

AGENDA

**UPPER YAMPA WATER CONSERVANCY DISTRICT
BOARD OF DIRECTORS MEETING
WEDNESDAY, JULY 12, 2023 (10:00 AM)
MOUNTAIN VALLEY BANK COMMUNITY ROOM
2220 CURVE PLAZA, STEAMBOAT SPRINGS, CO
ONLINE MEETING:**

<https://us06web.zoom.us/j/83051335096?pwd=RUw5YVJWUDRzUUxkdXRZYS9CZnhDQT09>

THE UPPER YAMPA WATER CONSERVANCY DISTRICT REQUESTS THAT UNVACCINATED PEOPLE ATTENDING THE BOARD OF DIRECTORS MEETING AT THE MOUNTAIN VALLEY BANK COMMUNITY ROOM WEAR A MASK.

INSTRUCTIONS ON HOW TO JOIN A ZOOM MEETING FOLLOW THE AGENDA

A Board of Directors meeting packet is available for public review on our website at <https://upperyampawater.com/agendas-and-meeting-documents/> by the Friday before the meeting. Amendments to the Agenda and new documents that are generated or submitted after the original posting of the meeting materials will be posted under "Additional Documents" on the website for the relevant meeting.

QUESTIONS ON AGENDA AND/OR BOARD MATERIALS: Members of the public or Board of Directors with questions on the agenda or meeting materials, including the consent agenda, are welcome to contact the General Manager at the District offices prior to the meeting. You may reach the General Manager at: arossi@upperyampawater.com or (970) 871-1035 Ext. 2.

MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Input and Comment; and 2) Comments no longer than three (3) minutes on all scheduled public hearing items will be heard following the presentation. Please wait until you are recognized by the President. With the exception of subjects brought up during Public Input and Comment, on which no action will be taken or a decision made, the Board may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion" whether or not listed as an "Action Item."

- (1) **10:00 AM** Establishment of Quorum and Call to Order
- (2) **10:00 AM** Approval of Agenda for Meeting **Action item**
- (3) **10:05 AM** Public Input and Comment
The Board will make no decision nor take action, except to direct the General Manager. Those addressing the Board are requested to identify themselves by name, organization, if any, and address. Comments shall not exceed three (3) minutes.
 - a. Update from CDWR - TBD
- (4) **10:10 AM** Board Member Reports
 - a. IBCC
- (5) **10:30 AM** Consent Agenda **Action item**
 - a. Approval of the Minutes – May 17, 2023, Board Meeting

- b. Financials
 - i. Approval of Disbursements
 - ii. Budget Comparison
 - iii. Audit Selection
- (6) **10:45 AM** Report of General Manager
 - a. General Manager Report
 - b. Augmentation Plan Updates
 - c. 6-month Review of 2023 New Work Efforts

Break for Lunch

- d. Colorado Senate Bill 303/Proposed Ballot Measure HH Briefing
- (7) **12:15 PM** Pending Water Cases
 - a. Water Resumes
 - b. Status of Other Water Cases (Executive Session Recommended) **Action item**
- (8) **12:45 PM** Report of General Counsel
 - a. Augmentation Contract Revisions **Action item**
- (9) **1:00 PM** District Engineer Report
 - a. Update on Reservoir Water Status
- (10) **1:15 PM** Public Information Updates
 - a. Grant Disbursements
 - b. New Grant Applications **Action item**
- (11) **1:30 PM** Airborne Snow Observatory Briefing
- (12) **1:45 PM** New Business (Limited to emergency matters that came up **Action item**
During the course of the meeting)
- (13) **1:50 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 _____ (insert description) . 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. Executive session under CRS § 24-6-402(4)(e)(I) for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators with respect to _____ (insert brief description). This session will be recorded, and a copy of the recording maintained for not less than 90 days.
- (14) **2:30 PM** Board Actions in Regard to Executive Session **Action item**
- (15) **2:35 PM** Determination of Next Meeting(s) Agenda(s)
- (16) **2:45 PM** Adjournment.

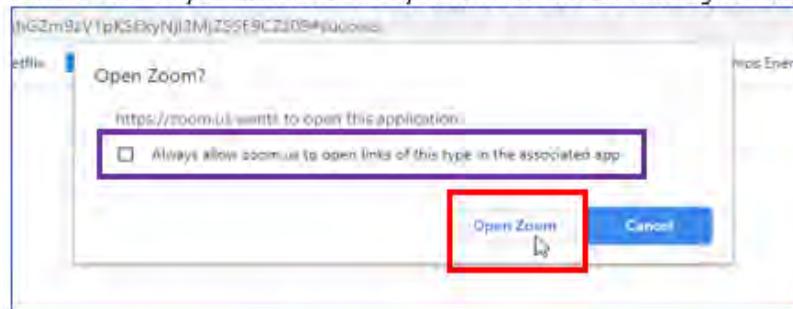
How to join a Zoom meeting

Join via "Join Zoom Meeting" link:

To join a Zoom meeting, click on the meeting link that has been sent to you by the host:

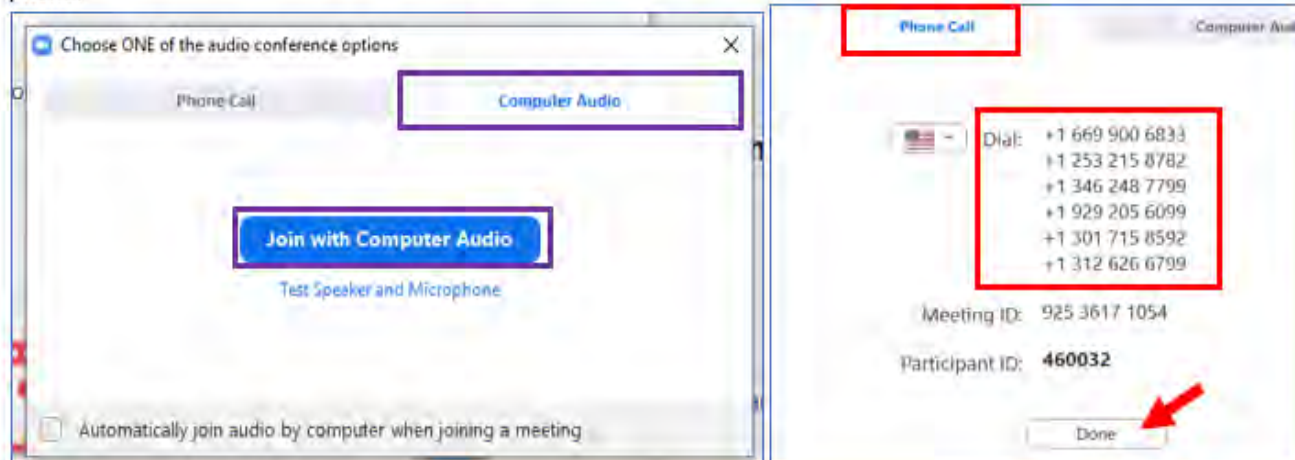


If you have not used Zoom before, you may receive this dialogue box to open Zoom. First, click on "always allow zoom.us..." so you will automatically connect for future meetings. Then, click on "Open Zoom" and follow the prompts.



Once you are connected to Zoom, you will need to choose your audio conference option. To join via your computer, click on "Computer Audio" and then "Join with Computer Audio".

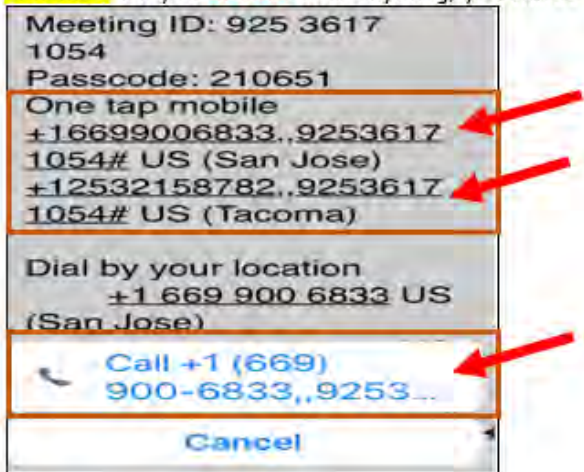
To use your cell phone or landline, click on "Phone Call" and then choose a number from the list. Once you dial the number, you will be asked for the Meeting ID and Participant ID to enter the meeting. Click on "Done" once you are connected to the Zoom meeting. Or, you can use the "One tap mobile" option, see below, to connect via your cell phone.



Join via cell phone with "One tap mobile":

If you will be joining a Zoom meeting via your cell phone, click one of the "One tap mobile" links. Then click on "Call +1...". You will hear a request to "enter your Meeting ID followed by pound (#)". You **do not** need to enter the ID as the link will do this automatically for you.

You will be asked if you are a participant and to "Please press pound (#) to continue". You **must** press the pound key (#). Then you will be asked to "Enter your Participant ID followed by pound (#) or just press pound (#) to continue". If you **do not** enter anything, you will be automatically connected to the meeting.



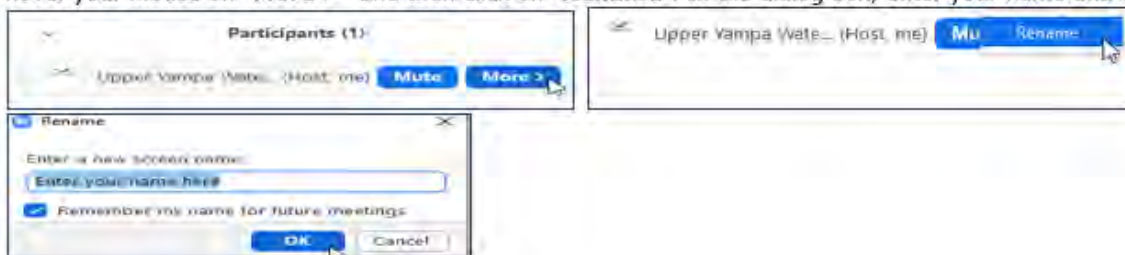
Join via "Dial by your location":

If you will be joining a Zoom meeting via your cell phone or landline, you can choose any of the numbers below to access the meeting. Once you dial the number you will be asked to "Enter your Meeting ID followed by pound (#)". Then, you will be asked to "press pound (#) if you are a participant". Finally, you will be asked to "Enter your Participant ID followed by pound (#) or just press pound (#) to continue". If you **do not** enter anything, you will be automatically connected to the meeting.



Be sure you are identified properly:

Once in Zoom, be sure that you are identified properly. If you need to change, in "Participants" click on your ID and hover your mouse on "More >" and then click on "Rename". In the dialog box, enter your name and click "OK".



Contact Deb Bastian for any questions

- Email: dbastian@upperyampawater.com
- Phone: 970-819-0189

PUBLIC INPUT AND COMMENT

The Board will make no decision nor take action, except to direct the General Manager. Those addressing the Board are requested to identify themselves by name, organization, if any, and address. Comments shall not exceed three (3) minutes.



BOARD MEMBER REPORTS



From: [Ken Brenner](#)
To: [dougmonger](#); [webster_jones](#); [Nicole Seltzer](#); [Lyn Halliday](#); [haskywild](#); [redmondjv](#); [rmurphy100bc](#); [tom](#); [kpbrennersteamboat](#)
Cc: [Andy Rossi](#); [Deb Bastian](#); [Holly Kirkpatrick](#); [Bob Weiss](#); [Emily Lowell](#); [Karina Craig](#)
Subject: Fwd: IBCC-6/8 v1
Date: Monday, June 12, 2023 9:44:46 AM

Dear UYWCD Directors and staff,

Here is my summary of last week's IBCC meeting. I will be happy to elaborate on any of these topics if you have questions or comments.

InterBasin Compact Committee (IBCC) meeting July 8, 2023 Glenwood Springs

After introductions and a welcome to three new IBCC members (1-North Platte, 2-Rio Grande basins,), we received a legislative update, Colorado River update, PEPO and C-9 Summit planning and Basin Project Advancement reports from IBCC members.

Legislative update. Kelly Romero-Heaney, DNR Water Policy

It was a very busy and productive session for the Department of Natural Resources (DNR) with water related legislation. That was highlighted by 14 FTE new positions to support the agenda of additional resources for the state water providers, a \$90 million water projects bill and \$25 million for Water Plan grants.

We also spent quite a bit of time talking about SB23–295, the “Task Force bill“. The Task Force will begin this July 1, with 17 members asked to help with developing potential legislative concepts to increase water security in Colorado. They will meet throughout the state and must provide a report to the legislature by December 2023. The Speaker of the House and Senate President will name the chair and facilitator for the task force.

A complete summary of all of the DNR/water bills; <https://dnr.colorado.gov/press-release/polis-administration-in-partnership-with-the-legislature-makes-historic-investments>

Colorado River update. Amy Ostreich, Colorado's compact negotiating team.

Amy briefly reviewed the UCRC five point plan and reminded us that 624,000 ac/ft of water was released from upper basin storage to address the lower basin shortages and protect power generation in Powell and Mead. The upper basin states, led by Colorado, continue to emphasize a long-term strategy of "Live within our means" for the 2026 Colorado River Operating Guidelines renegotiations. The System Conservation Pilot Program (SCPP) and Demand Management (DM) feasibility are interim measures at best but show that the upper basin states are willing to assist in the efforts to address the Colorado River water crisis. Amy and the negotiating team were thanked for a much more transparent and interactive approach to the Operating Guidelines negotiations as opposed to the 2007 effort that was not nearly as forthcoming.

PEPO and C-9 Summit planning. Lisa Darling and Ken Brenner.

A brief review of the survey results soliciting statewide input on C-9 Summit contact lead to a discussion of a possible agenda for the C9 summit. We went around the room to all of the IBCC members and solicited input on content and session formatting. Russ Sands, Jeff Rodriguez, Lisa and Ken will take this feedback and prepare a draft agenda in the next couple

weeks. We received excellent feedback and enthusiastic support from IBCC members and staff and it looks like the November C-9 summit will be well worth all BRT members time to attend.

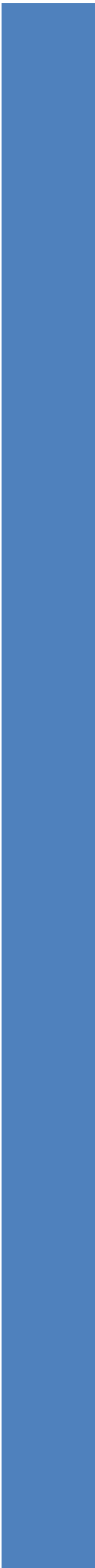
Basin Project Advancement updates.

Each of the BRTs provided a verbal report on progress from a challenge one year ago by IBCC Chair, Director Dan Gibbs, to advance projects identified in each basin. We heard a variety of success stories, including agricultural and municipal storage, delivery and measuring improvements. The Metro and South Platte BRTs are also focusing on turf replacement/water efficient landscape improvements guided by a statewide survey to identify values that should be emphasized moving forward. The South Platte basin is now investing in weather modification focused on the east slope of the divide for the first time with an estimated 1-5% increase in water production. This may be a strategy for consideration in our basin (the North Platte has been cloud seeding for years in cooperation with Wyoming). The session was a productive report out by members and a great sharing of success stories.

Thank you for the opportunity to represent you at the IBCC, please reach out anytime to discuss these or other water issues.

Sincerely Yours,

Ken Brenner
Upper Yampa Water Conservancy District, Director
Colorado Water Congress, Boardmember
Yampa White Green Roundtable, Boardmember/IBCC
FIS Alpine Technical Delegate
PO Box 772631
Steamboat Springs, Co 80477
970-819-6178



RECORD OF PROCEEDINGS

UPPER YAMPA WATER CONSERVANCY DISTRICT BOARD OF DIRECTORS MEETING WEDNESDAY, MAY 17, 2023 (12:00 PM) MOUNTAIN VALLEY BANK COMMUNITY ROOM 2220 CURVE PLAZA, STEAMBOAT SPRINGS, CO ONLINE MEETING:

<https://us06web.zoom.us/j/86438342291?pwd=MXM4dURKSjFjL0d0ZmoxSXVWdUtnZz09>

MINUTES

Chairman Doug Monger called the meeting to order and declared a quorum present. In addition to Chairman Monger, the Board Members present were Ken Brenner, Jim Haskins, John Redmond, Ron Murphy, Lyn Halliday, Tom Sharp, Webster Jones and Nicole Seltzer. General Manager Andy Rossi, District Engineer Emily Lowell, Public Information and External Affairs Manager Holly Kirkpatrick, Business Manager Deb Bastian, Finance Manager Karina Craig and General Counsel Bob Weiss were also present. Special Counsel Scott Grosscup was present over Zoom for a portion of the meeting. Members of the public present for some portion of the meeting included Erin Light, Colorado Department of Water Resources; Kelly Watson, Watson, Coon & Ryan, CPAs; Angela Schenk, Leonard Rice Engineers; Adam Monchak, Kimley Horn; Geovanny Romero, Morrison Creek Water & San District; Chris Wittemyer, Stagecoach Mountain; Mike Smith, Brownstein; Jeremy Pfile, Discovery Land Company; Bob Woodmansee and Geoff Blakeslee.

