,734	419,734
Routt County Road #14 Contribution	500,000	500,000	500,000	500,000	500,000	500,000
Tabor Reserve				64,296	64,296	64,296
<b>Unencumbered Funds</b>	11,763,516	13,354,627	13,354,627	8,722,839	8,722,839	8,722,839
<b>Revenues</b>						
<b>Facilities</b>						
<b>Stagecoach Reservoir</b>						
Power Sales	129,492	200,000	234,324	200,000	67,212	200,000
Water Sales	505,201	403,144	433,769	116,379		116,379
<b>Yamcolo Reservoir</b>						
Water Sales	130,760	133,410	121,052	163,653		163,653
<b>Stillwater Ditch &amp; Reservoir Company</b>	7,744	7,965	7,965	45,279		45,279
Property taxes	2,269,399	2,284,084	2,415,730	2,496,565	1,062,626	2,496,565
Interest earned	261,280	284,500	327,104	296,100	58,773	296,100
Other income			4,000			
Pass through income			23,644		21,437	
	<b>revenues</b>	<b>3,303,875</b>	<b>3,313,103</b>	<b>3,567,587</b>	<b>1,210,047</b>	<b>3,317,976</b>
<b>Expenditures</b>						
<b>Operating</b>						
<b>Facilities</b>						
Stagecoach Reservoir - Power Generation	171,623	248,954	214,868	224,582	51,274	224,582
Stagecoach Reservoir - Water storage	279,641	266,927	220,348	278,537	60,497	278,537
Yamcolo Reservoir	132,790	144,594	125,183	156,631	30,077	156,631
Stillwater Ditch & Reservoir Company	13,379	45,065	34,520	40,834	4,954	40,834
Administration	139,144	203,198	168,189	305,889	52,540	305,889
Board of Directors	65,006	83,105	71,720	115,304	34,150	115,304
External Affairs	58,016	129,754	70,807	121,909	31,005	121,909
Finance	99,340	132,880	111,594	152,813	25,664	152,813
Legal	166,889	178,567	129,841	158,090	33,486	158,090
Planning	136,625	432,927	205,229	74,572	7,993	74,572
Grants, Scholarships & Public Information	39,038	257,588	170,299	253,390	55,825	253,390
Treasurer fees	72,507	73,786	74,607	80,650	27,842	80,650
Pass through expenses			11,724		24,137	
	<b>Subtotal Operating</b>	<b>1,373,999</b>	<b>2,197,345</b>	<b>1,963,200</b>	<b>415,307</b>	<b>1,963,200</b>
<b>Capital</b>						
Stagecoach Reservoir - Power Generation	3,967	102,900	27,533	50,000		50,000
Stagecoach Reservoir - Water storage	27,462	62,900	22,214	50,000		50,000
Yamcolo Reservoir	302,537	108,900	57,852	80,000		80,000
Stillwater Ditch & Reservoir Company		40,300	38,426			
Office Space	4,800	130,000	83,560			
	<b>Subtotal Capital</b>	<b>338,766</b>	<b>445,000</b>	<b>229,585</b>	<b>180,000</b>	<b>180,000</b>
	<b>expenditures</b>	<b>1,712,765</b>	<b>2,642,345</b>	<b>1,838,513</b>	<b>415,307</b>	<b>2,143,200</b>
	<b>net income (loss)</b>	<b>1,591,111</b>	<b>670,759</b>	<b>1,729,074</b>	<b>794,740</b>	<b>1,174,775</b>
<b>Ending Fund Balance</b>	<b>14,274,361</b>	<b>14,945,119</b>	<b>16,003,434</b>	<b>16,119,895</b>	<b>15,739,859</b>	<b>16,119,895</b>



**Upper Yampa Water Conservancy District  
Board of Directors Meeting  
Wednesday, April 8, 2020 1:30 PM  
ONLINE MEETING: [HTTPS://BLUEJEANS.COM/411279117](https://bluejeans.com/411279117)**

**MINUTES**

Chairman Ken Brenner called the meeting to order and declared a quorum present. In addition to Chairman Brenner, the Board members present were Bob Woodmansee, Doug Monger, Jim Haskins, John Redmond, Ron Murphy, Lyn Halliday, Tom Sharp, and Webster Jones. General Manager Kevin McBride, District Engineer Andy Rossi, Marketing/Communication Manager Holly Kirkpatrick, Business Manager Deb Bastian, Chief Accountant Karina Craig, and General Counsel Bob Weiss were also present. Members of the public present included Jackie Brown from the City of Steamboat Springs, Frank Alfone from Mount Werner Water, and Ryan Golten from Consensus Building Institute. This meeting was held entirely by videoconference utilizing the BlueJeans platform. The meeting agenda included instructions to the public describing the process to participate in the meeting and comment on agenda items.

The following agenda was proposed:

***Agenda***

- (1) 1:30 pm Establishment of Quorum and Call to Order;
- (2) Consent Agenda; action item
  - a) Approval of the minutes of the February 15, 2020; and March 11, 2020 Board Meetings; and March 27, 2020 Special Emergency Board Meeting
- (3) Approval of Agenda for Meeting; action item
- (4) Public Input and Comment;
- (5) 1:40 pm Report of the General Manager;
  - a) General Manager Search
    - i) Selection of search firm action item
    - ii) Job Description action item
  - b) GM Retirement / appointment of acting GM action item
  - c) Board Manual action item
  - d) Districts Accounts discussion
- (6) 4:05 pm Report from General Counsel;
  - a) Contract updates
    - i) Yamcolo Irrigators Association (YIA) Amendment action item
    - ii) 2005 Stillwater Ditch Agreement Amendment action item
    - iii) Individual Irrigation Carriage Contract action item
    - iv) Yamcolo Individual Irrigators
  - b) Ratification of bylaw amendments action item
  - c) Resume report
  - d) Status of other Water Cases, if any;
- (7) Executive Sessions:
  - a) Under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, and Contract Negotiations (not recorded). Mere presence or participation of an attorney at an executive session of the local politic body is not sufficient to satisfy the requirements of this subsection (4).
  - b) Executive Session under CRS § 24-6-402(4)(e) for Instructions to Negotiators for Water Contracts with City of Steamboat Springs (recorded).
- (8) 5:35 pm Board Member Reports
- (9) 5:45 pm Next Meeting Agenda
- (10) Adjournment.

Chairman Brenner called the meeting to order and asked Directors if there were questions about the Consent Agenda. Director Sharp requested that the March 11, 2020 Board meeting minutes be pulled from the Consent Agenda.

**Consent Agenda** Director Redmond made a motion to approve the consent agenda (approval of the February 15, 2020 Board Meeting Minutes and the March 27, 2020 Special Emergency Board Meeting Minutes), Director Woodmansee seconded the motion, which was unanimously approved.

**Meeting Minutes** Director Sharp moved to approve the March 11, 2020 Meeting Minutes, with the following language in the motion related to the City of Steamboat Springs contract: “with a right of first offer”. Director Woodmansee seconded the motion, which was unanimously approved.

**Meeting Agenda** Chairman Brenner proposed to move item (5) (b), GM Retirement/Appointment of Acting GM, before (5) (a) General Manager Search, to facilitate participation from CBI consultants. General Counsel Weiss noted that item (6) (a) (iv) should be an Action Item. Director Woodmansee moved to approve of the amended agenda. Director Redmond seconded the motion, which was unanimously approved.

**Public Comment** Chairman Brenner invited the members of the public present to comment. There were no comments.

### ***Report of the General Manager***

#### General Manager Retirement, Appointment of Acting General Manager

Counsel Weiss presented a memorandum and a proposed letter addressed to the retiring General Manager, to be signed by the President of the Board. Director Sharp moved to approve the proposed letter from the Board to General Manager McBride and included retirement terms. Director Haskins seconded the motion, which was unanimously approved.

Director Sharp made a motion to appoint Engineer Rossi as the acting General Manager for a period of two months, starting on June 1st, 2020, with a monthly compensation during his tenure of Acting Manager corresponding to that of an annualized salary of \$148,000. Director Jones seconded the motion, which was unanimously approved.

#### General Manager Search – Selection of the Search Firm and Job Description

Manager McBride reported the Executive Committee narrowed a list of six potential search firms, to three. A discussion ensued. Director Monger moved approve the EC’s recommendation to engage professional services from Peak HR Consulting, to be paid at an hourly rate. Director Sharp seconded the motion, which was approved unanimously.

The General Manager Job Description was reviewed and discussed in detail. Director Sharp made a motion to approve the proposed GM Job Description with the following amendment: Required skills, item 2, to read: “At least five years of direct progressive experience in managing, *or assisting in the management of*, a local governmental or similar entity...” Director Monger seconded the motion; it was unanimously approved.

## Board Manual

A Board Governance Manual draft was presented, reviewed and discussed. Committee members went through each Chapter of the Manual to explain the goals, intent and key points to the Board.

Consultant Ryan Golten captured the handful of edits suggested by Board members during the discussion of each Chapter. These included:

- Reminder to include the institution of the mill levy in the Background section.
- A suggestion to address, in the standing Board meeting agenda, pending legislation and emergency topics that may have arisen after the agenda was circulated. The Governance Committee will consider and integrate those edits next week before circulating a final Manual for the Board's review.
- Statement in the 'external engagement' section (Chapter 4) that 'The Board may determine annually which Directors officially represent the Board in other water groups or initiatives.'
- Clarification in Chapter 5 (conflict resolution) that the process needs to be consistent with Chapter 2.

The Board will review the revised Governance Manual at its May meeting and consider adoption at that time.

District's Account Discussion – Background information and a list of accounts holding the District liquid assets was reviewed. The General Manager stated that he planned no action on the accounts unless there is specific direction. Discussion followed including a question about developing an investment policy. No action was taken.

## ***Report from General Counsel***

### Contract Updates – Yamcolo Irrigators Association (YIA) Amendment

The General Counsel stated the YIA signed the amended contract today, and they were planning to ratify it at their General Membership meeting on May 18, 2020. Counsel Weiss was recommending the District sign the agreement after it is ratified. The motion was conditional on the signature of four Irrigators on Carriage contracts of what used to be called the Hatt allotment and has been referred to as the YIA Stillwater Ditch Allocation. Director Sharp moved to authorize the General manager to enter into an agreement with YIA extending the arbitration deadlines under paragraph 3.2 of the YIA agreement as follows: extended deadline to demand arbitration, June 1, 2020; Extended deadline to select arbitrators, June 15, 2020; Extended deadline to complete arbitration, August 1, 2020. The motion was seconded by Director Woodmansee and unanimously approved.

### Contract Updates – 2005 Stillwater Ditch Agreement Amendment

Counsel Weiss updated the Board on the status of the amendment. Negotiations with former shareholders for them to re-acquire the ditch were suspended. A fixed fee had been agreed upon. Signed amendments are expected to be returned to the District in the course of the next few weeks.

#### Contract Updates – Yamcolo Individual Irrigators

The General Counsel reported that water allotment petitions for the individual irrigators have been returned, comprising a full subscription of the 3,500 AF of water. Proposed contract details were presented, including a table with applicant names and volumes for each. Director Sharp made a motion to approve the proposed contracts, with the volumes proposed, conditional to the signature of each individual irrigator. The motion was seconded by Director Woodmansee. Chairman Brenner asked for public comment in regard to the allotment contracts. There was none. The motion carried, unanimously approved.

#### Contract Updates – Individual Irrigation Carriage Contract

Individual Irrigators who wish to use the District's Stillwater Ditch must have a carriage contract with the District. Director Sharp moved to approve the Carriage Contracts for the Individual irrigators, as finalized and agreed to by the various allottees, authorizing the President of the Board and the General Manager to sign said contracts. The motion was seconded by Director Haskins and unanimously approved. The Chairman called for public comment. There was none.

#### Ratification of bylaw amendments

The Board approved bylaws on an emergency basis to accommodate video/teleconference meetings as a result of the Covid-19 pandemic. The General Counsel was asking the board to ratify that decision, which addressed virtual meetings and the electronic posting of meeting notices. Director Woodmansee moved to ratify the March 27, 2020 Bylaw amendment. It was seconded by Director Halliday and unanimously approved.

#### Resume Report and Status of other Water Cases

The General Counsel reported he is monitoring cases. There were no applications to report, nor other concerns.

#### ***Executive Session***

At 4:35 PM Director Monger moved, Director Redmond seconded, and it was unanimously agreed to go into Executive Session under provision C.R.S. §24-6-402(4) (e) to discuss Instructions to Negotiators for Water Contracts with the City of Steamboat Springs. Mere presence or participation of an attorney at an executive session of the local public body is not sufficient to satisfy the requirements of this subsection (4). Director Haskins moved and it was unanimously approved to go out of Executive Session at 5:20 PM.

***Board Member Reports*** Director Sharp asked Manager McBride about the status of work contracted to Leonard Rice Inc jointly with Morrison Metro District. The General Manager indicated work is progressing, and a report would be provided at the May meeting. Director Sharp inquired and Engineer Rossi reported on fill status of the District's Reservoirs. There were no further reports.



**Next Meeting Agenda** The scheduled date for the next Board meeting was confirmed, being Thursday May 21, 2020 at 12:00 PM A draft meeting agenda was reviewed.

Director Woodmansee moved to adjourn the meeting at 5:40 PM. The motion was seconded by Director Haskins and unanimously approved.

I certify that the foregoing constitutes a true and correct summary of the proceedings at the above referenced meeting.

\_\_\_\_\_  
Kevin McBride, District Secretary/Manager

Date: \_\_\_\_\_

DRAFT



# RECORD OF PROCEEDINGS

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UPPER YAMPA WATER CONSERVANCY DISTRICT  
EXECUTIVE COMMITTEE MEETING  
WEDNESDAY, MARCH 18, 2020 11:00 AM  
ONLINE MEETING: [HTTPS://BLUEJEANS.COM/411279117](https://bluejeans.com/411279117)

## MINUTES

Chairman Ken Brenner called the meeting to order and declared a quorum present. In addition to Chairman Brenner, the Board members present were Bob Woodmansee, John Redmond, and Webster Jones. General Manager Kevin McBride, and Office Manager Karina Craig, were also present. This meeting was held entirely by videoconference utilizing the BlueJeans platform.

The following agenda was proposed and agreed upon:

### AGENDA

1. Call to Order;
2. Approval of Meeting Agenda;
3. Discussion of process and timeline for the recruitment of a new GM
4. Scheduling of emergency BOD meeting for bylaw amendment Re: e-meetings
5. Adjournment.

### ***Process and Timeline of recruitment of a new GM***

Chairman Brenner updated the Committee. Communication to recruiting firms that had recently offered or provided recruiting services to other local governments and water districts was sent.

General Manager McBride stated a new employee would start working at the District the following week.

Possible timelines for the GM's retirement were discussed.

The timeline of the tasks to be carried out was agreed upon. The goal would be to release an RFQ the following week, and for the EC to submit a proposed recruiting firm and the job description for Board approval by April 8, 2020.

***Scheduling of Emergency BOD meeting for Bylaw Amendment regarding meetings*** A tentative date to discuss electronic meeting procedures was set for Wednesday March 25, 2020.

The meeting was adjourned at 11:50AM.

## RECORD OF PROCEEDINGS

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I certify that the foregoing constitutes a true and correct summary of the proceedings at the above referenced meeting.

\_\_\_\_\_  
Kevin McBride, District Secretary/Manager

Date: \_\_\_\_\_

DRAFT

## RECORD OF PROCEEDINGS

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UPPER YAMPA WATER CONSERVANCY DISTRICT  
EXECUTIVE COMMITTEE MEETING  
APRIL 7, 2020 11:00 AM  
ONLINE MEETING: [HTTPS://BLUEJEANS.COM/411279117](https://bluejeans.com/411279117)

### MINUTES

Chairman Ken Brenner called the meeting to order and declared a quorum present. In addition to Chairman Brenner, the members present were Jim Haskins, Tom Sharp, Webster Jones and Lyn Halliday. General Manager Kevin McBride and Business Manager Deb Bastian were also present. This meeting was held entirely by videoconference utilizing the BlueJeans platform.

The following agenda was proposed:

#### AGENDA

- (1) Call to order;
- (2) Approval of Meeting Agenda;
- (3) Provide direction as staff selects executive search firms to be interviewed by Executive Committee for recommendation to the Board of Directors
- (4) Adjournment.

#### ***Call to Order***

Chairman Brenner established a quorum and called the meeting to order at 11:17 AM.

#### ***Select Executive Search Firm for Interviews***

The Executive Committee reviewed the proposals submitted by the six search firms. After discussion, the committee agreed to set up interviews for the April 8, 2020, Executive Committee meeting with Peak HR Consulting, Peckham & McKenney and Affion Public.

Director Jones moved to approve the search firm finalist of Peak HR Consulting, Peckham & McKenney and Affion Public, Director Sharp seconded the motion which was unanimously approved.

The meeting was adjourned at 11:57 AM.

## RECORD OF PROCEEDINGS

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I certify that the foregoing constitutes a true and correct summary of the proceedings at the above referenced meeting.

\_\_\_\_\_  
Kevin McBride, District Secretary/Manager

Date: \_\_\_\_\_

DRAFT

## RECORD OF PROCEEDINGS

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UPPER YAMPA WATER CONSERVANCY DISTRICT  
EXECUTIVE COMMITTEE MEETING  
APRIL 8, 2020 11:00 AM  
ONLINE MEETING: [HTTPS://BLUEJEANS.COM/411279117](https://bluejeans.com/411279117)

### MINUTES

Chairman Ken Brenner called the meeting to order and declared a quorum present. In addition to Chairman Brenner, the members present were Jim Haskins, Tom Sharp, Webster Jones, John Redmond and Lyn Halliday. General Manager Kevin McBride and Business Manager Deb Bastian were also present. This meeting was held entirely by videoconference utilizing the BlueJeans platform.

The following agenda was proposed:

#### AGENDA

- (1) Call to order;
- (2) Approval of Meeting Agenda;
- (3) Conduct video conference interviews with executive search firm finalists for recommendation to the Board of Directors
- (4) Adjournment.

#### ***Call to Order***

Chairman Brenner established a quorum and called the meeting to order at 11:03 AM.

#### ***Interviews with Executive Search Firm Finalists***

Before the interviews started, the Committee discussed and agreed on the set questions that will be asked of each of the finalists. The Executive Committee then interviewed the 3 executive search firm finalists. After the interviews and discussion, the committee agreed to recommend Peak HR Consulting, LLC to the Board of Directors at the April 8, 2020, meeting to be the executive recruiting firm for the General Manager position.

Director Jones moved to approve that the Executive Committee recommend to the Board of Directors that they hire Peak HR Consulting, LLC to conduct the search for the new General Manager for the Upper Yampa Water Conservancy District, Director Redmond seconded the motion which was unanimously approved.

## RECORD OF PROCEEDINGS

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The meeting was adjourned at 1:11 PM.

I certify that the foregoing constitutes a true and correct summary of the proceedings at the above referenced meeting.

\_\_\_\_\_  
Kevin McBride, District Secretary/Manager

Date: \_\_\_\_\_

DRAFT







## BOARD COMMUNICATION FORM

**From:** Kevin McBride G.M.

**Date:** May 13, 2020

**Item:** LRE Water Quality Update

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DIRECTION  
 INFORMATION  
 MOTION  
 RESOLUTION

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**I. Request/Issue and Background Information:**

Leonard Rice Engineers have been retained to provide water quality service related to the CDPHE standard setting adjacent to Stagecoach Dam. This is an update on those efforts. Jessica DiToro, P.E. will provide some information on the implications of the standards to the functioning of District operations. Background on the CDPHE process and schedule will be described. Details for the Arsenic and Lead listings for the reach including the reservoir and the Monitor and Evaluation listing for the temperature reach below the reservoir will be covered.

**II. Summary and Alternatives:**

N/A

**III. Staff Recommendation:**

N/A

**IV. Legal Issues:**

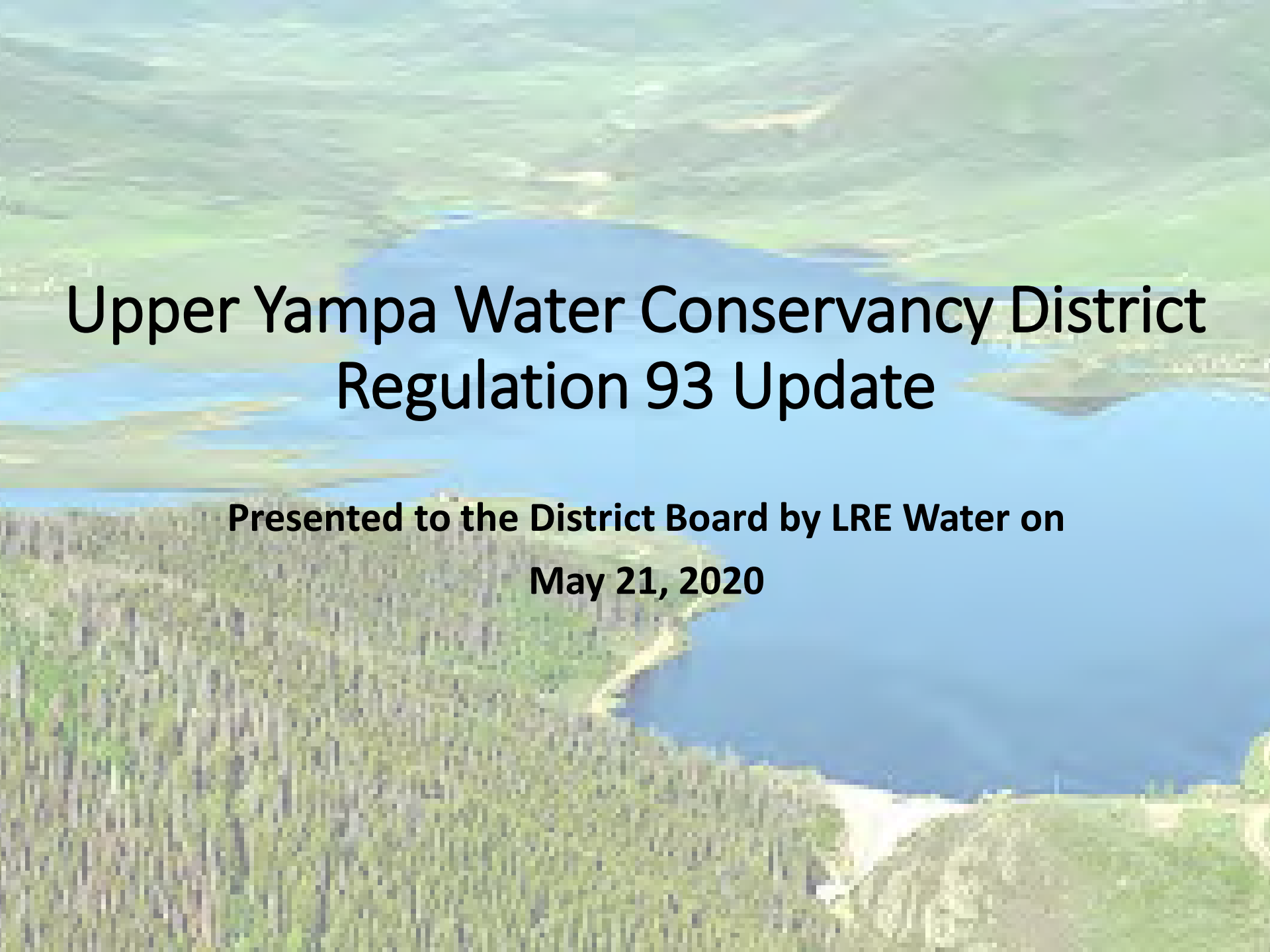
N/A

**V. Consistency with Board Goals and Policies:**

Policies 2, 4, 6.

**Attachments:**

Power Point from Jessica DiToro, LRE



# Upper Yampa Water Conservancy District Regulation 93 Update

**Presented to the District Board by LRE Water on  
May 21, 2020**

# Colorado Water Quality Control Act

25-8-104. Interpretation and construction of water quality provisions. (1) No provision of this article shall be interpreted so as to supersede, abrogate, or impair rights to divert water and apply water to beneficial uses in accordance with the provisions of sections 5 and 6 of article XVI of the constitution of the state of Colorado, compacts entered into by the state of Colorado, or the provisions of articles 80 to 93 of title 37, C.R.S., or Colorado court determinations with respect to the determination and administration of water rights. Nothing in this article shall be construed, enforced, or applied so as to cause or result in material injury to water rights. The general assembly recognizes that this article may lead to dischargers choosing consumptive types of treatment techniques in order to meet water quality requirements. Under such circumstances, the discharger must comply with all of the applicable provisions of articles 80 to 93 of title 37, C.R.S., and shall be obliged to remedy any material injury to water rights to the extent required under the provisions of articles 80 to 93 of title 37, C.R.S. The question of whether such material injury to water rights exists and the remedy therefor shall be determined by the water court. This section shall not be interpreted so as to prevent the issuance of a permit pursuant to sections 25-8-501 to 25-8-503 which is necessary to protect public health. Nothing in this article shall be construed to allow the commission or the division to require minimum stream flows or minimum water levels in any lakes or impoundments.

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(5) Activities such as diversion, carriage, and exchange of water from or into streams, lakes, reservoirs, or conveyance structures, or storage of water in or the release of water from lakes, reservoirs, or conveyance structures, in the exercise of water rights shall not be considered to be point source discharges of pollution under this article. Water quality standards may apply to discharges from such activities only if the commission has adopted appropriate control regulations pursuant to section 25-8-205. Nothing in this article shall supersede the provisions of articles 80 to 93 of title 37, C.R.S.



Code of Colorado Regulations  
Secretary of State  
State of Colorado

## **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

### **Water Quality Control Commission**

### **REGULATION NO. 61 - COLORADO DISCHARGE PERMIT SYSTEM**

#### **5 CCR 1002-61**

#### **61.3(1) APPLICABILITY - GENERALLY**

- (a) No person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Division for such discharge except that activities such as diversion, carriage, and exchange of water from or into streams, lakes, reservoirs, or conveyance structures, or storage of water in or release of water from lakes, reservoirs, or conveyance structures, in the exercise of water rights shall not be considered to be point source discharges of pollution under this article. However, nothing in this subsection shall exempt any point source discharger which generates wastewater effluent from the requirement of obtaining a permit pursuant to these regulations.

Source:

<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=7866&fileName=5%20CCR%201002-61>



Code of Colorado Regulations  
Secretary of State  
State of Colorado

## DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

### Water Quality Control Commission

### REGULATION #93 - COLORADO'S SECTION 303(D) LIST OF IMPAIRED WATERS AND MONITORING AND EVALUATION LIST

#### 5 CCR 1002-93

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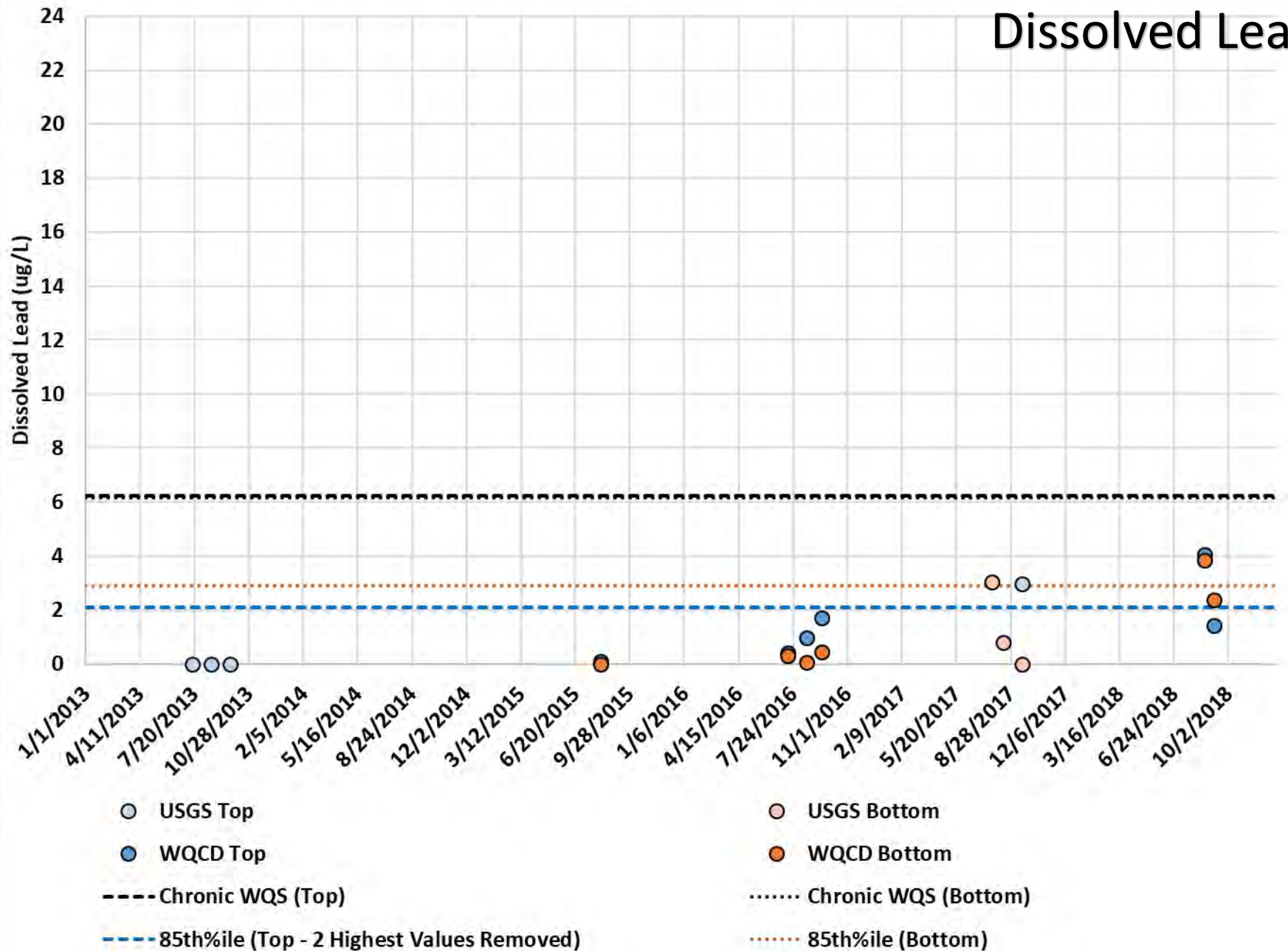
Listed portion:

Affected Use	Analyte	Category / List	Proposed Action	Priority
Aquatic Life Use	Lead (Dissolved)	5. - 303(d)	303(d) / New	H
Water Supply Use	Arsenic (Total)	5. - 303(d)	303(d) / New	H

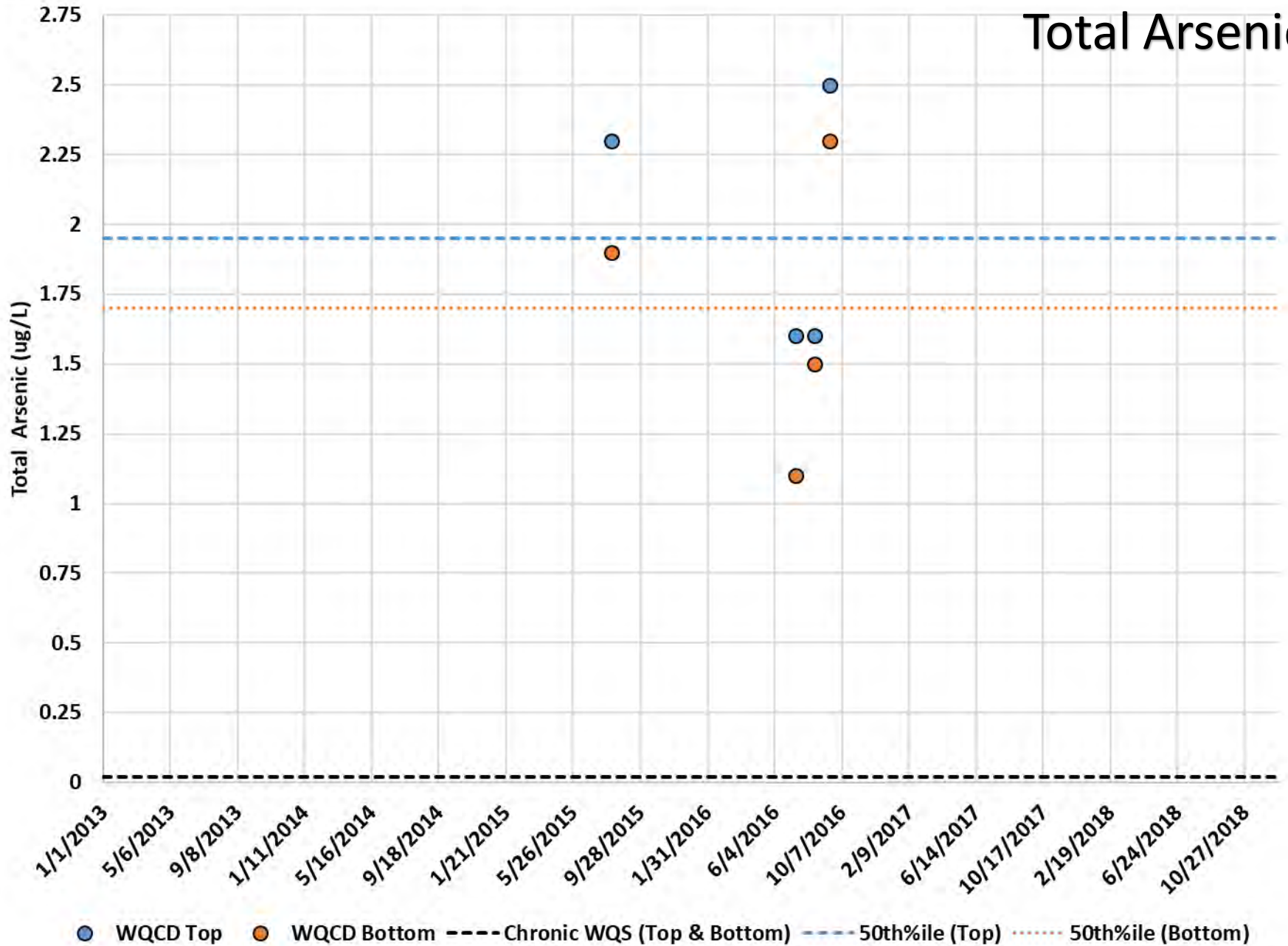
Source:

<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=8551&fileName=5%20CCR%201002-93>

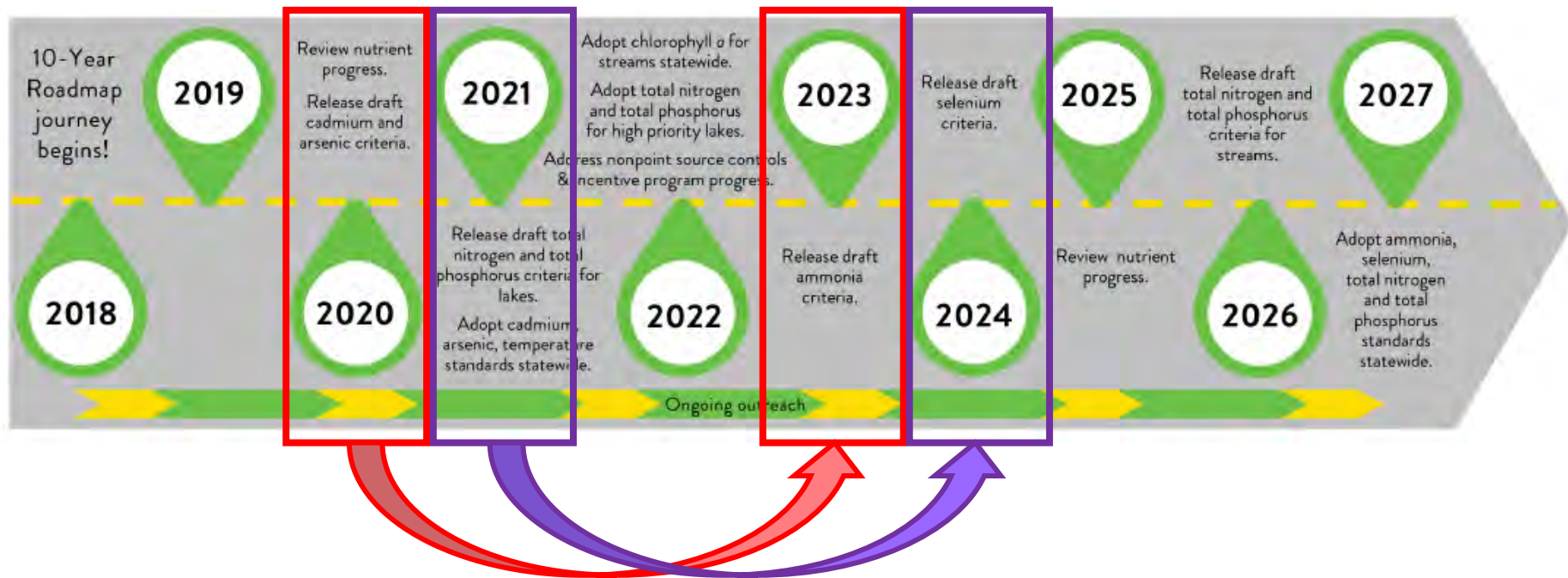
# Dissolved Lead



# Total Arsenic







**Arsenic:** The division is waiting for EPA to release new 304(a) criteria for arsenic. Once the 304(a) criteria is released, the division will convene a technical advisory committee. It is anticipated that this effort will require two to three meetings. Proposed changes to Regulation #31 will be due by 2023. The rulemaking hearing is scheduled for June 2024. This could occur earlier if the 304(a) criteria are released sooner.

For more information on the arsenic process:

[https://drive.google.com/drive/folders/1Apa5QJCAxEqE1-6kVYaN4So0VLn8mL\\_y](https://drive.google.com/drive/folders/1Apa5QJCAxEqE1-6kVYaN4So0VLn8mL_y)

Source: <https://www.colorado.gov/pacific/cdphe/WQ-10-Year-Roadmap>



Code of Colorado Regulations  
Secretary of State  
State of Colorado

## DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

### Water Quality Control Commission

### REGULATION #93 - COLORADO'S SECTION 303(D) LIST OF IMPAIRED WATERS AND MONITORING AND EVALUATION LIST

5 CCR 1002-93

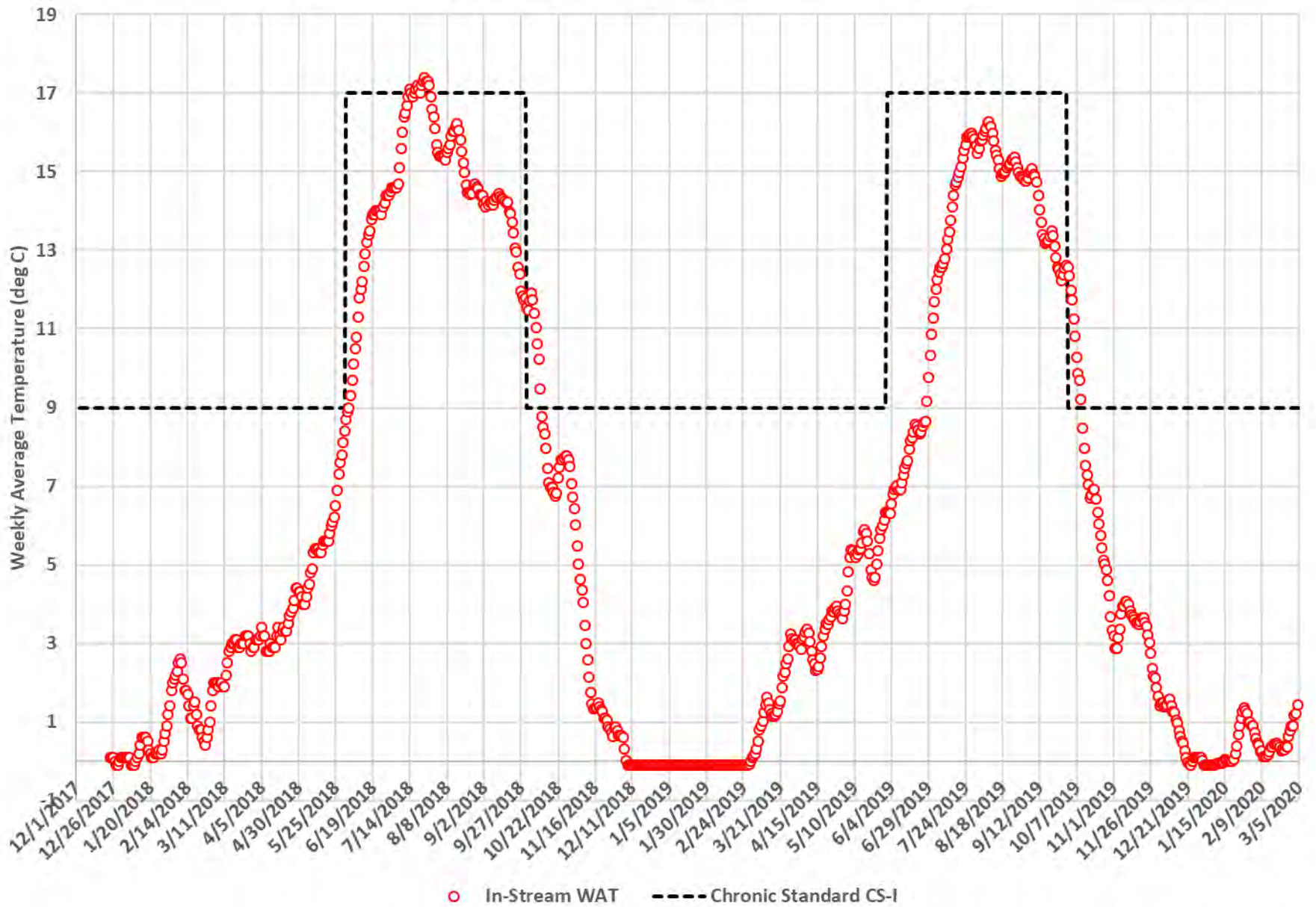
Listed portion: **COUCYA02a\_B** Yampa River from Stagecoach Reservoir to above confluence with Oak Creek

Affected Use	Analyte	Category / List	Proposed Action	Priority
Aquatic Life Use	Temperature	3b. - M&E list	M&E / New	NA
Water Supply Use	Arsenic (Total)	5. - 303(d)	303(d) / New	L

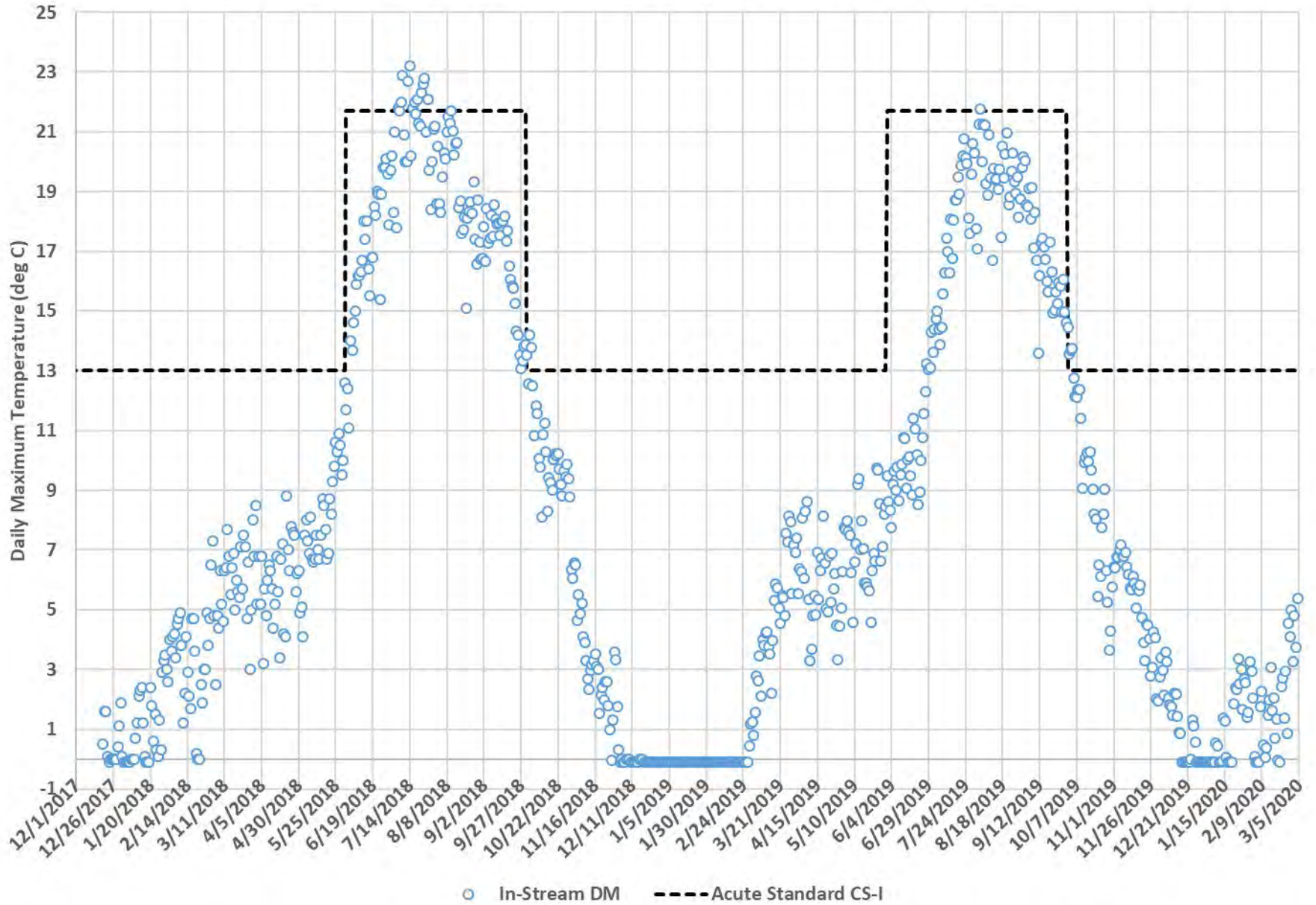
Source:

<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=8551&fileName=5%20CCR%201002-93>

# YAMABVCO Weekly Average In-Stream Temperature vs. Chronic Standard

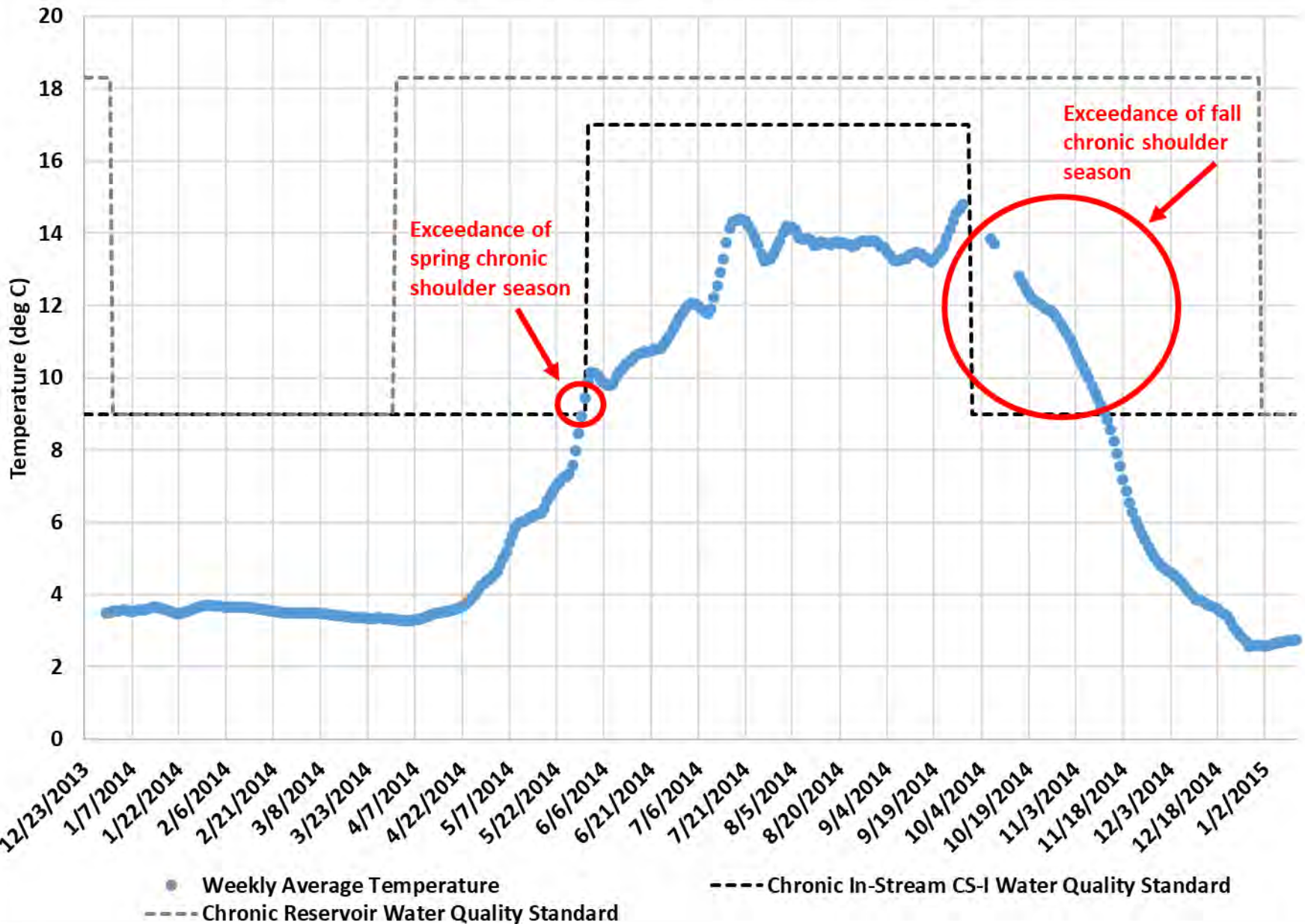


# YAMABVCO Daily Maximum In-Stream Temperature vs. Acute Standard



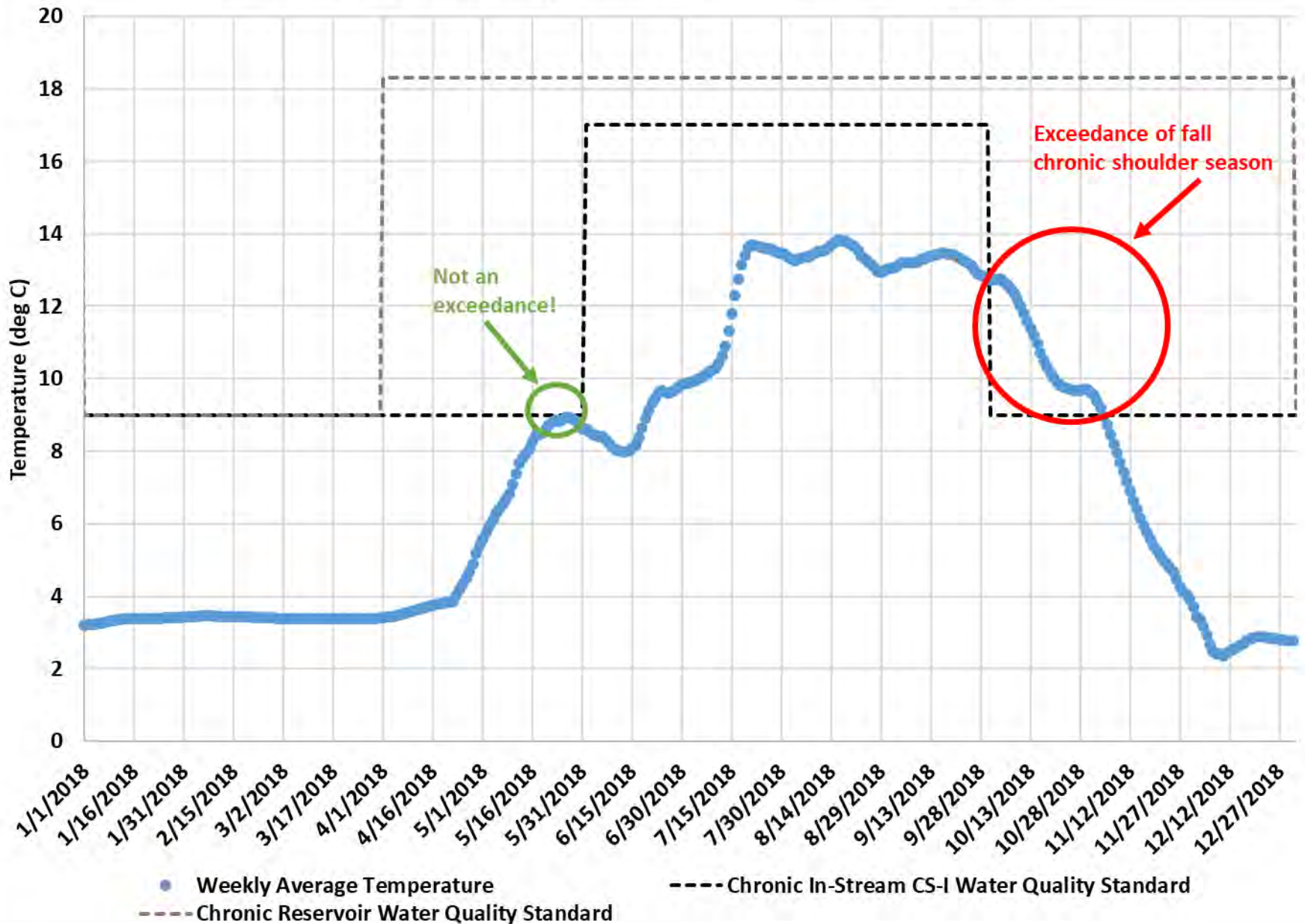
○ In-Stream DM    - - - Acute Standard CS-I

# 2014 Weekly Average Temperatures vs Chronic Water Quality Standards

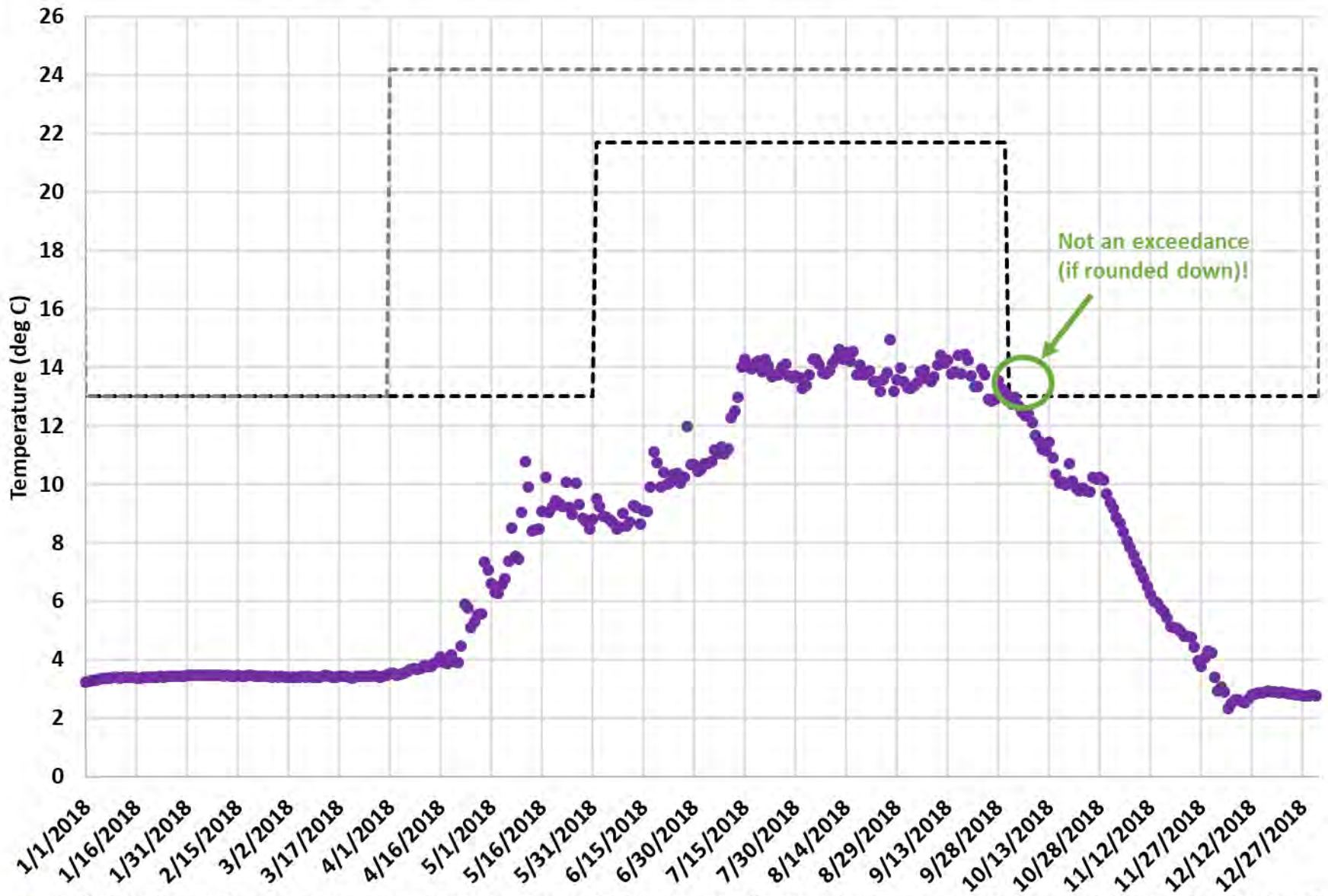




# 2018 Weekly Average Temperatures vs Chronic Water Quality Standards



# 2018 Daily Maximum Temperatures vs Acute Water Quality Standards

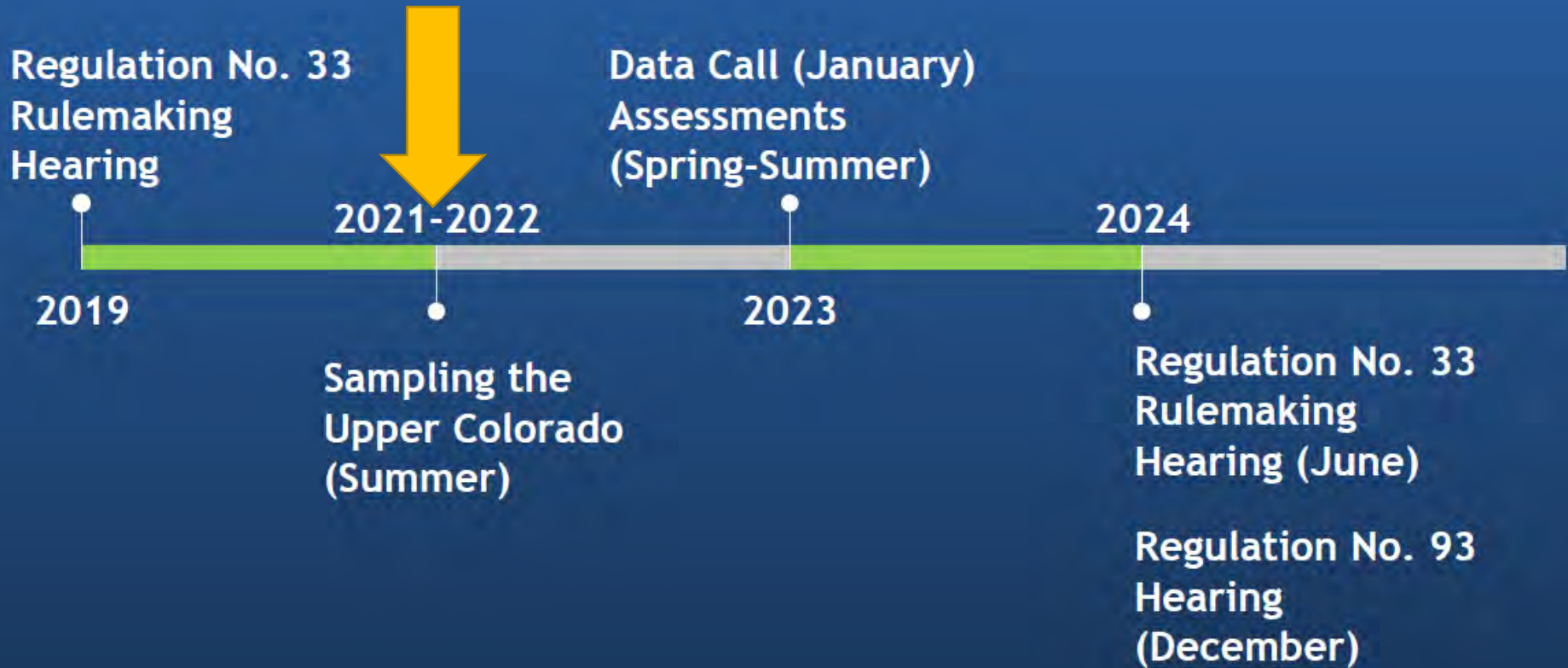


● Daily Maximum Temperature    - - - Acute In-Stream CS-I Water Quality Standard    - - - Acute Reservoir Water Quality Standard



# Timeline for the Upper Colorado River Basin

## Dec. 2021 Reg. 93 RMH



## Potential Next Steps to Address Stagecoach Reservoir Listings

- Respond to Division's 2021 Regulation 93 Rulemaking Hearing (RMH) Data Call ✓
- Conduct summer 2020 and 2021 ~monthly water quality sampling in Stagecoach Reservoir
  - *and/or* -
- Coordinate with USGS/Division to conduct similar sampling in Stagecoach Reservoir
  - *in fall 2021* -
- Analyze water quality data to determine if new data supports lead delisting
  - *if data supports Stagecoach Reservoir dissolved lead delisting* -
- Become a proponent to the 2021 Reg. 93 RMH, submit 2020/2021 data that supports the delisting as part of written testimony, and work with Division throughout RMH process
  - *if data does not support Stagecoach Reservoir dissolved lead delisting* -
- Work with Division as Total Maximum Daily Load is developed and upstream sources are identified and given loading allocations
- Potentially continue to collect additional data/coordinate with other agencies to collect data



**Thank you!**

**Questions?**





## BOARD COMMUNICATION FORM

**From:** Andrew Rossi, District Engineer

**Date:** 05/12/20

**Item:** Recent State of Colorado Water Resources Legislation significant to the Upper Yampa Water Conservancy's consideration of Environmental and Recreational Contract Pricing

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DIRECTION  
 INFORMATION  
 MOTION  
 RESOLUTION

---

### **I. Request/Issue and Background Information:**

The Upper Yampa Water Conservancy District (UYWCD) Board of Directors (BOD) is engaged in discussions on the topic of updated pricing for water allotment contracts for Stagecoach Reservoir. The consideration of Environmental and Recreational Contract (ERC) pricing for Stagecoach Reservoir water constitutes an important portion of these discussions and pricing policies for ERCs for Stagecoach Reservoir remain undecided. The topic of ERCs for Yamcolo Reservoir has yet to be taken up for consideration by the UYWCD BOD.