This meeting was held in person and by videoconference utilizing Zoom. 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) **12:00 PM** Establishment of Quorum and Call to Order
- (2) **12:00 PM** Approval of Agenda for Meeting **Action item**
- (3) **12:05 PM** Public Input and Comment
The Board will make no decision nor take action, except to direct the General Manager. Those addressing the Board are requested to identify themselves by name, organization, if any, and address. Comments shall not exceed three (3) minutes.
 - a. Update from CDWR – TBD
- (4) **12:10 PM** Board Member Reports
 - a. Water Quality Update – Director Halliday
 - b. Board Governance Committee Report
- (5) **12:30 PM** Consent Agenda **Action item**
 - a. Approval of the Minutes March 15, 2023, Board Meeting
 - b. Financials
 - i. Approval of Disbursements
 - ii. Budget Comparison
- (6) **12:40 PM** Stagecoach Ski Area Development Group Presentation

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- (7) **1:10 PM** Report of Finance Manager
- a. Financial Asset Management Update
 - b. 2022 Financial Audit – Final Report **Action item**
- (8) **1:40 PM** District Engineer Report
- a. Update on Reservoir Water Status
 - b. Capital Improvements Schedule
 - c. Yampa River Basin Data Dashboard
- (9) **2:10 PM** Report of General Manager
- a. General Manager Report
 - b. Resolution to Amended Open Records Request Charges **Action item**
 - c. Stagecoach UYWCD – State of Colorado Lease Agreement **Action item**
 - d. Routt County Planning Stagecoach PUD **Action item**
 - e. Yamcolo Reservoir Land Use Fee Waiver Request **Action Item**
 - f. Augmentation Plan Contracts Updates
- (10) **3:25 PM** Public Information Updates
- a. Grant Disbursements
 - b. New Grant Applications **Action item**
- (11) **3:45 PM** Report of General Counsel
- a. Augmentation Contracts Term and Renewal **Action item**
- (12) **4:00 PM** Pending Water Cases
- a. Water Resumes
 - b. Status of Other Water Cases
- (13) **4:15 PM** New Business (Limited to emergency matters that came up during the meeting) **Action item**
- (14) **4:20 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 _____ (insert description) . 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. Executive session under CRS § 24-6-402(4)(e)(I) for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators with respect to _____ (insert brief description). This session will be recorded, and a copy of the recording maintained for not less than 90 days.
- (15) **4:45 PM** Board Actions in Regard to Executive Session
- (16) **4:50 PM** Determination of Next Meeting(s) Agenda(s), including start time determination
- (17) **5:00 PM** Adjournment.

Chairman Monger established a quorum and called the meeting to order at 12:13 PM.

Meeting Agenda. Director Brenner moved to approve the agenda. Director Jones seconded the motion which was unanimously approved.

Public Input and Comment. Chairman Monger invited members of the public to comment on items not otherwise scheduled on the agenda. There was no public comment.

Update from CDWR. Erin Light, Division Engineer, Colorado Division of Water Resources (CDWR) provided an update on the measurement rules and the approval for additional staffing in the Western Slope and in the CDWR Steamboat office.

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Board Member Reports. Director Halliday provided an update on protecting water quality in the sub-basin project and reviewed the NASA develop technical project report. Director Brenner updated the Board on current activities of the Interbasin Compact Committee (IBCC) and the Colorado Water Congress (CWC). Director Seltzer informed the Board of the grant funding provided by the Yampa River Fund.

Directors Seltzer and Brenner presented their recommendation to engage with Ryan Golten of Consensus Building Institute, Inc. to draft a Scope of Work to create a draft Board Governance and Strategic Planning Committee Charter and amendments to the District Bylaws. The Board discussed.

Director Sharp moved to approve the request for up to \$10,000 to work with Ryan Golten of Consensus Building Institute, Inc. to draft a Scope of Work to draft a committee charter and bylaws amendments for a Board Governance and Strategic Planning Committee and to include a draft charter and bylaws amendment for the Executive Committee. Director Brenner seconded the motion which was unanimously approved.

Consent Agenda. Director Brenner moved to approve the consent agenda as presented. Director Haskins seconded the motion which was unanimously approved.

Stagecoach Ski Area Development Group Presentation. Director Sharp noted that he is the General Counsel for the Morrison Creek District which is meeting and consulting with the Stagecoach Ski Area Development Group. However, he does not regard this as a conflict with his role as a Board Member of the District. General Manager Andy Rossi commented that General Counsel Weiss has previously declared a conflict and it is Andy's recommendation that General Counsel Weiss step out of the meeting during the presentation and discussion. The Stagecoach Ski Area Development group provided an overview of the developments plans and noted that the purpose of the meeting is to start a dialogue with the District and to understand the questions and concerns provided in the ART response.

Report of Finance Manager.

Financial Asset Management Update. Finance Manager Karina Craig provided an update to the Board on the District's portfolio of CD's and transactional accounts.

2022 Financial Audit – Final Report. Kelly Watson from Watson, Coon & Ryan, CPAs presented the final draft of the District's 2022 audit report. The Board discussed. Director Sharp moved to approve the 2022 financial audit as presented and accept the financial report with the removal of the footnote that references the commitment of \$500,000 to Routt County for construction costs for reconstruction improvements to be made to Routt County Road #14 in the future. Director Redmond seconded the motion which was unanimously approved.

District Engineer Report.

Update on Reservoir Water Status. District Engineer Emily Lowell provided an update on the reservoir water status and on the upcoming penstock inspection.

Capital Improvement Schedule. District Engineer Emily Lowell discussed the ongoing facilities improvements and maintenance projects and reviewed the task and planning chart. Emily discussed the difficulties in getting contractors to submit bids and for the bid amounts not to exceed the project budget for the Union Ditch headgate and Yamcolo control building modification and generator projects using the public bidding process. She further informed the Board that contractors that did not go through the public bidding process are interested and have provided estimates that are close to the project budget. General Counsel Weiss noted that there is

RECORD OF PROCEEDINGS

nothing in the Bylaws or the Water Conservancy Act to prevent staff from accepting bids outside of a public bidding process. General Manager Rossi stated that the District will continue to use a public bidding process for future projects. However, the District may use direct bidding as needed.

Yampa River Basin Data Dashboard. District Engineer Emily Lowell provided an overview of the work being undertaken with Leonard Rice Engineering (LRE) in building an operations dashboard to assist District staff in easily viewing the status of each of our facilities as well as other water related metrics throughout the basin.

Report of General Manager.

General Manager's Report. General Manager Andy Rossi provided the Board with an update on the current and ongoing District activities.

Resolution to Amended Open Records Request Charges. General Manager Rossi reviewed the Resolution Adopting Charges for Search, Retrieval and Reproduction of Public Records adopted by the Board on July 23, 2014. The Resolution stated that the fee would be adjusted starting on July 1, 2019, and every 5 years thereafter by CPI. The proposed amended Resolution (No. 2023-3) updates the research and retrieval request fee per CPI from July 23, 2014, to July 23, 2019, to \$33.62/hour. Director Sharp moved to approve Resolution 2023-3 as presented. Director Brenner seconded the motion which was unanimously approved.

Stagecoach UYWCD – State of Colorado Lease Agreement. General Manager Rossi reviewed the updated draft lease with the Board. The Board discussed. Director Brenner moved to direct staff to offer the draft lease with the proposed edits as presented and additional modifications to the depreciation schedule for the new Visitors Center Building. Director Sharp seconded the motion which was unanimously approved.

Routt County Planning Stagecoach PUD. General Manager Rossi provided an update on the final PUD document for the Stagecoach Reservoir property. The document was transmitted to the Routt County Planning Department on May 1, 2023, and is currently under review. District staff will inform the Board BOD when the PUD document is accepted by Routt County and/or Routt County request any substantive changes to the document.

Yamcolo Reservoir Land Use Fee Waiver Request. General Manager Rossi recapped the current Special Use Permit (SUP) for the Yamcolo Dam and Reservoir, the annual Land Use Fee charged, and staff's review of the Land Use Fees charged to the District. The Board will discuss this issue in an Executive Session.

Augmentation Plan Contracts Update. The Board reviewed the current augmentation plans contract summary document.

Public Information Updates.

Grant Disbursements. Public Information and External Affairs Manger Holly Kirkpatrick updated the Board on grant disbursements.

New Grant Applications. Public Information and External Affairs Manger Holly Kirkpatrick informed the Board that the City of Steamboat Springs withdrew their application for grant funding for the smart irrigation central control system and that they will likely resubmit the application at a later date.

Report of General Counsel. General Counsel Weiss discussed the Yampa and Elk River Basin augmentation plans and the areas identified by staff for potential action. The Board directed General Counsel Weiss to:

1. Extend current contracts up to 40 years from today and provide a 35-year renewal provision.

RECORD OF PROCEEDINGS

2. Contracts should terminate on a fixed date rather than 40-year staggered terms.
3. Amend the Elk River Augmentation Plan to make District performance contingent on the availability of source water under the augmentation plan.

General Counsel Weiss will provide the Board with the proposed amendments for review at the July 12, 2023, Board Meeting.

Pending Water Cases.

Water Resumes. Special Counsel Grosscup commented that there were no water court applications filed in the month of March or April of concern to the District.

Status of Other Water Cases. Special Counsel Grosscup reviewed Case No. 22CW3002 regarding the District's filing of an application for finding of reasonable diligence or to make absolute for the Yamcolo Reservoir Second Filling water right on January 24, 2022. He provided the Board with a proposed settlement agreement with the US Forest Service to recognize the development of Coal Creek as a source to fill this water right. Director Sharp moved to approve the proposed stipulation for Case No. 22CW3002 as presented. Director Brenner seconded the motion which was unanimously approved.

Special Counsel Grosscup discussed Case No. 22CW3102 regarding the opposition to water measurement rules. He proposed a settlement agreement with the State and District Engineers to allow the District to remain and monitor the case for further amendment or modification of the rules. Director Redmond moved to approve the proposed stipulation for Case No. 22CW3102 as presented. Director Jones seconded the motion which was unanimously approved.

Special Counsel Grosscup also discussed Water Court **Case No. 20CW3019 & 3020** (Diligence application filed by Public Service Company of Colorado 52.5 cfs decreed to the Wessels Canal Hinman Park Reservoir and the Saddle Mountain Pump Station), **Case No. 21CW3046** (Tri-State's diligence application for the Craig Station Ditch and Pipeline), **Case No. 21CW0023** (South Routt Cemetery), **Case No. 21CW3053** (Dean and Jim Rossi), **Case No. 22CW3018** (Pleasant Valley Reservoir Rights at Yamcolo Reservoir), **Case No. 22CW3023** (Yamcolo Reservoir Objection to Abandonment), **Case No. 22CW3107** (Diligence on Yampa River Augmentation Plan), **Case No. 22CW3108** (Little Morrison Diversion), and Water Horse Resources case in the Utah courts which is being monitored by the District.

New Business. There was no new business.

Executive Session. At 4:21 PM Director Monger moved, Director Brenner seconded, and it was unanimously agreed to go into Executive session under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, Contract Negotiations and **Tri-State proposed settlement agreement**. 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. The Board also agreed to go into Executive session under CRS § 24-6-402(4)(e)(I) for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators with respect to **US Forest Service fee waiver**. This session will be recorded, and a copy of the recording maintained for not less than 90 days.

The Chairman then announced that if any person who participated in the executive session believed that any substantial discussion of any matters not included in the motion to go into executive session occurred in the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, that such person state their concern for the record. No one stated concerns.

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Board Action Regarding Executive Session. Director Monger stated that direction was provided to staff regarding Tri-State proposed settlement agreement and the draft letter to the USFS regarding a request for a Land Use Fee waiver.

Determination of Next Meeting Agenda. The agenda for the July 12, 2023, Board Meeting was reviewed. The start time for the July 12, 2023, Board meeting will be 10:00 AM and an update on the Board Strategic & Governance and Executive Committee scopes of work will be added to the agenda.

The meeting adjourned at 5:16 PM.

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

Andy Rossi, District Secretary/Manager

Date: _____

STATEMENT FROM ATTORNEY REGARDING ATTORNEY-CLIENT PRIVILEGE

The undersigned Robert G. Weiss, legal counsel for the District, 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 **Tri-State proposed settlement agreement** constituted a privileged attorney-client communication under CRS Section 24-6-402(4)(b).

Robert G. Weiss, Counsel

Date: _____

CONSENT AGENDA

**FINANCIALS: APPROVAL OF DISBURSEMENTS
& BUDGET COMPARISON**





BOARD COMMUNICATION FORM

From: Karina Craig, Finance Manager.

Date: July 12, 2023

Item: Financial Reports: May 31, 2023 Cash Disbursement and Budget Comparison Reports.

<input type="checkbox"/>	DIRECTION
<input checked="" type="checkbox"/>	INFORMATION
<input type="checkbox"/>	MOTION
<input type="checkbox"/>	RESOLUTION

I. Request/Issue and Background Information:

The **Cash Disbursement Report** contains disbursements from the Upper Yampa Water Conservancy District (the District) of reconciled monthly statements. These include disbursements incurred with check, credit card, and electronic payments through May 31, 2023. Disbursements include operating and capital expenditures from the 2023 fiscal year budget totaling \$179,303.28.

The **Budget Comparison Report** includes transactions accrued up to May 31, 2023. Additional transactions for the reported period may be added as further documentation is received and processed.

Adjustments to 2023 annual projections are expected as operations proceed further into the year. No budget amendments are expected at this time.

II. Summary: Cash disbursements reported include *reconciled* expenditures from 2023 year-to-date. The Budget Comparison reports *2021 and 2022 final audit* actuals. It also includes current-year financials: budget, early year actuals and annual projections.

III. Staff Recommendation: Accept reports.

IV. Legal Issues: None

V. Consistency with Board Goals and Policies: UYWCD By-Laws and SP Goal 3.

Attachments:

Attachment 1: Cash Disbursement Report.

Attachment 2: Budget Comparison Report.

Upper Yampa Water Conservancy District
Cash Disbursement Report
May 31, 2023

Date	Name	Memo	Amount
04/02/2023	CenturyLink Lumen	Office Telephone & Internet, 03-07-2023 to 04-06-2023.	239.80
04/02/2023	Google	Software expense	15.00
04/02/2023	Safeway	Office expense	3.96
04/03/2023	Wholesale Tool	Facilities maintenance	46.87
04/04/2023	Hotel	Conference lodging	138.08
04/04/2023	Big House Burgers	Meeting lunch	137.69
04/04/2023	CMNM Colorado Mountain News Media	Budget public notice	24.99
04/05/2023	Colorado Motor Vehicle Services	Vehicle Registration	4.36
04/06/2023	Garmin	Monthly subscription, 04-06-2023 to 05-05-2023.	34.95
04/06/2023	Mailchimp	Monthly digital marketing platform	20.90
04/08/2023	Intuit	Annual software subscription	2,584.80
04/09/2023	UPS	Printing services	54.00
04/09/2023	Steamboat Resort Parking	Parking, Earth Day celebration event.	30.00
04/09/2023	Walmart	Office supplies	8.64
04/13/2023	Web Jones	Director fees, Jan-March 2023.	400.00
04/13/2023	Tom Sharp	Director fees, Jan-March 2023.	400.00
04/13/2023	ACE Hardware	Facilities maintenance	6.29
04/13/2023	Lyons Drug	Office expense	7.59
04/17/2023	UPS	Shipping expenses	17.64
04/20/2023	Amazon	Office Supplies	19.33
04/21/2023	Adobe	Monthly subscription, 04-20-2023 to 05-19-2023.	167.93
04/23/2023	YVEA	Electrical service to Stagecoach powerhouse and shed, 03-03-2023 to 04-04-2023.	846.28
04/24/2023	CenturyLink Lumen	SC Telephone, April 2023.	171.41
04/24/2023	Edge Communications	Services, 04-06-2023 to 05-05-2023.	113.15

Subtotal

5,493.66

**Upper Yampa Water Conservancy District
Cash Disbursement Report
May 31, 2023**

Date	Name	Memo	Amount
04/24/2023	Walmart	Office supplies	29.22
04/24/2023	Safeway	Office expense	3.96
04/26/2023	Element Print and Design	Printing of Annual Report	606.56
04/26/2023	ACE Hardware	Facilities maintenance	1.79
04/26/2023	Amazon	Office supplies	10.02
04/27/2023	Hotel	Conference expenses	211.92
04/27/2023	SmartVault	Software, interface with quickbooks	140.00
04/29/2023	CenturyLink Lumen	Office Telephone & Internet, 04-07-2023 to 05-06-2023.	239.44
04/30/2023	Coursera	Training	60.71
05/01/2023	MVB Mountain Valley Bank	May Rent	6,724.24
05/01/2023	Family Support Registry	Monthly remittance	716.00
05/01/2023	Conoco Universal WEX	Gasoline, April 2023.	222.04
05/02/2023	Drunken Onion	District meeting lunch	79.03
05/02/2023	Amazon	Office supplies	64.99
05/02/2023	Google	Software expense	15.00
05/02/2023	Amazon	Office supplies	10.02
05/02/2023	Amazon	Office supplies	9.61
05/03/2023	Facebook	Advertisement for West Routt water users meeting	50.00
05/04/2023	Steamboat Motors	Vehicle maintenance	1,417.64
05/04/2023	Hotel	Lodging, water leaders June session.	464.39
05/04/2023	Restaurant	Dinner for West Routt water users meeting	169.20
05/04/2023	Denver Rubber Company	Facilities maintenance, new gaskets.	150.00
05/04/2023	Doodle Poll	Annual Subscription	84.23
05/04/2023	Restaurant	Supplies for West Routt water users meeting	17.71

Subtotal

11,497.72

**Upper Yampa Water Conservancy District
Cash Disbursement Report
May 31, 2023**

Date	Name	Memo	Amount
05/05/2023	Mailchimp	Monthly digital marketing platform	20.90
05/07/2023	Garmin	Monthly subscription, 05-06-2023 to 06-05-2023.	34.95
05/07/2023	NYT The New York Times	Monthly subscription	17.00
05/08/2023	Walmart	PA system for Stagecoach tours	74.80
05/08/2023	Amazon	Vehicle maintenance supplies	10.84
05/10/2023	Facebook	Advertising for West Routt water users meeting	18.76
05/11/2023	Southwest Airlines	Airfare, GFOA Conference.	454.96
05/11/2023	Restaurant	Staff meeting lunch	81.09
05/12/2023	Watson Coon Ryan	Financial auditing services	500.00
05/12/2023	USGS	Water Quality Monitoring at Stagecoach, Yampa River and Little Morrison Creek. Q1 of 4.	26,708.00
05/12/2023	CEBT	Medical, dental, vision, life, STD, LTD June 2023 coverage.	14,114.60
05/12/2023	Water Education Colorado (CFWE, WeCO)	Annual member dues and sponsorships	7,700.00
05/12/2023	USGS	Stagecoach Streamgaging Stations, payment 1 of 4.	6,145.00
05/12/2023	AECOM	Piezometer Evaluation	4,221.25
05/12/2023	ECS Employers Council Services, Inc.	Annual dues, 06-01-2023 to 05-31-2024.	3,600.00
05/12/2023	GMS Gray Matter Systems, LLC TMMI	Stagecoach electronic upgrades. Historian/Redlion upgrades.	1,757.50
05/12/2023	ACS Advanced Copier Solutions, Inc.	Monthly copier fees, April 2023.	6.50
05/12/2023	GFOA Government Finance Officers Assoc	Annual GFOA Conference	535.00
05/12/2023	GFOA Government Finance Officers Assoc	GFOA Training, Federal Grant Compliance.	195.00
05/14/2023	Southwest Airlines	Airfare, GFOA Conference	382.98
05/16/2023	Safeway	Board meeting supplies	78.52
05/17/2023	NDS Northwest Data Services	Server recycle fee and laptop charger	144.00
05/17/2023	Denver Rubber Company	Facilities maintenance, gaskets.	655.21
05/17/2023	Restaurant	Board meeting lunch	231.42

Subtotal

67,688.28

Upper Yampa Water Conservancy District
Cash Disbursement Report
May 31, 2023

Date	Name	Memo	Amount
05/17/2023	Edge Communications	Services 05-06-2023 to 06-05-2023	113.15
05/18/2023	NDS Northwest Data Services	IT services	1,935.00
05/19/2023	YV Tire Pros & Express Lube	Vehicle maintenance	125.34
05/21/2023	YVEA	Electrical service to Stagecoach powerhouse and shed, 04-04-2023 to 05-02-2023.	490.56
05/21/2023	Adobe	Monthly subscription, 05-20-2023 to 06-19-2023.	167.93
05/22/2023	Routt County Clerk and Recorder	Recording fee for Assignment of YR Augmentation contract A2-007. Reception # 845730	49.85
05/23/2023	CenturyLink Lumen	SC Telephone, May 2023.	169.58
05/26/2023	LRE Water	WRF Hydro Analysis, services through 04-25-2023.	12,495.00
05/26/2023	USGS	Water temperature sensor at Yampa River above Stagecoach Reservoir	7,330.00
05/26/2023	X Field Services	Union Ditch maintenance	2,110.00
05/26/2023	Stand Creative Studio	Monthly digital marketing Services	1,450.00
05/26/2023	Karina Craig	Reimbursement, lodging, food & incidentals, parking. GFOA training.	938.50
05/26/2023	LRE Water	SC Reservoir accounting, services through 04-25-2023.	555.00
05/26/2023	LRE Water	Regulatory Support, services through 03-31-2023.	422.00
05/26/2023	All Natural of Yampa Valley Inc	Office cleaning, May 2023.	300.00
05/26/2023	LRE Water	Augmentation Water Rights, services through 04-25-2023.	262.50
05/26/2023	Grainger	Stagecoach Maintenance	129.00
05/26/2023	Grainger	Stagecoach Maintenance	44.74
05/26/2023	Hotel	Training expense, lodging.	151.63
05/27/2023	SmartVault	Software, interface with quickbooks	140.00
05/29/2023	CenturyLink Lumen	Office Telephone & Internet, 05-07-2023 to 06-06-2023.	239.06
05/30/2023	Quickbooks	Monthly payroll	47,711.79
05/30/2023	Internal Revenue Service	Federal Tax Deposit	17,232.28
05/30/2023	Coursera	Training	60.71

Subtotal **94,623.62**

Total **179,303.28**

UPPER YAMPA WATER CONSERVANCY DISTRICT - 2023 BUDGET COMPARISON REPORT, AS OF MAY 31, 2023

	2021 ACTUALS	2022 ACTUALS	2023 BUDGET	2023 ACTUALS	2023 PROJECTIONS
	audited	audited	Approved November 16, 2022	May 31, 2023	May 31, 2023
Fund Opening Balance including Encumbered Funds	17,536,141	18,778,813	20,357,959	20,357,959	20,357,959
Encumbered Funds	5,875,302	6,133,474	6,584,923	6,584,923	6,584,923
Emergency Facilities Reserve	4,606,931	4,814,243	5,184,940	5,184,940	5,184,940
Capital Maintenance Reserve	772,752	807,526	869,706	869,706	869,706
Stagecoach Wetlands Mitigation Reserve	419,734	419,734	419,734	419,734	419,734
Tabor Reserve	75,885	91,971	110,543	110,543	110,543
Capital Projects Development Fund	11,660,839	12,645,339	13,773,036	13,773,036	13,773,036
Revenues					
Facilities					
Stagecoach Reservoir					
Power Sales	58,824	81,734	193,000	37,296	193,000
Water Sales	228,487	377,941	212,127	2,400	215,069
Yamcolo Reservoir					
Water Sales	139,374	134,625	188,053		185,747
Stillwater Ditch & Reservoir Company	10,582	10,336	9,514		9,514
Elk River Augmentation Water Sales	1,668	4,496	777		3,533
Property taxes	2,719,734	2,927,507	2,697,307	2,240,926	2,697,307
Interest earned	15,204	327,635	505,927	391,619	984,912
Other income		1,160		3,908	4,000
Pass through income	63,728	30,128		6,500	
	revenues	3,237,601	3,895,563	3,806,705	4,293,082
Expenditures					
Operating					
Facilities					
Stagecoach Reservoir	435,389	572,061	652,573	219,053	653,913
Yamcolo Reservoir	131,307	115,168	166,549	66,049	166,684
Stillwater Ditch & Reservoir Company	30,100	44,401	76,640	13,339	76,677
Elk River Augmentation Plan			2,128	902	2,130
Administration	294,343	305,137	376,595	161,314	376,789
Board of Directors	52,669	66,299	106,461	29,044	104,378
External Affairs	102,876	116,362	141,277	51,792	141,351
Finance	105,482	116,033	154,488	61,641	154,634
Legal	107,172	119,044	160,114	72,469	160,151
Planning	83,816	223,887	337,133	65,651	337,170
Grants, Scholarships & Public Information	202,455	311,017	409,875	85,380	409,899
Treasurer fees	82,564	88,346	80,919	68,017	80,919
Pass through expenses	56,629	32,172		14,735	
	Subtotal Operating	1,684,802	2,109,928	909,386	2,664,695
Capital					
Stagecoach Reservoir	198,921	83,876	521,500	33,248	521,500
Yamcolo Reservoir	56,411	105,019	248,250	20,146	248,250
Stillwater Ditch & Reservoir Company	54,795	17,596	250,250	270	250,250
	Subtotal Capital	310,127	1,020,000	53,664	1,020,000
	expenditures	1,994,929	2,316,418	963,050	3,684,695
	net income (loss)	1,242,672	1,579,145	1,719,599	608,387
Ending Fund Balance	18,778,813	20,357,959	20,479,912	22,077,558	20,966,346





BOARD COMMUNICATION FORM

From: Karina Craig, Finance Manager.

Date: July 12, 2023

Item: 2023 Financial Audit, selection of Auditor

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

Throughout the fiscal year, Upper Yampa Water Conservancy District (UYWCD) staff carries out the accounting of the UYWCD's financial activities adhering to Generally Accepted Accounting Principles in the United States of America (U.S. GAAP) as promulgated by the Governmental Accounting Standards Board (GASB). As a local government administering public funds, the UYWCD is subject to Colorado Auditing Standards and is required to undergo an annual audit of its financial books.

II. Summary and Alternatives:

In 2020 the UYWCD engaged services from Watson Coon Ryan, Certified Public Accountants (WCR), a Colorado firm experienced in governmental auditing with a focus on best practices. Financial audits were successfully performed by WCR for the 2020, 2021 and 2022 fiscal years.

There are known pros and cons with both maintaining and rotating auditors. It is UYWCD Staff's opinion that, at this time, known benefits from maintaining auditors outweigh possible advantages from auditor rotation. Additionally, the Government Finance Officers Association (GFOA) reports that the nationwide shortage of qualified Governmental Auditors was further exacerbated with the COVID pandemic and continues in effect.

Based on the above and the UYWCD's experience of services received from WCR in prior years, the UYWCD staff recommends seeking a Letter of Engagement from WCR to carry out the 2023 Fiscal Year Audit, in the first part of 2024.

A WCR Letter of Engagement outlining scope of work, audit schedule and proposed costs for the 2023 Fiscal Year Audit would be presented to the Board for approval before the end of the current fiscal year.



Alternatively, UYWCD could publish a Request For Proposals (RFP) and seek a new auditor.

III. Staff Recommendation:

Accept staff's proposal to seek a Letter of Engagement from WCR for the UYWCD 2023 Fiscal Year Audit in compliance with statutory requirements.

IV. Legal Issues:

Compliance with Audit statutory requirements per Colorado Revised Statutes (C.R.S. 29-1-603(1)(1.5)(2)(3)(4))

V. Consistency with Board Goals and Policies:

UYWCD By-Laws and Strategic Plan Objective 3.

Attachments:

None.

REPORT OF GENERAL MANAGER





BOARD COMMUNICATION FORM

From: Andy Rossi

Date: 07/12/23

**Item: General Manager's Report on UYWCD Water Resources Management Activities:
Summer 2023 Edition**

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

General Manager's report summarizing current and ongoing Upper Yampa Water Conservancy District activities.

II. Summary and Alternatives:

The 2023 irrigation season is well underway in the Yampa River Basin. Basin agricultural water users started the irrigation diversions in mid-March with administration of the Bear River reach starting on March 30th. Lower Basin flows are beginning to subside after a long period of sustained average to above average discharge. Late summer flow conditions are developing rapidly with drier weather patterns. Hopefully Yampa Valley residents are taking advantage of the favorable flows to enjoy all the benefits that the Yampa River has to offer.

Presented below is a summary of the water resources management activities the UYWCD has been involved in. Many of the items included in this communication will be discussed during the July 12, 2023, meeting and/or future meetings in 2023.

Much of the discussion open time for the July 12, 2023, UYWCD BOD meeting will focus on current public finance dynamics instigated by State of Colorado legislative activities. If you have any further questions about any of the items included in this communication please contact Andy Rossi, UYWCD General Manager, for additional details.



UYWCD Water Resources Management Activities: Summer 2023

Storage Season Facilities Operations

- Stagecoach Reservoir Operations
 - Stagecoach Reservoir is full and is projected to remain at full storage volume through the summer. Late season flow conditions may introduce the possibility for storage volume releases. Stagecoach operations will be discussed as part of Agenda Item 9 a.
 - An inspection of the Stagecoach Dam penstock was completed on March 31, 2023. Spillway flow was required for this inspection to allow for the isolation of the dam outlet works conduits. Spillway flow was reduced to zero soon after the successful completion of the inspection activities.

- Yamcolo Reservoir Operations
 - Yamcolo Reservoir did not reach full storage volume. Yamcolo Reservoir storage contract releases started in June and are projected to continue through the entire 2023 irrigation season. Yamcolo operations will be discussed as part of Agenda Item 9 a.

Other UYWCD Projects and Water Resources Activities

Several water resources work efforts are underway with the combined efforts of the UYWCD staff and basin partners. A review of the status of these efforts is included in the materials for Agenda Item 6 c. In addition to these work efforts, the UYWCD

- Water Supply Forecasting
 - The UYWCD received a proposal from the USGS for the expansion of the SnowModel snow coverage tool extension to the Yampa Basin. The proposed model domain extension activities will begin in October 2023 and run through October 2026. The project deliverable products will include:
 - A calibrated and precipitation corrected SnowModel domain coverage to include the Yampa River Basin above Fortification Creek,
 - Calibrated SnowModel simulated 30 years (1994 – 2023) of SWE for the Yampa River Basin with model output summaries of total SWE by elevation bands,
 - SnowModel configuration for real-time application (4-5 day latency)



to be trialed during the study period.

- All model input datasets and output will be made publicly available.
- Journal Article to be submitted for publication.

UYWCD Staff Career Development

The UYWCD staff have been taking advantage of multiple career development opportunities available to them in the first half of 2023. The following UYWCD staff are undertaking professional development work in addition to their regular duties and workloads for the UYWCD:

Deb Bastian and Holly Kirkpatrick are participating in professional development and training programs with Water Education Colorado (WEco). Deb Bastian is nearing the completion of the Water Fluency professional development program and Holly Kirkpatrick is in the midst of the year-long Water Leaders training program. Upon completion of these courses, Deb and Holly will be armed with increased knowledge and professional skills that will benefit their continued efforts on behalf of the UYWCD. The UYWCD is a long-time financial supporter of WEco.

Karina Craig attended the Government Finance Officers Association annual conference in June. During the conference, Karina had access to a knowledge base that will be especially beneficial in the UYWCD's consideration of the current complex budgeting issues facing public agencies in Colorado.

Eddie Rogers completed a course in Systems Networking + at Colorado Mountain College. As UYWCD facilities operations become more dependent on reliable control and monitoring network systems, Eddie will be well prepared to keep things running smoothly for many years.





BOARD COMMUNICATION FORM

From: Andy Rossi, General Manager

Date: 07/12/2023

Item: Yampa and Elk River Augmentation Plans Service Contracts Update

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

The Upper Yampa Water Conservancy District's (UYWCD) purpose is to conserve, develop, and stabilize supplies of water for domestic, irrigation, manufacturing, and other beneficial uses and by the construction of works for such purposes. The UYWCD also plans for and assists with the development of water resources of the UYWCD for municipal, domestic, industrial, recreational, and other beneficial uses of water resources within the District among other purposes. The UYWCD's water rights include rights to Stagecoach and Yamcolo reservoir water among others.

The UYWCD is authorized to appropriate water rights and initiate and implement plans for augmentation for the benefit of water users within the UYWCD's boundaries. Water is available to provide contracts to UYWCD constituents to augment their out-of-priority depletions pursuant to the Augmentation Decrees of the District Court for Water Division No. 6, Case No. 06CW049 (Yampa River Supply) and 15CW3058 (Elk River Supply). The UYWCD's Board of Directors (BOD) has approved the marketing of such water and other UYWCD water supplies as may be used to complement the use of such Reservoirs' water supplies through a contracting program.

Information about the authorities approved by the UYWCD BOD, definitions of terms used for the UYWCD Augmentation Plans, and summary contract data are included with this communication for reference.

II. Summary:

1. Authorities: The authorities approved by the UYWCD BOD under the Water Marketing Policies for the District's Augmentation Service Plans for the Yampa and Elk Rivers are as follows:



- a. The General Manager is delegated the authority of the Board to implement and administer this Policy and the issuance of the augmentation contracts made pursuant to this Policy for Small Applications and Small Commercial Applications as defined in this Policy not exceeding 10 acre feet per year, and authority to approve assignments of all contracts issued for both Small and Large Applications. The General Counsel shall assist in the negotiation and drafting of the contracts.
- b. The Board retains authority to approve Large Applications and Large Commercial Applications along with all other powers not specifically delegated.