Governor Polis signed five pieces of legislation of significance for water resources management in the State of Colorado. The five pieces of legislation are: HB 20-1037, HB-20-1095, HB 20-1157, HB 20-1159, and SB 20-48. Brief summaries of these newly approved bills are presented for information and discussion.

### **II. Summary and Alternatives:**

Summary:

HB 20-1037 and HB 20-1157 are of significance to the ERC policies considered by the UYWCD BOD.

Alternatives:

Set a price for 2020 ERC; Set a price for future ERC; Delay ERC pricing decision until June 18, 2020 UYWCD BOD meeting.



**III. Staff Recommendation:**

Consider setting ERC price for 2020 and incorporate the knowledge gained from a discussion about the new legislation into continued UYWCD BOD discussion on pricing policies at the June 18, 2020 BOD meeting.

Renew discussions with potential ERC partners for possible ERC contracts for Stagecoach Reservoir in 2020.

**IV. Legal Issues:**

Legal interpretations of new legislation are in the nascent stages of development and warrant further investigation.

**V. Consistency with Board Goals and Policies:**

UYWCD Strategic Plan Objective 4.7

**Attachments:**

Attachment 1: Memorandum with reference materials



# MEMORANDUM

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**TO:** UYWCD BOD

**FROM:** Andy Rossi, District Engineer; Kevin McBride, District Manager

**DATE:** May 13, 2020

**RE:** Recent State of Colorado Water Resources Legislation significant to the Upper Yampa Water Conservancy's consideration of Environmental and Recreational Pricing

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## **1.0 Introduction**

The Upper Yampa Water Conservancy District (UYWCD) Board of Directors (BOD) is engaged in discussions on the topic of updated pricing for water allotment contracts for Stagecoach Reservoir. A record of the most recent UYWCD BOD general pricing discussion can be found in the minutes of the March 11, 2020 UYWCD BOD meeting (included with this memorandum for reference).

The consideration of Environmental and Recreational Contract (ERC) pricing for Stagecoach Reservoir water constitutes an important portion of these discussions and pricing policies for ERCs for Stagecoach Reservoir remain undecided. The topic of ERCs for Yamcolo Reservoir has yet to be taken up for consideration by the UYWCD BOD.

There is a history of water releases that benefit river flows from Stagecoach Reservoir. These include:

1. Environmental flow releases in the form of the Colorado Water Trust (CWT) contracts delivered to the in-stream flow reach between Stagecoach and Catamount.
2. Municipal releases for dilution purposes at the City of Steamboat Springs (City) wastewater treatment plant.
3. Other contract deliveries coded to UYWCD hydropower generation and not administered below the outlet of Stagecoach Dam by the Colorado Division of Water Resources (CDWR).

These releases were enabled by different legal mechanisms. The CWT releases, beginning in 2012, were the first use of the mechanisms provided by Colorado Revised Statutes 37-83-1045 (2016) (statute included with this memorandum for reference). The City municipal releases were administered to the City's wastewater treatment plant by the CDWR through an agreement



between the City and the CDWR. In 2019, releases to the City and Tristate through the Stagecoach hydro-power plant water right held by the UYWCD at Stagecoach Dam were made with the acknowledgement that river flows were dropping to a point that there was a likelihood that additional flow would be necessary to meet downstream demand. The legal mechanisms enabling these releases all have both temporal and functional limitations.

The price per acre-foot (AF) of the executed contracts with the CWT started at 35.00 \$/AF in 2012 and progressed to 40.23 \$/AF for the most recent UYWCD-CWT contract in 2018. The Tri-State and City prices per AF were codified in the existing Stagecoach Reservoir allotment contracts for these entities.

ERCs represent an evolving form of water contracts considered by the UYWCD and can be difficult to contemplate due to the relatively brief history of these agreements. It may be useful to divide the consideration of ERCs into three components: Legal mechanisms for ERC contracting, Administration of ERC releases by the CDWR, and ERC pricing.

Indeed, a question repeatedly raised by members of the UYWCD BOD is – what are the legal mechanisms available to potential contractees for the release and/or delivery of ERC agreements, given the limits of the known avenues of ERC release? Recent events have provided some answers to this question in the form of newly enacted legislation in the State of Colorado.

Early in 2020, Governor Polis signed five pieces of legislation of significance for water resources management in the State of Colorado. The five pieces of legislation are: HB 20-1037, HB-20-1095, HB 20-1157, HB 20-1159 and SB 20-48. A summary of these newly approved bills is presented in this memorandum for information and discussion purposes. HB 20-1037 and HB 20-1157 are of significance to the ERC policies considered by the UYWCD BOD.

As with all new legislation, the legal interpretations of these acts are in a nascent form of development and are untested in any implementation. The information provided in this memorandum is not to be considered a fully comprehensive treatment of the subject. All the legislation considered herein are subject to mandated waiting periods before maturing to fully enacted statutes.

## **2.0 Summaries of Recent State of Colorado Legislation**

HB 20-1037 (Text of Legislation Included with this Memorandum for Reference)  
House Bill 1037 authorizes the CWCB to use an acquired water right, whose historic consumptive use has been previously quantified and changed to include augmentation use, to be used to add to river flows for environmental benefits.

The UYWCD solicited comment on HB 20-1037 from multiple sources. These sources have been invited to join in the discussion at the May 21, 2020 UYWCD BOD meeting.





### HB 20-1095

House Bill 20-1095 authorizes counties and municipalities that have adopted master plans that contain a water supply element to include state water plan goals and conservation policies that may affect land development approvals.

The UYWCD staff has not investigated the particulars of this legislation.

### HB 20-1157 (Text of Legislation Included with this Memorandum for Reference)

House Bill 20-1157 expands the State of Colorado's existing instream flow loan program by authorizing a loan to be used to improve and preserve flows, and increases the number of years the loan can be exercised from three to five, but for not more than three consecutive years in a single 10-year period. HB 20-1157 also allows a loan to be renewed for two additional 10-year periods. In addition, HB 20-1157 includes a provision to *improve* the natural environment to a reasonable degree for a stream reach for which the (CWCB) holds a decreed instream flow water right. The law set to be modified by this new legislation was limited to a provision to *preserve* the natural environment to a reasonable degree for a stream reach for which the (CWCB) holds a decreed instream flow water right.

House Bill 20-1157 increases the comment period on loan applications from 15 to 60 days; allows appeal of the State Engineer's decision on a loan application to water court; and requires the CWCB to give preference to loans of stored water over loans of direct flow water where available. There is CWCB rule making procedure required by HB 20-1157.

The UYWCD solicited comment on HB 20-1157 from multiple sources. These sources have been invited to join in the discussion at the May 21, 2020 UYWCD BOD meeting.

### HB 20-1159

House Bill 1159 provides a means for existing water uses, such as water for livestock, that have not been legally quantified to continue when an instream flow right downstream is designated. Current law is unclear as to whether pre-existing uses that lack a court decree are protected. To provide clarity, the bill requires the State Engineer to confirm any claim of an existing use in administering the state's instream flow program.

The UYWCD staff has not investigated the particulars of this legislation.

### SB 20-48

Senate Bill 20-48 requires the Colorado Department of Natural Resources to form a working group to explore ways to strengthen anti-speculation laws. The agency must report its recommendations to the interim Water Resources Review Committee by August 15, 2021.

The UYWCD staff has not investigated the particulars of this legislation.

**View the 2018 Colorado Revised Statutes** | View Other Versions of the Colorado Revised Statutes

# **2016 Colorado Revised Statutes**

## **Title 37 - Water and Irrigation**

### **Water Rights and Irrigation**

#### **Article 83 - Exchange of Water**

#### **§ 37-83-105. Owner may loan agricultural water right - loans to Colorado water conservation board for instream flows**

**Universal Citation:** CO Rev Stat § 37-83-105 (2016)

(1) Subject to the limitations of this subsection (1) and pursuant to the procedures set forth in paragraph (b) of subsection (2) of this section, the owner of a water right decreed and used solely for agricultural irrigation purposes may loan all or a portion of the water right to another owner of a decreed water right on the same stream system and that is used solely for agricultural irrigation purposes for no more than one hundred eighty days during any one calendar year if the division engineer approves such loan in advance and the loan does not cause injury to other decreed water rights.

(2) (a) A water right owner may loan water to the Colorado water conservation board for use as instream flows pursuant to a decreed instream flow water right held by the board for a period not to exceed one hundred twenty days, subject to the following:

(I) Prior to accepting the loan, the Colorado water conservation board shall compile a statement about the duration of the loan, a description of the original points of diversion, and other relevant information sufficient for the state engineer to determine that such loan does not injure existing decreed water rights.

(II) Consistent with current law, only the Colorado water conservation board is entitled to hold instream flow water rights and may accept proposed loans in accordance with section 37-92-102 (3).

(III) The loan shall not be accepted unless the state engineer determines that the Colorado water conservation board's temporary instream flow use will not injure existing water rights of others.

(IV) A loan approved pursuant to this paragraph (a) shall not be exercised for more than three years in a ten-year period, for which only a single approval by the state engineer is required. The ten-year period shall begin when the state engineer approves the loan. The state engineer shall not approve a loan pursuant to this paragraph (a) for another ten-year period; except that, if the agreement has not been exercised during the term of the agreement, an applicant may reapply one time by repeating the application process pursuant to this subsection (2).

(V) A party may file comments concerning potential injury to such party's water rights or decreed conditional water rights due to the operations of the loan of a water right to a decreed instream flow right with the state engineer by January 1 of the year following each year that the loan is exercised. The procedures of paragraph (b) of this subsection (2) regarding notice, opportunity to comment, the state engineer's decision, and an appeal of such decision shall again be followed with regard to such party's comments.

(b) In determining whether injury will occur, the division engineer shall ensure that the following conditions are met:

(I) The proponent has filed a request for approval of the loan with the division engineer, together with a filing fee in the amount of one hundred dollars. Moneys from the fee shall be transmitted to the state treasurer and deposited in the water resources cash fund created in section 37-80-111.7 (1). The request for approval shall include:

- (A) Evidence of the proponent's legal right to use the loaned water right;
  - (B) A statement of the duration of the proposed loan;
  - (C) A description of the original points of diversion, the return flow pattern, the stream reach, and the time, place, and types of use of the loaned water right;
  - (D) A description of the new proposed points of diversion, the return flow pattern, the stream reach, and the time, place, and types of use of the loaned water right; and
  - (E) A reasonable estimate of the historic consumptive use of the loaned water right;
- (II) The proponent has provided written notice of the request for approval of the loan by first-class mail or electronic mail to all parties on the substitute water supply plan notification list established pursuant to section 37-92-308 (6) for the water division in which the proposed loan is located and proof of such notice is filed with the division engineer;
- (III) The proposed use of the loaned water right is for agricultural irrigation purposes or for instream flow purposes by the Colorado water conservation board;
- (IV) None of the water rights involved in the loan are adjudicated to or diverted at a well located more than one hundred feet from the bank of the nearest flowing stream;
- (V) The division engineer has given the owners of water rights and decreed conditional water rights fifteen days after the date of mailing of notice under subparagraph (II) of this paragraph (b) to file comments on the proposed loan; except that the division engineer may act on the application immediately after the applicant provides evidence that all persons entitled to notice of the application under subparagraph (II) of this paragraph (b) have either consented to or commented on the application. Such comments shall include any claim of injury or any terms and conditions that should be imposed upon the proposed loan to prevent injury to a party's water right and any other information the commenting party wishes the division engineer to consider in reviewing the proposed loan.
- (VI) The division engineer, after consideration of any comments received, has determined that the operation and administration of the proposed loan will not cause injury to other decreed water rights and, for loans made pursuant to paragraph (a) of this subsection (2), will not affect Colorado's compact entitlements. The division

engineer shall impose such terms and conditions as are necessary to ensure that these standards are met. In making the determinations specified in this subparagraph (VI), the division engineer shall not be required to hold any formal hearings or conduct any other formal proceedings, but may conduct a hearing or formal proceeding if the division engineer finds it necessary to address the issues.

(VII) The division engineer shall approve or deny the proposed loan within twenty days after the date of mailing of notice under subparagraph (II) of this paragraph (b), or within five days after the applicant provides evidence that all persons entitled to notice of the application under subparagraph (II) of this paragraph (b) have either consented to or commented on the application, whichever is earlier.

(VIII) When the division engineer approves or denies a proposed loan, the division engineer shall serve a copy of the decision on all parties to the application by first-class mail or, if such parties have so elected, by electronic mail. Neither the approval nor the denial by the division engineer shall create any presumptions, shift the burden of proof, or serve as a defense in any legal action that may be initiated concerning the loan. Any appeal of a decision by the division engineer concerning the loan pursuant to this section shall be made to the water judge in the applicable water division within fifteen days after the date on which the decision is served on the parties to the application. The water judge shall hear such appeal on an expedited basis.

(c) All periods of time during which a loaned water right is used by the board for instream flow purposes shall be excluded from any historic consumptive use analysis of the loaned water right required under any water court proceeding.

**Disclaimer:** These codes may not be the most recent version. Colorado may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

# An Act

HOUSE BILL 20-1037

BY REPRESENTATIVE(S) Arndt, Bird, Buentello, Cutter, Esgar, Exum, Holtorf, Jackson, Kennedy, Kipp, McCluskie, McLachlan, Melton, Michaelson Jenet, Roberts, Snyder, Soper, Titone, Valdez D., Will, Wilson, Young, Becker;  
also SENATOR(S) Coram, Bridges, Hansen, Moreno, Rodriguez, Scott, Tate, Zenzinger, Garcia.

CONCERNING THE COLORADO WATER CONSERVATION BOARD'S AUTHORITY TO AUGMENT STREAM FLOWS WITH ACQUIRED WATER RIGHTS THAT HAVE BEEN PREVIOUSLY DECREED FOR AUGMENTATION USE.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 37-92-102, **add** (4.5) as follows:

**37-92-102. Legislative declaration - basic tenets of Colorado water law. (4.5) Plan for augmentation to augment stream flows.**  
(a) **Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE COLORADO WATER CONSERVATION BOARD WOULD BENEFIT FROM DIRECTION WITH REGARD TO WATER COURT APPLICATIONS FOR PLANS FOR AUGMENTATION TO AUGMENT STREAM FLOWS,

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

AS IDENTIFIED IN SUBSECTION (3) OF THIS SECTION.

(b) **Plan approval.** TO OBTAIN A DECREED PLAN FOR AUGMENTATION, THE BOARD, EITHER AS SOLE APPLICANT OR TOGETHER WITH AN OWNER OF A DECREED WATER RIGHT FOR WHICH A CHANGE OF WATER RIGHTS TO INCLUDE ANY AUGMENTATION USE HAS BEEN JUDICIALLY APPROVED, MUST FILE AN APPLICATION WITH THE WATER COURT FOR APPROVAL OF A PLAN FOR AUGMENTATION TO AUGMENT STREAM FLOWS AND PROTECT AUGMENTATION DELIVERIES MADE PURSUANT TO THE PLAN FOR AUGMENTATION WITHIN A SPECIFIC STREAM REACH OR REACHES, AT RATES THE BOARD DETERMINES ARE APPROPRIATE TO PRESERVE OR IMPROVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE. THE APPLICATION AND APPROVAL PROCESS FOR A PLAN FOR AUGMENTATION TO AUGMENT STREAM FLOWS ARE SUBJECT TO THE FOLLOWING PRINCIPLES AND LIMITATIONS:

(I) THE BOARD MAY FILE AN APPLICATION ONLY IF THE OWNER OF THE WATER RIGHT THAT IS DECREED FOR AUGMENTATION USE IS IDENTIFIED IN THE APPLICATION AND CONSENTS TO THE APPLICATION.

(II) THE PROCEDURES, STANDARDS, AND REQUIREMENTS OF THIS ARTICLE 92 FOR PLANS FOR AUGMENTATION APPLY TO APPLICATIONS FILED UNDER THIS SUBSECTION (4.5).

(III) A PLAN FILED UNDER THIS SUBSECTION (4.5) MUST USE, FOR AUGMENTATION ONLY, WATER RIGHTS:

(A) FOR WHICH THE HISTORICAL CONSUMPTIVE USE HAS BEEN QUANTIFIED; AND

(B) FOR WHICH A CHANGE OF WATER RIGHTS TO INCLUDE ANY AUGMENTATION USE HAS BEEN JUDICIALLY APPROVED.

(IV) IF THE AUGMENTATION WATER RIGHT MEETS THE REQUIREMENTS OF SUBSECTION (4.5)(b)(III) OF THIS SECTION, NO FURTHER CHANGE OF THAT AUGMENTATION WATER RIGHT IS REQUIRED.

(V) THE USE OF WATER AS PART OF A PLAN FOR AUGMENTATION TO AUGMENT STREAM FLOWS IS SUBJECT TO THE TERMS AND CONDITIONS OF ANY APPLICABLE DECREE TO WHICH THAT WATER IS SUBJECT.

(VI) ADDITIONAL TERMS AND CONDITIONS MUST BE IMPOSED ON THE USE OF WATER AS PART OF A PLAN FOR AUGMENTATION TO AUGMENT STREAM FLOWS AS NECESSARY TO PREVENT INJURY TO THE OWNERS OF VESTED WATER RIGHTS OR DECREED CONDITIONAL WATER RIGHTS. THE TERMS AND CONDITIONS MUST INCLUDE TERMS AND CONDITIONS TO PREVENT INJURY TO OTHER WATER RIGHTS THAT RESULT FROM ANY CHANGE IN THE TIME, PLACE, OR AMOUNT OF WATER AVAILABLE FOR DIVERSION OR EXCHANGE TO THE EXTENT THAT OTHER APPROPRIATORS HAVE RELIED UPON THE STREAM CONDITIONS THAT RESULTED FROM THE HISTORICAL USE OF THE AUGMENTATION WATER RIGHTS DESCRIBED IN SUBSECTION (4.5)(b)(III) OF THIS SECTION OR ADDED PURSUANT TO SECTION 37-92-305 (8)(c) BEFORE THEIR USE IN THE PLAN FOR AUGMENTATION OF STREAM FLOWS. A JUNIOR APPROPRIATOR IS ENTITLED TO THE CONTINUATION OF STREAM CONDITIONS AS THE CONDITIONS EXISTED AT THE TIME OF THE JUNIOR APPROPRIATOR'S APPROPRIATION.

(VII) AN APPLICANT MUST PROVE THAT THE PLAN FOR AUGMENTATION TO AUGMENT STREAM FLOWS WILL NOT INJURE OTHER WATER USERS' UNDECREED EXISTING EXCHANGES OF WATER TO THE EXTENT THE UNDECREED EXISTING EXCHANGES OF WATER HAVE BEEN ADMINISTRATIVELY APPROVED BEFORE THE DATE OF THE FILING OF THE APPLICATION FOR APPROVAL OF THE PLAN FOR AUGMENTATION TO AUGMENT STREAM FLOWS.

(VIII) THE AUGMENTATION WATER USED TO AUGMENT STREAM FLOWS IN A PLAN FOR AUGMENTATION TO AUGMENT STREAM FLOWS SHALL NOT BE DIVERTED WITHIN THE SPECIFIC STREAM REACH BY AN EXCHANGE, PLAN FOR SUBSTITUTION, PLAN FOR AUGMENTATION, OR OTHER MEANS THAT CAUSE A REDUCTION OF THE AUGMENTATION WATER ADDED TO THAT STREAM REACH. THE AUGMENTATION WATER IS SUBJECT TO SUCH REASONABLE TRANSIT LOSSES AS MAY BE IMPOSED BY THE WATER COURT OR THE STATE AND DIVISION ENGINEERS.

(IX) IF OPERATION OF A PLAN FOR AUGMENTATION REQUIRES THE USE OF, OR MAKING OF PHYSICAL MODIFICATIONS TO, AN EXISTING DIVERSION STRUCTURE WITHIN A STREAM REACH TO ALLOW THE AUGMENTATION WATER TO BYPASS THE STRUCTURE, THE OPERATOR OF THE PLAN MUST HAVE CONSENT FROM THE OWNER OF THE EXISTING STRUCTURE AND BEAR ALL REASONABLE CONSTRUCTION COSTS ASSOCIATED WITH ANY PHYSICAL MODIFICATIONS AND ALL REASONABLE OPERATIONAL AND



MAINTENANCE COSTS INCURRED BY THE OWNER OF THE STRUCTURE THAT WOULD NOT HAVE BEEN INCURRED IN THE ABSENCE OF THE PHYSICAL MODIFICATIONS TO THE STRUCTURE.

(c) **Saving clause.** THIS SUBSECTION (4.5):

(I) DOES NOT IMPAIR OR IN ANY WAY AFFECT ANY WATER COURT DECREE, ADMINISTRATIVE AUTHORIZATION, OR AGREEMENT THAT ALLOWS WATER DECREED FOR ENVIRONMENTAL, PISCATORIAL, WATER QUALITY, RECREATIONAL, OR OTHER IN-CHANNEL PURPOSES TO BE USED IN THE NATURAL STREAM CHANNEL FOR THE DECREED PURPOSES;

(II) IS NOT INTENDED TO BE THE EXCLUSIVE MEANS OF AUTHORIZING WATER DECREED FOR AUGMENTATION PURPOSES TO BE USED FOR ENVIRONMENTAL, PISCATORIAL, WATER QUALITY, RECREATIONAL, OR OTHER IN-CHANNEL PURPOSES, INCLUDING THE MAINTENANCE OF DOMINION AND CONTROL OVER THE WATER RELEASED FROM A SPECIFIC RESERVOIR;

(III) DOES NOT AUTHORIZE, RESTRICT, OR PRECLUDE FUTURE WATER RIGHTS APPROPRIATIONS, ADMINISTRATIVE AUTHORIZATIONS, OR OTHER AGREEMENTS FOR THE PURPOSES LISTED IN THIS SUBSECTION (4.5); AND

(IV) DOES NOT AFFECT APPLICATIONS BY THE COLORADO WATER CONSERVATION BOARD FOR PLANS FOR AUGMENTATION NOT DESCRIBED IN THIS SUBSECTION (4.5).

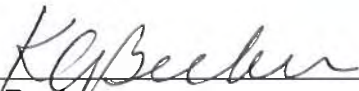
**SECTION 2.** In Colorado Revised Statutes, 37-92-305, **amend** (8)(c) as follows:


**37-92-305. Standards with respect to rulings of the referee and decisions of the water judge - definitions.** (8) (c) A plan for augmentation ~~shall~~ **MUST** be sufficient to permit the continuation of diversions when curtailment would otherwise be required to meet a valid senior call for water, to the extent that the applicant shall provide replacement water necessary to meet the lawful requirements of a senior diverter at the time and location and to the extent the senior DIVERTER would be deprived of ~~his or her~~ **THE SENIOR DIVERTER'S** lawful entitlement by the applicant's diversion. A proposed plan for augmentation that relies upon a supply of augmentation water that, by contract or otherwise, is limited in duration shall not be denied solely upon the ground that the supply of augmentation

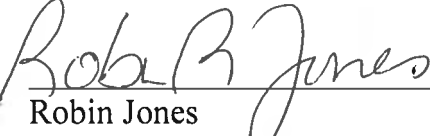
water is limited in duration, if the terms and conditions of the plan prevent injury to vested water rights. ~~Said~~ THE terms and conditions ~~shall~~ MUST require replacement of out-of-priority depletions that occur after any groundwater diversions cease. Decrees approving plans for augmentation ~~shall~~ MUST require that the state engineer curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights. A plan for augmentation, INCLUDING A COLORADO WATER CONSERVATION BOARD PLAN TO AUGMENT STREAM FLOWS PURSUANT TO SECTION 37-92-102, may provide procedures to allow additional or alternative sources of AUGMENTATION OR replacement water, including water leased on a yearly or less frequent basis, to be used in the plan after the initial decree is entered if the use of ~~said~~ THE additional or alternative sources is part of a substitute water supply plan approved pursuant to section 37-92-308 or if such sources are decreed for such use.

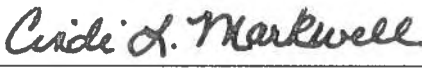
**SECTION 3. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

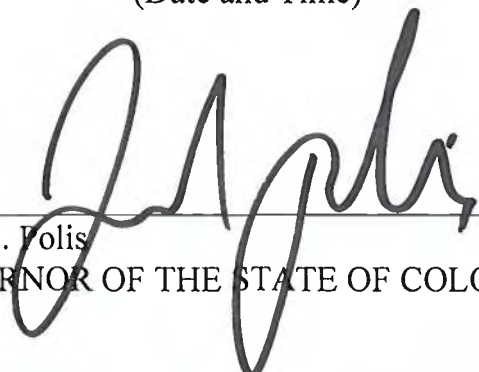
  
\_\_\_\_\_  
KC Becker  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

  
\_\_\_\_\_  
Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

  
\_\_\_\_\_  
Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

  
\_\_\_\_\_  
Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED March 24, 2020 at 4:30pm  
(Date and Time)

  
\_\_\_\_\_  
Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO

# An Act

HOUSE BILL 20-1157

BY REPRESENTATIVE(S) Roberts and Will, Arndt, Bird, Buentello, Cutter, Duran, Esgar, Exum, Froelich, Kennedy, Kipp, McCluskie, McKean, McLachlan, Michaelson Jenet, Sandridge, Snyder, Soper, Titone, Valdez D., Woodrow, Young, Becker;  
also SENATOR(S) Donovan, Bridges, Gonzales, Hansen, Moreno, Rodriguez, Winter, Zenzinger, Garcia.

CONCERNING THE COLORADO WATER CONSERVATION BOARD'S AUTHORITY  
TO USE WATER THAT A WATER RIGHT OWNER VOLUNTARILY LOANS TO  
THE BOARD FOR INSTREAM FLOW PURPOSES.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 37-83-105, **amend** (1), (2)(a) introductory portion, (2)(a)(IV), (2)(a)(V), (2)(b) introductory portion, (2)(b)(I) introductory portion, (2)(b)(II), (2)(b)(V), (2)(b)(VI), (2)(b)(VII), and (2)(b)(VIII); and **add** (2)(a)(III.5), (2)(a)(III.7), (2)(a)(VI), (2)(b)(II.5), and (3) as follows:

**37-83-105. Owner may loan agricultural water right - loans to Colorado water conservation board for instream flows - rules.**  
(1) (a) Subject to the limitations of this subsection (1) and pursuant to the

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

procedures set forth in ~~paragraph (b) of subsection (2)~~ SUBSECTION (2)(b) of this section THAT APPLY TO AN EXPEDITED LOAN DESCRIBED IN SUBSECTION (2)(a)(III.7) OF THIS SECTION, the owner of a water right decreed and used solely for agricultural irrigation purposes may loan all or a portion of the water right to another owner of a decreed water right on the same stream system and that is used solely for agricultural irrigation purposes for no more than one hundred eighty days during any one calendar year if the ~~division~~ STATE engineer approves ~~such~~ THE loan in advance and the loan does not cause injury to other decreed water rights.

(b) THE OWNER OF ANY DECREED WATER RIGHT MAY LOAN WATER TO THE COLORADO WATER CONSERVATION BOARD FOR USE AS INSTREAM FLOWS:

(I) TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE PURSUANT TO A DECREED INSTREAM FLOW WATER RIGHT HELD BY THE BOARD; OR

(II) TO IMPROVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE FOR A STREAM REACH FOR WHICH THE BOARD HOLDS A DECREED INSTREAM FLOW WATER RIGHT.