2. UYWCD Augmentation Plan Definitions:

- a. “Large Applications”: A contract application to the UYWCD to augment uses, other than commercial or industrial uses, with a planned average daily diversion rate in excess of 112 gallons per minute (0.25 c.f.s.) or that identifies planned total annual diversions exceeding thirty (30) acre feet per year.
- b. “Large Commercial Applications”: A contract application to the UYWCD to augment commercial or industrial uses that either exceeds a planned average daily diversion rate of 15 gallons per minute or for which the following commercial (Equivalent Residential Unit) EQR ratings do not apply, or both:
 - Office = 0.6 EQR/1,000 square feet.
 - Warehouse – 0.30 EQR/1,000 square feet.
 - Retail Sales = 0.60 EQR/1,000 square feet.
- c. “Small Applications”: A contract application to the District to augment commercial or industrial uses with planned diversions not to exceed an average daily diversion rate of 15 gallons per minute and for which the diversion and depletion criteria detailed in paragraphs 9.A through 9.E of the Augmentation Decree apply, or to augment any other uses with planned diversions not to exceed 112 gallons per minute (0.25 c.f.s.) or that identifies planned total annual diversions not exceeding thirty (30) acre feet per year and for which the diversion and depletion criteria detailed in paragraphs 9.A through 9.E of the Augmentation Decree apply.
- d. “Small Commercial Applications”: A contract application to the UYWCD to augment commercial or industrial uses that does not exceed a planned average daily diversion rate of 15 gallons per minute and for which the following commercial EQR ratings apply:
 - Office = 0.6 EQR/1,000 square feet.
 - Warehouse – 0.30 EQR/1,000 square feet.
 - Retail Sales = 0.60 EQR/1,000 square feet.



e. Uses:

- i. “Commercial Use”: Water for motels, hotels, restaurants, office buildings, shops stores and other commercial facilities, military and nonmilitary institutions, and water for off-stream fish hatcheries.
- ii. “Domestic Use”: The use of water by individuals, cities, towns, public or quasi-public districts, private corporations, homeowners’ associations, or other entities used for all such indoor household purposes as drinking, food preparation, bathing, washing clothes and dishes, flushing toilets, and such outdoor purposes as watering lawns and gardens, excepting only the commercial, industrial and irrigation uses of water defined.
- iii. “Industrial Use”: Water used for fabrication, processing, washing, and cooling, and includes such industries as chemical and allied products, food, mining, paper and allied products, petroleum refining, and steel, including cooling system, cooling-system type, mining water use, public-supply deliveries, public-supply water use, self-supplied water use, and thermoelectric-power water use.
- iv. “Irrigation Use”: Water that is applied by an irrigation system to assist in the growing of crops and pastures or to maintain vegetative growth in recreational lands such as parks and golf courses including water that is applied for pre-irrigation, frost protection, chemical application, weed control, field preparation, crop cooling, harvesting, dust suppression, the leaching of salts from the root zone, and water lost in conveyance.
- v. “Livestock Use”: Water used to water domesticated livestock such as cattle or horses, such use shall require 11 gallons of water per day per head and is considered 100% consumptive.
- vi. “Recreation Use”: The use of water to replace the evaporative loss from ponds, reservoirs, stream channels, spas, pools and similar water feature

III. Staff Recommendation:

NA

IV. Legal Issues:

NA

V. Consistency with Board Goals and Policies:

UYWCD SP Goal 4.2

Attachments:

Attachment 1: Yampa and Elk River Augmentation Plans Contract Summary

Yampa and Elk River Augmentation Plans Contract Summary

Yampa River Augmentation Plan

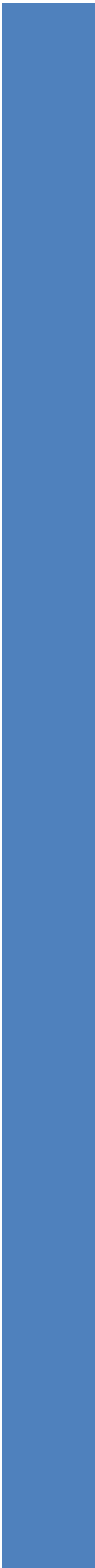
Contract ID	Contractor	Reservoir Source	Yampa River Service Area	Contract Volume (AF)	Application Type	Second Dwelling?	Augmented Use	Contract Signed Date	Contract Start Year	Contract End Year	Contract Recorded Assign Date
A1-001	Brady Glauthier & Bridget Hiles	Stagecoach	A-1	1.20	Small	Y	Domestic, irrigation	3/8/2022	2022	2062	5/2/2022
A1-002	Steve & Monica Alm	Stagecoach	A-1	1.00	Small	Y	Domestic, irrigation	3/8/2022	2022	2062	6/1/2022
A1-003	Susan & Bradley Smith	Stagecoach	A-1	1.00	Small	Y	Domestic, irrigation	4/11/2022	2022	2062	6/2/2022
A1-004	Brett & Tera Luedde	Stagecoach	A-1	1.00	Small	Y	Domestic, irrigation	4/11/2022	2022	2062	6/3/2022
A1-005	David Kulberg	Stagecoach	A-1	1.00	Small	Y	Domestic, irrigation	4/11/2022	2022	2062	5/27/2022
A1-006	Carrie Easton	Stagecoach	A-1	1.00	Small	Y	Domestic, irrigation	6/9/2022	2022	2062	
A1-007	John & Susan Knill	Stagecoach	A-1	1.00	Small	Y	Domestic, irrigation	6/2/2022	2022	2062	
A1-008	Mark & Lindsay Stepp	Stagecoach	A-1	1.30	Small	Y	Domestic, Irrigation, Recreation	7/8/2022	2022	2062	
A1-009	Tad & Jennifer Hayashi & Janice Rigmaiden	Stagecoach	A-1	1.00	Small	Y	Domestic, Irrigation, Recreation	10/6/2022	2022	2062	
A1-010	Routt County, Colorado by and through its Board of County Commissioners	Stagecoach	A-1	8.00	Small	N	Domestic, Irrigation	6/6/2023	2023	2063	
A1-011	Matthew Ingram & Karena O'Rourke	Stagecoach	A-1	1.00	Small	Y	Domestic, Irrigation	6/15/2023	2023	2063	
A2-001	Gayle Dudley	Stagecoach	A-2	2.16	Small		Recreation	5/12/2011	2011	2051	
A2-002	Walton Creek, LLC	Stagecoach	A-2	1.20	Small		Domestic, Irrigation, Recreation	8/3/2011	2011	2051	
A2-003	Amethyst Ranch, LLC No. 1	Stagecoach	A-2	0.40	Small Commercial		Commercial	1/10/2012	2012	2052	
A2-004	Elizabeth Rostermund	Stagecoach	A-2	0.40	Small		Irrigation	9/2/2015	2015	2055	
A2-005	Amethyst Ranch, LLC No. 2	Stagecoach	A-2	0.80	Small Commercial		Commercial, Domestic, Irrigation	7/3/2014	2014	2054	
A2-006	Yampa Realty Holdings, LLC	Stagecoach	A-2	17.30	Small		Domestic, Irrigation, Recreation	10/9/2014 (original) 9/18/2015 (amended - add'l water)	2014	2054	
A2-007	NRT Property Holdings, LLC - ASNMT	Stagecoach	A-2	1.70	Small Commercial		Commercial, Irrigation, Livestock, Fire Suppression	8/4/2016	2016	2056	5/22/2023
A2-008	STARS	Stagecoach	A-2	1.20	Small Commercial		Irrigation, Livestock, Commercial, Recreation	4/5/2018	2018	2058	
A2-011	Robert Broadnax	Stagecoach	A-2	3.00	Small		Domestic, Recreation, Livestock	5/10/2021	2021	2061	
A2-012	Paul & Susan Hubbell	Stagecoach	A-2	0.10	Small	Y	Domestic, Irrigation	2/22/2021	2021	2061	
A2-013	Douglas Snyder Trust	Stagecoach	A-2	3.60	Small		Recreation, Livestock	9/22/2021	2021	2061	
A2-014	City of Steamboat Springs (Lufkin Well)	Stagecoach	A-2	0.20	Small Commercial		Commercial	8/25/2021	2021	2061	
A2-015	Cory & Lauren Gerken	Stagecoach	A-2	2.20	Small		Domestic, irrigation, Recreation	6/15/2021	2021	2061	12/12/2022
A2-016	Ferruginous LLC	Stagecoach	A-2	1.60	Small Commercial	Y	Commercial, Domestic, Irrigation, Livestock	8/9/2021	2021	2061	
A2-017	CG 17 LLC	Stagecoach	A-2	0.20	Small		Domestic, Irrigation, Livestock	9/21/2021	2021	2061	
A2-018	William (Bill) Gay	Stagecoach	A-2	2.80	Small		Recreation (3 ponds) & Livestock	8/2/2022	2022	2062	
A3-001	Stone Yard LLC	Stagecoach	A-3	2.60	Small		Irrigation, Recreation	3/19/2015	2015	2055	
A3-009	KTH Enterprises (Sleepy Bear MHP)	Stagecoach	A-3	3.03	Small		Domestic	7/6/2020	2020	2060	
A3-010	YVHA Whitehaven Enterprise, LLC	Stagecoach	A-3	0.50	Small		Domestic	9/24/2021	2021	2061	1/20/2022
A3-011-Termed	Amy & John Asta - Contract Terminated	Stagecoach	A-3		Small	Y	Domestic, Irrigation	8/31/2021	2021	2061	Terminated 10.28.22
A3-012	Jenny Schmidt & Aaron Solomon	Stagecoach	A-3	0.10	Small	Y	Domestic, Irrigation	6/20/2022	2022	2062	
A4-001	Flanders Ranch, LLC	Stagecoach	A-4	2.00	Small	Y	Domestic, Irrigation, Livestock	9/1/2021	2021	2061	

Total Volume Stagecoach = 65.590 AF
Total Volume Yamcolo = 0.000 AF

Elk River Augmentation Plan

Contract ID	Contractor	Reservoir Source	Elk River Service Area	Contract Volume (AF)	Application Type	Second Dwelling?	Augmented Use	Contract Signed Date	Contract Start Year	Contract End Year	Contract Assign Date
E-A1-001	CCJG Ranch LLC	Steamboat Lake	A-1	2.3	Small	N	Recreation (pond)	10/18/2021	2021	2061	
E-A1-002	John Klein	Steamboat Lake	A-1	0.1	Small	N	Domestic, Irrigation	4/4/2022	2022	2062	
E-A1-003	Home Ranch LLC	Steamboat Lake	A-1	9.9	Small	Y	Domestic, Irrigation, Recreation, Livestock, Other	12/7/2022	2022	2062	
E-A1-004	Michael & Nikki Rusconi	Steamboat Lake	A-1	1.5	Small	Y	Domestic, Irrigation, Recreation, Livestock	12/7/2022	2022	2062	

Total Volume STMBT Lake = 13.820 AF





BOARD COMMUNICATION FORM

From: Andy Rossi, General Manager

Date: 07/12/23

Item: 2023 New Work Efforts Update

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

In October of 2022, several new work efforts were proposed for consideration as part of the 2023 Upper Yampa Water Conservancy District's 2023 Strategic Plan review. Most of these proposed new efforts were incorporated into the planned work efforts for the UYWCD staff in 2023 with associated 2023 budget allocations. An update on the status and/or progress of these work efforts is present for UYWCD Board of Directors' information.

II. Summary and Alternatives:

A summary table indicating the status of new work items for 2023 is included with this communication. A verbal review of these work items will be presented by the UYWCD General Manager.

III. Staff Recommendation:

Continue the work initiated on the items presented in the summary table and estimate funds necessary for any efforts to be continued in 2024.

IV. Legal Issues:

NA

V. Consistency with Board Goals and Policies:

UYWCD Strategic Plan

Attachment: 2023 Work Efforts Summary Table

New Work Plan Items Proposed for Inclusion in the 2023 UYWCD Budget							6 Month Review of Work Effort Progress
UYWCD SP Goal	New/Continued 2023 Work Effort	Notes and Details	Personnel	Estimated Cost/Funding	Potential for Outside Grant(s) Funding	Included in Draft UYWCD 2023 Budget	Work Effort Status (July 2023)
6.1	Yampa River StateMod Improvements	IWMP Recommendation. Bear River reach model refinements completed by UYWCD in 2022. Remainder of Yampa River system refinements being completed by WWG for CWCB. Return flow model process improvements possible, see description of Return flow study.	GM, District Engineer, Engineering Consultant(s)	\$25,000	Yes	Yes (PLN)	Bear River (Yamcolo - Stagecoach) diversion targets updates complete. Remained of Basin Diversion targets updated by WWG through State of CO contract. Updates to Yamcolo and Stagecoach Operating rules planned for July 2023.
6.1	Return Flow Study	IWMP Recommendation. UYWCD Staff and TU have been working with WWG to gain a better understanding of the potential to use StateMod as an analytical tool for a return flow timing and contribution study. After extensive discussions, the work group has a much better understanding of the limitations of return flow analytics in StateMod. The most likely recommended return flow study configuration will include a combination of StateMod analytics coupled with isotopic water sampling efforts.	GM, District Engineer, Basin Partners, Engineering Consultant(s)	\$50,000	Yes	Yes (PLN)	Slow, but steady progress has been made for one of the most complex and difficult problems to model in hydrology. UYWCD is working with TU to refine a study methodology that will yield useful results. Study methodologies have been narrowed to a few final candidates with some research to be completed on the use of Deuterium tracers. Update memo submitted to YWG Roundtable.
6.1, 5.2, 7.3	UYWCD Operations Dashboard, Yampa River Dashboard	IWMP Recommendation. The UYWCD is currently working with LRE to build and deploy an operations dashboard for UYWCD staff only use. The UYWCD proprietary dashboard will serve as the foundation and framework for a Yampa River System information dashboard for public access and use.	GM, District Engineer, Basin Partners, Engineering Consultant(s)	\$25,000	Yes	Yes (PLN)	UYWCD operations dashboard is complete and functioning is user test mode. The Yampa Basin community data dashboard project is underway with funding secured and the 1st stakeholder meeting complete.
2.1, 2.2, 7.2	Upper Yampa River Water Quality/Algae Study	IWMP Recommendation. Two-year plan of work for upper basin WQ/Algae study completed in 2022. Initial funding for WQ study efforts provided by UYWCD, CRD, and CWCB (pending). UYWCD retained WQ consultant (LRE) to track current Lake and Reservoir Nutrient Standards regulatory process. UYWCD formal response to regulatory process TBD pending final schedule of CDPHE hearings/process. First DRAFT of subject specific educational content is complete. NASA DEVELOP Satellite Imagery Algae Detection study complete (final report delivered 05/23).	GM, District Engineer, Basin Partners, Engineering Consultant(s)	\$60,000	Yes (\$50,000 Awarded in 2022)	Yes (\$10,000, PLN, \$50,000 will be Pass-through)	Underway, CDPHE regulatory process progressed enough to allow for modelling efforts to proceed. TMDL/Basin WQ model scope to be finalized by work group 08/23. Monthly meetings ongoing.
6.2	Soil Moisture Network	Upper Yampa River Basin site location analysis for new deployment of Soil Moisture Sensor Network complete. First new Soil Moisture Monitoring Station installation complete. Continued efforts to include UYWCD support of full build out of soil moisture monitoring capacity at existing Yampa Basin NRCS SNOTEL sites. Additional new monitoring station construction TBD pending siting priorities and logistics. New flow forecast model capabilities to be derived from addition of new data streams with existing inputs. Forecast Model information gathering conducted late 2022.	GM, District Engineer, Basin Partners, Engineering Consultant(s)	\$80,000	Yes (~\$600,000 Awarded from CWCB)	Yes (PLN)	Basin wide expansion of monitoring network underway. New site selection for 2023 installations is near complete. Access agreements and permitting efforts will commence July 2023. Assistance with NRCS SNOTEL retrofits started 06/28/23. New station installations and NRCS site retrofits should result in a combined 5 new monitoring sites by end of 2023.
7.1, 7.3	Headwaters Forest Fire Vulnerability Study	The CWCB Wildfire Ready Watersheds program is conducting a State-wide Wildfire Susceptibility Analysis. The Yampa River Basin susceptibility analysis data can be used in combination with existing basin GIS data to direct the UYWCD in support Forest and Headwaters protection efforts.	GM, District Engineer, State Agency, Engineering Consultant(s)	\$25,000 (UYWCD) \$95,000 (CWCB grant request)	Yes	Yes (PLN)	Draft WRW Plan Funding Application for Bear River complete. Application to be submitted to CWCB for funding request by 08/01/23.
4.4, 4.7	Coal Creek and Bear River Monitoring Stations	The UYWCD will solicit USFS approval for the installation of multiple environmental data monitoring sites in the Bear River area of the Routt National Forest. This effort is a sequential step in the consideration of the Coal Creek Diversion Project. Regardless of the ultimate UYWCD decision for Coal Creek Diversion, the installation of the proposed monitoring sites will improve the water resource management of the Bear River reach.	GM, District Engineer, Engineering Consultant(s)	\$15,000	NA	Yes (PLN)	Limited discussions with USFS staff yielded no substantive progress. UYWCD will pursue more formal effort to pursue updates to the Bear River Geographic Area management plan rules. Outside legal representation will be necessary.
4.4, 4.7	Morrison Creek Diversion	Use LRE updated study as basis for systematic analysis of the Little Morrison Creek/Morrison Creek Upper Diversion Project.	GM, District Engineer, Engineering Consultant(s)	\$20,000	NA	Yes (PLN)	UYWCD/LRE work efforts underway. Model updates likely available by 09/23.
4.4, 4.7, 5.2	Reservoir Release Coordination	IWMP Recommendation. The UYWCD will continue Yampa River Basin Coordinated Reservoir Release discussions with the ultimate goal of producing a "handbook" of coordinated reservoir release mechanisms that may be deployed in response to varied hydrologic conditions. Special topic for discussion at UYWCD BOD Retreat, October 19, 2022.	GM, District Engineer, Basin Partners	UYWCD Staff Time	NA	Yes	City of Steamboat Springs is developing a river temperature forecasting tool for use in reservoir release coordination. Further coordination may be necessary pending late summer flow conditions.
4.1, 4.5	Municipal Water Needs Analysis Grant Program	New grant program specifically for municipal water needs assessment studies. Full discussion of this concept will be conducted during UYWCD BO Retreat on October 19, 2022.	UYWCD Staff, Legal Counsel	UYWCD Staff Time. Approved Funds Allocation	NA	No	Program not recommended for stand alone development. Current UYWCD grant program allows for applicants to request financial support for Municipal Water Needs Assessments.
4.1, 4.5	Large Infrastructure Project Loan Program	UYWCD ability/legal authority for financial loan activities TBD pending advice from outside legal counsel.	UYWCD Staff, Legal Counsel	UYWCD Staff Time, Outside Legal Counsel TBD	NA	No	Program not recommended for stand alone development. Current UYWCD grant program allows for applicants to request financial support for water supply infrastructure projects. UYWD able to engage in individual agreements as needed.
1.1	Colorado River Compact Administration Policy Statement	Begin development of UYWCD formal policy statement on potential Colorado River compact administration practices. UYWCD GM to participate in lower Colorado River Basin tour November 2022. Initial policy statement recommendations to be presented for discussion in early 2023.	UYWCD Staff, UYWCD BOD, Legal Counsel, Basin (Yampa and Colorado) Partners	UYWCD Staff Time	Yes	Yes	Pending. There were multiple developments in Colorado River management proposals in early 2023. Favorable flow conditions and reduced need for emergency action(s) will allow the UYWCD to formulate a policy by the end of 2023. Compact and River administration concerns will not subside with one year of positive hydrology.
4.1	UYWCD Internship Program	New intern position at UYWCD. Intern to provide support for external affairs and public outreach efforts as primary work focus. Additional support of UYWCD efforts TBD.	UYWCD Staff	TBD, Pending UYWCD BOD Direction	NA	No	UYWCD recruitment for 2023 internship not successful. UYWCD staff to consider seasonal or part-time staff position as an alternative.





BOARD COMMUNICATION FORM

From: Bob Weiss, District Counsel
Karina Craig, Finance Manager

Date: July 12, 2023

Item: Property Tax Update, Colorado Senate Bill 303/Proposed Ballot Measure HH Briefing

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

At the October 2022 Retreat, the Upper Yampa Water Conservancy District (District) staff presented to the District Board of Directors an extensive memorandum regarding property taxes in Colorado in general, the District's 1.82 property tax mill levy, and District revenues. In this memorandum District staff reported that property tax makes up approximately 70% of the District's total annual revenue. The memorandum included a discussion of the spending, revenue and debt limitations imposed by the Taxpayer's Bill of Rights (TABOR), the "DeBrucing" process which allows voters to exempt local government from certain TABOR limits, assessment rates and the Gallagher Amendment, property tax calculations and practice, historic District tax levies, and the process to revalue property that takes place every two years (odd years).

The October memorandum also included a discussion of Senate Bill 22-238 from the 2022 legislative session which provided for the reduction of certain assessment rates and taxable valuations. In addition, Senate Bill 22-238 included a property tax backfill for local government for tax years 2023 and 2024 from the State to reimburse local governments for lost revenues resulting from such reductions. The reduction in assessment rates for 2023 is expected to result in less than a 2.7% decrease in 2024 property tax revenues the District would otherwise have received if there had been no such reduction. According to the Revised Fiscal Note for SB 22-238 (copy attached) from the State Legislative Council Staff, Routt County would be entitled to a \$2.5 million payment from the State to be distributed among Routt County local government to backfill such reductions for tax year 2023.



2023 Legislation.

In the 2023 session, the legislature passed, and the governor signed into law several bills which are relevant to District property taxes.

Senate Bill 23-108. This bill specifically allows local governments (including the District) to provide for a temporary mill levy rate reduction to effect a refund for TABOR purposes or to provide property tax relief. In other words, according to these new statutory provisions, local governments are authorized to temporarily reduce their mill levy or to provide a temporary property tax credit to provide property tax relief. This provision makes express the longstanding local government practice of providing for temporary mill levy credits to reduce property taxes without a permanent mill levy decrease which might require new voter approval under TABOR to restore the mill levy to its prior level. This practice is widespread around the state and to our knowledge has not been challenged legally, although we will continue to research this question.

Senate Bill 23-303. This is a property tax relief bill passed by the legislature on the last day of the 2023 session. It is a lengthy and complicated bill, 48 pages long, containing 22 separate sections. In summary, SB 23-303 will:

- reduce assessed valuations for many classes of real property, including certain new subclasses of property,
- extend these reductions for the next ten years,
- allow the State to backfill lost revenues to local government by increasing the cap on tax revenues the State may retain (by reducing TABOR refunds to taxpayers).

However, embedded in the bill is the requirement that the State refer a ballot issue to the voters at the November 7, 2023 election to reduce property taxes for homes and businesses and allow the State to retain excess tax revenues to backfill the associated losses to local tax revenues. This ballot measure is entitled Proposition HH. If Proposition HH fails, then the property tax reductions and local government backfill cash fund set forth in SB 23-303 will be repealed and not go into effect.

Attached is a chart showing changes in assessment rates under SB 23-303. These changes in assessments rates are subject to voter approval. District staff has calculated that these changes in assessment rates would result in an approximately 0.5% reduction in District property tax revenues below what they would otherwise be if assessment rates existing prior to SB 23-303 were in effect. District staff has determined that if Proposition HH passes the District would not be entitled to the backfill for tax years 2024 through 2032 because properties within the District have had a total increase in property valuation in excess of 20% over 2022 and is therefore ineligible unless the property valuation within the District falls below this threshold. See Fiscal Note for SB 23-303 of State Legislative Council Staff attached (Page 6).



To complicate matters further, Proposition HH has been challenged under the Single-Subject Requirement of the Colorado Constitution along with requiring a clear title. The case, filed by Colorado residents, voters, elected officials, a dozen Colorado counties, and Advance Colorado, a conservative advocacy organization, is now before the Colorado Supreme Court which may rule in the matter by late July. The Colorado Supreme Court could require removal of Proposition HH from the ballot, modify the ballot language or refuse to act. If Proposition HH is removed, then the property tax reductions and local government backfill cash fund set forth in SB 23-303 will be repealed and not go into effect.

District staff has also examined Section 6 of SB 23-303 which provides a limitation on property tax revenue applicable to local governmental entities, subject to an override process. Staff has determined that these limitations do not apply to the District under §29-1-306 (3)(b)(III) of SB 23-303 because its property tax revenues were DeBruced in 1999 which excludes from this limitation:

(III) Any revenue from a mill levy that has been approved by voters of the local government, without limitation as to rate or amount, at any election held before, on, or after November 7, 2023.

HB 23-1311. This bill was passed two days before the end of the legislative session. While this legislation has no direct effect on District revenues, it has been described as “tied into Proposition HH, with the intention of incentivizing voters to support the TABOR refund flattening and property tax reductions while also approving the retention of revenues for the local government backfill.” Specifically, refunds would be \$661 per person with joint filers receiving double that. Currently the TABOR refund system has six tiers based on income.

II. Summary:

- a) Budgeted District net¹ property tax revenues for 2023 are \$2,616,388. This represents 70% of District 2023 budgeted revenues.
- b) The current estimate for uncertified 2023 Assessed Value (AV) of taxable property District-wide for 2024 tax revenues obtained from the Routt and Moffat County assessor’s office show an increase of approximately 51.6% over 2022. This estimated increase is based on the assessment rates established in SB 23-303. If Proposition HH is removed from the ballot by the Supreme Court or rejected by the voters, the increase in AV is estimated to be 52.3%. These estimates are still very preliminary because there have been an unprecedented number of appeals in this re-assessment cycle that have not yet been resolved. More reliable numbers will be available in August before the September Board meeting. There is no question that the 2023 District-wide AV will be substantially higher than 2022.

¹ Tax revenues net of County Treasurer Fees



- c) Based on these current 2023 AV estimates the District’s 1.82 mill levy will yield a net \$3,964,756 in 2024, a net increase of \$1,348,368 over 2023 budgeted property tax revenues. If Proposition HH is removed from the ballot by the Supreme Court or rejected by the voters the net increase in District property tax revenues, per SB22-238 assessment rates, is estimated to be \$1,368,050.

III. Legal Issues:

The legal issues related to this matter are addressed above. Our interpretations of the legislation and the other information being provided in this memo are based on our research to date and should be regarded as preliminary analysis, subject to revision as we learn more. In particular our conclusions regarding the backfill provisions in the 2022 and 2023 legislation will require further research to confirm. We also plan to further research the applicability of the §29-1-306 (3)(b)(III) of SB 23-303 DeBrucing exception to the limitation on property tax revenue to the prior year plus inflation contained in Section 6 of SB 23-303. We find it odd that this important exception is not even listed in the Fiscal Note to SB 23-303.

IV. Consistency with Board Goals and Policies:

UYWCD By-Laws and Strategic Plan Objective 3.

V. Fiscal Impact:

The fiscal impacts of these various legislations to the District are described above.

VI. Attachments:

Attachment 1: Chart of Assessment Rates under SB21-293, SB22-238 and SB 23-303, Net Tax Collections: 2023 (budgeted) and 2024 (preliminary, estimated)

Attachment 2: Fiscal Note for SB 22-238 of the State Legislative Council Staff

Attachment 3: Fiscal Note for SB 23-303 of State Legislative Council Staff

SB21-293, SB22-238 & SB303 CO LEGISLATION: EXISTING & PROPOSED ASSESSMENT RATES and PRELIMINARY, ESTIMATED TAX COLLECTIONS

			ASSESSMENT RATES, by legislation, tax and collection years													ESTIMATED UYWCD NET COLLECTIONS*					
SENATE BILL (SB) ⇒			SB21-293	SB22-238	SB22-238	SB22-238	SB23-303	SB23-303	SB23-303	SB23-303	SB23-303	SB23-303	SB23-303	SB23-303	SB23-303	SB23-303	SB21-293	SB22-238	SB23-303		
property Tax Year (TY) ⇒			2022	2023	2024	2025++	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2022	2023	2023		
Tax Classification ↓ collection yr ⇒			2023	2024	2025	2026++	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2023	2024	2024		
NON-RESIDENTIAL	new	Hotels, motels and B&Bs - "Lodging Properties"	29.0%	27.9% \$30K reduction	29%	29%	27.85% \$30K reduction	27.85% no \$30K reduction	27.85%	27.85%	27.65%	27.65%	26.9%	26.9%	25.9%-26.9% Depending on Sufficient AV Growth	25.9%-26.9% Depending on Sufficient AV Growth	29%				
	05	Agricultural Property	26.4%	26.4% \$30K reduction	26.4%	29%	26.4% no \$30K reduction	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	25.9%-26.4%	25.9%-26.4%	29%	36,669	44,292	44,894	1%
	13	Other Ag	26.4%	26.4%	26.4%	29%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	25.9%-26.4%	25.9%-26.4%	29%	308	536	536	0%
	12	Renewable Energy Production	26.4%	26.4%	26.4%	29%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	26.4%	25.9%-26.4%	25.9%-26.4%	29%	20	23	23	0%
	new	Renewable Energy Agricultural Land					26.4%	21.9%	21.9%	21.9%	21.9%	21.9%	21.9%	21.9%	21.9%	21.9%	29%				
	03	Commercial Property	29%	27.90% \$30K reduction	29%	29%	27.85% \$30K reduction	27.85% no \$30K reduction	27.85%	27.85%	27.65%	27.65%	26.90%	26.90%	25.9%-26.9% Depending on Sufficient AV Growth	25.9%-26.9% Depending on Sufficient AV Growth	29%	496,182	689,170	687,935	17%
	01	Vacant Land	29%	27.90% (1st \$30K exempt)	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	202,875	352,797	366,707	9%
	04	Industrial Property	29%	27.90% \$30K reduction	29%	29%	27.85% no \$30K reduction	27.85%	27.85%	27.85%	27.65%	27.65%	26.9%	26.9%	25.9%-26.9% Depending on Sufficient AV Growth	25.9%-26.9% Depending on Sufficient AV Growth	29%	9,424	13,381	13,358	0%
	08	Oil and Gas Property	87.5%	87.50%	87.50%	87.50%	87.50%	87.50%	87.50%	87.50%	87.50%	87.50%	87.50%	87.50%	87.50%	87.50%	87.50%	4,654	4,338	4,338	0%
RESIDENTIAL	11	Muti Family	6.8%	6.765% \$15K reduction	6.8%	7.15%	6.7% \$50K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	7.15% no \$40K reduction	33,726	59,026	58,385	1%
	02	Residential Property	6.95%	6.765% \$15K reduction	6.980% TBD X%, = \$700M aggregate revenue reduction='23 + '24 TYs	7.15%	6.7% \$50K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	6.7% \$40K reduction	7.15% no \$40K reduction	1,292,901	2,290,395	2,258,102	57%
OTHER	10	Exempt															366,386	507,602	507,602	13%	
	09	State Assessed Property	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	489,533	484,840	484,840	12%	
	06	Natural Resources Property	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	29%	50,096	45,639	45,639	1%	
TOTAL	all	+ Total, all tax classifications															2,982,774	4,492,040	4,472,358	113%	
	10	(-) Exempt															(366,386)	(507,602)	(507,602)	-13%	
		= Total, net of Exempt															2,616,388	3,984,438	3,964,756	100%	

++ and thereafter

* 2023 Tax collections estimated from 2022 Certified Valuations. 2024 Tax collections estimated from preliminary, uncertified May 2023 Valuations

All estimated collections are net of County Treasurer Fees.



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated May 2, 2022)

Drafting Number:	LLS 22-1041	Date:	May 3, 2022
Prime Sponsors:	Sen. Hansen; Rankin Rep. Weissman; Neville	Bill Status:	Senate Second Reading
		Fiscal Analyst:	Greg Sobetski 303-866-4105 Greg.Sobetski@state.co.us

Bill Topic: 2023 & 2024 PROPERTY TAX

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill reduces property tax assessment rates and taxable valuations for the 2023 and 2024 tax years, and requires that the state government reimburse local governments for a portion of the resulting property tax revenue reductions. It decreases local government revenue and increases state expenditures through FY 2024-25, and makes a transfer for FY 2022-23.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill, as amended by the Senate Appropriations Committee, and has been updated to reflect new information. Due to time constraints, this analysis is preliminary and will be updated if any additional information is received.

**Table 1
State Fiscal Impacts Under SB 22-238**

		Budget Year FY 2022-23	Out Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-	-
Expenditures	General Fund	-	\$138,500	-
	School Finance*	-	\$183.0 million	\$73 million
	Total Expenditures	-	\$183.1 million	\$73 million
Transfers	General Fund	(\$200 million)	-	-
	State Public School Fund	\$200 million	-	-
	Net Transfer	\$0	-	-
Other Budget Impacts	GF Reserve	-	\$20,775	-

*Expenditures for the state share of school finance may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these.

Summary of Legislation

The bill makes changes to property tax assessment, requires that a portion of the resulting revenue reduction be reimbursed to local governments, and makes a transfer, as discussed below.

Property tax assessment. The bill makes the following changes to property tax assessment rates for the 2023 property tax year:

- the assessment rate for all **residential** property is reduced to **6.765 percent**, from 6.95 percent for single family property and from 6.80 percent for multifamily property; and
- the assessment rate for **nonresidential** property, other than oil and gas, agricultural, and renewable energy producing property, is reduced to **27.9 percent** from 29.0 percent.

When determining 2023 assessed values, the bill directs assessors to apply assessment rates to the actual value of residential property, less \$15,000, and to the actual value of improved commercial property, less \$30,000, so long as these subtractions do not cause the valuation for assessment of the property to fall below \$1,000.

The bill makes the following changes to property tax assessment rates for the 2024 property tax year:

- the assessment rate for **multifamily residential** property is reduced to **6.80 percent** from 7.15 percent;
- the assessment rate for **agricultural** and **renewable energy producing** property is reduced to **26.4 percent** from 29.0 percent; and
- the assessment rate for **single family residential property** is set at a level to be determined by the state property tax administrator, such that the projected total revenue reduction attributable to the changes in the bill is \$700 million over the 2023 and 2024 property tax years.

Backfill. The bill requires that each county treasurer calculate the 2023 property tax revenue reduction to local governments in their county, other than school districts, as a result of the changes to property tax assessment in the bill. Calculations are submitted to the property tax administrator, who may request additional information to verify their accuracy. Upon receipt of the correct amount for each county, the state treasurer will reimburse local governments as follows:

- for local governments in counties with over 300,000 people, 65 percent of the revenue reduction;
- for local governments in counties with up to 300,000 people and where total assessed values for property taxation grew by at least 10 percent between 2022 and 2023, 90 percent of the revenue reduction; and
- for local governments in counties with up to 300,000 people and where total assessed values for property taxation grew by less than 10 percent between 2022 and 2023, 100 percent of the revenue reduction.

The bill designates the first \$240 million of the backfill above as a TABOR refund mechanism to refund a portion of the state's FY 2022-23 TABOR surplus. The refund mechanism will be used only if the FY 2022-23 surplus is sufficient to first fully fund the current law 2023 property tax exemptions for seniors and disabled veterans, and the income tax rate reduction for tax year 2023. Any backfill required in the bill that exceeds the TABOR refund obligation, or that exceeds the \$240 million limit

on the amount of TABOR refunds to be paid using this mechanism, is paid instead from the General Fund.

Transfer. On July 1, 2022, the bill transfers \$200.0 million from the General Fund to the State Public School Fund.

Assumptions

2023 property tax impact. Based on the December 2021 Legislative Council Staff (LCS) forecast for assessed values, the bill is expected to reduce 2023 assessed values by \$7.8 billion, or 4.9 percent. The reduced assessed values are assumed to reduce property tax revenue for local governments that levy fixed mills, including most counties, municipalities, and special districts. School districts are assumed to experience reductions in revenue generated from their total program mills, as well as from override mills in districts where voters have approved fixed mill overrides.

Some levies are not expected to generate less revenue from reduced assessed values. These include metropolitan district and school district bonded indebtedness mills, which are typically structured to generate a certain amount of revenue regardless of the tax base. School district override mills are assumed not to generate less revenue if the school district is already at its statutory override revenue cap, or where voters have approved overrides to generate fixed dollar amounts or inflation-adjusted dollar amounts.

Based on these assumptions, the bill is expected to reduce 2023 property tax revenue by \$500 million.