(2) (a) ~~A water right owner may loan water to the Colorado water conservation board for use as~~ WATER MAY BE USED FOR instream flows pursuant to a ~~decreed instream flow water right held by the board~~ LOAN AUTHORIZED UNDER THIS SECTION for a period not to exceed one hundred twenty days IN A SINGLE CALENDAR YEAR, subject to the following:

(III.5) WATER RIGHTS LOANED PURSUANT TO THIS SECTION ARE NOT PRECLUDED FROM CONCURRENT OR SUBSEQUENT INCLUSION IN A WATER CONSERVATION, DEMAND MANAGEMENT, COMPACT COMPLIANCE, OR WATER BANKING PROGRAM OR PLAN, AS IS OR MAY BE SUBSEQUENTLY DEFINED OR DESCRIBED IN STATUTE.

(III.7) AN EXPEDITED LOAN APPROVED TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE PURSUANT TO THIS SUBSECTION (2)(a) HAS A TERM OF UP TO ONE YEAR. THE LOAN PERIOD BEGINS WHEN THE STATE ENGINEER APPROVES THE EXPEDITED LOAN. IF AN EXPEDITED LOAN IS APPROVED, THE APPLICANT SHALL NOT REAPPLY FOR AN ADDITIONAL EXPEDITED LOAN OF THE WATER RIGHT.

(IV) (A) A RENEWABLE loan approved TO PRESERVE OR IMPROVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE pursuant to this ~~paragraph (a) shall~~ SUBSECTION (2)(a) MUST not be exercised for more than ~~three~~ FIVE years in a ten-year period AND FOR NO MORE THAN THREE CONSECUTIVE YEARS, for which only a single approval by the state engineer is required. The ten-year period ~~shall begin~~ BEGINS when the state engineer approves the loan. AN APPLICANT MAY REAPPLY FOR AND the state engineer ~~shall not~~ MAY approve a RENEWABLE loan pursuant to this ~~paragraph (a)~~ SUBSECTION (2)(a) for ~~another~~ UP TO TWO ADDITIONAL ten-year period; ~~except that, if the agreement has not been exercised during the term of the agreement, an applicant may reapply one time by repeating the application process pursuant to this subsection (2)~~ PERIODS.

(B) IF AN APPLICANT HAD PREVIOUSLY BEEN APPROVED FOR AND HAD EXERCISED AN EXPEDITED LOAN PURSUANT TO SUBSECTION (2)(a)(III.7) OF THIS SECTION AND SUBSEQUENTLY APPLIES AND IS APPROVED FOR A RENEWABLE LOAN, THE ONE-YEAR LOAN PERIOD OF THE EXPEDITED LOAN COUNTS AS THE FIRST YEAR OF THE FIVE-YEAR ALLOWANCE FOR THE SUBSEQUENT RENEWABLE LOAN.

(C) IN EACH YEAR THAT A RENEWABLE LOAN IS EXERCISED, THE APPLICANT SHALL PROVIDE THE WRITTEN NOTICE DESCRIBED IN SUBSECTION (2)(b)(II) OF THIS SECTION.

(V) A party may file comments concerning potential injury to ~~such~~ THE party's water rights or decreed conditional water rights due to the operations of the loan of ~~a~~ THE water right to ~~a decreed instream flow right~~ with the state engineer by January 1 of the year following each year that the loan is exercised. The procedures of ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION regarding notice, opportunity to comment, the state engineer's decision, and an appeal of ~~such~~ THE decision shall again be followed with regard to ~~such~~ THE party's comments. IN AN APPEAL TO THE WATER JUDGE IN THE APPLICABLE WATER DIVISION OF THE DETERMINATION MADE BY THE STATE ENGINEER PURSUANT TO THIS SECTION, THE APPLICANT HAS THE BURDEN OF PROOF THAT THE LOANED WATER RIGHT DOES NOT CAUSE INJURY TO OTHER VESTED OR CONDITIONALLY DECREED WATER RIGHTS. ANY APPEAL OF A DECISION BY THE STATE ENGINEER CONCERNING THE LOAN PURSUANT TO THIS SECTION SHALL BE MADE IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SUBSECTION (2)(b)(VIII) OF THIS SECTION.

(VI) RULES PROMULGATED BY THE COLORADO WATER CONSERVATION BOARD PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(b) In determining whether injury will occur, the ~~division~~ STATE engineer shall ensure that the following conditions are met:

(I) The ~~proponent~~ APPLICANT has filed a request for approval of the loan with the ~~division~~ STATE engineer, together with a filing fee in the amount of ~~one~~ THREE hundred dollars. ~~Moneys from~~ THE STATE ENGINEER SHALL TRANSMIT the fee ~~shall be transmitted~~ to the state treasurer, ~~and deposited~~ WHO SHALL DEPOSIT THE FEE in the water resources cash fund created in section 37-80-111.7 (1). The request for approval ~~shall~~ MUST include:

(II) The ~~proponent~~ APPLICANT has SUBMITTED PROOF TO THE STATE ENGINEER, IN A FORM AND MANNER DETERMINED BY THE STATE ENGINEER, DEMONSTRATING THAT THE APPLICANT provided written notice of the request for approval of the loan by first-class mail or electronic mail to:

(A) All parties on the substitute water supply plan notification list established pursuant to section 37-92-308 (6) for the water division in which the proposed loan is located; and ~~proof of such notice is filed with the division engineer;~~

(B) A REGISTERED AGENT OF A DITCH COMPANY, IRRIGATION DISTRICT, WATER USERS' ASSOCIATION, OR OTHER WATER SUPPLY OR DELIVERY ENTITY WITHIN WHOSE SYSTEM THE WATER RIGHTS FALL.

(II.5) THE APPLICANT HAS PROVEN THAT THE LOAN WILL NOT INJURE DECREED WATER RIGHTS, DECREED EXCHANGES OF WATER, OR OTHER WATER USERS' UNDECREED EXISTING EXCHANGES OF WATER TO THE EXTENT THAT THE UNDECREED EXISTING EXCHANGES HAVE BEEN ADMINISTRATIVELY APPROVED BEFORE THE DATE OF THE FILING OF THE REQUEST FOR APPROVAL OF THE LOAN.

(V) The ~~division~~ STATE engineer has given the owners of water rights and decreed conditional water rights ~~fifteen days after the date of mailing of notice under subparagraph (II) of this paragraph (b)~~ THE OPPORTUNITY to file comments on the proposed loan ~~except that the division engineer may act on the application immediately after the applicant~~

~~provides evidence that all persons entitled to notice of the application under subparagraph (II) of this paragraph (b) have either consented to or commented on the application. Such~~ WITHIN THE RELEVANT TIME FRAME INDICATED IN THIS SUBSECTION (2)(b)(V). THE comments shall MUST include any claim of injury or any terms and conditions that should be imposed upon the proposed loan to prevent injury to a party's water right RIGHTS and any other information the commenting party wishes the ~~division~~ STATE engineer to consider in reviewing the proposed loan. THE STATE ENGINEER SHALL PROVIDE THE PARTIES ENTITLED TO NOTICE UNDER SUBSECTION (2)(b)(II) OF THIS SECTION:

(A) FIFTEEN DAYS AFTER THE DATE OF MAILING OF NOTICE FOR EXPEDITED LOANS AUTHORIZED UNDER SUBSECTION (2)(a)(III.7) OF THIS SECTION TO PROVIDE COMMENTS ON THE PROPOSED LOAN; AND

(B) SIXTY DAYS AFTER THE DATE OF MAILING OF NOTICE FOR RENEWABLE LOANS AUTHORIZED UNDER SUBSECTION (2)(a)(IV) OF THIS SECTION TO PROVIDE COMMENTS ON THE PROPOSED LOAN.

(VI) The ~~division~~ STATE engineer, after consideration of any comments received, has determined that the operation and administration of the proposed loan will not cause injury to other decreed water rights, DECREED EXCHANGES, OR UNDECREED EXCHANGES AS DESCRIBED IN SUBSECTION (2)(b)(II.5) OF THIS SECTION and, for loans made pursuant to ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION, will not affect Colorado's compact entitlements. The ~~division~~ STATE engineer shall impose such terms and conditions as are necessary to ensure that these standards are met. In making the determinations specified in this ~~subparagraph (VI)~~ SUBSECTION (2)(b)(VI), the ~~division~~ STATE engineer shall NEED not be required to hold any formal hearings or conduct any other formal proceedings, but may conduct a hearing or formal proceeding if the ~~division~~ STATE engineer finds it necessary to address the issues.

(VII) The ~~division~~ STATE engineer shall approve or deny the proposed loan within ~~twenty~~ TEN days after the ~~date of mailing of notice under subparagraph (II) of this paragraph (b), or within five days after the applicant provides evidence that all persons entitled to notice of the application under subparagraph (II) of this paragraph (b) have either consented to or commented on the application, whichever is earlier~~ PERIOD FOR COMMENTS ON THE PROPOSED LOAN SPECIFIED IN SUBSECTION (2)(b)(V)



OF THIS SECTION HAS EXPIRED.

(VIII) When the ~~division~~ STATE engineer approves or denies a proposed loan, the ~~division~~ STATE engineer shall serve a copy of the decision on all parties to the application by first-class mail or, if ~~such~~ THE parties have so elected, by electronic mail. Neither the approval nor the denial by the ~~division~~ STATE engineer ~~shall create~~ CREATES any presumptions ~~shift the burden of proof, or serve~~ OR SERVES as a defense in any legal action that may be initiated concerning the loan. ~~Any~~ A PARTY MAY FILE AN appeal of a decision by the ~~division~~ STATE engineer concerning the loan pursuant to this section ~~shall be made~~ to the water judge in the applicable water division within fifteen days after the date ~~on which~~ THAT THE STATE ENGINEER, FOLLOWING THE STATE ENGINEER'S CONSIDERATION OF ANY COMMENTS SUBMITTED PURSUANT TO SUBSECTION (2)(a)(V) OF THIS SECTION, SERVES the decision ~~is served~~ on the parties to the application. THE APPLICANT HAS THE BURDEN OF PROOF TO DEMONSTRATE THAT THE LOANED WATER RIGHT DOES NOT CAUSE INJURY TO OTHER VESTED OR CONDITIONALLY DECREED WATER RIGHTS, DECREED EXCHANGES, OR UNDECREED EXCHANGES AS DESCRIBED IN SUBSECTION (2)(b)(II.5) OF THIS SECTION. The water judge shall hear ~~such~~ AND DETERMINE THE appeal on an expedited basis USING THE PROCEDURES AND STANDARDS SET FORTH IN SECTION 37-92-304 (3) CONCERNING MATTERS REREFERRED TO THE WATER JUDGE BY THE WATER REFEREE.

(3) THE COLORADO WATER CONSERVATION BOARD SHALL PROMULGATE RULES REGARDING THE FOLLOWING NECESSARY STEPS FOR ITS REVIEW AND ACCEPTANCE OF LOANS FOR INSTREAM FLOW USE PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION:

(a) THE BOARD'S REVIEW OF THE PROPOSED LOAN, INCLUDING A REQUIREMENT THAT THE BOARD REQUEST AND REVIEW A BIOLOGICAL ANALYSIS FROM THE DIVISION OF PARKS AND WILDLIFE CONCERNING THE EXTENT TO WHICH THE PROPOSED LOAN WILL IMPROVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE;


(b) A REQUIREMENT THAT WHEN CONSIDERING A PROPOSED LOAN, THE BOARD SHALL GIVE PREFERENCE TO LOANS OF STORED WATER, WHEN AVAILABLE, OVER LOANS OF DIRECT FLOW WATER; AND

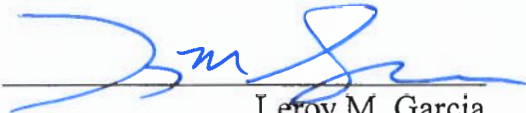
(c) THE BOARD'S DETERMINATION, AFTER A HEARING ON THE

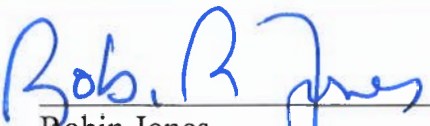
MATTER, IF REQUESTED, WHETHER TO ACCEPT THE PROPOSED LOAN.

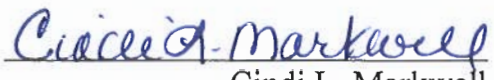
**SECTION 2. Act subject to petition - effective date - applicability.** (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.

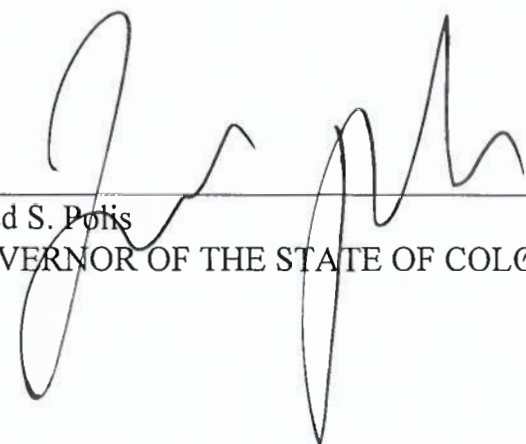
  
\_\_\_\_\_  
KC Becker  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

  
\_\_\_\_\_  
Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

  
\_\_\_\_\_  
Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

  
\_\_\_\_\_  
Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED March 20, 2020 at 12:50 pm  
(Date and Time)

  
\_\_\_\_\_  
Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO

# RECORD OF PROCEEDINGS

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**UPPER YAMPA WATER CONSERVANCY DISTRICT  
BOARD OF DIRECTORS MEETING  
MARCH 11, 2020 11:30 AM  
MOUNTAIN VALLEY BANK COMMUNITY ROOM  
2220 CURVE PLAZA, STEAMBOAT SPRINGS, CO**

## MINUTES

Chairman Ken Brenner called the meeting to order and declared a quorum present. In addition to Chairman Brenner, the Board members present were Bob Woodmansee, Doug Monger, Jim Haskins, John Redmond, Ron Murphy, Lyn Halliday, Tom Sharp, and Webster Jones. General Manager Kevin McBride, District Engineer Andy Rossi, Marketing/Communication Manager Holly Kirkpatrick, Chief Accountant Karina Craig, Business Manager Deb Bastian, General Counsel Bob Weiss (by video conference), and retiring Director Steve Colby were also present. Members of the public present included Erin Light and Scott Hummer, Colorado Division of Water Resources; Kelley Romero-Heaney and Jon Snyder, City of Steamboat Springs; and Mr. Gerry Smith.

The following agenda was proposed:

### AGENDA

- (1) Establishment of Quorum and Call to Order;
- (2) Approval of Agenda for Meeting; action item
- (3) Succession Planning;
- (4) Consent Agenda; action item
  - a) Financial Reports;
    - i) Approval of Disbursements;
    - ii) Budget Comparison;
    - iii) Budget update for WSRF Funds;
  - b) Approval of the minutes of the January 15 Board Meeting;
- (5) Public Input and Comment;
- (6) Board Member Recognition;
- (7) Report of the General Manager;
  - a) Water Quality Standards Consulting;
  - b) Pricing discussion; action item
  - c) Board meeting calendar; action item
  - d) Risk Study modeling;
- (8) Report from District Engineer;
  - a) Reservoir Water Status;
  - b) Inflow Forecasting;
- (9) Report from Public Information Manager;
  - a) Summary Update;
    - i) Diversion Infrastructure Improvement Project;
    - ii) Web Site Redesign;
    - iii) Public Information Schedule;
    - iv) Yamcolo Individual Irrigator Marketing Update;
- (10) Report from General Counsel;
  - a) Water Resumes;
  - b) Status of other Water Cases, if any;
  - c) Board Appointments;

## RECORD OF PROCEEDINGS

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- d) Water Contracts;
- (11) Executive Session with Bob Weiss, legal Counsel, under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, and Contract Negotiations. Mere presence or participation of an attorney at an executive session of the local politic body is not sufficient to satisfy the requirements of this subsection (4).
- (12) Board Member Reports;
- (13) Next Meeting Agenda;
- (14) Adjournment.

**Meeting Agenda** Director Redmond moved to approve of the agenda. Director Monger seconded the motion which was unanimously approved.

General Manager McBride introduced the District's new Business Manager, Deb Bastian. Chairman Brenner announced the retirement of Director Steve Colby. Director Colby's term at the Board ended on March 8, 2020 and he had announced his retirement. Chairman Brenner introduced incoming Director Lyn Halliday. Director Halliday introduced herself and updated the Board on her professional background.

### ***Succession Planning***

Chairman Brenner stated General Manager McBride had announced his retirement and thanked him for his service to the District over the years. General Manager McBride described some of the more salient District accomplishments and District milestones reached during his tenure and thanked the Board for the opportunity.

Director Brenner referred to the current job description for the position. He proposed the Governance Committee review and updated it, then bring it to the Board for review, before it be posted publicly.

Director Monger thanked General Manager McBride for the flexible offboarding schedule he offered the District and stated his opinion that it would be best to establish a well-defined timeline. Director Monger proposed an RFP be issued and commented Routt County had recently gone through the process of hiring a new County Manager. Five firms had been recruited in the search effort and they might be a good resource for the District as well. Additional resources were mentioned, such as Employers Council and the International City Manager Association. An Executive Committee was scheduled for Wednesday March 18; Director Sharp suggested the Executive Committee take on the responsibility of finding such firms. General Counsel Weiss clarified the District could choose to, but was not required to, issue an RFP for personnel matters. There was general agreement that the process outlined above would be a good approach.

**Consent Agenda** Director Sharp made a motion to approve the consent agenda (approval of January 15, 2020 minutes, Budget Updated and Comparison Report, Cash Disbursement Report), Director Haskins seconded the motion, which was unanimously approved.

**Public Comment** The Chairman asked the public present if there were any questions or comments; there were none.

## RECORD OF PROCEEDINGS

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### *Board Member Recognition*

General Manager McBride recognized and thanked retiring Director Colby for his many years of service at the District. The sentiment was echoed through the room. Director Colby expressed his gratitude for the opportunity, recognized the work achieved by the District in the past fifteen years and wanted to wish the District all the best in the future.

### *Report of the General Manager*

Water Quality Standards Consulting – General Manager McBride handed a letter from Leonard Rice Engineers (LRE) to the District. He discussed work being carried out by LRE in water quality standards for Stagecoach Reservoir. Director Monger inquired about timelines; General Manager McBride said he saw early summer for a general timeline.. There was a discussion about the standards.

### Pricing Discussion –

The General Manager provided a general overview of pricing of current contracts. He then referred to pricing methods the District has used to capture costs of each facility. He spoke of the new water contracts, and different ways to bring a price for new contracts for municipal water.

Jon Snyder, Public Works Director of the City of Steamboat Springs, was invited to speak. He discussed rate study strategies, including full cost recovery, which he supported. He described pricing components; ongoing operations, a rainy-day fund, and capital maintenance. He commented capital improvement plans can be very variable, and encouraged recovery of %100 of operating costs, commented he typically keeps a rainy-day fund equivalent to that of about 25% of operating costs. He requested that details of proposed water pricing could be made publicly available soon.

Chairman Brenner asked members of the public present if there were any comments; there were none.

The topic of firmness of water relative to pricing was discussed. Director Sharp inquired what might or might not be appropriate to discuss in open session relative to pricing of contracts that are currently under negotiation. General Counsel Weiss said with respect to existing contract interpretation and instructions to negotiators should be discussed in executive session. He said pricing related to new water contracts could be discussed in open session.

Chairman Brenner asked Directors to express their opinions. Director Sharp referred to a pricing matrix he was proposing, with water pricing varying with volume of water to be contracted, and length of contract term. Director Jones proposed pricing varying based on type of water use, recognizing four categories: agricultural, ERC, municipal and industrial. He discouraged the signing of long-term contracts, commenting perpetuity is a long time. He had a broader range of prices, he commented. Director Woodmansee discussed risk, and whether a firming project would be needed. He stated his opinion that \$125.00/AF would be too high of a price. Director Haskins stated he had the same thought

## RECORD OF PROCEEDINGS

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initially. However, he said, the firming project might indeed be needed, and it should be kept on the table. He referred to comments about pricing sensitivity and noted that pricing of water is much higher in other basins. He clarified this was the case for water in general, and particularly for environmental water.

Director Monger discouraged the District to enter into new perpetual contracts. He was advocating for cost recovery pricing and the consideration of firmness of yield. The community wishes for the District to save money for new projects, and to have some reserves, he expressed. ERC water might be sold for a lower price, but it might not be there when needed. Director Redmond stated he would like to see no new perpetual contracts, and he'd like to see contracts be simplified in the future. Director Halliday commented there are numerous variables contributing to pricing, especially considering changes to climate and other unknowns.

Director Jones spoke; he said there is no set protocol in pricing as there is in retail municipal water. The District hired an accounting firm with background. Calculated prices are educated estimates, which come close to the actual costs. As a District, he said, we are not able to recover all of the cost. There is a subsidy, because not all of the water is under contract. He was suggesting Directors pick a number they feel comfortable with, that reflects the values of the District. He further commented, the City of Steamboat Springs has a capital-intensive budget, while the District's situation is different, with capital expenditures that are not as unpredictable. He felt comfortable with the method developed by the District, he concluded.

Director Brenner stated he did not see a current need for agricultural water pricing at Stagecoach. He could empathize with other governments who will continue to serve their constituents in the long term and asked if there was a provision or terms that could give further assurance for long term planning. He recognized firmness ought to be a factor in pricing considerations. He stated the cost recognition through an enterprise fund model had its value, while he was aware that not all costs could be recovered, and water would be subsidized. He added, he was in agreement of avoiding any new perpetual contracts.

Director Murphy stated he liked the pricing matrix proposed by Director Sharp; however, he added, it would drastically complicate pricing for staff. He did not believe in perpetual contracts, and in his opinion, contracts should have a term of 20 years or less.

Chairman Brenner invited the public to comment. Gerry Smith commented that under applicable rules what will be discussed in Executive Session must be listed or otherwise it could not be discussed. General Counsel Weiss responded and clarified; there are two types of Executive Sessions. They can be for legal advice, or for contract negotiations. For the latter, there is a recording, and the District holds it for 90 days, per State law.

*Board Meeting Calendar* – The annual 2020 Board meeting schedule was reviewed. Some of the scheduled meetings are on the same dates as with the Yampa White Green Basin Roundtable. Some of the Roundtable Committee meetings overlap not only in date, but in time. There was a proposal to adjust

## RECORD OF PROCEEDINGS

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the District calendar so that District staff and Directors may attend to both meetings. Director Monger moved to keep the April 8, 2020 1:30 PM Board meeting as scheduled, and to adjust the monthly Board meetings for the remaining months of 2020 to the third Thursday of the month, with a start time of 12:00 PM. Director Woodmansee seconded the motion, which was unanimously approved.

Risk Study Modeling – General Manager McBride presented a Big River Committee Summary. The Big River Committee is a sub-committee of the Yampa White Green Basin Roundtable which is focused on the RT’s positions of the group.; the chair of that group has put out a document for comment: **Goals, Focus, and Policy Recommendations**. This was briefly discussed.

As part of the Colorado River District sponsored “Risk Study” the BOD’s previously approved funding with the provision that the “Yampa Doctrine” and “equitable apportionment” possibilities for administration of the Yampa River were considered. A YRWCD Equitable Apportionment spreadsheet document was presented, reviewed and discussed. The conversation included allocation of reduced depletion volumes for different basins through a variety of processes. Directors expressed interest in continuing to receive updates on the information presented.

### ***Report from the District Engineer***

Reservoir Water Status – Engineer Rossi presented and discussed in detail several graphs with water storage data for Yamcolo and Stagecoach Reservoirs, for the years 2019, and 2020-to-date.

Inflow Forecasting – Engineer Rossi presented a Yamcolo Inflow Forecast Worksheet, a Stagecoach Inflow Forecast Flowsheet, SNOTEL data sheets, and CBRFC inflow forecasts. He explained the data used, and the methodology. He then referred to pike, an introduced species present in Stagecoach Reservoir, and stated the District works in communication with other agencies actively involved in pike management.

### ***Report from Public Information Manager – Summary Update***

Diversion Infrastructure Improvement Project – Public Information Manager Kirkpatrick updated the Board on the project. She referred to budgeting and clarified the District won’t be issuing funds until after they are received from other participating agencies. Effectively and in terms of cash-flow, the expenditures will be a pass-through.

Website Redesign – Manager Kirkpatrick shared with the Board that the District’s website will be updated, both in presentation and content. She is currently working with consulting firm Hive180. She estimated the updated website would be launched in mid-May. She stated she would like the website to include an event calendar easily accessible to the public, as well as to staff and Directors.

Public Information Schedule – Manager Kirkpatrick updated the Board on different events and publications were District related materials have or will appear. She asked Directors to share with her



## RECORD OF PROCEEDINGS

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any other events or publications that might be useful for her to know about. Director Brenner shared some events from Friends of the Yampa.

*Yamcolo Individual Irrigator Marketing Update* – The Public Information Manager presented and reviewed an Individual Irrigators Water Allotment Contract Timeline. Contract applications have been mailed out to prospective contractees. Several people have reached out and several applications have been received. Friday March 13, 2020 is the deadline for all applicants to submit their applications. Soon after, contracts will be mailed out for signature. Contracts are expected to be received by April 1, 2020.

### ***Report from General Counsel***

*Water Resumes and Status of other Water Cases* – General Counsel Weiss reported Scott Grosscup had reviewed the Water Resumes for Water Divisions 5 and 6 for water court filings in January and he had not identified any water applications that would impair or injure the District’s water rights. Counsel Weiss presented and reviewed an update on cases 17CW3043, 18CW3020, 19CW3005 and on the Million’s project involving the Utah Division of Water Rights prepared by Scott Grosscup.

Director Sharp asked Counsel Weiss if he could take some time and give some thought to the pros and cons of taking an active role on a certain water case involving Tri-State diligence. There was a discussion about some historical water rights, as well as about water matters currently active in the Legislature.

*Board Appointments* – General Counsel Weiss updated everyone present on the process and results of the new Board appointments. The terms of Directors Haskins, Brenner and Colby expired on March 8, 2020. Publications were carried out in compliance with statutes. Applications were received by the February 7, 2020 deadline. The Chief Judge appointed Directors Haskins, Brenner, and Halliday. The terms are for four years and will be expiring on March 8, 2024.

*Water Contracts* – Counsel Weiss updated the Board on several contracts. A proposed amendment to the YIA includes changes involving pricing provisions until the year 2041. The proposed amendment provides for a \$13/AF pricing for 2020, with annual CPI increases, through 2041. Afterwards, pricing would be calculated based on costs. A proposed amendment for the 2005 Stillwater Ditch Agreement Amendment was presented. Counsel Weiss was explaining the amendment proposes a \$0.74 price per share fee for the year 2020, to be adjusted by CPI on an annual basis, through 2041. The District had agreed at a previous meeting to reimburse to former shareholders those legal fees incurred during negotiations, up to a maximum of \$11,000.

A proposed Carriage Contract for Individual Irrigators and YIA members who wish to use the Stillwater Ditch was presented and discussed. The proposed starting price is \$1.84 per acre foot of water currently under contract. The price would be adjusted by CPI, and a credit would be applied according to use, for those shareholders who hold capacity in the original 36.3 cfs in the Ditch.

## RECORD OF PROCEEDINGS

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Finally, the 3,500 AF YIA contract was discussed. A proposed application and form of non-renewable allotment contract and carriage contract was presented and reviewed. The proposed price was \$11 AF with a sideboard CPI adjustment. The District had agreed to reimburse attorney's fees up to \$2,000. The re-contracting process was outlined through a Resolution adopted by the Board in January 2020 and revised at the February meeting. Director Sharp moved to authorize as a District an extension of the arbitration of the YIA contract for 60 days, provided the YIA also agree and sign said extension. The motion was seconded by Director Woodmansee and unanimously approved.

### ***Executive Session***

Robert Weiss, as counsel for the District, stated that in his opinion discussion of the matter announced to go into executive session constitutes a privileged attorney/client communication. He was therefore recommending that no further record be kept of the executive session.

At 4:00 PM Director Sharp moved, Director Monger seconded, and it was unanimously agreed to go into Executive Session under provision C.R.S. §24-6-402(4) (b) to discuss with counsel legal issues relating to Water Resumes and Water Cases, and provision C.R.S. §24-6-402(4) (e) for instructions to negotiators. Mere presence or participation of an attorney at an executive session of the local public body is not sufficient to satisfy the requirements of this subsection (4). Director Sharp moved, Director Haskins seconded, and it was unanimously approved to go out of Executive Session at 5:05 PM.

Director Sharp moved to advise the City of Steamboat Springs of a water price of \$124.23/AF, to be adjusted by CPI, with a right of first offer and a term ending in the year 2041. The motion was seconded by Director Haskins. The motion was also supported by Directors Murphy, Redmond and Monger. Directors Jones, Woodmansee and Brenner did not support the motion. Director Halliday abstained. The motion passed with five in favor, three opposed and one abstention.

***Board Member Reports*** – Chairman Brenner asked Directors if they had had time to review certain documents he had sent out. Director Monger commented he had been championing transitioning from coal, and he now had an understanding of the concerns from community members about the loss of coal production in the region.

***Determination of future meetings*** The scheduled date for the next Board meeting was confirmed, being Wednesday April 8, 2020 at 1:30 PM.

Director Sharp moved to adjourn the meeting. The motion passed and the meeting adjourned at 5:20 PM.

I certify that the foregoing constitutes a true and correct summary of the proceedings at the above referenced meeting.

Kevin McBride G.M.  
Kevin McBride G.M. (Apr 17, 2020)

Kevin McBride, District Secretary/Manager

Date: Apr 17, 2020

## RECORD OF PROCEEDINGS

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### STATEMENT FROM ATTORNEY REGARDING ATTORNEY-CLIENT PRIVILEGE

The undersigned Robert G. Weiss hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that the portion of the executive session that was not recorded and which related to Water Resumes and Water Cases constituted a privileged attorney-client communication in the opinion of the undersigned attorney.

Robert Weiss

Robert Weiss (Apr 18, 2020)

Robert G. Weiss, Counsel

Date: Apr 18, 2020

### STATEMENT FROM CHAIR OF EXECUTIVE SESSION REGARDING ATTORNEY-CLIENT PRIVILEGE

The undersigned chairman hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that all of the executive session was not recorded and was confined to the topics authorized for discussion in an executive session pursuant to subsection (4) of CRS Section 24-6-402.