2023 backfill. The bill is expected to reduce 2023 property tax revenue to local governments other than school districts by a total of \$276 million. The parameters in the bill are expected to require the state to reimburse local governments for \$203 million, or 74 percent of the total. Based on the March 2022 LCS forecast, the projected FY 2022-23 TABOR surplus is expected to be sufficient to allow the full backfill amount to be refunded as a TABOR refund mechanism, with no impact on FY 2023-24 General Fund expenditures.

2024 residential assessment rate. The bill directs the state property tax administrator to calculate the single family residential assessment rate for property tax year 2024 such that the cumulative revenue reduction over two years as a result of the bill totals \$700 million. Based on the December 2021 LCS forecast and the assumptions stated above, the single family residential assessment rate is expected to be set at 6.922 percent for 2024.

State Transfers

The bill transfers \$200.0 million from the General Fund to the State Public School Fund for FY 2022-23 only.

State Expenditures

The bill increases state expenditures by an estimated \$183.1 million in FY 2023-24 and \$73 million in FY 2024-25, and increases state agency workload, as discussed below.

School finance. The bill decreases property tax collections from school district total program mills, requiring an equivalent increase in the state share of total program funding for school finance. The increased state aid obligation is estimated at \$183 million in FY 2023-24 and \$73 million in FY 2024-25, offsetting equivalent reductions in local share revenues for the 2023 and 2024 property tax years, respectively. School finance expenditures may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these. If the General Assembly sets the budget stabilization factor at a higher level than it otherwise would as a result of the revenue decrease, then the impact on state expenditures will be less than estimated.

Property tax backfill. The bill potentially increases General Fund expenditures in FY 2023-24 to reimburse non-school district local governments for their property tax year 2023 revenue reductions that result from the bill. Under the March 2022 LCS forecast, the FY 2022-23 TABOR surplus is projected to reach \$1.6 billion, sufficient to fully refund the homestead exemptions for seniors and disabled veterans, the income tax rate reduction, and the total amount of the property tax backfill required under this bill. If the FY 2022-23 TABOR surplus is less than estimated, up to the entire backfill amount (approximately \$203 million), will be paid from the General Fund in FY 2023-24.

Division of Property Taxation. General Fund expenditures in the Department of Local Affairs' Division of Property Taxation are expected to increase by \$138,500 in FY 2023-24 only, and division workload is expected to increase through FY 2024-25. Expenditures are for enhancements to the portal used by county treasurers to submit property tax information and will occur in the Office of Information Technology using reappropriated DOLA funds.

The bill requires the property tax administrator to review revenue backfill submissions from county treasurers and calculate the single family residential assessment rate for 2024. The division is also responsible for training and educating assessors and publishing materials used for property valuation and assessment, which will require updates as a result of the bill. This workload increase can be accomplished within existing appropriations.

Other Budget Impacts

FY 2022-23 TABOR refunds. The bill has no net impact on the amount required to be refunded to taxpayers under TABOR, but changes the mechanisms used to refund the projected FY 2022-23 surplus to taxpayers in FY 2023-24. Under current law and the March 2022 LCS forecast, the following mechanisms are expected to be used to refund a \$1.6 billion surplus:

- \$169 million via the homestead exemption for seniors and disabled veterans;
- \$132 million via the temporary income tax rate reduction from 4.55 percent to 4.50 percent; and
- \$1.26 billion via the six-tier sales tax refund mechanism.

Under the bill, \$203 million would be refunded via the property tax reductions in the bill and reimbursed from the state TABOR surplus to affected local governments. The amount refunded via

the six-tier sales tax refund mechanism would be correspondingly reduced by \$203 million to \$1.06 billion.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by \$20,775 in FY 2023-24, which will decrease the amount of General Fund available for other purposes.

Local Government

The bill decreases local government revenue and increases county government expenditures through FY 2024-25 as discussed below. All local governments that levy property taxes, including counties, municipalities, school districts, and special districts, are affected.

Local revenue. The bill is expected to decrease local government revenue by net amounts of \$114 million for property tax year 2023 and \$127 million for property tax year 2024. These amounts represent the net impacts of reduced property tax revenue, increased state aid to school districts, and the state reimbursement to local governments as required in the bill. These three components are summarized in Table 2.

Table 2
Local Government Revenue Impacts of SB 22-238

	FY 2023-24 <i>Property Tax Year 2023 Collected in 2024</i>	FY 2024-25 <i>Property Tax Year 2024 Collected in 2025</i>
Property Tax Revenue	(\$500 million)	(\$200 million)
School Districts – State Aid	\$183 million	\$73 million
State Backfill to Other Locals*	\$203 million	-
Net Revenue Impact	(\$114 million)	(\$127 million)

**Reimbursements to counties, municipalities, and special districts only.*

Property tax revenue. Estimates of the property tax revenue reduction assume the December 2021 LCS forecast for assessed valuations by school district, prorated to counties according to each school district’s share of county assessed valuation for the 2021 property tax year. The fiscal note assumes weighted average mill levies by county for the 2020 property tax year published in the Division of Property Taxation’s annual report, except that school district total program mills are adjusted where required under current law enacted in House Bill 21-1164. As discussed in the Assumptions section of this fiscal note, revenue reductions are shown for:

- all county mills;
- all municipal mills;
- all special district mills, except those levied by metropolitan districts;
- school district total program mills; and
- school district override mills in districts where voters have approved fixed mill overrides, except in districts where override revenue is constrained by the statutory override revenue cap.

The bill is assessed as reducing property tax revenue to local governments by \$500 million for the 2023 property tax year. Appendix A shows the impacts to all local governments that assess property taxes, summarized at the county level.

The bill requires that the property tax administrator set the single family residential assessment rate for 2024 at the level projected to result in a \$700 million revenue reduction over the two-year period. Accordingly, a smaller-than-expected reduction in 2023 property tax revenue would result in a correspondingly larger reduction in 2024 property tax revenue, and vice-versa.

State aid to school districts. Table 2 shows the state aid requirement expected to result from reduced school district local share revenue. This amount corresponds to the expected state expenditure for school finance discussed in the State Expenditures section above. If the General Assembly sets the budget stabilization factor at a higher level than it otherwise would in response to the property tax revenue reduction in this bill, then state aid revenue to school districts will be less than estimated. Impacts on total program funding and the state aid requirement are shown by school district in Appendix B.

State backfill to other local governments. The bill requires that the state government reimburse county treasurers for the 2023 property tax revenue reduction experienced by local governments other than school districts. The total amount of the backfill for all districts is estimated at \$203 million and is determined at the county level.

- Nine counties are projected to have populations over 300,000 and receive a 65 percent backfill, including: Adams; Arapahoe; Boulder; Denver; Douglas; El Paso; Jefferson; Larimer; and Weld.
- Ten counties with population under 300,000 are projected to experience assessed value growth over 10 percent in 2023 after the changes to property tax assessment in this bill and receive a 90 percent backfill, including: Chaffee; Eagle; Elbert; Grand; Gunnison; Lake; Montrose; Park; San Miguel; and Summit.
- The remaining 45 counties have population under 300,000 and are projected to experience assessed value growth under 10 percent in 2023 after the changes to property tax assessment in this bill. These counties are expected to receive a 100 percent backfill for the tax reductions experienced by their local governments other than school districts.

Appendix A summarizes the backfill by county. The backfill amounts shown in Appendix A differ from the revenue reduction estimates, even for counties expected to receive a full backfill, because reduced revenue to school districts is not reimbursed in this way.

County government expenditures. The bill increases workload for county assessors' offices to implement and administer the property assessment changes in the bill, and for county treasurers' offices to calculate, report, and distribute the backfill to affected local governments within their counties. Some costs will be incurred to accomplish software modifications, likely \$10,000 or less per instance.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Counties

Information Technology

Local Affairs

Property Taxation

Special Districts

County Assessors

Legislative Council Staff Economists

Municipalities

School Districts

Treasury

Appendix A
2023 Revenue Reduction and Backfill by County Under SB 22-238
Revenue Reduction to All Local Governments in County
Backfill to All Local Governments in County, Except School Districts
Omits State Aid to School Districts (See Appendix B)

County	2023 Revenue Reduction	Backfill Percentage	State Backfill
Adams	(\$43.9 million)	65%	\$17.3 million
Alamosa	(\$1.1 million)	100%	\$0.6 million
Arapahoe	(\$46.2 million)	65%	\$17.0 million
Archuleta	(\$1.6 million)	100%	\$1.1 million
Baca	(\$0.5 million)	100%	\$0.3 million
Bent	(\$0.4 million)	100%	\$0.3 million
Boulder	(\$34.6 million)	65%	\$13.3 million
Broomfield	(\$8.2 million)	100%	\$5.2 million
Chaffee	(\$2.0 million)	90%	\$0.8 million
Cheyenne	(\$0.1 million)	100%	\$0.1 million
Clear Creek	(\$1.0 million)	100%	\$0.8 million
Conejos	(\$0.5 million)	100%	\$0.3 million
Costilla	(\$0.5 million)	100%	\$0.2 million
Crowley	(\$0.3 million)	100%	\$0.2 million
Custer	(\$0.6 million)	100%	\$0.4 million
Delta	(\$2.1 million)	100%	\$1.3 million
Denver	(\$66.7 million)	65%	\$20.3 million
Dolores	(\$0.2 million)	100%	\$0.1 million
Douglas	(\$28.4 million)	65%	\$10.9 million
Eagle	(\$9.1 million)	90%	\$5.1 million
Elbert	(\$2.0 million)	90%	\$1.2 million
El Paso	(\$44.8 million)	65%	\$9.7 million
Fremont	(\$3.0 million)	100%	\$1.5 million
Garfield	(\$4.2 million)	100%	\$3.2 million
Gilpin	(\$0.8 million)	100%	\$0.6 million
Grand	(\$3.0 million)	90%	\$1.9 million
Gunnison	(\$2.7 million)	90%	\$1.6 million
Hinsdale	(\$0.2 million)	100%	\$0.1 million
Huerfano	(\$0.8 million)	100%	\$0.6 million
Jackson	(\$0.1 million)	100%	\$0.1 million
Jefferson	(\$61.8 million)	65%	\$19.6 million
Kiowa	(\$0.1 million)	100%	\$0.1 million
Kit Carson	(\$0.9 million)	100%	\$0.6 million
Lake	(\$1.2 million)	90%	\$0.8 million
La Plata	(\$2.5 million)	100%	\$1.8 million
Larimer	(\$31.8 million)	65%	\$11.6 million
Las Animas	(\$0.7 million)	100%	\$0.4 million
Lincoln	(\$0.5 million)	100%	\$0.3 million
Logan	(\$1.5 million)	100%	\$0.9 million
Mesa	(\$8.4 million)	100%	\$4.4 million

Appendix A (cont.)
2023 Revenue Reduction and Backfill by County Under SB 22-238
Revenue Reduction to All Local Governments in County
Backfill to All Local Governments in County, Except School Districts
Omits State Aid to School Districts (See Appendix B)

County	2023 Revenue Reduction	Backfill Percentage	State Backfill
Mineral	(\$0.2 million)	100%	\$0.1 million
Moffat	(\$1.4 million)	100%	\$0.8 million
Montezuma	(\$1.3 million)	100%	\$0.7 million
Montrose	(\$3.6 million)	90%	\$2.1 million
Morgan	(\$2.8 million)	100%	\$1.7 million
Otero	(\$1.0 million)	100%	\$0.6 million
Ouray	(\$0.6 million)	100%	\$0.4 million
Park	(\$2.2 million)	90%	\$1.4 million
Phillips	(\$0.5 million)	100%	\$0.3 million
Pitkin	(\$5.9 million)	100%	\$4.3 million
Prowers	(\$0.8 million)	100%	\$0.5 million
Pueblo	(\$13.7 million)	100%	\$8.1 million
Rio Blanco	(\$0.9 million)	100%	\$0.8 million
Rio Grande	(\$1.0 million)	100%	\$0.5 million
Routt	(\$3.2 million)	100%	\$2.5 million
Saguache	(\$2.5 million)	100%	\$2.4 million
San Juan	(\$0.2 million)	100%	\$0.1 million
San Miguel	(\$1.9 million)	90%	\$1.4 million
Sedgwick	(\$0.3 million)	100%	\$0.2 million
Summit	(\$6.4 million)	90%	\$4.4 million
Teller	(\$2.0 million)	100%	\$1.3 million
Washington	(\$0.4 million)	100%	\$0.3 million
Weld	(\$27.4 million)	65%	\$11.4 million
Yuma	(\$0.9 million)	100%	\$0.6 million
Total	(\$500.1 million)		\$203.3 million

Appendix B
2023 Change in Local Share of School Finance Under SB 22-238
Total Program Mills Only; Omits Override Mills
Reduced Local Share Revenue is Backfilled by an Equivalent State Aid Increase

School District	2023 Local Share Reduction	School District	2023 Local Share Reduction
Academy	(\$4.27 million)	Durango	(\$0.68 million)
Agate	(\$0.02 million)	Eads	(\$0.03 million)
Aguilar	(\$0.02 million)	Eagle County	(\$2.14 million)
Akron	(\$0.08 million)	East Grand	(\$0.69 million)
Alamosa	(\$0.42 million)	East Otero	(\$0.25 million)
Archuleta County	(\$0.63 million)	Eaton	(\$0.28 million)
Arickaree	(\$0.02 million)	Edison	(\$0.01 million)
Arriba-Flagler	(\$0.04 million)	Elbert	(\$0.03 million)
Aspen	(\$0.61 million)	Elizabeth	(\$0.44 million)
Ault-Hiland	(\$0.25 million)	Ellicott	(\$0.07 million)
Aurora	(\$6.25 million)	Englewood	(\$1.03 million)
Bayfield	(\$0.11 million)	Estes Park	(\$0.61 million)
Bennett	(\$0.23 million)	Falcon	(\$2.38 million)
Bethune	(\$0.01 million)	Florence	(\$0.21 million)
Big Sandy	(\$0.04 million)	Fountain	(\$0.30 million)
Boulder Valley	(\$10.99 million)	Fowler	(\$0.05 million)
Branson	(\$0.02 million)	Frenchman	(\$0.05 million)
Briggsdale	(\$0.02 million)	Fort Lupton	(\$0.39 million)
Brighton	(\$3.41 million)	Fort Morgan	(\$0.59 million)
Brush	(\$0.36 million)	Genoa-Hugo	(\$0.03 million)
Buena Vista	(\$0.35 million)	Gilcrest	(\$0.26 million)
Buffalo	(\$0.03 million)	Gilpin County	(\$0.11 million)
Burlington	(\$0.21 million)	Granada	(\$0.01 million)
Byers	(\$0.07 million)	Greeley	(\$3.47 million)
Calhan	(\$0.08 million)	Grover	(\$0.02 million)
Campo	(\$0.01 million)	Gunnison	(\$0.81 million)
Cañon City	(\$0.82 million)	Hanover	(\$0.02 million)
Centennial (Costilla County)	(\$0.06 million)	Harrison	(\$0.92 million)
Center	(\$0.07 million)	Haxtun	(\$0.05 million)
Cheraw	(\$0.01 million)	Hayden	(\$0.14 million)
Cherry Creek	(\$8.32 million)	Hinsdale County	(\$0.08 million)
Cheyenne County	(\$0.02 million)	Hi Plains	(\$0.03 million)
Cheyenne Mountain	(\$0.87 million)	Hoehne	(\$0.06 million)
Clear Creek	(\$0.27 million)	Holly	(\$0.05 million)
Colorado Springs	(\$5.30 million)	Holyoke	(\$0.12 million)
Commerce City	(\$1.58 million)	Huerfano County	(\$0.23 million)
Cotopaxi	(\$0.13 million)	Idalia	(\$0.01 million)
Creede	(\$0.09 million)	Ignacio	(\$0.02 million)
Cripple Creek	(\$0.19 million)	Jefferson County	(\$18.50 million)
Crowley County	(\$0.08 million)	Johnstown-Milliken	(\$0.46 million)
DeBeque	(\$0.01 million)	Julesburg	(\$0.07 million)
Deer Trail	(\$0.06 million)	Karval	(<\$0.01 million)
Del Norte	(\$0.16 million)	Keenesburg	(\$0.40 million)
Delta	(\$0.88 million)	Kim	(\$0.01 million)
Denver	(\$31.77 million)	Kiowa (Elbert County)	(\$0.05 million)
Dolores County	(\$0.06 million)	Kit Carson (Lincoln County)	(\$0.01 million)
Dolores (Montezuma County)	(\$0.12 million)	Lake County	(\$0.41 million)
Douglas County	(\$11.97 million)	Lamar	(\$0.21 million)

Appendix B (cont.)
2023 Change in Local Share of School Finance Under SB 22-238
Total Program Mills Only; Omits Override Mills
Reduced Local Share Revenue is Backfilled by an Equivalent State Aid Increase