KB

Ken Brenner (Apr 18, 2020)

Ken Brenner, Chairman

Date: Apr 18, 2020











# UYWCD - Signature Required - 2020 Minutes 03-11-20-Final

Final Audit Report

2020-04-18

Created:	2020-04-17
By:	Deb Bastian (dbastian@upperyampawater.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAfGirVS1s3IOyBe3aMgShwefS_kgvhi6d

## "UYWCD - Signature Required - 2020 Minutes 03-11-20-Final" History

-  Document created by Deb Bastian (dbastian@upperyampawater.com)  
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-  Document emailed to Kevin McBride G.M. (kmcbride@upperyampawater.com) for signature  
2020-04-17 - 4:47:08 PM GMT
-  Email viewed by Kevin McBride G.M. (kmcbride@upperyampawater.com)  
2020-04-17 - 8:57:21 PM GMT- IP address: 67.164.186.240
-  Document e-signed by Kevin McBride G.M. (kmcbride@upperyampawater.com)  
Signature Date: 2020-04-17 - 10:07:28 PM GMT - Time Source: server- IP address: 63.224.69.143
-  Document emailed to Robert Weiss (bweiss@wvsc.com) for signature  
2020-04-17 - 10:07:31 PM GMT
-  Email viewed by Robert Weiss (bweiss@wvsc.com)  
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✔ Signed document emailed to Deb Bastian (dbastian@upperypawater.com), Robert Weiss (bweiss@wvsc.com), Ken Brenner (kpbrennersteamboat@gmail.com), and Kevin McBride G.M. (kmcbride@upperypawater.com)

2020-04-18 - 11:22:27 PM GMT



## COLORADO WATER TRUST

3264 Larimer Street, Suite D, Denver, CO 80205

Tel: 720.570.2897 | [www.coloradowatertrust.org](http://www.coloradowatertrust.org)

*Friday, May 15, 2020*

Board of Directors  
Upper Yampa Water Conservancy District  
2220 Curve Plaza Ste. 201  
Steamboat Springs, Colorado  
80477-5529

Re: 2020 Legislative Changes and Stagecoach Reservoir Contract Pricing

UYWCD Directors,

The early portion of the 2020 Legislative Session brought two legislative changes that may have implications for the Water Trust's work with UYWCD – expanding the temporary instream flow loan program (used for Stagecoach Reservoir in 2012, 2013, and 2017) and providing direction for augmentation plans to augment streamflow (never before used). These legislative changes increase flexibility for water rights owners and allow for benefits to the natural environment while ensuring other water users are protected.

Key points from the legislative changes are summarized below, with brief discussion of opportunities for use on the Yampa River below Stagecoach Reservoir. It is important to note that the two bills described below will not become law until 90 days after the General Assembly adjourns (early May in normal years, but date currently unknown due to COVID-19 related delays). Additionally, prior to use of the Instream Flow Loan tool under the new statute, the Colorado Water Conservation Board (CWCB) must promulgate rules to implement some of the changes, which may take up to six months or even a year after the 90-day waiting period is over. As a result, these new laws are not yet available for use.

### **HB 20-1157: Loaned Water For Instream Flows To Improve Environment**

Representative Dylan Roberts, Representative Perry Will, and Senator Kerry Donovan sponsored HB 20-1157. The bill's changes to the Temporary Instream Flow Loan (ISF Loan) tool are significant and well-vetted. There will now be two types of loans – one is an *expedited* one-year loan, and the other is a *renewable* 5-in-10 year loan. The renewable loan option may be useful for future releases of water from Stagecoach Reservoir to instream flow use (allowing for temporary instream flow use of storage rights that are not decreed for instream flow use). Though UYWCD received approval from Division of Water Resources (DWR) in 2012 to loan water to the CWCB for instream flow use in 3 out of the following 10 years (under the previous ISF Loan statute), we will not know whether this loan can be expanded for use in two more years under the new statute until the CWCB's rulemaking is complete.



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Changes to the temporary instream flow loan tool include:

- Loans may be exercised in 5 out of 10 years – however, no more than three implementation years may be consecutive
- Loans are renewable upon reapplication for two additional 10-year periods, for a total of 30 years
- Increased notice procedures for approval and implementation - the comment and review period for renewable loans by the State Engineer is now 60 days
- Loaned water may be used to preserve and improve the natural environment through decreed instream flow reaches (loaned water can be used to meet the decreed minimum instream flow, and can also be used beneficially to meet a defined flow threshold above that minimum as defined by Colorado Parks and Wildlife)
- CWCB must give preference to loans of stored water, when available, over direct flow water rights
- Applicant must prove that a loan will not injure undecreed exchanges to the extent that such exchanges were administratively approved at the time the loan was sought

A new (or re-approved) renewable loan may be a good option to release water rights stored in Stagecoach Reservoir for instream flow use in 5 out of 10 years, though it is worth noting there may be technical hurdles related to the quantification of water rights associated with any new loan approval.

### **HB 20-1037: Augmentation of Instream Flows**

Representative Jeni Arndt and Senator Don Coram sponsored HB 20-1037, which will allow the CWCB to file water court applications for augmentation plans that use water rights that have been changed in water court and decreed for augmentation use (subject to the limitations below) to preserve or improve the natural environment to a reasonable degree.

Key provisions are as follows:

- CWCB may, as the sole applicant, or together with an owner of a water right decreed for augmentation use, file for a plan for augmentation to augment streamflow through defined reaches of stream
- Any application must identify water rights decreed for augmentation to be included in the plan, and owner must consent to the application
- Such plan must use water decreed for augmentation for which historical consumptive use has been quantified and for which a change of water rights including augmentation use has been judicially approved
- Use of water in a plan for augmentation is subject to terms and conditions of any applicable decree to which that water right is subject



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- Additional terms and conditions must be imposed as necessary to prevent injury to owners of vested water rights or decreed conditional water rights
- Applicant must prove that an augmentation plan to augment streamflow will not injure undecreed exchanges to the extent that such exchanges were administratively approved at the time the application was filed was sought
- Augmentation water used in a plan may be shepherded through a defined reach of stream and protected against diversion, exchange, and substitution
- Augmentation water is subject to transit losses imposed by the water court or DWR
- If operation of the plan requires modifications to existing diversion structures, operator of the plan must have consent from structure owner and bear construction and O&M costs that would not have been incurred in the absence of the modifications

While Water Trust staff believes augmentation plans will be useful tools to restore flows to certain rivers in the state, an augmentation plan is likely not a stand-alone solution for releases of water from Stagecoach Reservoir due to constraints placed on augmentation supplies that may be utilized.

### **2020 Stagecoach Contract**

The Water Trust again raised funds in 2020 to support a contract for water in Stagecoach Reservoir, if necessary. Because of the waiting period for new legislation to take effect, required CWCB rulemaking, and potential technical hurdles, an ISF Loan is not an option for 2020 releases out of Stagecoach Reservoir. Water Trust staff is available to work with UYWCD to pursue a new approval for an ISF Loan ahead of summer 2021, if desired and assuming the CWCB completes its rulemaking by that time.

Should the Water Trust contract for water in 2020, we expect to again utilize a subcontract with the City of Steamboat Springs to allow delivery of any releases downstream to non-consumptive municipal uses (as in 2015-2018).

### **ERC Pricing**

As UYWCD considers long-term ERC pricing, we want to highlight that there is still no permanent or long-term legal mechanism in place that allows releases of water from Stagecoach Reservoir for the beneficial use of instream flow (the environmental beneficial use of water in Colorado). This means that any water contracted and released by the Water Trust (or other environmental interest) generates only incidental benefits for the environment, and any other defined beneficial use is separate.

We strongly encourage UYWCD to delay any decision on long-term ERC pricing until a legal mechanism has been identified that can provide a permanent or long-term source of environmental water from Stagecoach Reservoir. Water Trust staff looks forward to working with the District to identify and pursue permanent or long-term legal tools to allow for delivery of water from Stagecoach Reservoir to environmental uses, including the options identified in the Water Trust's letter to the District sent on 5/7/2019 as well as other solutions such as a new ISF Loan.





**COLORADO WATER TRUST**

3264 Larimer Street, Suite D, Denver, CO 80205

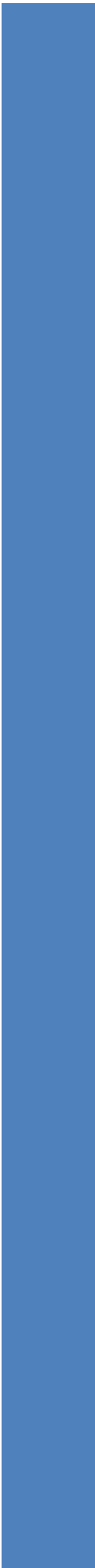
Tel: 720.570.2897 | [www.coloradowatertrust.org](http://www.coloradowatertrust.org)

We would like to extend our congratulations to Kevin McBride on his upcoming retirement and wish him all the best – it's been great working together over the years. We are excited to again work with UYWCD to boost flows in the Yampa the coming months if necessary. Please contact us with any questions.

Sincerely,

Mickey O'Hara  
Director of Programs  
Colorado Water Trust

Kate Ryan  
Senior Staff Attorney  
Colorado Water Trust





## BOARD COMMUNICATION FORM

**From:** \_\_ Kevin McBride G.M. \_\_\_\_\_

**Date:** \_\_ 5/12/2020 \_\_\_\_\_

**Item:** \_\_ Negotiations with the City of Steamboat Springs re: Water Contracts

---

DIRECTION  
 INFORMATION  
 MOTION  
 RESOLUTION

---

### **I. Request/Issue and Background Information:**

The District and the City are in negotiations regarding both the City's existing perpetual contract for 550 AF from Stagecoach Reservoir and an additional allotment of approximately 600 AF. In March the BOD approved an offer of 124.23/AF with a right of first offer for the additional water. Also, direction was given to provide details of our cost calculations for Stagecoach Reservoir using the 2018 audited actual financials. Emails evidencing regarding those items are attached.

Prior to those emails Director Sharp, of the negotiating committee, drafted an offer letter to the City regarding details of the additional water. I had offered to send the letter as part of the communications referenced above, however the negotiating committee agreed to bring that letter to the full Board for approval. That letter is attached for your consideration.

### **II. Summary and Alternatives:**

Review, modify if necessary, send letter or table item, or take no action.

### **III. Staff Recommendation:**

Review, modify, and approve letter.

### **IV. Legal Issues:**

Board is authorized to make pricing decisions and and offer water contracts. Counsel will be available to answer any additional questions.

### **V. Consistency with Board Goals and Policies:**

Consistent with policies 1, 3, and 9.

### **Attachments:**

Email thread with John Snyder (2 emails) and Draft Offer Letter

## Stagecoach Cost information



Kevin McBride

To: Jon Snyder

Cc: 'Kelly Romero-Heaney <kromeroheaney@steamboatsprings.net>'; jbock@steamboat.net; Andy Rossi; Bob Weiss; Holly Kirkpatrick

Reply

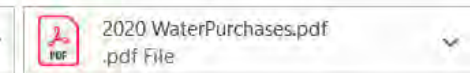
Reply All

Forward



Fri 4/24/2020 11:12 AM

You forwarded this message on 4/27/2020 3:46 PM.



John-

I hope this email finds you well.

Per our discussion on Monday we have put together some specific information for your review, this is all work product, not a report. This information is pertinent to the City's existing contract with the District. As you know the primary 30-year term of the City's Water Allotment Contract with the Upper Yampa for 552 acre feet annually from Stagecoach Reservoir ended on July 15, 2019. After the primary term, the price is determined annually under paragraph 4.3 of the contract which states the price will be based on the costs the District expects to incur during the extended term *for the operation, repair, renovation and maintenance of Stagecoach Reservoir (including replacement costs) as computed pursuant to standard accounting procedures*. We have previously notified the City that the District will continue to charge the City the primary term price of \$35/AF for 2020 and 2021. In 2022 the District intends to commence billing the City the extended term pricing based on the District's 2022 budget adopted in the fall of 2021.

However, for illustrative purposes we have calculated the price for Stagecoach water utilizing the extended term formula based on the District's 2018 audited financials. This results in a price of \$68.73/AF. Our spreadsheets supporting this calculation are attached. This price does not include the capital cost of a future firming project for Stagecoach Reservoir. We would be glad to meet with you at your convenience, over video conference, to discuss and answer any questions you may have. Upper Yampa staff, including myself, would plan to attend this meeting which we would expect to be for purposes of explanation, not negotiation. Obviously, this is just a snapshot of 2018 and the annual prices starting in 2022 could be more or less than this amount.

You also asked for a summary of the pricing from both Stagecoach and Yamcolo Reservoirs. I have attached a summary of current contracts.

Regarding the City's interest in purchasing new Stagecoach water, the Board has established a price of \$124.42AF for new Stagecoach contracts. With regard to the City's interest in purchasing new Stagecoach water the Board has established a price of \$124.42AF for new Stagecoach contracts to be adjusted annually by CPI, with a right of first offer and a term ending in the year 2041. Of course, there is an open invitation for you to speak to the Board at that time and we can, subject to availability of our negotiators, set up a negotiations meeting prior to that May 21 Board meeting. Please feel free to call with any questions, cell 970-420-1659, or leave a message at the office number if you prefer.

Regards,  
Kevin

Kevin McBride, P.E.  
General Manager  
Upper Yampa Water Conservancy District  
970-871-1035  
POB 775529  
Steamboat Springs, CO 80477

STAGECOACH PRICING, BASED ON 2018 AUDITED ACTUALS AND 15,000 AF OF WATER

<i>Cost Components</i>	<b>\$\$</b>	<b>\$\$/AF</b>
Operating expenses - direct	451,264	30.08
Operating expenses -indirect	267,543	17.84
<b><i>Operating Expenses</i></b>	<b>718,806.52</b>	<b>47.92</b>
Capital - depreciation	100,645	6.71
Capital non-emergency LT maintenance	72,189	4.81
Capital - emergency repair & replacement	139,340	9.29
<b><i>Capital</i></b>	<b>312,174</b>	<b>20.81</b>
<b><i>Cost, without firming project</i></b>	<b>1,030,980</b>	<b>68.73</b>



**INDIRECT EXPENSES**

INDIRECT EXPENSES	DISTRICT TOTAL	% ALLOCATED TO STAGECOACH	STAGECOACH TOTAL
ADMINISTRATION	139,144	38.00%	52,875
BOARD OF DIRECTORS	65,006	38.00%	24,702
EXTERNAL AFFAIRS	58,016	38.00%	22,046
FINANCE	99,340	38.00%	37,749
LEGALS	166,889	38.00%	63,418
PLANNING	136,625	38.00%	51,918
GRANTS,SCHOLARSHIPS,PUBLIC INFO	39,038	38.00%	14,835
INDIRECT OPERATING EXPENSES			<b>267,543</b>

Stagecoach Reservoir  
2018 Depreciation

Account	Date	Description	Life	Cost	2018
1503.01	8/21/18	Concrete Repairs	30	19,500.00	216.67
1507	11/1/89	Hydroelectric buidling	30	519,811.26	17,327.04
	11/1/89	Hydroelectric equipment	20	1,570,197.02	0.00
1506.02	05/30/13	Fence	20	1,254.83	62.74
1506.01	12/31/14	Shed construction	30	284,494.84	9,483.16
1506.01	07/31/15	Shed construction	30	3,793.75	126.46
1507	12/31/13	Electronic Updates	20	166,378.05	8,318.90
1507	06/30/14	Electronic Updates	20	16,827.50	841.38
1507	03/30/15	Electronic Updates	20	3,330.00	166.50
1507.04	08/01/16	Transfer Trip Circuit Replacement	30	54,558.65	1,818.62
1507.05	12/15/16	Turbine Parts Replacement	30	77,623.23	2,587.44
1507.04	01/01/17	Turbine Parts Replacement	30	3,785.88	126.20
1507.07	06/22/17	Inverter Replacement - Pwr	30	3,827.86	127.60
1507p	12/15/17	SC Hydroplant & Equipment - Pwr	30	15,742.65	524.76
1507w	09/25/19	SC Hydroplant & Equipment - Wtr	30	3,695.46	123.18
1508	June 2001	Park land and improvements: Trail Construction: Beac	30	20,776.50	692.55
1509	1989 to 1993	Park bldg and improvements:		1,273,473.92	37,857.73
1510.13	8/30/11	Temperature Sensor String Installation-Timberline	15	21,343.00	1,422.87
1510.14	12/21/17	Stagecoach Repairs - Erosion Control	30	38,883.22	1,296.11
1513	6/29/16	Stem guide replacement	30	107,790.00	3,593.00
1513w	10/31/18	Stem guide replacement	30	3,966.50	22.04
1513p	10/31/18	Stem guide replacement	30	3,966.50	22.04
1670	9/30/10	Scada System	15	48,299.75	3,219.98
1671	2014 & 2015	Vehicles	7	40,896.15	5,842.31
1511p	2/15/17	2018 Chevy Colorado	5	12,065.00	2,413.00
1511w	2/15/17	2018 Chevy Colorado	5	12,065.00	2,413.00
Total depreciation, items up to end 2018					100,645.27



**STAGECOACH CAPITAL COST ANALYSIS, NON-EMERGENCY & EMERGENCY COSTS**

**STAGECOACH DAM and POWERHOUSE ESTIMATED 30-YEAR NON-EMERGENCY CAPITAL COSTS**

<b>Water Storage Components</b>	<b>Estimated 30-YR Cost (\$,2017)</b>
Intake Tower and Gate Assemblies	\$530,000
Foundation and Body Drains	\$60,000
Jet-Flow Valve	\$48,000
Penstock	\$48,000
Spillway	\$30,000
Dam Body Structure	\$60,000
Dam Crest Slab	\$50,000
Kelly Crack	\$40,000
Powerhouse, Coutyard Structural	\$50,000
Augment emergency power capacity	\$50,000
PLC Replacement	\$100,000
Rock Fall Hazard	\$22,500
<b>Subtotal</b>	<b>\$1,088,500</b>
Vehicle (25% Cost, New every 10 yr)	\$22,898
<b>Total Estimated Water Sotrage 30-YR Cost (\$, 2017)</b>	<b>\$1,111,398</b>
<b>Hydro-Power Production Components</b>	<b>Estimated 30-YR Cost (\$,2017)</b>
Turbine	\$750,000
Spiral Case	\$15,000
Draft Tube	\$15,000
Generator	\$30,000
Transformers and Main Breaker	\$80,000
TSV/Butterfly Valve	\$48,000
<b>Subtotal</b>	<b>\$938,000</b>
Vehicle (25% Cost, New every 10 yr)	\$22,898
<b>Total Estimated Hydro-Power Generation 30-YR Cost (\$, 2017)</b>	<b>\$960,898</b>

**\$2,072,297**

**STAGECOACH DAM EMERGENCY REPAIR and REPLACEMENT**

<b>Engineer's Cost Estimate of Emergency Repair and/or Replacement of Facility Components</b>	<b>Estimated 30-YR Cost (\$,2017)</b>
Water Storage Components	\$30,000,000
Hydro-Power Production Components	\$10,000,000

**\$40,000,000**

<i>Stagecoach Reservoir Capital Reserves</i>	<i>Cost assessment (\$, 2017)</i>	<i>Inflation</i>	<i>Cost assessment (\$, 2019)</i>	<i>Reserve Rate (%)</i>	<i>Reserves (\$, 2019)</i>	<i>SPREAD (YEARS)</i>	<i>Cost, 1 year (\$, 2019)</i>
Non emergency Capital Maintenance, 30-YR Cost	\$ 2,072,297	4.51%	\$ 2,165,655	100%	\$ 2,165,655	30	<b>\$72,189</b>
Emergency Large-Scale Repair Replacement	\$ 40,000,000	4.51%	\$ 41,802,026	10%	\$ 4,180,203	30	<b>\$139,340</b>



## MEMORANDUM

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**TO:** Upper Yampa Water Conservancy Board of Directors

**FROM:** Andy Rossi, District Engineer  
Kevin McBride, General Manager  
Karina Craig, Office Manager

**DATE:** 11/15/19

**RE:** Stagecoach Dam and Hydro-Electric Facility, Yamcolo Dam, and Stillwater Ditch  
Equipment Replacement Costs, Long-Term Maintenance Costs, Recommended  
Reserves.

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The Upper Yampa Water Conservancy District (UYWCD) has a stated goal of ensuring that the UYWCD infrastructure is safe and maintained, or improved as needed, to serve the needs of the UYWCD. To ensure that sufficient funds are maintained to achieve this goal, the UYWCD staff was asked to analyze the UYWCD facilities to determine recommended Emergency Reserves and Capital Maintenance Reserves for each UYWCD facility. The methodology used to determine these reserves is presented in this memorandum. The limitations of the methodologies described herein are noted.

### **Emergency Reserves**

The Emergency Reserves for the UYWCD facilities were derived from a calculation of Emergency Repair Replacement costs for Stagecoach Dam, Yamcolo Dam, and the Stillwater Ditch. For the purposes of this analysis, The Emergency Repair Replacement cost is defined as the sum (\$) required to cover the cost of repair and/or rebuilding (complete or partial) of the UYWCD facilities in the event of a catastrophic failure of the facilities considered. The failure modes considered for each facility were determined to be of a level to render the individual facility inoperable. For Stagecoach Dam, the failure modes considered would require the complete rebuild of the dam structure and powerhouse. For Yamcolo Dam and the Stillwater Ditch, the failure modes considered would require partial, but significant rebuilds of the facilities structures. The Emergency Replacement Repair cost components calculated for the UYWCD facilities do not include cost related to the interruption of services provided by each facility. The Emergency Repair Replacement cost component only includes the costs of the physical



rehabilitation of each facility. A summary of the Emergency Repair Replacement cost component for each facility is presented below.

#### Stagecoach Dam

The Emergency Repair Replacement cost estimate for Stagecoach Dam was developed in 2017 based on a consulting engineering team's review of the following materials:

- Plans and Specifications for Stagecoach Dam and Hydro-electric facility.
- Original Construction and Procurement Cost Documents.
- Engineer's knowledge of current replacement costs for equipment to be considered in the analysis and modern repair practices.
- Design documents, studies, and analyses associated with the original construction of Stagecoach Dam and the 2010 Stagecoach Spillway Raise Project.
- Current condition of Stagecoach facility as observed during site visits.

The Emergency Repair Replacement cost estimates for Stagecoach Dam considered both an engineer's best estimate of the cost for the replacement of individual equipment and components at Stagecoach Dam as well as the estimated cost of complete dam and hydro-power facilities replacement.

The estimated cost of complete dam and hydro-power facilities replacement was determined to be the most conservative cost component for the Emergency Repair Replacement for Stagecoach Dam. The summary composite replacement and repair costs for Stagecoach Dam are included with this memorandum. The Emergency Repair Replacement cost estimate for Stagecoach Dam was calculated in 2017 dollars and is presented in Table 1.

#### Yamcolo Dam

The Emergency Repair Replacement cost estimate for Yamcolo Dam was developed in 2010 based on the UYWCD staff's review of the following materials:

- Plans and Specifications for Yamcolo.
- Original Construction and Procurement Cost Documents.
- Engineer's knowledge of current replacement costs for facilities components and modern repair practices.
- Current condition of Yamcolo facility as observed during site visits.

The Emergency Repair Replacement cost estimate for Yamcolo Dam considered an engineer's best estimate of the cost for the full excavation of the Yamcolo Dam outlet works. This 2010 cost estimate does not include repair costs associated with the failure of the outlet works mechanical systems. The 2010 analysis would need to be updated to include such costs. The summary composite replacement and repair costs for Yamcolo Dam are included with this memorandum as the *Earthwork Volume Calculation and*



*Engineer's Cost Estimate of Materials Repair Required for the Full Excavation of the Yamcolo Dam Outlet Works (2010).* The Emergency Repair Replacement cost estimate for Yamcolo Dam was calculated in 2010 dollars and is presented in Table 1.

#### Stillwater Ditch

The Emergency Repair Replacement cost estimate for Stillwater Ditch was developed in 2017 based on the UYWCD staff's review of the following materials:

- Plans and Specifications for Stillwater Ditch.
- Original Construction and Procurement Cost Documents.
- Engineer's knowledge of current replacement costs for facilities components and modern repair practices.
- Current condition of Stillwater Ditch as observed during site visits.

The Emergency Repair Replacement cost estimate for Stillwater Ditch considered an engineer's best estimate of the cost for the repair of the water conveyance components of the ditch in the event of high flow or flooding conditions. The Emergency Repair Replacement cost estimate for Stillwater Ditch was calculated in 1988 dollars and is included in Table 1

The determination of the recommended Emergency Reserves based on the Emergency Repair Replacement costs for the UYWCD facilities is described below in the Recommended Reserves section of this memorandum.

#### Capital Maintenance Reserves

The Capital Maintenance Reserves for the UYWCD facilities were derived from calculations of the estimated 30-year capital maintenance costs for Stagecoach Dam, Yamcolo Dam, and the Stillwater Ditch. Both the total 30-year capital maintenance cost as well as the single year highest cost maintenance items for each facility were considered. The Stagecoach 30-year capital maintenance costs were calculated in 2017 by the same team of consulting engineers that determined the Emergency Repair Replacement costs for Stagecoach Dam. The 30-year capital maintenance costs for Yamcolo Dam and the Stillwater Ditch were calculated in 2017 by the UYWCD staff with the same methodologies used for the analogous Stagecoach Dam calculations. The capital maintenance cost components calculated for the UYWCD facilities do not include cost related to the interruption of services provided by each facility. In addition, no present value adjustments were made to the 30-year Capital Maintenance cost estimates. All the composite 30-year capital maintenance cost components were calculated in 2017 dollars and are include in Table 1.

The 30-Year Capital Maintenance plan recommendations and associated costs for each UYWCD facility are included with this memorandum.



The determination of the recommended Capital Maintenance Reserves for the UYWCD facilities is described below in the Recommended Reserves section of this memorandum.

### **Price Index Adjustment of Cost Components**

The cost components for the recommended reserves for the UYWCD facilities were originally calculated in dollar amounts referenced to different years. Therefore, an index adjustment was applied to all cost components to normalize the amounts to 2019 dollars. The Consumer Price Index for All Urban Consumers (CPI-U), All Items in Denver-Aurora-Lakewood, Colorado, Half-1 was used for this adjustment. The CPI-U values used are:

CPI-U 1988 = 112.800  
CPI-U 2010 = 210.978  
CPI-U 2017 = 252.760  
CPI-U 2019 = 264.147

The cost component amounts normalized to 2019 dollars are included in Table 1.

### **Recommended Reserves**

The UYWCD staff, in consultation with the UYWCD's financial consultant ACM, determined that a range of 5 to 10% of the emergency replacement costs are commonly set aside by agencies with significant infrastructure. The UYWCD recommends that 10% of the Emergency Repair Replacement cost be identified as Emergency Reserves to reduce financial risk.

The UYWCD staff recommends that the full estimated cost of the largest single year capital maintenance item for the 30-year maintenance plan for each facility be identified as Capital Maintenance Reserves. For each of the UYWCD facilities the cost of the largest single year capital maintenance item is sufficient to cover the cost of single higher cost items as well as the combined costs of multiple smaller capital maintenance items. Furthermore, with prudent scheduling it is unlikely that the sum cost of multiple smaller capital maintenance items would ever exceed this amount in any given year.

The individual category Recommended Reserves and combined total Recommended Reserves are presented in Table 1.

Table 1

UYWCD FACILITIES CAPITAL RESERVES CALCULATIONS			
	Stagecoach Dam	Yamcolo Dam	Stillwater Ditch
<b>COST COMPONENT (\$, 1988, 2010, 2017, as noted)</b>			
Emergency Repair Replacement <sup>1</sup>	\$ 40,000,000 (\$, 2017)	\$ 2,207,165 (\$, 2010)	\$ 125,000 (\$, 1988)
Total 30 yr, Capital Maintenance <sup>2</sup>	\$ 2,026,500 (\$, 2017)	\$ 700,500 (\$, 2017)	\$ 159,500 (\$, 2017)
\$ Amount, Largest Single Year Capital Maintenance Item from 30 yr Capital Maintenance Plan	\$ 500,000 (\$, 2017)	\$ 185,000 (\$, 2017)	\$ 35,000 (\$, 2017)
<b>CPI ADJUSTMENT FACTOR<sup>3</sup></b>			
1988 To 2019			2.342
2010 To 2019		1.252	
2017 To 2019	1.045	1.045	1.045
<b>COST COMPONENT (\$, 2019)</b>			
Emergency Repair Replacement	\$ 41,802,026 (\$, 2019)	\$ 2,763,397 (\$, 2019)	\$ 292,716 (\$, 2019)
\$ Amount, Largest Single Year Capital Maintenance Item from 30 yr Capital Maintenance Plan	\$ 522,525 (\$, 2019)	\$ 193,334 (\$, 2019)	\$ 36,577 (\$, 2019)
<b>RESERVES (\$, 2019)</b>			
Emergency Reserve <sup>4</sup>	10% \$ 4,180,203 (\$, 2019)	\$ 276,340 (\$, 2019)	\$ 29,272 (\$, 2019)
Capital Maintenance Reserve <sup>5</sup>	\$ 522,525 (\$, 2019)	\$ 193,334 (\$, 2019)	\$ 36,577 (\$, 2019)
Combined Reserves (per Facility) <sup>6</sup>	\$ <b>4,702,728</b> (\$, 2019)	\$ <b>469,674</b> (\$, 2019)	\$ <b>65,848</b> (\$, 2019)
Total Combined Reserves (All Facilities)	\$ <b>5,238,250</b> (\$, 2019)		

**Notes:**

1. Total Cost Component for the Emergency Repair Replacement for Stagecoach Dam was calculated as a Composite Facility Replacement Cost by Jeff Allen, HDR 2017 and reviewed by Long-term Maintenance Consulting Team 2017. Total Cost Component for Yamcolo Dam and Stillwater Ditch calculated by UYWCD staff 2010 and 2017.

2. Total Cost Component for the 30 yr, Non Emergency Capital Maintenance was for Stagecoach Dam calculated by Long-term Maintenance Consulting Team 2017. Total Cost Component for Yamcolo Dam and Stillwater Ditch calculated by UYWCD staff 2010 and 2017.