School District	2023 Local Share Reduction	School District	2023 Local Share Reduction
Las Animas (Bent County)	(\$0.10 million)	Pueblo County	(\$1.75 million)
La Veta	(\$0.10 million)	Rangely	(\$0.02 million)
Lewis-Palmer	(\$1.17 million)	Ridgway	(\$0.12 million)
Liberty	(\$0.01 million)	Rifle	(\$0.18 million)
Limon	(\$0.13 million)	Roaring Fork	(\$1.77 million)
Littleton	(\$3.25 million)	Rocky Ford	(\$0.11 million)
Lone Star	(\$0.02 million)	Salida	(\$0.42 million)
Mancos	(\$0.08 million)	Sanford	(\$0.02 million)
Manitou Springs	(\$0.26 million)	Sangre de Cristo	(\$0.04 million)
Manzanola	(\$0.01 million)	Sargent	(\$0.07 million)
Mapleton	(\$1.57 million)	Sheridan	(\$0.43 million)
McClave	(\$0.02 million)	Sierra Grande	(\$0.13 million)
Meeker	(\$0.10 million)	Silverton	(\$0.05 million)
Mesa Valley	(\$4.34 million)	South Conejos	(\$0.07 million)
Miami-Yoder	(\$0.04 million)	South Routt	(\$0.09 million)
Moffat County	(\$0.56 million)	Springfield	(\$0.08 million)
Moffat (Saguache County)	(\$0.09 million)	Steamboat Springs	(\$0.51 million)
Monte Vista	(\$0.17 million)	Strasburg	(\$0.16 million)
Montezuma County	(\$0.37 million)	Stratton	(\$0.03 million)
Montrose County	(\$1.33 million)	St. Vrain	(\$6.09 million)
Mountain Valley	(\$0.05 million)	Summit County	(\$1.46 million)
North Conejos	(\$0.07 million)	Swink	(\$0.05 million)
Northglenn-Thornton	(\$5.95 million)	Telluride	(\$0.33 million)
North Park (Jackson County)	(\$0.07 million)	Thompson	(\$3.95 million)
Norwood	(\$0.01 million)	Trinidad	(\$0.18 million)
Otis	(\$0.03 million)	Valley (Logan County)	(\$0.48 million)
Ouray	(\$0.11 million)	Vilas	(\$0.01 million)
Parachute	(\$0.03 million)	Walsh	(\$0.03 million)
Park County	(\$0.32 million)	Weldon	(\$0.06 million)
Peyton	(\$0.08 million)	Westcliffe	(\$0.23 million)
Plainview	(\$0.01 million)	West End (Montrose County)	(\$0.03 million)
Plateau (Logan County)	(\$0.04 million)	West Grand	(\$0.09 million)
Plateau Valley (Mesa County)	(\$0.04 million)	Westminster	(\$1.57 million)
Platte Canyon	(\$0.27 million)	Widefield	(\$1.05 million)
Platte Valley (Sedgwick County)	(\$0.04 million)	Wiggins	(\$0.13 million)
Platte Valley (Weld County)	(\$0.06 million)	Wiley	(\$0.03 million)
Poudre	(\$6.93 million)	Windsor	(\$1.59 million)
Prairie	(\$0.01 million)	Woodland Park	(\$0.61 million)
Primero	(\$0.01 million)	Woodlin	(\$0.03 million)
Pritchett	(\$0.03 million)	Wray	(\$0.11 million)
Pueblo City	(\$2.82 million)	Yuma	(\$0.14 million)
Total		(\$183.2 million)	



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated May 5, 2023)

Drafting Number:	LLS 23-0305	Date:	May 6, 2023
Prime Sponsors:	Sen. Fenberg; Hansen Rep. deGruy Kennedy; Weissman	Bill Status:	House Second Reading
		Fiscal Analyst:	David Hansen 303-866-2633 david.hansen@coleg.gov

Bill Topic: REDUCE PROPERTY TAXES & VOTER-APPROVED REVENUE CHANGE

Summary of Fiscal Impact:	<input type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill refers a ballot measure to voters at the November 2023 election and changes the treatment of property tax backfill payments to consolidated city and county governments under Senate Bill 22-238. All other provisions of the bill take effect only with approval of the ballot measure. With voter approval, the bill imposes a local government property tax revenue limit and reduces certain property assessment rates, among other changes. It increases state expenditures, makes transfers, allows the state to retain a portion of excess state revenues and reduces TABOR refunds, reduces local property tax revenues on net, and increases local expenditures.

Appropriation Summary: For FY 2023-24, the bill conditionally requires and includes appropriations of \$94.3 million to multiple agencies. See State Appropriations section.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill, as amended by the House Appropriations Committee.

**Table 1
Conditional State Fiscal Impacts Under SB 23-303**

		Budget Year FY 2023-24	Out Year FY 2024-25	Out Year FY 2025-26
Revenue		-	-	-
Expenditures	General Fund	\$0.1 million	\$0.2 million	\$0.1 million
	Prop HH GF Exempt Account	-	\$25.0 million	\$53.8 million
	School Finance ¹	\$94.2 million	\$278.2 million	\$350.7 million
	Local Gov't Backfill Cash Fund	-	\$128.0 million	-
	Centrally Appropriated	-	\$0.01 million	\$0.03 million
	Total Expenditures	\$94.3 million	\$431.4 million	\$404.6 million
	Total FTE	-	0.4 FTE	1.8 FTE

Table 1
Conditional State Fiscal Impacts Under SB 23-303 (Cont.)

		Budget Year FY 2023-24	Out Year FY 2024-25	Out Year FY 2025-26
Transfers	General Fund	(\$200.0 million)	-	-
	Prop HH GF Exempt Account	-	(\$141.6 million)	(\$304.8 million)
	Local Gov't Backfill Cash Fund	\$128.0 million	-	-
	State Public School Fund	\$72.0 million	-	-
	State Education Fund		\$141.6 million	\$304.8 million
	Net Transfer		\$0	\$0
Other Impacts	TABOR Refunds ²	(\$166.6 million)	(\$358.6 million)	<i>not estimated</i>
	General Fund Reserve	\$0.03 million	\$0.01 million	\$0.02 million

¹ Expenditures for the state share of school finance may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these.

² The amounts shown on this line represent decreased TABOR refund obligations for FY 2023-24 and FY 2024-25 if Proposition HH is approved by voters. For the FY 2022-23 TABOR obligation refunded in tax year 2023, the bill refunds an additional \$94.3 million via property tax reimbursements, reducing the six-tier sales tax refund by an equal amount.

Summary of Legislation

The bill refers a ballot measure (“Proposition HH”) to voters at the November 2023 election. Additionally, the bill directs that consolidated city and county entities must be treated as counties instead of cities when determining their backfill for lost 2023 property tax revenue under Senate Bill 22-238.

Proposition HH

Conditional on voter approval, Proposition HH makes changes to property tax law including changes to assessment rates, valuations, classification, deadlines for administering property taxes for the 2023 property tax year, and local government reimbursements. The measure implements a local property tax revenue limit, creates a new cash fund, makes transfers, allows the state to retain more state revenue through at least FY 2031-32, and modifies TABOR refund mechanisms. A more detailed summary of Proposition HH is included below.

Proposition HH cap. If voters approve the ballot measure, the bill allows the state to retain and spend revenue in excess of the current law limit (“Referendum C cap”). With voter approval, the bill creates a new limit (“Proposition HH cap”).

The Proposition HH cap is calculated like the Referendum C cap, which is adjusted annually for inflation, population growth, qualification and disqualification of enterprises, and debt service changes. In addition to these adjustments, the Proposition HH cap includes an additional growth factor of 1 percentage point per year. For example:

- the FY 2023-24 Proposition HH cap is calculated based on the FY 2022-23 Referendum C cap, adjusted for inflation, population growth, qualification and disqualification of enterprises, debt service changes, and the 1 percentage point additional growth factor; and

- the FY 2024-25 Proposition HH cap, and the cap for subsequent years through FY 2031-32, is equal to the prior year's Proposition HH cap, adjusted for the same factors, including an additional 1 percentage point growth factor each year.

The property assessment reductions in the bill apply through tax year 2032. Beginning in FY 2032-33, the Proposition HH cap is set to the level of the Referendum C cap unless the General Assembly acts to extend the assessment rate reductions that apply for tax year 2031, or acts to reduce property assessments in a different way that accomplishes an equal or greater reduction in assessed values.

Revenue retained in excess of the Referendum C cap, up to the Proposition HH cap, is deposited in a newly-created Proposition HH General Fund Exempt Account. Revenue in the account is first used to reimburse local governments ("backfill") for their lost property tax revenue as a result of the assessment rate and value reductions in this bill and in Senate Bill 22-238. Lost property tax revenue that results from reduced mill levies, for example as a result of the local property tax limit in this bill, are not reimbursed. Any retained amount remaining after reimbursements are paid is transferred annually to the State Education Fund. Money transferred to the fund must not supplant General Fund appropriations for school finance.

Local property tax limit. The bill creates a limit for local property taxes beginning in property tax year 2023, excluding school districts and home rule cities and counties, unless the district adopts a resolution or ordinance to exceed it. Under the bill, growth in revenue is limited to the rate of inflation in the Denver-Aurora-Lakewood Consumer Price Index over the prior year's property tax revenue. The bill includes several exceptions when calculating the limit including revenue from new construction, changes in classification, annexations, refunds, oil and gas, producing mines, and for bonds and other contractual obligations.

In order to exceed the limit, a local government must provide notice, conduct a public hearing, and hear public testimony before adopting a resolution or ordinance. If a local government exceeds the limit without following the required process, that local government is required to refund the excess amount to taxpayers.

Property tax assessment for residential property. The bill makes temporary assessment rate reductions for residential property classes and expands reductions in valuation. Table 2 presents residential assessments under SB 23-303 and compares these assessments to those in current law. Under both current law and the bill, a dollar amount set in statute may be subtracted from a property's market valuation before application of the assessment rate.

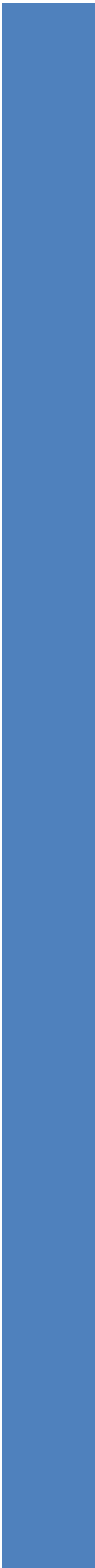
Table 2
Residential Property Assessment Under SB 23-303
Amounts in italics show changes from current law

Property Tax Year	2023	2024	2025-2032	2033 and later
Owner-Occupied Primary Residence	6.7% after \$40,000 reduction <i>from 6.765% after \$15,000 reduction</i>	6.7% after \$40,000 reduction <i>from 6.976%* for single family, 6.8% for multifamily</i>	6.7% after \$40,000 reduction <i>from 7.15%</i>	7.15% <i>unchanged</i>
Senior Owner-Occupied Primary Residence	6.7% after \$40,000 reduction <i>from 6.765% after \$15,000 reduction</i>	6.7% after \$40,000 reduction <i>from 6.976%* for single family, 6.8% for multifamily</i>	6.7% after \$140,000 reduction <i>from 7.15%</i>	7.15% <i>unchanged</i>
Other Multifamily	6.7% after \$40,000 reduction <i>from 6.765% after \$15,000 reduction</i>	6.7% after \$40,000 reduction <i>from 6.8%</i>	6.7% after \$40,000 reduction <i>from 7.15%</i>	7.15% <i>unchanged</i>
Other Residential	6.7% after \$40,000 reduction <i>from 6.765% after \$15,000 reduction</i>	6.7% after \$40,000 reduction <i>from 6.976%*</i>	6.7% <i>from 7.15%</i>	7.15% <i>unchanged</i>

* Current law requires the Property Tax Administrator to determine the 2024 assessment rate for residential property other than multifamily property so as to accomplish a cumulative \$700 million property tax reduction attributable to Senate Bill 22-238 over the 2023 and 2024 property tax years. The December 2022 LCS forecast projected this rate at 6.976%. SB 23-303 repeals this requirement.

Residential real property subclasses. The bill creates a two new subclasses of residential property for owner-occupied primary residences and qualified-senior primary residences. The new subclasses are effective beginning with the 2025 property tax year. In order to qualify for the new subclasses property owners must complete and file an application with their local county assessor.

Property tax assessment for nonresidential property. The bill makes temporary assessment rate reductions for most nonresidential property classes. Table 3 presents nonresidential assessments under SB 23-303 and compares these assessments to those in current law.





BOARD COMMUNICATION FORM

From: Karina Craig

Date: 10/19/22

Item: Upper Yampa Water Conservancy District Tax Discussion

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

Approximately 70% of the Upper Yampa Water Conservancy District (UYWCD) annual revenues come from the UYWCD's 1.82 mill property tax levy. The purpose of this item is to give the UYWCD Board of Directors an opportunity to discuss the implications to the UYWCD and its finances that may occur as a result of changes to UYWCD property tax revenues occurring over the next few years.

II. Summary and Alternatives:

The State of Colorado establishes the parameters for valuation and taxation of Real, Personal, State Assessed and Natural Resources Property. The UYWCD levies taxes on certain Real, State Assessed and Natural Resources Property.

Real Properties valuations and corresponding collections are on a cycle that generally encompasses 5.5 years, with the first day of a 24-month property valuation period starting on July 1 of year 0, and the resulting accrued collections ending on December 31 of year 5.

- For Routt and Moffat counties, a 24-month long valuation period of Real Property started on July 1, 2020 and ended on June 30, 2022. The resulting valuations are the basis for December 2023 and 2024 mill levy certifications and 2024 - 2025 fiscal year property tax collections. 2023 is a reassessment year and 2024 is an intervening year. **2020 to 2022 property values determine 2024-2025 fiscal years property tax collections.**
- For Routt and Moffat counties the 24-month long valuation period of Real Property started on July 1, 2022 and will end on June 30, 2024. The resulting valuations will be the basis for December 2025 and 2026 mill levy certifications and 2026 - 2027 fiscal year collections. 2025 is a reassessment year and 2026 is an intervening year. **2022 to 2024 property values determine 2026-2027 fiscal years property tax collections.**



State Assessed and **Natural Resources Property** are valued annually, and valuation is based on the prior year's income and the price of the production and the property.

The UYWCD preliminary 2023 budget draft currently includes:

- 2023 UYWCD total tax collections based on preliminary valuations are approximately 70% of annual UYWCD revenues.
- Tax levies are a significant funding source for UYWCD facilities.

A Memorandum detailing the UYWCD's Mill Levy and Tax Valuation process, including preliminary estimates for UYWCD Revenue Sources by Property Classification for 2023, and some expected changes to UYWCD tax revenues in the near future is attached with this communication.

III. Staff Recommendation:

NA

IV. Legal Issues: Compliance with Budget statutory requirements per Colorado Revised Statutes (C.R.S. 29-1-105, C.R.S. 29-1-106 (1), C.R.S. 29-1-108 (2) and (3), C.R.S. 39-5-128(1) and C.R.S. 29-1-113(1).

V. Consistency with Board Goals and Policies: UYWCD By-Laws and Strategic Plan Objective 3.

Attachments:

Attachment 1: Memorandum on Upper Yampa Water Conservancy District Tax Discussion.



MEMORANDUM

From: Karina Craig, Accountant, and Andy Rossi, General Manager

Date: October 19, 2022

Item: Upper Yampa Water Conservancy District Property Tax Discussion

_____ DIRECTION
 X INFORMATION
_____ MOTION
_____ RESOLUTION

Background

Approximately 70% of the Upper Yampa Water Conservancy District (UYWCD) annual revenues come from the UYWCD's 1.82 mill property tax levy. The purpose of this memorandum is to give the UYWCD Board of Directors an opportunity to discuss the implications to the UYWCD and its finances that may occur as a result of changes to UYWCD property tax revenues occurring over the next few years.

The Taxpayer's Bill of Rights

The Taxpayer's Bill of Rights (TABOR) is an amendment to the Constitution of the State of Colorado that was approved by voters in 1992. It contains tax spending, revenue and debt limitations which apply to the State of Colorado and all local governments, with certain exceptions.

TABOR requires advance voter approval for any new tax, tax rate increase and mill levy above that from the prior year. TABOR establishes a cap formula where the revenue limit is approximately equal to the prior fiscal year's limit plus the rate of inflation and population growth. It also requires that excess revenue be refunded to taxpayers.

"Debrucing" Across Colorado

TABOR applies to all governments and taxing districts in Colorado, no matter how big or small. With caps and inflation adjustments effecting limits on revenues independent of growing economic demands, exception from certain TABOR provisions can be appealing to constituencies. The question of either eliminating or changing the revenue cap has been presented voters numerous times.

The name of the individual who championed TABOR in 1992 was Doug *Bruce*. Therefore, the term "debrucing" refers to the act of eliminating the revenue cap, allowing a government to retain and use all the revenue it collects.



Many Colorado counties, municipalities, school districts and local governments are now “debruced.” **The UYWCD “debruced” in 1999.**

Assessment Rates and Gallagher Amendment

Colorado real estate property tax rates, or the mechanism to calculate them, were historically determined by the State Constitution.

The assessment rate for both residential and non-residential property prior to 1982 was 30%. In the 1970s, Colorado experienced a period of rapid demographic growth along with increasing residential values and property taxes. In response to these changes, the Gallagher Amendment passed in 1982.

The purpose of the Gallagher Amendment was to stabilize the tax burden on residential property. This constitutional amendment also simplified the methodology to assess property values, eliminated certain nuisance taxes, and it set a fixed ratio of 45:55 for the residential to non-residential tax base ratio.

Assessors reported all taxable property within their county boundaries to the Administrator, at the Division of Property Division, in the Department of Local Affairs (DOLA). Based on this report, the DOLA Administrator proposed a Residential Assessment Rate (RAR) tax rate to the Colorado General Assembly.

The Gallagher Amendment functioned like a balancing scale. The fixed 45:55 contribution ratio meant that when residential values went up, or when non-residential values went down, or when both occurred, the RAR went down.