3. CPI for All Urban Consumers (CPI-U), All items in Denver-Aurora-Lakewood, CO, HALF 1:

CPI 1988 = 112.800  
 CPI 2010 = 210.978  
 CPI 2017 = 252.760  
 CPI 2019 = 264.147

Index Reference Link:

[https://data.bls.gov/pdq/SurveyOutputServlet?data\\_tool=dropmap&series\\_id=CUURS48BSA0,CUUSS48BSA0](https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUURS48BSA0,CUUSS48BSA0)

4. Emergency Reserve = Emergency Repair Replacement Total Cost (\$, 2019) x 10%

5. Capital Maintenance Reserve = \$ Amount, Largest Single Year Capital Maintenance Item from 30 yr Capital Maintenance Plan

6. Combined Reserves = Emergency Reserve + Capital Maintenance Reserve

		Current Condition	Types of Possible Failure	Risk of Failure	Replacement Cost Estimate (\$, 2017)	Notes
<b>Water Storage Components</b>						
Concrete	RCC	Excellent	Extreme Seismic Event, Failure of Internal Drain System	Low	15,000,000	RCC replacement cost does not account for full replacement of RCC mass. Full RCC replacement equates to full dam and facility replacement. See item below.
	General Structural	Good to Excellent	Exposure, Rock Fall	Medium	50,000	Replacement costs vary by individual structural concrete component: \$10,000 - \$50,000
	Intake Structure and Conduit	Excellent	Exposure, Rock Fall	Low	1,100,000	
	Spillway	Excellent	High Flow Event w/Debris	Low	400,000	
Intake Gate Assemblies		Poor to Excellent	Mechanical Failure	Low to High	500,000	Bottom intake gate assembly in poor condition, top and middle gates in excellent condition
Jet Flow Valve		Excellent	Mechanical Failure	Low	150,000	Gate Seals and Hydraulic Cylinder most likely cause of failure
Hydraulic Gate Control System		Excellent	Mechanical Failure	Low	50,000	
Sub Total of Individual Water Storage Components					17,250,000	
<b>Hydro-Power Production Components</b>						
Turbine		Good	Mechanical Failure, Operator error	Low	475,000	
Generator		Good	Protective Circuits Failure, Operator error	Low	400,000	
Turbine Shut Off Valve (TSV)		Excellent	Mechanical Failure, Operator Error	Low	150,000	Gate Seals and Hydraulic Cylinder most likely cause of failure
Penstock		Excellent	Lining Degradation	Low	120,000	Re-Lining Cost used for cost of replacement
Draft Tube and Gate		Excellent	Gate Mechanical Failure	Low	75,000	
Protective Relays		Excellent	Component Circuit Failure	Low	70,000	
Main Breaker		Excellent	Mechanical Failure, Operator error	Low	50,000	
Transformers		Good	Insulation Deterioration, Loss of Capacity	Low	100,000	
Electrical Control Systems		Excellent	Circuit Damage, Operator Error	Low	200,000	
Sub Total of Individual Hydro-Power Components					1,640,000	
Total of Individual Components					18,890,000	
Estimated Full Dam and Total Facilities Replacement Cost					40,000,000	Combined full replacement cost of water storage and hydro-power production facilities
Estimated Full Dam Water Storage Facilities Replacement Cost					30,000,000	Replacement cost of hydro-power production facilities not included

## Stagecoach Dam Hydro-Electric Equipment Replacement Cost Estimate and Long Term Maintenance Plan

### ***Composite Facility Replacement Cost***

During the August 22-23, 2017 Workshop a big-picture facility replacement cost was prepared, providing the workshop team a judgment-based idea of what costs might look like if a replacement project was constructed today. In addition to describing the basis and limited effort applied during the workshop this memo offers a similar judgment of the costs if hydropower had not been included in the original design. While founded in sound judgment and experience, it is important to keep an accurate perspective of the thoughts offered both at the workshop and in this recap. While the basis of the costs are described below, they are not based on: study; development of current unit costs or a review of prior cost estimating; or a breakdown of work quantities.

#### **Summary**

As developed at the workshop a replacement cost of \$40M was provided; within a range of \$30M to \$55M. Driving the cost was the underlying assumption that the project's function would be provided by a new but similar dam slightly downstream of the existing dam. Some costs were added expecting that the new dam would be slightly larger – longer and in a less efficient location, and that the existing dam would be demolished to a functional degree. Discussion touched on the qualitative likelihood that the lower side of the range would be less likely than the upper side of the range. One approach to quantify that discussion could be considered as follows: applying a 10% likelihood of \$30M, a 60% likelihood of \$40M, and a 30% likelihood to \$55M yielding a weighted likely project cost of about \$43.5M.

The cost growth and its uncertainty reflects more than industry and cost escalation. Cost aspects that have grown beyond escalation include such factors as: regulatory changes and emphases in construction safety, applicable insurances, and financial markets; and environmental, legal, and cultural conditions and requirements that affect permitting as well as mitigating strategies and costs. Consequently, simply escalating costs by industry indices may not accurately reflect project cost growth, particularly concerning non-contract type costs – the necessary project costs beyond the “construction contract”.

If the project had been originally considered without hydropower, it is unlikely much would have changed other than the powerhouse and equipment being replaced by a much smaller and simpler outlet works valve house or vault. Today's replacement cost decrease, if the project were built without hydropower, could be considered between \$4M and \$8M with a likely of about \$5M.



Stagecoach Dam Hydro-Electric Equipment Replacement Cost Estimate and Long Term Maintenance Plan

**Composite Facility Replacement Cost**

**Cost Table**

The following table was prepared during the workshop and illustrates the buildup or morphing of the original construction cost to a replacement cost and range.

<u>Stagecoach - 30 minute replacement cost opinion</u>			
<b>1987-88 construction contract costs</b>			<b>\$ 8,000,000</b>
USBR - 1987 ending Conc Dams cost index			161
USBR - Apr 2017 Conc Dams cost index			373
Index Factor			232%
<b>Straight Cost - Escalated</b>			<b>\$ 18,534,161</b>
Cost Aspect - Adjustments	28%		\$ 5,189,565
environmental - direct	3%		
environmental - mitig	20%		
safety	2%		
Other ?	3%		
<b>Subtotal - greenfield (as is, where is) replacement construction cost</b>			<b>\$ 23,723,727</b>
Downstream Replacement - Adjustments	25%		\$ 5,930,932
Downstream cross section increase factor	15%	←	increase 50K cy to 57.5k cy
Downstream abandonment factor	10%	←	demo + ?
Other ?	0%		
<b>Subtotal - Contract Replacement Cost - Guess</b>			<b>\$ 29,654,658</b>
Non-contract costs: i.e. design, studies, CM, permitting	25%		\$ 7,413,665
Unspecified contingency	10%		\$ 2,965,466
<b>Total - Project Replacement Costs - Guess</b>			<b>\$ 40,033,789</b>
<b>Recommended Range for Consideration:</b>		<b>\$ 30 M</b> to <b>\$ 55 M</b>	
Check on gross volume and composite construction cost guess...			
	57,500 cy	@ \$ 500 /cy	\$ 28,750,000

**Cost Discussion**

**Approach**

Evident in the table, the 1987 construction costs, adding in the subsequent hydro equipment and installation contract value, was escalated according to The U.S. Bureau of Reclamation's construction cost trends published at <https://www.usbr.gov/tsc/techreferences/mands/cct.html>. Considering some aspects of construction, and in our case specifically, dam construction has changed over the last 30 years. A few factors were listed and summed to a 28% additive cost



## Stagecoach Dam Hydro-Electric Equipment Replacement Cost Estimate and Long Term Maintenance Plan

### ***Composite Facility Replacement Cost***

adjustment recognizing that additional work, and/or higher cost work would be required today. Assuming a replacement dam constructed immediately downstream (i.e. within a few hundred feet) of the existing dam, a factor (25%) was added for a slightly wider valley and for costs related to demolishing and abandoning portions of the existing structure, leading to a "Contract" replacement costs. Additional studies, design, permitting and other unlisted (i.e. construction management, legal, right of way, etc.) non-contract costs were then added at 25% along with a 10% contingency. Together, this \$40M total represents what full project costs might look like if a new downstream dam was designed and constructed to replace the function of the existing dam. Notice that the costs are not driven by quantities, unit prices, or even a specific work breakdown considering a downstream location.

#### **Hydropower**

If the facility was constructed without hydropower it seems the dam configuration, spillway and stilling basin, multi-level outlet works intake, and outlet works piping would be the same. One possible exception might be using a smaller diameter outlet conduit (i.e. perhaps 48" rather than 72"). An outlet works valve house or vault of some type would still be needed but not to the size or depth of the current powerhouse. Judgment-reduced construction costs for civil and structural and non-power mechanical components would be on the order of \$1,000k. If the turbine-generator, and related control equipment and electrical work were eliminated, it may reduce the costs by an additional \$3M. Applying the non-contract costs and contingency as applied in the replacement cost table above, the low end of the full hydropower deduct would be on the order of \$5.5M. A prudent reduction range might be \$4M to \$8M, to build a new facility with strong outlet capacity but without hydropower.

Jeff Allen

December 14, 2010

## Upper Yampa Water Conservancy District

### Internal Memo

To: Kevin McBride  
Director  
Upper Yampa Water Conservancy District  
POB 775529  
Steamboat Springs, CO 80477

From: Andy Rossi  
District Engineer  
Upper Yampa Water Conservancy District  
POB 775529  
Steamboat Springs, CO 80477

**Subject: Earthwork Volume Calculation and Engineer's Cost Estimate of Materials Repair Required for the Full Excavation of the Yamcolo Dam Outlet Works.**

#### Earthworks Volume Calculation

The volume of material that would need to be excavated from the Yamcolo Dam structure to allow for potential repair work on the entire Yamcolo Dam outlet works was calculated by the District with the following assumptions:

1. A 20' wide base trench would be required along the full length of the outlet works to allow for repair crew and machinery access. The base trench extents were set at a 10' offset from the centerline of the existing outlet works alignment.
2. The material excavation would be graded at 2:1 slopes from a lowest extent at the edge of the 20' wide outlet works base trench to a highest extent at the daylight interface with the existing Yamcolo Dam surface.
3. All dimensions, elevations, and detail data for the existing Yamcolo Dam outlet works configuration and structural geometry used for the volume calculations were taken from the *As-Built Plan Yamcolo Reservoir Dam Plans, Specifications and Contract*, dated September 2, 1981, prepared by Western Engineers, Inc. of Grand Junction, Colorado.

The District used Autodesk Civil 3D 2010 software to calculate the volume of material that would need to be excavated from the Yamcolo Dam structure to allow for potential repair work on the entire Yamcolo Dam outlet works.

The total volume of material that would need to be excavated from the Yamcolo Dam structure to allow for potential repair work on the entire Yamcolo Dam outlet works was calculated to be 110,358.25 cubic yards (CY).

### **Engineer's Estimate of Cost of Materials Handling**

The cost for dam material repair necessary to allow for potential repair work on the entire Yamcolo Dam outlet works was calculated by the District with the following assumptions:

1. \$20 per CY for dam materials repair.

The estimated cost of dam materials repair for 110,358.25 CY of material necessary to allow for potential repair work on the entire Yamcolo Dam outlet works is \$2,207,165.00.

STAGECOACH DAM AND POWERHOUSE																	
Inspection and Long-Term Capital Maintenance Schedule																	
			Month														
Reservoir Condition			Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec			
Inflow/Active Release Period																	
Highest Likelihood of Spill																	
Predictive Reservoir Management																	
Inspection and Repair			Month														
Component	Activity	Estimated Cost (\$, 2017)	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Estimated 30-YR Cost (\$, 2017)	Water Storage	Hydro-Power Generation
Turbine	Internal Inspection	10,000										1			300,000		x
	Tear-down/Rebuild	75,000										5			450,000		x
Spiral Case	Inspection	5,000										10			15,000		x
Draft Tube	Inspection	5,000							10						15,000		x
Generator	Inspection and Testing	5,000										5			30,000		x
Transformers and Main Breaker	Inspection and Testing	5,000										5			30,000		x
	Replacement	50,000										30			50,000		x
Intake Tower and Gate Assemblies	Inspection/Service	5,000						5							30,000	x	
	Repairs and Replacement	500,000						30							500,000	x	
Foundation and Body Drains	Inspection/Cleaning	2,000									1				60,000	x	
Jet-Flow Valve	Inspection	8,000						5							48,000	x	
Penstock	Inspection	8,000						5							48,000	x	
TSV/Butterfly Valve	Inspection	8,000						5							48,000		x
Spillway	Inspection	1,000			1							1			30,000	x	
Dam Body Structure	NDT Testing	10,000						10							30,000	x	
	Repairs	10,000								10					30,000	x	
Dam Crest Slab	Repairs	50,000										30			50,000	x	
Kelly Crack	Repairs	40,000											30		40,000	x	
Powerhouse, Coutyard Structural	Repairs	50,000									30				50,000	x	
Augment emergency power capacity	New Installation	50,000							30						50,000	x	
PLC Replacement	Replacement	100,000										30			100,000	x	
Rock Fall Hazard	Inspection/Analysis	7,500						10							22,500	x	

Annual Increment (30 yr Period)

Total Estimated 30-YR Cost (\$, 2017)	2,026,500	67,550
Total Estimated Water Storgae 30-YR Cost (\$, 2017)	1,088,500	36,283
Total Estimated Hydro-Power Generation 30-YR Cost (\$, 2017)	938,000	31,267

1 = Annuanlly during month(s) indicated  
5 = Intervals not exceeding 5 years  
10 = Intervals not exceeding 10 years  
30 = Intervals not exceeding 30 years

Yamcolo Reservoir Inspection and Long-Term Capital Maintenance Schedule															
			Month												
Reservoir Condition			Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	
Active Use Period															
Highest Likelihood of Yamcolo Spill															
Predictive Yamcolo Reservoir Management															
Yamcolo Dam			Month												
Component	Activity	Estimated Cost (\$, 2017)	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Estimated 30-YR Cost (\$, 2017)
Dam Crest	Repair	10,000									5				60,000
Spillway	Repairs	100,000									30				100,000
Rip Rap	Repairs and Replacement	40,000									10				120,000
Butterfly Valve	Repair	30,000									30				30,000
Control House Structure	Repairs and Replacement	20,000									30				20,000
Outlet Works	Inspection	2,500									10				7,500
Outlet Channel	Repairs	5,000										10			15,000
Intake Structure	Inspection	25,000							10						75,000
Generator	Replacement	20,000									30				20,000
Gate Motors	Repairs	2,500									5				15,000
Outflow Instrumentation	Repairs and Replacement	6,000									10				18,000
Monitoring Instrumrtation	Repairs and Replacement	10,000									10				30,000
Acces Gates	Repairs and Replacement	5,000							30						5,000
Bifurcation Structure	Repairs and Replacement	185,000										30			185,000

Annual Increment (30  
yr Period)

Total System Estimated 30-YR Cost (\$, 2017)	700,500	23,350
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1 = Annuanlly during month(s) indicated  
5 = Intervals not exceeding 5 years  
10 = Intervals not exceeding 10 years  
30 = Intervals not exceeding 30 years

**STILLWATER - FIVE MESA PINE DITCH**  
**Inspection and Long-Term Capital Maintenance Schedule**

			Month														
Reservoir Condition			Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec			
Active Use Period																	
Highest Likelihood of Yamcolo Spill																	
Predictive Yamcolo Reservoir Management																	
Stillwater - Five Pine Ditch			Month														
Component	Activity	Estimated Cost (\$, 2017)	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Estimated 30-YR Cost (\$, 2017)	Ditch	Gardner Park Dam
Bifurcation Headgate	Repair	25,000										30			25,000	x	
Main HG Measuring Device	Repairs and Replacement	35,000										30			35,000	x	
Upper Ditch Channel	Maintenance and Clearing/Cleaning	4,500										5			27,000	x	
Lower Ditch Channel	Maintenance and Clearing/Cleaning	4,500										5			27,000	x	
Upper Ditch Culverts	Repairs and Replacement	25,000										30			25,000	x	
Lower Ditch Culverts	Repairs and Replacement	10,000										30			10,000	x	
Turnouts	Repairs and Replacement	7,500										30			7,500	x	
Access Gates	Repairs and Replacement	3,000										30			3,000	x	
Gardner Park Dam																	
Dam Body Structure	Repairs	20,000							30						20,000		x
Toe Drains	Repairs and Replacement	5,000										30			5,000		x
Dam Crest	Regrade	5,000							10						15,000		x
Outlet Works	Inspection	2,500										10			7,500		x

*Annual Increment (30 yr Period)*

Total System Estimated 30-YR Cost (\$, 2017)	207,000	6,900
Total Estimated Ditch 30-YR Cost (\$, 2017)	159,500	5,317
Total Estimated Gardner Park Dam 30-YR Cost (\$, 2017)	47,500	1,583

1 = Annually during month(s) indicated  
5 = Intervals not exceeding 5 years  
10 = Intervals not exceeding 10 years  
30 = Intervals not exceeding 30 years

Total Estimated Emergency Large-Scale Replacement/Repair Cost for SW Ditch 125,000 (\$, 1988)

**2020 WATER PURCHASERS  
STAGECOACH WATER ( 15,000 AF)**

CONTRACTEE	AF	PRICE	REVENUES
City of Steamboat Springs	552	\$35.00	\$19,320.00
Morrison Creek Metropolitan Water and Sanitation District	500	\$35.00	\$17,500.00
Tree Haus Metropolitan District	50	\$35.00	\$1,750.00
Mount Werner Water and Sanitation District	200	\$35.00	\$7,000.00
Town of Hayden Colorado	200	\$35.00	\$7,000.00
Dakota Ridge Homeowners Association	50	\$35.00	\$1,750.00
Edexco, Inc. d/b/a Raindrop Water, Inc. (Ed's Excavating)	50	\$43.50	\$2,175.00
Alpine Mountain Ranch Metropolitan District (Alpine Land)	83	\$43.50	\$3,610.50
Alpine Mountain Ranch Metropolitan District (Alpine Land)	17	\$43.50	\$739.50
Agate Creek Preserve Homeowners Association	20	\$43.50	\$870.00
Sidney Peak Ranch LLC	20	\$43.50	\$870.00
Brian, Robert and Virginia Stahl – total of 250 af	58	\$43.50	\$2,523.00
Brian, Robert and Virginia Stahl – total of 250 af	192	\$43.50	\$8,352.00
Seneca Property LLC (used to be Peabody Coal Co)	50	\$124.43	\$6,221.29
Steamboat Springs Ski Corporation	250	\$124.43	\$31,106.45
<b>AUGMENTATION CONTRACTS</b>			
Dudley, Gayle	2.16	\$212.72	\$467.98
Walton Creek LLC (Brian Boone)	1.2	\$212.72	\$255.26
Amethyst Ranch, LLC (Elkstone Farm, LLC)	0.4	\$212.72	\$212.72
Amethyst Ranch, LLC (Elkstone Farm, LLC)	0.8	\$212.72	\$212.72
Stone Yard LLC	2.6	\$212.72	\$553.07
Yampa Realty Holdings	17.3	\$212.72	\$3,680.06
Buku Land	1.7	\$212.72	\$361.62
Rostermund, Elizabeth	0.4	\$212.72	\$212.72
Steamboat Adaptive Recreational Sports	1.2	\$212.72	\$255.26
Total Contracted water		2,319.76	\$ 116,999.16



<b>2020 WATER PURCHASERS</b>		
<b>YAMCOLO WATER (8,535 AF)</b>		
<b>CONTRACTEE</b>	<b>contracted water (AF)</b>	<b>AMT. DUE</b>
<b>Yamcolo Irrigators Association (YIA)</b>		<b>\$13.00</b>
Yamcolo Irrigators	3,000	\$39,000.00
<b>Subtotal</b>	<b>3,000</b>	<b>\$39,000.00</b>
<b>Individual Irrigators</b>		<b>\$11.00</b>
Stillwater Land & Livestock, LLC (Ted & Kristie Stites)	164.15	\$1,805.65
JoJanKim LLC	45.85	\$504.35
JoJanKim LLC	90	\$990.00
Elizabeth Kirkpatrick	300	\$3,300.00
Alfred Fisher III and Barbara Fisher (Sleeping Lion Ranch LLC)	1,900	\$20,900.00
*Alfred Fisher III (Sleeping Lion Ranch LLC)	500 @ \$10.00/AF	\$5,000.00
Doris E. Huffstetler and the Bueford E. Huffstetler Family Trust	65	\$715.00
Jim & Dean Rossi	100	\$1,100.00
Jeff Connett	50	\$550.00
Tim & Donna Corrigan (Myriad Springs Ranch)	25	\$275.00
Robert and Mary Jane Logan	20	\$220.00
Peter Flint and Janice Symchych	55	\$605.00
Lawrence Ricca & Sons	100	\$1,100.00
Lone Creek Land Company	85	\$935.00
<b>Subtotal</b>	<b>3,500</b>	<b>\$38,000.00</b>
<b>Municipalities</b>		<b>\$85.83</b>
Town of Hayden	300	\$25,749.00
Morrison Creek Metropolitan Water & Sanitation District	60	\$5,149.80
Mount Werner Water	300	\$25,749.00
Steamboat II	50	\$4,291.50
Town of Yampa	300	\$25,749.00
<b>Subtotal</b>	<b>1,010</b>	<b>\$86,688.30</b>
<b>Total Contracted water</b>	<b>7,510.00</b>	<b>\$163,688.30</b>

## RE: Stagecoach Cost information



Kevin McBride

To Jon Snyder

Cc Kelly Romero-Heaney; jbock@steamboat.net; Andy Rossi; Bob Weiss; Holly Kirkpatrick; Jason Lacy; Sonja Macys; Michelle Carr; Gary Suiter

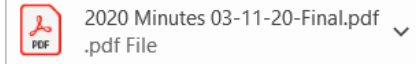
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 Reply All

 Forward



Wed 4/29/2020 4:41 PM



John,

Let me know if there are any questions we can help with regarding the \$68.73 number and methodology. Happy to do that over the computer at your convenience. Regarding the \$124 price for newly contracted water, attached are the minutes from the March 11, 2020 meeting which includes the public conversation on contracting matters. You'll see, after the executive session, the following " Director Sharp moved to advise the City of Steamboat Springs of a water price of \$124.23/AF, to be adjusted by CPI, with a right of first offer and a term ending in the year 2041. The motion was seconded by Director Haskins. The motion was also supported by Directors Murphy, Redmond and Monger. Directors Jones, Woodmansee and Brenner did not support the motion. Director Halliday abstained. The motion passed with five in favor, three opposed and one abstention." The Board will continue discussions at it's next meting scheduled for May 21, 2020. I expect that that meeting will be "virtual" using our computer connections. I obviously do not know when we will have public BOD meetings.

As far as having a negotiators meeting in-person that is another question. I think the UYWCD is still interested in discussions regarding new contracts and terms. In person meetings may be after Labor Day, who knows. Andy Rossi will be the acting GM for the District as of June 1, so please direct questions to him after that date. I realize our respective counsels are also in communication.

Stay safe.

Regards,  
Kevin

Kevin McBride, P.E.  
General Manager  
Upper YampaWater Conservancy District  
970-871-1035

# RECORD OF PROCEEDINGS

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**UPPER YAMPA WATER CONSERVANCY DISTRICT  
BOARD OF DIRECTORS MEETING  
MARCH 11, 2020 11:30 AM  
MOUNTAIN VALLEY BANK COMMUNITY ROOM  
2220 CURVE PLAZA, STEAMBOAT SPRINGS, CO**

## MINUTES

Chairman Ken Brenner called the meeting to order and declared a quorum present. In addition to Chairman Brenner, the Board members present were Bob Woodmansee, Doug Monger, Jim Haskins, John Redmond, Ron Murphy, Lyn Halliday, Tom Sharp, and Webster Jones. General Manager Kevin McBride, District Engineer Andy Rossi, Marketing/Communication Manager Holly Kirkpatrick, Chief Accountant Karina Craig, Business Manager Deb Bastian, General Counsel Bob Weiss (by video conference), and retiring Director Steve Colby were also present. Members of the public present included Erin Light and Scott Hummer, Colorado Division of Water Resources; Kelley Romero-Heaney and Jon Snyder, City of Steamboat Springs; and Mr. Gerry Smith.

The following agenda was proposed:

### AGENDA

- (1) Establishment of Quorum and Call to Order;
- (2) Approval of Agenda for Meeting; action item
- (3) Succession Planning;
- (4) Consent Agenda; action item
  - a) Financial Reports;
    - i) Approval of Disbursements;
    - ii) Budget Comparison;
    - iii) Budget update for WSRF Funds;
  - b) Approval of the minutes of the January 15 Board Meeting;
- (5) Public Input and Comment;
- (6) Board Member Recognition;
- (7) Report of the General Manager;
  - a) Water Quality Standards Consulting;
  - b) Pricing discussion; action item
  - c) Board meeting calendar; action item
  - d) Risk Study modeling;
- (8) Report from District Engineer;
  - a) Reservoir Water Status;
  - b) Inflow Forecasting;
- (9) Report from Public Information Manager;
  - a) Summary Update;
    - i) Diversion Infrastructure Improvement Project;
    - ii) Web Site Redesign;
    - iii) Public Information Schedule;
    - iv) Yamcolo Individual Irrigator Marketing Update;
- (10) Report from General Counsel;
  - a) Water Resumes;
  - b) Status of other Water Cases, if any;
  - c) Board Appointments;

## RECORD OF PROCEEDINGS

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- d) Water Contracts;
- (11) Executive Session with Bob Weiss, legal Counsel, under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, and Contract Negotiations. Mere presence or participation of an attorney at an executive session of the local politic body is not sufficient to satisfy the requirements of this subsection (4).
- (12) Board Member Reports;
- (13) Next Meeting Agenda;
- (14) Adjournment.

**Meeting Agenda** Director Redmond moved to approve of the agenda. Director Monger seconded the motion which was unanimously approved.

General Manager McBride introduced the District's new Business Manager, Deb Bastian. Chairman Brenner announced the retirement of Director Steve Colby. Director Colby's term at the Board ended on March 8, 2020 and he had announced his retirement. Chairman Brenner introduced incoming Director Lyn Halliday. Director Halliday introduced herself and updated the Board on her professional background.

### ***Succession Planning***

Chairman Brenner stated General Manager McBride had announced his retirement and thanked him for his service to the District over the years. General Manager McBride described some of the more salient District accomplishments and District milestones reached during his tenure and thanked the Board for the opportunity.

Director Brenner referred to the current job description for the position. He proposed the Governance Committee review and updated it, then bring it to the Board for review, before it be posted publicly.

Director Monger thanked General Manager McBride for the flexible offboarding schedule he offered the District and stated his opinion that it would be best to establish a well-defined timeline. Director Monger proposed an RFP be issued and commented Routt County had recently gone through the process of hiring a new County Manager. Five firms had been recruited in the search effort and they might be a good resource for the District as well. Additional resources were mentioned, such as Employers Council and the International City Manager Association. An Executive Committee was scheduled for Wednesday March 18; Director Sharp suggested the Executive Committee take on the responsibility of finding such firms. General Counsel Weiss clarified the District could choose to, but was not required to, issue an RFP for personnel matters. There was general agreement that the process outlined above would be a good approach.

**Consent Agenda** Director Sharp made a motion to approve the consent agenda (approval of January 15, 2020 minutes, Budget Updated and Comparison Report, Cash Disbursement Report), Director Haskins seconded the motion, which was unanimously approved.

**Public Comment** The Chairman asked the public present if there were any questions or comments; there were none.

## RECORD OF PROCEEDINGS

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### *Board Member Recognition*

General Manager McBride recognized and thanked retiring Director Colby for his many years of service at the District. The sentiment was echoed through the room. Director Colby expressed his gratitude for the opportunity, recognized the work achieved by the District in the past fifteen years and wanted to wish the District all the best in the future.

### *Report of the General Manager*

Water Quality Standards Consulting – General Manager McBride handed a letter from Leonard Rice Engineers (LRE) to the District. He discussed work being carried out by LRE in water quality standards for Stagecoach Reservoir. Director Monger inquired about timelines; General Manager McBride said he saw early summer for a general timeline.. There was a discussion about the standards.

### Pricing Discussion –

The General Manager provided a general overview of pricing of current contracts. He then referred to pricing methods the District has used to capture costs of each facility. He spoke of the new water contracts, and different ways to bring a price for new contracts for municipal water.

Jon Snyder, Public Works Director of the City of Steamboat Springs, was invited to speak. He discussed rate study strategies, including full cost recovery, which he supported. He described pricing components; ongoing operations, a rainy-day fund, and capital maintenance. He commented capital improvement plans can be very variable, and encouraged recovery of %100 of operating costs, commented he typically keeps a rainy-day fund equivalent to that of about 25% of operating costs. He requested that details of proposed water pricing could be made publicly available soon.

Chairman Brenner asked members of the public present if there were any comments; there were none.

The topic of firmness of water relative to pricing was discussed. Director Sharp inquired what might or might not be appropriate to discuss in open session relative to pricing of contracts that are currently under negotiation. General Counsel Weiss said with respect to existing contract interpretation and instructions to negotiators should be discussed in executive session. He said pricing related to new water contracts could be discussed in open session.

Chairman Brenner asked Directors to express their opinions. Director Sharp referred to a pricing matrix he was proposing, with water pricing varying with volume of water to be contracted, and length of contract term. Director Jones proposed pricing varying based on type of water use, recognizing four categories: agricultural, ERC, municipal and industrial. He discouraged the signing of long-term contracts, commenting perpetuity is a long time. He had a broader range of prices, he commented. Director Woodmansee discussed risk, and whether a firming project would be needed. He stated his opinion that \$125.00/AF would be too high of a price. Director Haskins stated he had the same thought

## RECORD OF PROCEEDINGS

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initially. However, he said, the firming project might indeed be needed, and it should be kept on the table. He referred to comments about pricing sensitivity and noted that pricing of water is much higher in other basins. He clarified this was the case for water in general, and particularly for environmental water.

Director Monger discouraged the District to enter into new perpetual contracts. He was advocating for cost recovery pricing and the consideration of firmness of yield. The community wishes for the District to save money for new projects, and to have some reserves, he expressed. ERC water might be sold for a lower price, but it might not be there when needed. Director Redmond stated he would like to see no new perpetual contracts, and he'd like to see contracts be simplified in the future. Director Halliday commented there are numerous variables contributing to pricing, especially considering changes to climate and other unknowns.

Director Jones spoke; he said there is no set protocol in pricing as there is in retail municipal water. The District hired an accounting firm with background. Calculated prices are educated estimates, which come close to the actual costs. As a District, he said, we are not able to recover all of the cost. There is a subsidy, because not all of the water is under contract. He was suggesting Directors pick a number they feel comfortable with, that reflects the values of the District. He further commented, the City of Steamboat Springs has a capital-intensive budget, while the District's situation is different, with capital expenditures that are not as unpredictable. He felt comfortable with the method developed by the District, he concluded.

Director Brenner stated he did not see a current need for agricultural water pricing at Stagecoach. He could empathize with other governments who will continue to serve their constituents in the long term and asked if there was a provision or terms that could give further assurance for long term planning. He recognized firmness ought to be a factor in pricing considerations. He stated the cost recognition through an enterprise fund model had its value, while he was aware that not all costs could be recovered, and water would be subsidized. He added, he was in agreement of avoiding any new perpetual contracts.

Director Murphy stated he liked the pricing matrix proposed by Director Sharp; however, he added, it would drastically complicate pricing for staff. He did not believe in perpetual contracts, and in his opinion, contracts should have a term of 20 years or less.

Chairman Brenner invited the public to comment. Gerry Smith commented that under applicable rules what will be discussed in Executive Session must be listed or otherwise it could not be discussed. General Counsel Weiss responded and clarified; there are two types of Executive Sessions. They can be for legal advice, or for contract negotiations. For the latter, there is a recording, and the District holds it for 90 days, per State law.

*Board Meeting Calendar* – The annual 2020 Board meeting schedule was reviewed. Some of the scheduled meetings are on the same dates as with the Yampa White Green Basin Roundtable. Some of the Roundtable Committee meetings overlap not only in date, but in time. There was a proposal to adjust

## RECORD OF PROCEEDINGS

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the District calendar so that District staff and Directors may attend to both meetings. Director Monger moved to keep the April 8, 2020 1:30 PM Board meeting as scheduled, and to adjust the monthly Board meetings for the remaining months of 2020 to the third Thursday of the month, with a start time of 12:00 PM. Director Woodmansee seconded the motion, which was unanimously approved.

Risk Study Modeling – General Manager McBride presented a Big River Committee Summary. The Big River Committee is a sub-committee of the Yampa White Green Basin Roundtable which is focused on the RT’s positions of the group.; the chair of that group has put out a document for comment: **Goals, Focus, and Policy Recommendations**. This was briefly discussed.

As part of the Colorado River District sponsored “Risk Study” the BOD’s previously approved funding with the provision that the “Yampa Doctrine” and “equitable apportionment” possibilities for administration of the Yampa River were considered. A YRWCD Equitable Apportionment spreadsheet document was presented, reviewed and discussed. The conversation included allocation of reduced depletion volumes for different basins through a variety of processes. Directors expressed interest in continuing to receive updates on the information presented.

### ***Report from the District Engineer***

Reservoir Water Status – Engineer Rossi presented and discussed in detail several graphs with water storage data for Yamcolo and Stagecoach Reservoirs, for the years 2019, and 2020-to-date.

Inflow Forecasting – Engineer Rossi presented a Yamcolo Inflow Forecast Worksheet, a Stagecoach Inflow Forecast Flowsheet, SNOTEL data sheets, and CBRFC inflow forecasts. He explained the data used, and the methodology. He then referred to pike, an introduced species present in Stagecoach Reservoir, and stated the District works in communication with other agencies actively involved in pike management.

### ***Report from Public Information Manager – Summary Update***

Diversion Infrastructure Improvement Project – Public Information Manager Kirkpatrick updated the Board on the project. She referred to budgeting and clarified the District won’t be issuing funds until after they are received from other participating agencies. Effectively and in terms of cash-flow, the expenditures will be a pass-through.

Website Redesign – Manager Kirkpatrick shared with the Board that the District’s website will be updated, both in presentation and content. She is currently working with consulting firm Hive180. She estimated the updated website would be launched in mid-May. She stated she would like the website to include an event calendar easily accessible to the public, as well as to staff and Directors.

Public Information Schedule – Manager Kirkpatrick updated the Board on different events and publications were District related materials have or will appear. She asked Directors to share with her

## RECORD OF PROCEEDINGS

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any other events or publications that might be useful for her to know about. Director Brenner shared some events from Friends of the Yampa.

*Yamcolo Individual Irrigator Marketing Update* – The Public Information Manager presented and reviewed an Individual Irrigators Water Allotment Contract Timeline. Contract applications have been mailed out to prospective contractees. Several people have reached out and several applications have been received. Friday March 13, 2020 is the deadline for all applicants to submit their applications. Soon after, contracts will be mailed out for signature. Contracts are expected to be received by April 1, 2020.

### ***Report from General Counsel***

*Water Resumes and Status of other Water Cases* – General Counsel Weiss reported Scott Grosscup had reviewed the Water Resumes for Water Divisions 5 and 6 for water court filings in January and he had not identified any water applications that would impair or injure the District's water rights. Counsel Weiss presented and reviewed an update on cases 17CW3043, 18CW3020, 19CW3005 and on the Million's project involving the Utah Division of Water Rights prepared by Scott Grosscup.

Director Sharp asked Counsel Weiss if he could take some time and give some thought to the pros and cons of taking an active role on a certain water case involving Tri-State diligence. There was a discussion about some historical water rights, as well as about water matters currently active in the Legislature.

*Board Appointments* – General Counsel Weiss updated everyone present on the process and results of the new Board appointments. The terms of Directors Haskins, Brenner and Colby expired on March 8, 2020. Publications were carried out in compliance with statutes. Applications were received by the February 7, 2020 deadline. The Chief Judge appointed Directors Haskins, Brenner, and Halliday. The terms are for four years and will be expiring on March 8, 2024.

*Water Contracts* – Counsel Weiss updated the Board on several contracts. A proposed amendment to the YIA includes changes involving pricing provisions until the year 2041. The proposed amendment provides for a \$13/AF pricing for 2020, with annual CPI increases, through 2041. Afterwards, pricing would be calculated based on costs. A proposed amendment for the 2005 Stillwater Ditch Agreement Amendment was presented. Counsel Weiss was explaining the amendment proposes a \$0.74 price per share fee for the year 2020, to be adjusted by CPI on an annual basis, through 2041. The District had agreed at a previous meeting to reimburse to former shareholders those legal fees incurred during negotiations, up to a maximum of \$11,000.

A proposed Carriage Contract for Individual Irrigators and YIA members who wish to use the Stillwater Ditch was presented and discussed. The proposed starting price is \$1.84 per acre foot of water currently under contract. The price would be adjusted by CPI, and a credit would be applied according to use, for those shareholders who hold capacity in the original 36.3 cfs in the Ditch.



## RECORD OF PROCEEDINGS

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Finally, the 3,500 AF YIA contract was discussed. A proposed application and form of non-renewable allotment contract and carriage contract was presented and reviewed. The proposed price was \$11 AF with a sideboard CPI adjustment. The District had agreed to reimburse attorney's fees up to \$2,000. The re-contracting process was outlined through a Resolution adopted by the Board in January 2020 and revised at the February meeting. Director Sharp moved to authorize as a District an extension of the arbitration of the YIA contract for 60 days, provided the YIA also agree and sign said extension. The motion was seconded by Director Woodmansee and unanimously approved.

### ***Executive Session***

Robert Weiss, as counsel for the District, stated that in his opinion discussion of the matter announced to go into executive session constitutes a privileged attorney/client communication. He was therefore recommending that no further record be kept of the executive session.

At 4:00 PM Director Sharp moved, Director Monger seconded, and it was unanimously agreed to go into Executive Session under provision C.R.S. §24-6-402(4) (b) to discuss with counsel legal issues relating to Water Resumes and Water Cases, and provision C.R.S. §24-6-402(4) (e) for instructions to negotiators. Mere presence or participation of an attorney at an executive session of the local public body is not sufficient to satisfy the requirements of this subsection (4). Director Sharp moved, Director Haskins seconded, and it was unanimously approved to go out of Executive Session at 5:05 PM.

Director Sharp moved to advise the City of Steamboat Springs of a water price of \$124.23/AF, to be adjusted by CPI, with a right of first offer and a term ending in the year 2041. The motion was seconded by Director Haskins. The motion was also supported by Directors Murphy, Redmond and Monger. Directors Jones, Woodmansee and Brenner did not support the motion. Director Halliday abstained. The motion passed with five in favor, three opposed and one abstention.

***Board Member Reports*** – Chairman Brenner asked Directors if they had had time to review certain documents he had sent out. Director Monger commented he had been championing transitioning from coal, and he now had an understanding of the concerns from community members about the loss of coal production in the region.

***Determination of future meetings*** The scheduled date for the next Board meeting was confirmed, being Wednesday April 8, 2020 at 1:30 PM.

Director Sharp moved to adjourn the meeting. The motion passed and the meeting adjourned at 5:20 PM.

I certify that the foregoing constitutes a true and correct summary of the proceedings at the above referenced meeting.

\_\_\_\_\_  
Kevin McBride, District Secretary/Manager

Date: \_\_\_\_\_

## RECORD OF PROCEEDINGS

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### STATEMENT FROM ATTORNEY REGARDING ATTORNEY-CLIENT PRIVILEGE

The undersigned Robert G. Weiss hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that the portion of the executive session that was not recorded and which related to Water Resumes and Water Cases constituted a privileged attorney-client communication in the opinion of the undersigned attorney.

\_\_\_\_\_  
Robert G. Weiss, Counsel

Date: \_\_\_\_\_

### STATEMENT FROM CHAIR OF EXECUTIVE SESSION REGARDING ATTORNEY-CLIENT PRIVILEGE

The undersigned chairman hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that all of the executive session was not recorded and was confined to the topics authorized for discussion in an executive session pursuant to subsection (4) of CRS Section 24-6-402.

\_\_\_\_\_  
Ken Brenner, Chairman

Date: \_\_\_\_\_

AMENDMENT OF WATER ALLOTMENT CONTRACT

This AMENDMENT OF WATER ALLOTMENT CONTRACT is made and entered into effective the 1st day of April, 2020 (“Effective Date”) by and between The Upper Yampa Water Conservancy District, a Colorado water conservancy district (“District”) and the following governmental or private entity:

(Such governmental or private entity being herein referred to as the “Contractor”).

RECITALS

WHEREAS, the District and the Contractor entered into a water allotment contract agreement dated \_\_\_\_\_, 19\_\_\_\_, providing for the storage by the District in Stagecoach Reservoir prior to July 15<sup>th</sup> of each calendar year of \_\_\_\_\_ acre feet of water (the “Contractor Water Allotment”) for release to the Contractor for beneficial uses upon request of the Contractor between July 15<sup>th</sup> and April 1<sup>st</sup> of each water year (the “Agreement”); and

WHEREAS, after the first 30 years of the Agreement, the annual purchase price of the Contractor Water Allotment allocated to the Contractor must be determined by Sections 4.2 and 4.3 of the Agreement, and is to be determined annually by the District based upon the District’s estimated costs of operating, repairing, renovating and maintaining (including replacement costs) of Stagecoach Reservoir, without right of appeal by Contractor or “true-up” based after actual costs are expended and computed, payable upon receipt of billing from the District; and

WHEREAS, the District and the Contractor desire to avoid future disputes and disagreements regarding the estimated or actual costs of operating, repairing, renovating and maintaining (including replacement costs) of Stagecoach Reservoir, so that, for a period of years, the annual purchase price of the Contractor Water Allotment allocated to the Contractor under the Agreement will be a fixed and known annual amount, adjusted only for increases in the applicable CPI, regardless of such District costs or estimates of costs; and

WHEREAS, at the time the Agreement was entered into, the District had entered into, or expected to enter into, similar M&I water allotment contracts for storage of water in Stagecoach Reservoir totaling approximately 15,000 AF of such storage water, including the Agreement and including either 13,000 AF or 11,000 AF of storage water contracted for allocation to either Colorado Ute Electric Cooperative or its successor-in-interest Tri-State Generation and Transmission Company (“Tri-State”) in connection with the ownership and operation of the Craig Electric Power Generating Station near Craig, Colorado; and

WHEREAS, since the date of the Agreement, Tri-State has now terminated and withdrawn from all water storage allotment contracts with the District, and certain wording in Section 4.3 of the Agreement is now inequitable and improper, and the parties desire to amend the Agreement to correct such inequity and impropriety; and

WHEREAS, the parties desire to amend and revise certain other provisions of the Agreement which are out-of-date and inconsistent with the policies and procedures of the District and/or the

practices of administration of water rights by the Colorado State Engineer and/or the Division Engineer for Water Division No. 6; and

WHEREAS, the manager of the District and representatives of the Contractor have met and negotiated in good faith, and have reached agreements on the purchase price for the Contractor Water Allotment allocated to the Contractor under the Agreement for water year 2020 and subsequent years through until March 31, 2042, and certain amendments to the Agreement.

NOW, THEREFORE, the Contractor and District do hereby amend the Agreement as follows:

1. Until March 31, 2042, the first sentence of Section 4.3 of the Agreement is suspended, and the following provisions shall apply:

A. The purchase price for the Contractor Water Allotment allocated to the Contractor for water year 2020 shall be \$35.00 per acre foot for each acre foot of such Contractor Water Allotment stored at the annual peak storage occurring on or prior to July 15<sup>th</sup> of such water year, without regard to subsequent releases or evaporation or reasonably unpreventable leakage of such water and without regard to whether or not all or any part of such water has been carried over in storage from the prior Water Year, and shall be paid in full to the District by Contractor by July 31, 2020.

B. The purchase price for the Contractor Water Allotment allocated to the Contractor for water year 2021 shall be \$ \_\_\_\_\_ per acre foot for each acre foot of such Contractor Water Allotment stored at the annual peak storage occurring on or prior to July 15<sup>th</sup> of such water year, without regard to subsequent releases or evaporation or reasonably unpreventable leakage of such water and without regard to whether or not all or any part of such water has been carried over in storage from the prior Water Year, and shall be paid in full to the District by Contractor by July 31, 2021.

C. The annual price per acre foot for the Contractor Water Allotment allocated to the Contractor and stored in Stagecoach Reservoir and available for release to the Contractor in the next Water Year after 2021, and in each Water Year thereafter through the Water Year ending March 31, 2042, as stored at the annual peak storage occurring on or prior to July 15<sup>th</sup> of such Water Year, without regard to subsequent releases or evaporation or reasonably unpreventable leakage of such water and without regard to whether or not all or any part of such water has been carried over in storage from the prior year, shall be an amount equal to the greater of (i) the price per acre foot charged to the Contractor for the Contractor Water Allotment for the immediately prior Water Year, or (ii) the product obtained by multiplying the price per acre foot charged to the Contractor for the Contractor Water Allotment stored in the Reservoir and allocated to the Contractor for the immediately prior Water Year by a fraction, the denominator of which is the Consumer Price Index for All Urban Consumers ("CPI-U"), Denver-Aurora-Lakewood Metropolitan Area, "All Items" (1982 - 84 = 100), published by the Bureau of Labor Statistics of the United States Department of Labor (the "CPI") for the semi-annual period ending December 31 in the Water Year prior to the prior Water Year and the numerator of which is the CPI for the semi-annual period ending December 31 of the prior Water Year. In the event the Bureau of Labor Statistics discontinues publication of the CPI in the format existing as of the Effective

Date then the District shall select a reasonably comparable price index, which index shall be substituted for the CPI in this paragraph. If the base year used in computing the CPI is changed, the adjustment to the purchase price shall be changed accordingly, so that all increases in the CPI are considered, notwithstanding any such change in the base year.

2. For all Water Years after the Water Year ending March 31, 2042, the alternative pricing provided in Paragraph 1 above is terminated, the suspension of operation of Section 4.3 of the Agreement is terminated, and the annual price per acre foot for the Contractor Water Allotment allocated to the Contractor and stored in Stagecoach Reservoir and available for release to the Contractor shall after March 31, 2942, be as provided in Section 4.3 of the Agreement, as amended by the amendment set forth in Paragraph 3 below.

3. The second sentence of Section 4.3 of the Agreement, which reads as follows, is hereby DELETED:

“The price per acre-foot for any given year will be computed by dividing an estimate of the annual costs (computed each year) the District expects to incur for the operation, repair, renovation and maintenance of Stagecoach Reservoir (including replacement costs) as computed pursuant to standard accounting procedures, by 15,000 acre feet.”

In lieu of such deleted second sentence of Section 4.3, the following sentence is INSERTED AND ADDED as the second sentence of such Section 4.3:

“The price per acre-foot for any given year will be computed by dividing an estimate of the annual costs (computed each year) the District expects to incur for the operation, repair, renovation and maintenance of Stagecoach Reservoir (including replacement costs) as computed pursuant to standard accounting procedures, by ***the greater of 5,000 acre feet OR the sum of (a) the number of acre feet of water contracted from storage in Stagecoach Reservoir by all multi-year water allotment contracts of the District in effect as of July 15 of such Water Year, plus (b) 2,000 AF of storage water allocated by the District for augmentation use pursuant to the decree of the Water Court entered in Case No. 06CW49, Water Division 6; “multi-year” water allotment contracts shall mean contracts binding upon both the District and the allottees for 3 or more consecutive years.***”

4. Further Miscellaneous Amendments of the Agreement:

A. In Section 1(a), the total capacity of Stagecoach Reservoir is amended from 33,275 AF to 36,875 AF as a result of the expansion of the spillway of Stagecoach Dam.

B. Section 1(b) which described allocation of storage water contracts anticipated for Stagecoach Reservoir is deleted, inasmuch as Tri-State has terminated all of its allotment contracts of Stagecoach Reservoir storage water.

C. Add the following at the end of Section 2.1: “For purposes of this Contract, a Water Year shall be the 12-month period from April 1 in a year through March 31 of the subsequent year, unless the beginning and end of such Water Year is changed by the Division Engineer for Water Division 6. Storage water cannot be released and used by the Contractor for uses which have not been decreed absolute to the District, so as not to trigger directives by the Division or State Engineers against the District in subsequent water years to “paper fill” or subsequently restrict the fill rights of Stagecoach Reservoir. Specifically, the Contractor may not direct or control or contract to direct or control the allotted water for any use downstream of the confluence of the Elk River for “instream flow or environmental or recreational uses (“IER Uses”)” without the prior written consent of the District, whose consent may be granted, denied, or conditioned in its sole discretion, since the District water rights for storage of Stagecoach Reservoir water do not include absolute decreed uses for IER purposes.”

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D. Delete the first sentence of Section 2.2 of the Agreement and insert the following in lieu thereof: “Except in times of emergency, the Contractor shall give at least 48 hours advance written notice to the District specifying the time and quantity of water requested to be released out of the Contractor Water Allotment in Stagecoach Reservoir. The parties acknowledge that the turbine capacity to release stored water through the outlet works of Stagecoach Reservoir is 105 cfs, and that the District may diminish the instantaneous rate of release of the Contractor Water Allotment after a request from Contractor, proportionally with diminishment of rates of releases of stored water to other contractees without discrimination, to the extent that, in conjunction with other adjusted required release rates by the District for such other contractees, the maximum safe release rate of stored water and required bypasses through the outlet works is not exceeded.”

E. Pursuant to Section 4.2 of the Agreement, the Contractor did not give to the District written notice of its election to terminate its continuing right to purchase the Contractor Water Allotment annually from the District, so that the parties acknowledge and agree that the Contractor is now obligated to purchase the Contractor Water Allotment annually from the District pursuant to the Agreement as amended hereby for the life of Stagecoach Reservoir.

EXCEPT AS ABOVE PROVIDED AND AMENDED, all terms, covenants, and provisions of the Agreement are hereby ratified and confirmed. The parties agree that this Amendment is for the purpose of resolving the purchase price for the water allocated to the Contractor for Water Years 2020 through until March 31, 2042, under the Agreement, as amended hereby, and to amend certain provisions of such Agreement, and this Amendment shall not apply to determination of the purchase price in Water Years subsequent to March 31, 2042 except as above set forth in Paragraph 3, nor in anyway prejudice the rights of either party under the Agreement as amended hereby.

Dated on the respective dates set forth below, effective on and as of the 1<sup>st</sup> day of \_\_\_\_\_, 2020.

Upper Yampa Water Conservancy District

Stagecoach Contractor

By: \_\_\_\_\_  
President Date

By: \_\_\_\_\_  
President Date





## BOARD COMMUNICATION FORM

**From:** Kevin McBride

**Date:** May 13, 2020

**Item:** Board Governance Manual Adoption

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DIRECTION  
 INFORMATION  
 MOTION Approve minutes, adopt Manual  
 RESOLUTION

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**I. Request/Issue and Background Information:**

The Board has been involved in developing a governance manual for the past several months. The final meeting occurred on 4/16/2020 and minutes are attached. The Governance committee should review, correct if necessary, and approve these. The Board can then review, modify if necessary, and adopt the manual.

**II. Summary and Alternatives:**

Adopt, modify and adopt, table or take no action.

**III. Staff Recommendation:**

The BOD has reviewed many drafts and staff recommends adoption.

**IV. Legal Issues:**

N/A

**V. Consistency with Board Goals and Policies:**

**Goal 10**

**Attachments:**

Minutes of the 4/16/2020 Governance meeting





## Board Governance Manual

### Table of Contents

<i>Upper Yampa Water Conservancy District Mission</i> .....	1
<i>Preamble</i> .....	1
<i>District Background</i> .....	2
<i>Relevant Legal Authority</i> .....	3
<i>Chapter 1 – Role and Authority</i> .....	3
<i>Chapter 2 – Board Interactions with General Manager, Counsel and Staff</i> .....	4
<i>Chapter 3 – Board Governance</i> .....	7
<i>Chapter 4 – Board Interactions with the Public</i> .....	9
<i>Chapter 5 – Resolution of Issues or Concerns</i> .....	11
<i>Chapter 6 – District Liability and Insurance Issues</i> .....	13

### Upper Yampa Water Conservancy District Mission

*To lead water resource management within the District’s boundaries by responsibly conserving, protecting, developing, providing and enhancing the water resources of the Upper Yampa River Basin for the benefit of the Basin.*

### Preamble

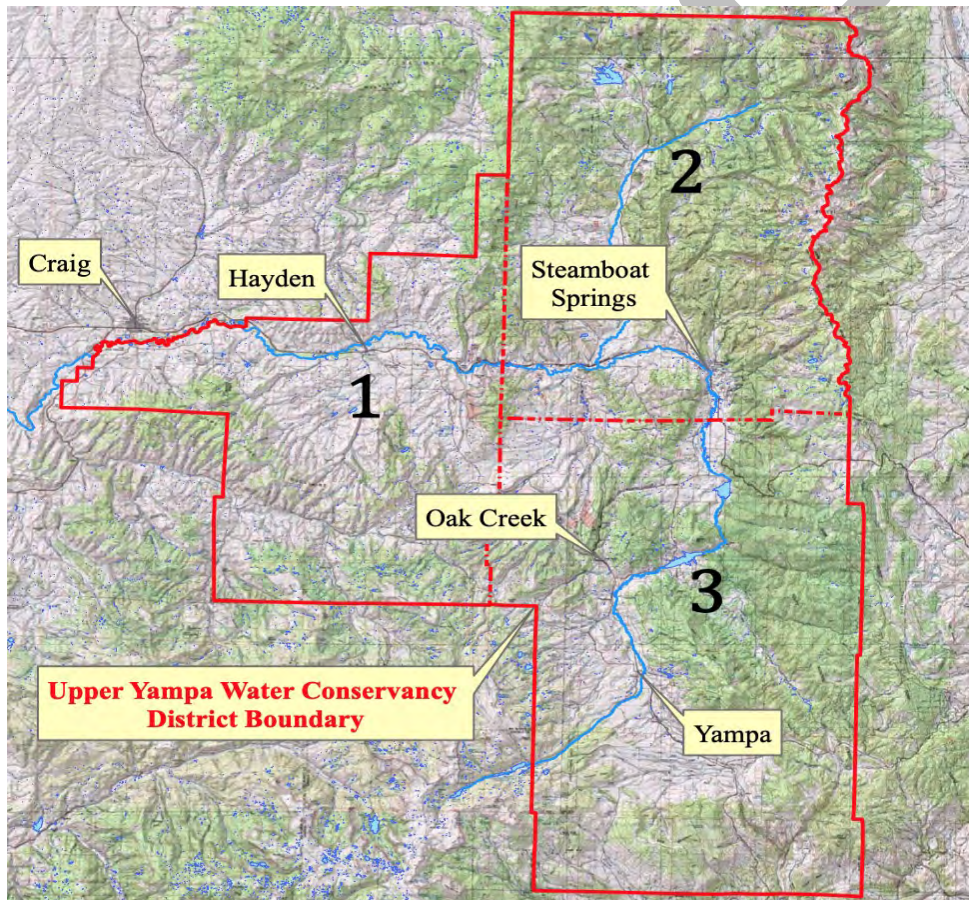
The Upper Yampa Water Conservancy District Board of Directors (herein ‘Board’) has developed and adopted, and will maintain, this Board Governance Manual as a resource to support the District’s mission, guide the Board, and encourage public confidence in the integrity of the District and its fair and effective operation. This Manual is shaped by the Board’s commitment to the following:

1. **Leadership** in the Upper Yampa Basin and regionally in the conservation and development of water resources.

2. **Partnership** with other agencies, stakeholders, and customers to conserve and develop water resources.
3. **Stewardship** of taxpayer dollars and the region’s precious water resources.

## District Background

The Upper Yampa Water Conservancy District was formed in 1966 and instituted a mill levy under the Water Conservancy Act of the State of Colorado, in order to plan and develop water conservation projects in the Upper Yampa Basin. The District encompasses Routt County and a portion of Moffatt County and is divided into three divisions: Division 1 (Hayden area), Division 2 (Steamboat Springs area), and Division 3 (Oak Creek/Yampa area). The nine members of the Board of Directors, three representing each Division, are appointed by the District Judge to serve staggered four-year terms. Three Directors (one from each Division) are appointed each year, with the exception of every fourth year when no appointments are made. Directors must reside and own real property in the Division they desire to represent. There are no limits on the number of terms Directors may serve.



The District was formed on the basis that properties within the District would benefit through conservation, development, and stabilization of water supplies for domestic irrigation, power, manufacturing, and other beneficial uses. This led to the construction of Yamcolo Reservoir, located in the Flattops near the headwaters of the Yampa River, in 1980 and Stagecoach

Reservoir, located southeast of Steamboat, in 1989. Yamcolo offers 9,621 acre feet of storage, which primarily provides water to agricultural operations in South Routt County; some of which is delivered via the Stillwater Ditch, a District-owned and operated irrigation ditch that crosses the Five Pines Mesa. With up to 36,439 acre feet of storage, Stagecoach serves a multitude of water users, including municipalities, industrial use such as energy production, agricultural operations, and recreation including snowmaking. The District also owns and operates an 800 kW hydroelectric power plant at Stagecoach Dam. In addition to safely maintaining and operating District-owned facilities, the District promotes healthy reservoirs, streams, and watersheds within the District. In 2012, the District partnered with the Colorado Water Trust to coordinate the first environmental water release out of Stagecoach Reservoir. As part of its maintenance and operation, the District also closely adjusts and monitors the temperature and oxygen content of its releases to ensure a healthy habitat for trout and other aquatic life downstream, a contribution to both the environment and recreational opportunities on the Yampa River. In collaboration with various agencies, the District supports water quality efforts and participates in working groups to address issues that may affect water quantity in the future. The District monitors issues throughout the Colorado River Basin in an effort to protect the water resources of the Upper Yampa Basin and plan for potential water shortages.

The District is committed to an Upper Yampa River Basin with safe, secure water storage and supply that benefits all uses in the Basin.

## **Relevant Legal Authority**

The District is a governmental entity organized under the Colorado Water Conservancy Act found in Title 37, Article 45 of the Colorado Revised statutes. The Act contains the State law governing the creation, powers and authority, governance, operation, and financing of the District. The 1966 Decree forming the District describes the Boundaries and Divisions within the District, the Board structure, and the certain projects then expected to be undertaken by the District. The District is also subject to other legal requirements of state and federal law including the Colorado Open Meetings law, the Open Records Act, the Local Government Budget Law, the Colorado Governmental Immunity Act, and the Code of Ethics. The District has adopted Bylaws, policy resolutions, Personnel Guidelines, and this Board Governance Manual.

## **Chapter 1 – Role and Authority**

### **Board Values**

District constituents, and persons and entities who contract for allotments of water from the District, are entitled to Directors (herein ‘Directors’) who are fair, ethical, and accountable. Directors strive to constantly seek to reflect the following qualities in discharging their duties:

- Strive to be independent, impartial, and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, where not legally confidential, in an atmosphere of respect, civility and transparency.

## **Role of the Board**

The primary role of the Board is to establish policies and strategic direction that guide the District to meet its mission. The Board gives clear direction to the General Manager through motions, resolutions and other directives at Board meetings. This includes the need for visionary planning and adapting to unforeseen events. The Board exercises this authority only collectively as a Board, rather than as individuals. Directors recognize and respect the distinction between their policy-setting and oversight role, and the day-to-day implementation of policy by staff. The Board's role is to be 'nose in, fingers out,' meaning the Board is kept regularly informed of major District activities, pursuant to the Board's overall strategic plan and policy priorities, with the opportunity to provide feedback or raise questions at any time, and to discuss issues at Board meetings. The Board does not direct the day-to-day activities of the staff.

The Board's responsibilities are set forth in the District Bylaws and include the following:

- Promote the best interests of the District's constituents and stakeholders by establishing policies that support the current vision and mission of the District and ensuring implementation of those policies. Policies include the governing principles, strategic plans, and course of action for the organization.
- Establish policies that ensure fiscal stability and the effective use of funds. Each fiscal year the Board adopts a budget covering the anticipated revenues and expenditures of the District and reviews budget reports throughout the year. In addition, the Board hires an independent auditor to ensure District finances comply with standard governmental accounting rules. From time to time, the Board also reviews and/or adopts amendments to the District's cash reserve, investment, and other policies as necessary.
- Hire a General Manager to manage the day-to-day operations of the District. The Board holds the General Manager accountable for the effective operational management of the District and evaluates the General Manager at least annually.
- Engage legal counsel as needed to effectively represent the needs and interests of the District.
- Approves certain contracts and projects, appropriates water rights, and takes such other actions as set forth in the Bylaws.

For the Board of Directors to function in an effective manner, it is important that each member understand his/her respective role and the relationship they have to other members of the Board and to the General Manager.

## **Chapter 2 – Board Interactions with General Manager, Counsel and Staff**

The Board is committed to supporting a healthy, responsive and well-functioning organization. This requires collaborative, open and well-defined relationships with the Board's General Manager, counsel, and staff.

### **The Board's Relationship with the General Manager**

A strong collaborative relationship between the District Board and the General Manager is essential to a highly functioning Board and District. The General Manager is the primary agent of the Board and is the one to whom the Board delegates authority to manage and administer the District's daily operations in accordance with approved policies, budget, and governing documents of the District. The General Manager has two roles: chief executive officer and top advisor to the Board. As the most visible employee, the General Manager represents the District to its stakeholders and constituents.

Directors will focus on maintaining a shared sense of purpose, open communication, honesty, trust and mutual support of each another, Counsel, and staff. The Board must be able to support the decisions of the General Manager, provide the General Manager with clear direction, and grant him/her the authority to manage and lead the District. Both parties will endeavor to publicly support and be responsive to one another. They are expected to raise questions or concerns with one another in a direct, timely manner through open, honest and respectful communications, with regard to both the District's internal and external operations.

The General Manager is responsible for ensuring Directors have the information they need to make Board-level decisions and that all Directors are provided the same information. Directors expect the General Manager to make a recommendation on issues before the Board, except those that are strictly reserved to the Board or legal matters within the responsibility of the District's legal counsel.

In addition to the above, the following guidelines are intended to help define the relationship between the Board and the General Manager:

- 1) Individual Directors are encouraged to discuss District-related matters with the General Manger at any time, including to provide feedback, input, and/or suggestions concerning District policy and operations. If at any time the General Manager or a Director believes an issue may require broader policy clarification and/or decision making by the Board, he or she brings the issue to the full Board for input or guidance.
- 2) The General Manager prepares an annual budget and work plan for approval by the Board of Directors. The General Manager's annual work plan directly references and advances the District's strategic plan.
- 3) The Board reviews and, as needed, updates the District's strategic plan on an annual basis, prior to the General Manager's development of the budget and work plan for the following year.
- 4) The Board provides the General Manager with a written evaluation at least annually that is standardized, transparent, and tied to his/her job description and annual work plan.
- 5) The General Manager updates the Board bimonthly on the status and implementation of his/her work plan, to foster open communication regarding District activities, accomplishments, and any areas of concern. Any specific concerns and/or feedback should be raised during the General Manager's reports at these meetings, rather than being delayed until his/her annual review, consistent with the provisions of Chapter 5 below.

- 6) Directors are encouraged to engage on water matters with District stakeholders and others. Important issues or information from these discussions should be shared with the General Manager.
- 7) The General Manager provides all Directors with the same information regarding District business.
- 8) When a Director is going to be out of town or unavailable for a Board meeting or other function involving the Board, he/she notifies District staff in a timely manner.
- 9) The General Manager advises the Board of Directors when he/she is out of the office for an extended period of time and designates the individual who shall be acting General Manager during that time.
- 10) If a Director or General Manager has concerns that these guidelines are not being properly followed, he or she will raise the issue with the full Board and/or in accordance with the conflict resolution procedure in Chapter 5, as appropriate.

### **The Board's Relationship with Counsel**

- 1) **General counsel.** In general, any Director may contact the District's General Counsel with District-related inquiries. If the matter involves a request for significant legal work, it is approved by the Board as a whole. Exceptions include Directors collaborating with Counsel on longer-term District projects, in which cases approval by the Board is presumed, provided the Board initially authorized the project and is kept up to date. The Board President may also communicate with Counsel for purposes of Board meetings as needed; the General Manager is generally kept abreast of these communications. On an annual basis the Board shall approve an engagement letter with its General Counsel.
- 2) **Special counsel.** The District will from time to time employ special counsel. Unless otherwise determined by the Board, the protocol for Board member interaction with Special counsel is the same as with General Counsel.

### **Interactions with Staff (Apart from General Manager)**

District staff serves the District as a whole. The Board adheres to the following guidelines in interacting with staff serving under the supervision of the General Manger:

- 1) Directors do not direct staff to initiate any action, change a course of action, or prepare any report without the approval of the General Manager and, if necessary, Board action.
- 2) Directors may make reasonable inquiries to staff regarding District-related matters. Requests for staff research are directed to the General Manager. Responses involving District policy are generally shared with the full Board.
- 3) Directors do not attempt to pressure or influence staff discussions, recommendations, workloads, schedules, or priorities.
- 4) If Directors have questions or information they would like addressed by staff at Board meetings, they strive to share this reasonably in advance with the General Manager, so that staff can provide the desired information in the regular Board meeting packet and verbally at the meeting as requested.

- 5) Soliciting political support from staff is prohibited. District staff may, as private citizens, support political candidates, but all such activities must be done away from the workplace and may not be conducted while on the job.
- 6) Any issues or conflicts are addressed in accordance with the issue or conflict resolution procedure in Chapter 5.

## **Chapter 3 – Board Governance**

The District Bylaws establish the orderly conduct of District business where not otherwise provided by State law. The provisions below are non-binding guidelines, except where explicitly stated in the Bylaws.

The officers of the Board of Directors include the President and Vice-President. The General Manager serves ex officio as Secretary/Treasurer of the District. Officers of the District are elected annually by the Board.

### **Role of Board President**

A collaborative relationship between the President and General Manager is essential to a highly functioning Board. The primary role of the Board President is to preside over meetings, consult with the General Manager regarding Board meetings, and sign certain District documents and checks. The President is expected to meet with the General Manager before Board meetings, to frame and clarify topics, and after Board meetings, to ensure clear and timely follow up regarding Board-related activities and tasks.

### **Board Meeting Schedule and Location**

The regular monthly meeting schedule is approved by the Board at the November Board meeting for the upcoming year. In general, every other Board meeting will include topics, materials, and/or policy issues with a need for more lengthy, informal, and participatory discussions, which will often inform future decision-making. These ‘work session’ style meetings are still considered Board meetings with accompanying agendas, minutes and relevant action items.

Currently, most (but not all) regular Board meetings are held on the third Thursday of each month commencing at 12:00 pm in the upstairs conference room known as the Mountain Valley Bank Community Meeting Room, 2220 Curve Plaza, Suite 201, Steamboat Springs, Routt County, Colorado. Lunch is normally served before the meeting starting at 11:30 am. The Board may hold a day long Board retreat in October in lieu of the October Board meeting. Special meetings may be called from time to time in accordance with the Bylaws.

### **Board Meeting Agenda Development**

Board meeting agendas are generally set at the end of each meeting for the next Board meeting. Once set, they may be subsequently modified by the General Manager and Board President, or at the request of two Directors, provided any changes are made well before Board packets are distributed and posted, except in the case of urgent matters. Where possible, the General

Manager and Board President come to agreement on the agenda topics and briefing materials required, in order to help ensure Board meetings are organized and productive.

### **Board Meeting Structure**

In general, Board meetings will follow the following agenda:

- Establishment of Quorum and Call to Order
- Approval of Agenda for Meeting
- Public Input and Comment
- Consent Agenda (minutes, financial report, disbursements, and other consent items)
- Report of General Manager
- Committee Reports
- Report of General Counsel
- District Engineer Report
- Consideration/Action on District Projects
- Board Member Reports
- Discussion of Pending Legislation
- New Business (as defined in District Bylaws)
- Determination of Next Meeting Agenda
- Adjournment

As specified in the Bylaws, the ‘Board of Directors Reports’ section of each meeting agenda is for members of the Board to provide brief reports on matters of interest to the Board, including all meetings attended in their capacity as Directors. If the report is lengthy, or a Director wishes to raise an issue for Board consideration, the report is put in writing in the form of a Board Communication Form for staff to include in the Board meeting packet.

Bimonthly meeting agendas also include an update from the General Manager on the implementation of his/her work plan and any issues that may have arisen.

### **Board Meeting Protocol**

The following describes the Board’s expectations for how its meetings are conducted.

- 1) Directors treat members of the public with courtesy and respect.
- 2) Board meeting minutes are distributed to Directors in advance of the next meeting and generally approved with corrections, if any, at the next regular Board meeting.
- 3) Information relevant to the Board’s decision making and oversight should be shared efficiently by staff, but without unnecessary bureaucracy. In general, Board agenda items are accompanied by a Board Communication Form that explains the issue and what action, if any, is being sought. The Board is kept apprised of issues relevant to Board policy or decision-making and on the progress of District activities. Relevant updates, information, and policy options are provided in writing prior to Board meetings. Board Communication Forms may be supplemented with discussion and questions as needed.



- 4) As set forth above, the President and/or Vice President is expected to meet with the General Manager prior to Board meetings to review and prepare for the upcoming meeting, as well as after the meeting to ensure clear and timely follow up.
- 5) At the direction of the General Manager, department heads or appropriate departmental managers will generally be present at Board meetings.
- 6) Committees are used where beneficial to discuss, vet and frame complex issues for broader Board consideration.
- 7) When appropriate the Board adopts policies by resolution and ensures a clear methodology for tracking policy resolutions.

### **Electronic Communications**

Written and electronic documentation and communication regarding District business and/or operations is legally considered to be in the public domain. This excludes information protected by attorney-client or other privilege. Further, telephonic meetings, emails and texts that discuss public business and involve more than two members of the Board may constitute a ‘meeting’ under Colorado law and in such cases must be open to the public. Where appropriate, Directors’ ideas or proposals for consideration by the full Board are be sent to the General Manager (or, as relevant, the General Counsel) for inclusion in the Board packet prior to the next Board meeting. Board members understand that rules involving electronic communications are subject to change, and that their actions must be consistent with state law and the District Bylaws.

### **On-Boarding and Orientation of Directors**

New Directors should receive copies of this Board Governance Manual, District Bylaws, Personnel Guidelines, current strategic plan, annual budget, and other relevant policy and governance materials.

Further, to effectively oversee the functions of the District, new Directors should receive a tour of District’s facilities and infrastructure within their first six months. All Directors are encouraged participate in this tour on a regular basis.

## **Chapter 4 – Board Interactions with the Public**

As a public body, it is important for the District Board to establish a working environment that encourages public participation and trust. During their service, Directors may have a range of interactions with the public including written communication (i.e., letters, email, etc.), social media, phone calls, face-to-face, social functions, and regular and special Board meetings.

### **Engaging the Public in General**

The Board respects the role of constituents in the governance of the District and encourages their participation. The Board values public comments, both in writing and during Board meetings, and will seek input from stakeholders where appropriate in District decision making. Directors will encourage constituents to attend Board meetings where they have input, comments or concerns to share, whether in person or writing.

## **Public Input During Board Meetings**

The Board President maintains an orderly progression of the business before the Board, and to the extent possible regulates the amount and type of input from the public and from members of the Board and staff. To engage the public, public comment is generally accepted on all agenda items, with time set aside for general public comment on items not on the agenda. This is clearly indicated on meeting agendas. In addition, the Board will often invite a stakeholder group to attend lunch before Board meetings.

Generally, Directors will not respond to public comments during the public input portion of the agenda except to refer matters to the General Manager for follow-up. Directors may ask clarifying questions to ensure that staff provides an appropriate response. Occasionally, a prompt response may be offered by the President or the General Manager when an obvious answer or resolution is available. The Board will not enter into a debate or make decisions in response to public comments that are not on the agenda for consideration.

## **Representing the District Outside of Board Meetings**

Directors are always encouraged to attend meetings and events related to relevant water matters in an informal capacity. Primarily this helps create a more informed Board and enables Directors to share relevant issues and information with the rest of the District Board and staff at District Board meetings (during ‘Board Member Reports’). Additionally, Directors’ participation in other Basin water efforts can be helpful in raising the visibility and public understanding of the mission and activities of the District.

Board members strive to represent the positions and perspectives of the District in an accurate and well-coordinated manner. To do so, Directors adhere to the following guidelines:

- 1) When Directors attend other meetings or events as Directors of the District, they are encouraged to be collaborative and participatory, with the primary goal of listening, asking questions and contributing ideas, and reporting back to the District about relevant efforts and topics.
- 2) Directors attending another meeting or event will clearly delineate between their personal views and opinions and official District policy.
- 3) Directors do not represent policy positions of the District unless adopted by the Board.
- 4) Directors communicate and coordinate closely with District staff prior to communicating District policy positions, to ensure messaging is clear and consistent.
- 5) When a Director participates in a non-District meeting that is attended by District staff and/or by another Director, they coordinate regarding their respective roles, including the responsibility for reporting back to the Board as appropriate.
- 6) The General Manager may invite Directors to accompany him/her to external meetings where useful in discussing official District business. (In some cases the General Manager may decide it would be useful to have two Directors attend such meetings.)
- 7) Directors may be called upon by the full Board and/or General Manager to represent the District in a formal capacity or otherwise. The Board may determine annually which Directors officially represent the Board in other water groups or initiatives.

- 8) To the extent a Director may communicate with constituents or stakeholders regarding Board perspectives on non-confidential matters, he/she will strive to offer a balanced perspective with adequate disclaimers about his/her own role. When expressing personal opinions and comments that may be contrary to adopted District policy, Directors will clarify that these statements do not reflect the official position of the Board or District.
- 9) When addressing the media or utilizing social media or other forms of communications to express positions contrary to official Board policy, Board members will explicitly state that their views reflect personal opinions rather than Board policy.
- 10) When three or more Directors are authorized by the Board to attend a meeting, the meeting is properly noticed as a public meeting of the District.
- 11) Once the Board of Directors has taken an official position on an issue, official District correspondence regarding that issue will normally reflect the Board's adopted position, except as otherwise directed by the Board.

## **Chapter 5 – Resolution of Issues or Concerns**

The Board recognizes that concerns, misunderstandings, and differences of opinion are inevitable for any organization. While in some cases the Board may simply agree to disagree, the Board is committed to addressing concerns that impair the healthy functioning of the District or Board. The Board strives to address these concerns directly, respectfully, with curiosity, and as transparently as possible, whether they concern Board members, the General Manager, or the District as a whole. Concerns are addressed in a timely, open and responsive manner to promote mutual understanding and healthy functioning of the District.

This Chapter describes options for resolving concerns, misunderstandings, and differences of opinion. They are not intended to apply to disciplinary matters addressed in the District's Personnel Guidelines. The Board and the General Manger (in the case of matters within the purview of the General Manager) are free to modify the procedures described or to disregard them as they deem appropriate under the circumstances. These procedures are not mandatory and are not the exclusive means of addressing such matters.

### **Concerns Involving Board Members**

It is not uncommon for miscommunication, misunderstandings or conflicts to surface among Board members or between a Board member(s) and the General Manager. Board members will address such issues in a timely and direct manner, taking the following steps as appropriate (generally but not always in the following sequence, as needed).

- 1) Attempt to address any personal conflicts or concerns in a direct and timely manner with the other party or parties, striving for mutual understanding, curiosity, and appreciation for the different viewpoints involved.
- 2) Bring the concern to the Board President, who will facilitate the Board's determination of how to proceed with the concern. The Board and/or party involved may ask that the complaint be summarized in writing to support productive discussions, particularly if the complaint is of a more serious nature. The Board may choose to address the matter at a

regular or special Board meeting, suggest mediation between the parties, and/or refer the issue to the appropriate parties. If the Board President is one of the people involved, the Vice President will serve in the role of the President. If the concern involves the General Manager, the Board may choose to address the issue in his/her annual review, consistent with the language in Chapter 2.

- 3) If the Board decides to address the concern at a Board meeting, the Board President in consultation with the General Counsel will ensure the concern is described and handled fairly and in accordance with District policy. This includes ensuring that the parties involved understand the concern and have an opportunity to share their perspectives. The President will facilitate the decision making of the Board. If the President is one of the people involved, the Vice President will serve in the role of President. The Board may review its past decisions if new information comes to light or for other reasons.
- 4) If the Board decides the issue should be addressed through mediation, the Board President and/or Vice President will work with District Counsel to engage a neutral third party to facilitate direct discussions between the parties to resolve the issue.
  - a. The mediator must be: a) a person that the parties agree to; or b) in the absence of agreement, a person appointed by the Board. The third party may be a Board member or impartial individual whose aim is to help the parties resolve the issue.
  - b. While the parties may agree to keep discussions confidential to the extent authorized by law, the result will be shared with the Board at whatever level of detail the parties agree is appropriate, to keep the Board apprised, avert surprises, and promote transparency.If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute by the Board or other means.
- 5) The Board may decide to refer the concern to appropriate authorities as needed.

### **Concerns Involving the General Manager**

The above procedures apply to complaints or concerns regarding the General Manager from the public, Board members, staff, or Counsel.

### **Issues or Concerns Involving Staff Operations and Actions**

Any concerns of a Director regarding the behavior or work of a District employee other than the General Manager are directed to the General Manager privately to ensure the concern is addressed. The GM will confer with District Counsel and keep him/her fully apprised of the handling of the issue. Directors do not reprimand employees directly nor do they communicate their concerns about individual staff members to anyone other than the General Manager or as otherwise permitted by law or the governing documents of the District. The General Manager addresses and tries to resolve the issue, consistent, where relevant, with the District's Personnel Guidelines. The General Manager keeps the Board apprised on the resolution of such issues in an appropriate and timely manner and in accordance with the Bylaws and other policies.

The District's Personnel Guidelines state that 'If the grievance involves the General Manager, the grievance should be reported to the District's Board of Directors President. In that case the

Decision of the Board of Directors of the District shall be final.’ If a grievance is escalated to this level, the Board will generally follow the procedures above.

### **Issues Involving the District in General**

The Board recognizes there will be occasions in which members of the public or stakeholder of the District have concerns about District operations or policy and raise such concerns with the General Manager and/or members of the Board. The District is committed to handling these concerns or complaints responsively and openly. When such concerns are presented to a Board member, the Director will promptly raise the issue directly with the General Manager. When such concerns or complaints are presented to the General Manager, he/she will provide the Board with a written or verbal report of the concern and the District’s response, if any. The Board is also kept informed of significant or, politically sensitive, urgent and/ or repetitive telephone or electronic communication inquiries.

### **Liability Concerns**

Information that may expose the District to liability will be shared with the Board at a noticed, executive session meeting of the Board of Directors as allowed by applicable law

## **Chapter 6 – District Liability and Insurance Issues**

As a Colorado governmental entity, the District, its Board and officers and employees enjoy limited protection from liability under the Colorado Governmental Immunity Act. In addition, the District maintains insurance, which includes coverage for general and automobile liability and public official liability coverage.

### **Disclaimer**

This Manual is intended to provide guidance and establish best practices for Directors concerning their responsibilities as Directors and their interactions among themselves and with the public, staff, and constituents of the District in the conduct of District business and operations. This Manual does not establish binding requirements or legally enforceable rights. Nothing in this Manual is intended to supersede any applicable provision of the District's Bylaws, Rules and Regulations, adopted Policies, Personnel Guidelines or other applicable law, regulation, or document of the District.

## RECORD OF PROCEEDINGS

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### UPPER YAMPA WATER CONSERVANCY DISTRICT BOARD OF DIRECTORS BOARD GOVERNANCE COMMITTEE MEETING APRIL 16, 2020 1:30 pm (on-line, via BlueJeans)

#### MINUTES

Board Governance Committee members present were Directors Ken Brennar, Jim Haskins, Bob Woodmansee, and Web Jones. General Manager Kevin McBride, District Engineer Andy Rossi, and CBI facilitator Ryan Golten were also present. This meeting was held entirely by videoconference utilizing the BlueJeans platform.

The following agenda was proposed:

Welcome and preliminaries (1:30-1:45)

- Confirm goals for today; review and approve meeting minutes

Finalize Draft Board Governance Manual and Discuss Implementation (1:45-2:45)

- Refine Manual based on Board suggestions and edits, for Board review/approval in May
- Identify follow-up implementation needs

Wrap-Up/Debrief (2:45-3:15)

- Brief process debrief
- Wrap up

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**Welcome/Preliminary Business.** Ryan Golten reviewed the purpose and agenda for the meeting. Bob moved to approve the March 31 Committee meeting minutes. Webb seconded. With no corrections, all voted in favor of approval.

**Finalization of Draft Board Manual and Implementation Discussion.** The Committee updated the final draft based on the Board's suggestions at its April 8 meeting. Specifically, the Committee agrees with Bob Weiss and Tom Sharp's suggested language for including 'new business' in the Board Agenda meeting template (Chapter 3, p.8) and editing the bylaws to clarify circumstances justifying an item going under 'new business.' The Committee hopes to have the Manual adopted at the May Board meeting.

Ken will draft a BCF to accompany a final draft of the Board Governance Manual in the May meeting packet. This will include the following points:

- The Committee has achieved its stated goals set out in the original Charter and has concluded its work.

## RECORD OF PROCEEDINGS

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- To help the Board implement the Strategic Plan and Governance Manual, and to avoid these documents simply sitting on a shelf, the Committee recommends attaching both documents to each electronic Board meeting packet for reference in the foreseeable future.
- The documents should also be given to incoming Board members as specified in the Manual.
- The documents should be easily accessible on the newly configured District website.
- The Committee encourages Board members to commit to giving the Governance Manual a try, seeing it as a work in progress, gently reminding one another about their agreements, and flagging issues as needed for discussion at the fall Board retreat.
- The Committee envisions a future need for a (potentially reconfigured) committee, possibly in late summer, to: 1) identify governance issues or challenges that may merit Board discussion and consensus building; 2) review the last strategic plan and identify potential upcoming priorities for Board discussion, in close consultation with the new GM, and 3) consider whether the fall Board retreat should address the above topics, and if so, work with the GM to plan the agenda.

### ***Debrief/Evaluation of Committee Process.***

- Rewarding to work with group of smart, capable and focused people – and to get so much done in ‘lightning speed’ compared to many other processes/environments; have thoughtful discussions on challenging matters; and strike agreements after working through different perspectives.
- Useful to have a principal author, and to the extent possible a consistent voice.
- Useful to have all of the edits and discussion agreements closely tracked and recorded.
- Useful to have a facilitator to keep the process on track, capture key issues and agreements, help the group work through disagreements, and keep folks focused.
- In addition to keeping and posting Committee meeting minutes, in the future we may want to email them directly to the full Board to keep them more closely informed of the Committee’s work.

### ***Determination of Future Meetings.*** No future meetings have been scheduled.

I certify that the foregoing constitutes a true and correct summary of the proceedings at the above referenced meeting.

\_\_\_\_\_  
Kevin McBride, District Secretary/Manager

Date: \_\_\_\_\_







## BOARD COMMUNICATION FORM

**From:** Kevin McBride, G.M.

**Date:** 5/13/20

**Item:** Office Move Costs

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DIRECTION  
 INFORMATION  
 MOTION  
 RESOLUTION

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**I. Request/Issue and Background Information:**

The District moved from offices at the MWW filter plant to the new location at the Mountain Valley Bank building. The Board asked to review costs of the move. They are detailed in the attached spreadsheet.

**II. Summary and Alternatives:**

n/a

**III. Staff Recommendation:**

n/a

**IV. Legal Issues:**

n/a

**V. Consistency with Board Goals and Policies:**

n/a

**Attachments:**

Spreadsheet of office costs  
2019 annual budget

	total	sq ft	\$/ft	pd by bank	per ft UYWCD	TTL UYWCD	
<b>Construction</b>	<b>\$ 241,053</b>	<b>1,740</b>	<b>\$138.54</b>	<b>\$40.00</b>	<b>\$98.54</b>	<b>\$171,453.00</b>	<b>\$171,453.00</b>
<b>Office Move Costs:</b>						<b>Project Budget</b>	<b>Actuals</b>
Furniture						\$60,000.00	\$47,968.35
Office Equipment						\$3,000.00	\$7,080.29
Architectural Services							\$6,545.85
Moving						\$2,500.00	\$2,481.10
IT						\$17,705.74	\$17,135.45
Misc. office supplies							\$2,348.77
<b>Total Office Move Costs:</b>						<b>\$83,205.74</b>	<b>\$83,559.81</b>
Contingency 10%						\$25,465.87	\$0.00
<b>Total</b>						<b>\$108,671.61</b>	<b>\$83,559.81</b>

**Construction costs** - will be allocated as "extra rent" over 48 months (starting May 2020 through April 2024)

2019 annual budget allocation for office move	\$130,000.00
Office move actuals	<u>\$ 83,559.81</u>
<b>Budget difference</b>	<b>\$ 46,440.19</b>

UPPER YAMPA WATER CONSERVANCY DISTRICT - 2019 BUDGET

		2017 ACTUALS	2018 BUDGET	2019 BUDGET	2019 INCOME DISTR.	
					OPERATING	CAPITAL
<b>Fund Opening Balance including Encumbered Funds</b>		10,938,095	12,683,250	13,157,190		
<b>Encumbered Funds</b>		919,734	919,734	919,734		
Stagecoach Wetlands Mitigation Reserve		419,734	419,734	419,734		
Routt County Road #14 Contribution		500,000	500,000	500,000		
<b>Unencumbered Funds</b>		10,018,361	11,763,516	12,237,456		
<b>Revenues</b>						
<b>Facilities</b>						
Stagecoach Reservoir						
1	Power Sales	185,472	228,412	200,000	200,000	
2	Water Sales	451,518	402,816	403,144	403,144	
Yamcolo Reservoir						
2	Water Sales	128,275	123,915	133,410	133,410	
3	Stillwater Ditch & Reservoir Company	7,523	7,756	7,965	7,965	
4	Property taxes	2,172,483	2,236,544	2,292,214	1,168,588	1,123,625
5	Interest earned	122,297	108,400	284,500	284,500	
6	Other income	0	0			
<b>revenues</b>		<b>3,067,568</b>	<b>3,107,843</b>	<b>3,321,233</b>	<b>2,197,607</b>	<b>1,123,625</b>
<b>Expenditures</b>						
<b>Operating</b>						
<b>Facilities</b>						
7	Stagecoach Reservoir - Power Generation	180,845	203,498	248,954	248,954	
7	Stagecoach Reservoir - Water storage	227,639	294,088	266,927	266,927	
8	Yamcolo Reservoir	127,624	139,635	144,594	144,594	
9	Stillwater Ditch & Reservoir Company	25,134	50,369	45,065	45,065	
<b>Administration</b>		127,512	210,879	203,198	203,198	
10	Board of Directors	49,330	77,519	83,105	83,105	
11	External Affairs	57,688	67,078	129,754	129,754	
12	Finance	95,906	122,244	132,880	132,880	
13	Legal	97,116	163,000	178,567	178,567	
14	Planning	80,112	185,161	432,927	432,927	
15	Grants, Scholarships & Public Information	67,411	190,015	257,588	257,588	
16	Treasurer fees	70,180	72,867	74,048	74,048	
17	<b>Subtotal Operating</b>	<b>1,206,499</b>	<b>1,776,352</b>	<b>2,197,607</b>	<b>2,197,607</b>	<b>0</b>
<b>Capital</b>						
7	Stagecoach Reservoir - Power Generation	35,421	34,000	102,900		102,900
7	Stagecoach Reservoir - Water storage	54,644	31,000	62,900		62,900
8	Yamcolo Reservoir	25,566	292,550	108,900		108,900
9	Stillwater Ditch & Reservoir Company	283	0	40,300		40,300
	Elk River Augmentation	0	0			
	Office Space		500,000	130,000		130,000
	<b>Subtotal Capital</b>	<b>115,914</b>	<b>857,550</b>	<b>445,000</b>	<b>0</b>	<b>445,000</b>
<b>expenditures</b>		<b>1,322,413</b>	<b>2,633,903</b>	<b>2,642,607</b>	<b>2,197,607</b>	<b>445,000</b>
<b>net income (loss)</b>		<b>1,745,155</b>	<b>473,940</b>	<b>678,625</b>		
<b>Ending Fund Balance</b>		<b>12,683,250</b>	<b>13,157,190</b>	<b>13,835,815</b>		

 Ken Brenner, President

 Kevin McBride, Secretary

1,259,457,995		
1,820	0.928	0.892
2,292,214	1,168,588	1,123,625

**REPORT OF THE GENERAL MANAGER**

**RESOLUTION OF ACTING GM SIGNER FOR  
BANK ACCOUNTS**

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## BOARD COMMUNICATION FORM

**From:** Kevin McBride

**Date:** May 14, 2020

**Item:** Resolution authorizing the Acting General Manager to be the signer for all District bank accounts

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DIRECTION  
 INFORMATION  
 MOTION  
 RESOLUTION

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**I. Request/Issue and Background Information:**

With the current General Manager, Kevin McBride, retiring, the Board of Director's needs to provide authorization for the new Acting General Manager, Andy Rossi, to be a signer on all District bank accounts prior to May 31, 2020.

**II. Summary and Alternatives:**

n/a

**III. Staff Recommendation:**

Adopted resolution as presented.

**IV. Legal Issues:**

n/a

**V. Consistency with Board Goals and Policies:**

Goal 10

**Attachments:**

Resolution 2020-3

**RESOLUTION NO. 2020-3**

**A RESOLUTION AUTHORIZING THE ACTING GENERAL  
MANAGER TO BE THE SIGNER FOR ALL DISTRICT BANK  
ACCOUNTS AND SETTING FORTH MATTERS PERTAINING  
THERETO**

WHEREAS, the Board of Directors ("Board") of the Upper Yampa Water Conservancy District ("District") desires to authorize the new Acting General Manager to be the signer for all District Bank accounts as more particularly set forth herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF  
THE DISTRICT THAT:**

1. The Acting General Manager and Secretary/Treasurer of the District, Andy Rossi, is authorized to be a signer on all District Bank accounts, including:

- (a) Money market account;
- (b) Checking account; and
- (c) Business premium checking account.

The Acting General Manger, Andy Rossi is authorized to endorse checks and orders for the payment of monies and otherwise withdraw or transfer funds on deposit in any such accounts in amounts less than \$10,000. Any check, withdrawal or transfer in an amount of \$10,000 or more shall also require the signature of at least one of the following Directors of the District, whose authority to sign is ratified and confirmed:

Ken Brenner  
Douglas Monger

2. This resolution shall continue to have effect until express written notice of its rescission or modification has been received and recorded by any Bank in which funds of the District are on deposit ("Bank"). Any and all prior resolutions adopted by the Board of Directors of the District and certified to the Bank as governing the operation of the District's accounts are revoked and terminated. Any revocation, modification or replacement of this resolution must be accompanied by documentation satisfactory to the Bank, establishing the authority for the changes.

3. The signature of the Board President below on this resolution is conclusive evidence of his authority to act on behalf of the District.

4. All transactions, if any, with respect to any deposits and withdrawals by or on behalf of the District with the Bank prior to the adoption of this resolution are hereby ratified, approved and confirmed.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ken Brenner, President

ATTEST:

\_\_\_\_\_  
Secretary, Kevin McBride