Over the years that followed the Gallagher amendment, the rising residential property values outpaced the growth of value of other property types. Eventually, residential property made up 80% of the total assessed value of all property statewide. Thus, while the non-residential rate was 29% in 2020, the residential property tax rate had changed from 21% in 1982 to 7.15% in 2020.

Within the frame of the 45:55 Gallagher ratio, the combination of increased residential and decreased non-residential values resulted in the DOLA Administrator forecasting a proposed RAR of 5.88% to the Colorado General Assembly for the 2021 reassessment year.

This RAR of 5.88% would have represented an 18% loss of property tax revenues for the 2022-2023 fiscal years. As dictated by the State Constitution the multimillion-dollar shortfall would have to be partially backfilled by the state, further exacerbating the decrease in state revenues caused by the pandemic.

In 2020 state legislators approved a ballot initiative to repeal the Gallagher Amendment, proposing to initially maintain the 7.15% and 29% residential and non-residential rates, respectively. The repeal also established that there would be no assessment rates in the State Constitution, but solely by statutes. Voters passed the repeal.

In recent years, rates were established for a two-year period and modified only a year later, in response to changing economic conditions. A summary of assessment rates for real property as proposed by the DOLA Administrator and as currently established through various Senate Bills for collection years 2023 through 2026 is provided in **Table 2**.



Table 2

Property Tax Assessment Rate Changes pursuant to [SB22-238](#)
May 3, 2022

Type of Property		Assessment Rates – For property tax years 2022 (payable in 2023) Created under SB21-293	Assessment Rates – For property tax year 2023 (payable in 2024) Created under SB22-238	Assessment Rates – For property tax year 2024 (payable in 2025) Created under SB22-238	Assessment Rates – For property tax year 2025 (payable in 2026) & thereafter
Non-residential	Hotels, motels and B &Bs – 'lodging properties'	29%	27.9% (Exempt first \$30,000 of Actual Value)	29%	29%
	Renewable Energy Production	26.4%	26.4%	26.4%	29%
	Agricultural Property	26.4%	26.4%	26.4%	29%
	Commercial, Vacant, Industry	29%	27.9% (Exempt first \$30,000 of Actual Value)	29%	29%
	Oil & Gas	87.5%	87.5%	87.5%	87.5%
Residential	Multi-family housing (i.e. apartments)	6.80%	6.765% (Exempt first \$15,000 of Actual Value)	6.8%	7.15%
	All other residential property	6.95%	6.765% (Exempt first \$15,000 of Actual Value)	TBD (set at a level to hit a total revenue reduction over the 2023 & 2024 property tax years of \$700 million)	7.15%

Backfill for Property Tax Year 2023 & 2024 (3 tiers):

1.) Local governments in counties with over 300,000 people will be made whole for 65% of their lost revenue.

9 counties: Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Jefferson, Larimer and Weld

2.) Local governments in counties with a.) under 300,000 people and b.) an assessed valuation growth of over 10% will be made whole for 90% of their lost revenue.

10 counties: Chaffee, Eagle, Elbert, Grand, Gunnison, Lake, Montrose, Park, San Miguel and Summit

3.) Local governments in counties with a.) under 300,000 and b.) an assessed valuation growth of under 10% will be made whole for 100% of their lost revenue.

Remaining 45 counties



Property Tax Calculations in Practice

Tax calculations for real property consist of several components including:

- Property Classification
- Actual value of the property
- Assessment Rate
- Assessed Value
- Tax Rate (mill levy)

When analyzing tax revenues in aggregate, assessment rates, mill levies, property valuation cycles and trends, are factors to consider.

UYWCD Tax Levies

New tax levies are established for individual taxing authorities through approval from voters at public elections.

A Tax Levy is the amount of dollars per \$1,000 of valuation for assessed property.

A mill is 1/10 of one cent, or \$1 of revenue for each \$1,000 of assessed property.

Every year, taxing authorities determine the revenue needed and allowed under the law to provide services the following year. Mill levies are certified accordingly, every December.

The UYWCD's mill levy history is shown in **Table 1**.

Table 1

Year	UYWCD Mill Levy
1966-1973	0.200
1974	0.150
1975	0.130
1976	0.700
1977	0.500
1978	0.770
1979-1981	1.000
1982-1983	0.900
1984	1.376
1985	1.900
1986-1990	2.000
1991	2.500
1992	2.250
1993-1994	2.000
1995-present	1.820



Process of Valuation and Taxation of Property

The State establishes the parameters for valuation and taxation of Real, Personal, State Assessed and Natural Resources Property. The UYWCD levies taxes on certain Real, State Assessed and Natural Resources Property.

Real Properties valuations and corresponding collections are on a cycle that generally encompasses 5.5 years, with the first day of a 24-month property valuation period starting on July 1 of year 0, and the resulting accrued collections ending on December 31 of year 5.

- For Routt and Moffat counties, a 24-month valuation period of Real Property started on July 1, 2020 and ended on June 30, 2022. The resulting valuations are the basis for December 2023 and 2024 mill levy certifications and 2024 - 2025 fiscal year property tax collections. 2023 is a reassessment year and 2024 is an intervening year. **2020 to 2022 property values determine 2024-2025 fiscal years property tax collections.**
- For Routt and Moffat counties the next 24-month valuation period of Real Property started on July 1, 2022 and will end on June 30, 2024. The resulting valuations will be the basis for December 2025 and 2026 mill levy certifications and 2026 - 2027 fiscal year collections. 2025 is a reassessment year and 2026 is an intervening year. **2022 to 2024 property values determine 2026-2027 fiscal years property tax collections.**

State Assessed and Natural Resources Property are valued annually, and valuation is based on the prior year's income and the price of the production and the property.

The valuation, assessment, certification, and collection schedules pertaining the UYWCD – Real, State Assessed and Natural Resources Property - are illustrated in **Figure 2**.

UYWCD Revenue Sources by Property Classification, preliminary estimates for 2023

Every January 1, County assessors classify property according to its actual use.

Based on Property Classification and Property Value, assessors apply the appropriate Assessment Rates and calculate the Total Assessed Valuations for each local government within county boundaries.

Assessors provide Preliminary Assessed Valuations to taxing entities every August, and Final Assessed Valuations every December. Taxing entities use the preliminary and final Assessed Valuations to prepare their preliminary and final annual budgets, respectively.

The preliminary August 2022 Assessed Valuations subject to UYWCD tax levies in Moffat and Routt counties for 2023 fiscal year collections, are shown in **Figures 3 & 4 and Tables 3 & 4**. The relative contribution by Property Classification is provided for each county.

The **State Assessed Property** classification represents **88.76%** of UYWCD Net Assessed Valuations in **Moffat County**.

Residential and Commercial Real Property combined represent **76.77%** of UYWCD Net Assessed Valuations in **Routt County**.

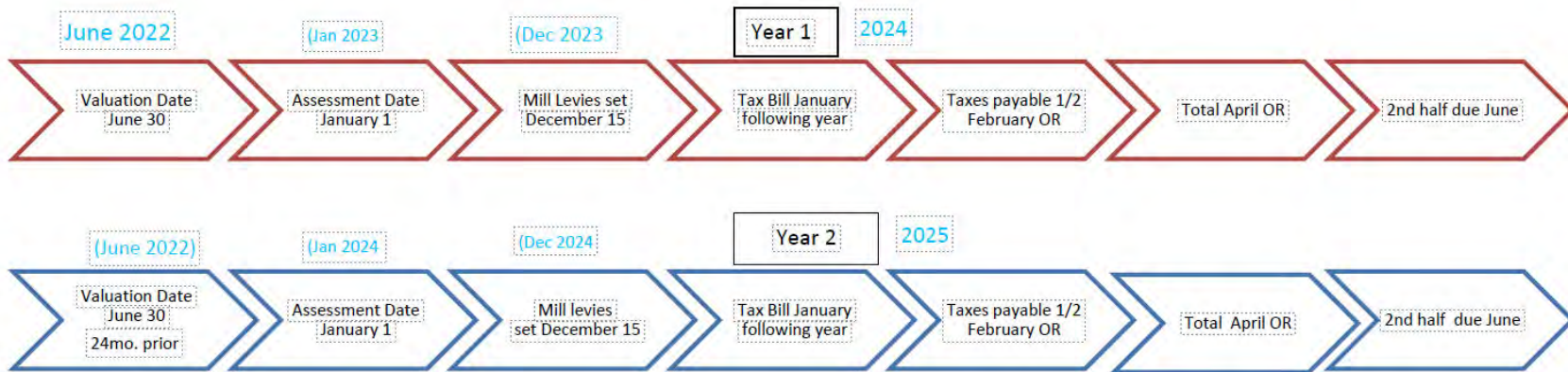


Figure 2

Process of Valuation and Taxation Real Property

Valuation Process, two years, revalued every odd year per statute

Includes: Residential, Commercial, Vacant Land, Commercial, Industrial, AG



Process of Valuation and Taxation State Assessed and Natural Resources

Valuation process: every year

Includes: Properties defined as Public Utilities; Oil and Gas, Producing Mines, Coal, Earth & Stone, Other Natural Resources



Figure 3

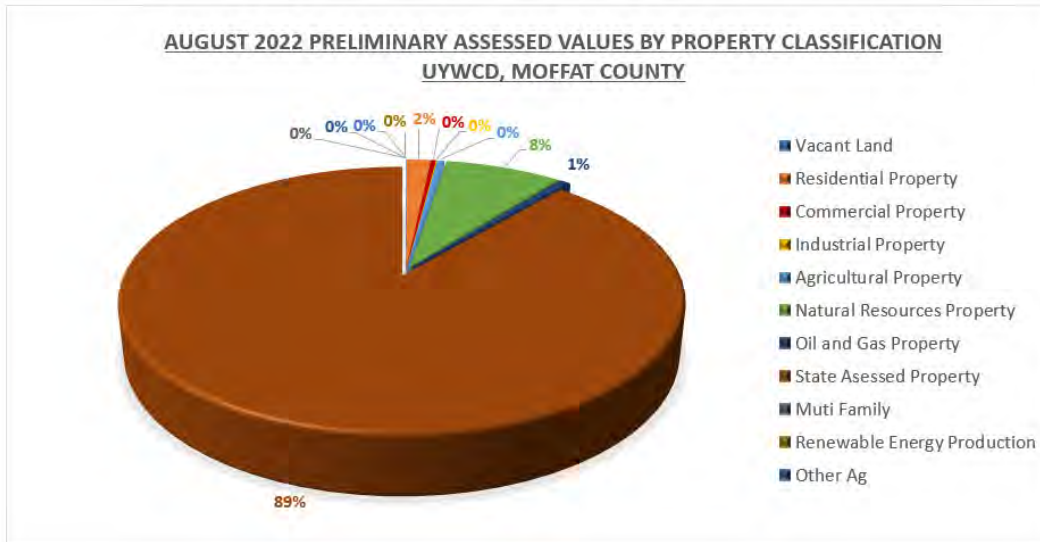


Table 3

UYWCD, Moffat County

Property Classification	August 2022 Assessed Valuation	Percentage of Value
Vacant Land	\$82,710	0.05%
Residential Property	\$2,696,750	1.62%
Commercial Property	\$557,849	0.34%
Industrial Property	\$125,671	0.08%
Agricultural Property	\$761,653	0.46%
Natural Resources Property	\$13,395,065	8.06%
Oil and Gas Property	\$1,068,637	0.64%
State Assessed Property	\$147,576,500	88.76%
Muti Family	\$0	0.00%
Renewable Energy Production	\$0	0.00%
Other Ag	\$0	0.00%
TOTAL	\$166,264,835	100.00%

Figure 4

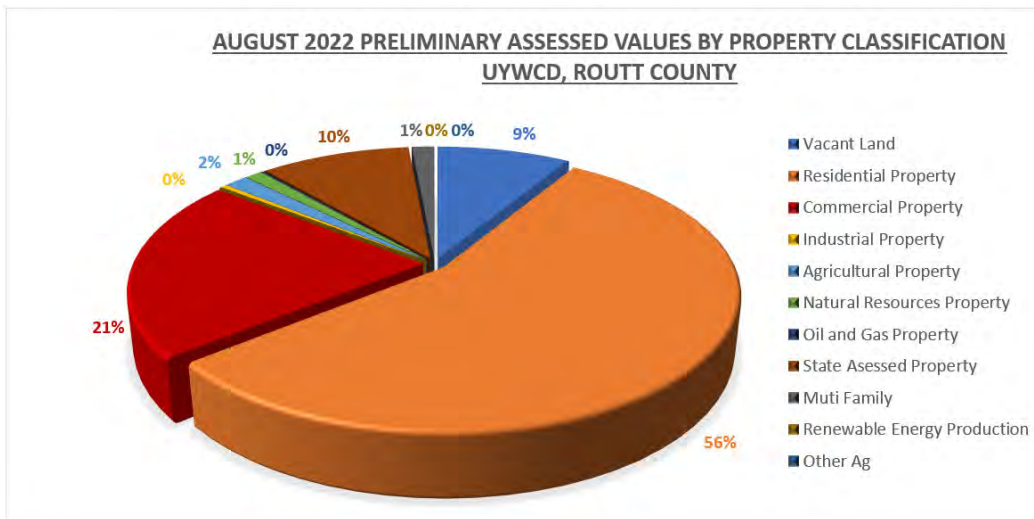


Table 4

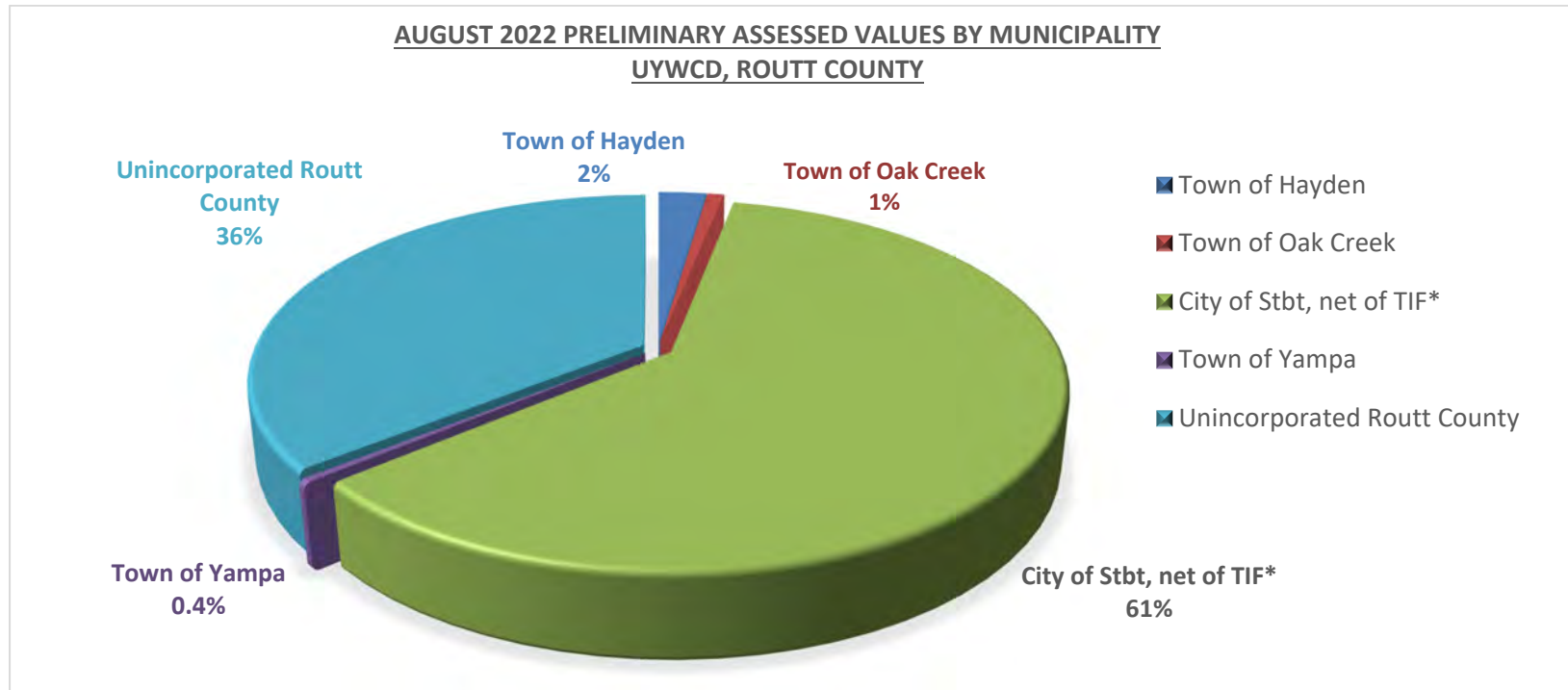
UYWCD, Routt County

Property Classification	August 2022 Assessed Valuation	Percentage of Value
Vacant Land	\$114,794,859	8.73%
Residential Property	\$729,411,609	55.45%
Commercial Property	\$280,406,567	21.32%
Industrial Property	\$5,210,530	0.40%
Agricultural Property	\$20,002,630	1.52%
Natural Resources Property	\$14,977,970	1.14%
Oil and Gas Property	\$1,566,910	0.12%
State Assessed Property	\$129,693,150	9.86%
Muti Family	\$19,097,274	1.45%
Renewable Energy Production	\$11,540	0.00%
Other Ag	\$175,320	0.01%
TOTAL	\$1,315,348,359	100.00%



Assessed valuations associated with the UYWCD within **Routt County** are distributed among several municipalities (64% in aggregate) or are property located in Unincorporated Routt County (36%, **Figure 5**).

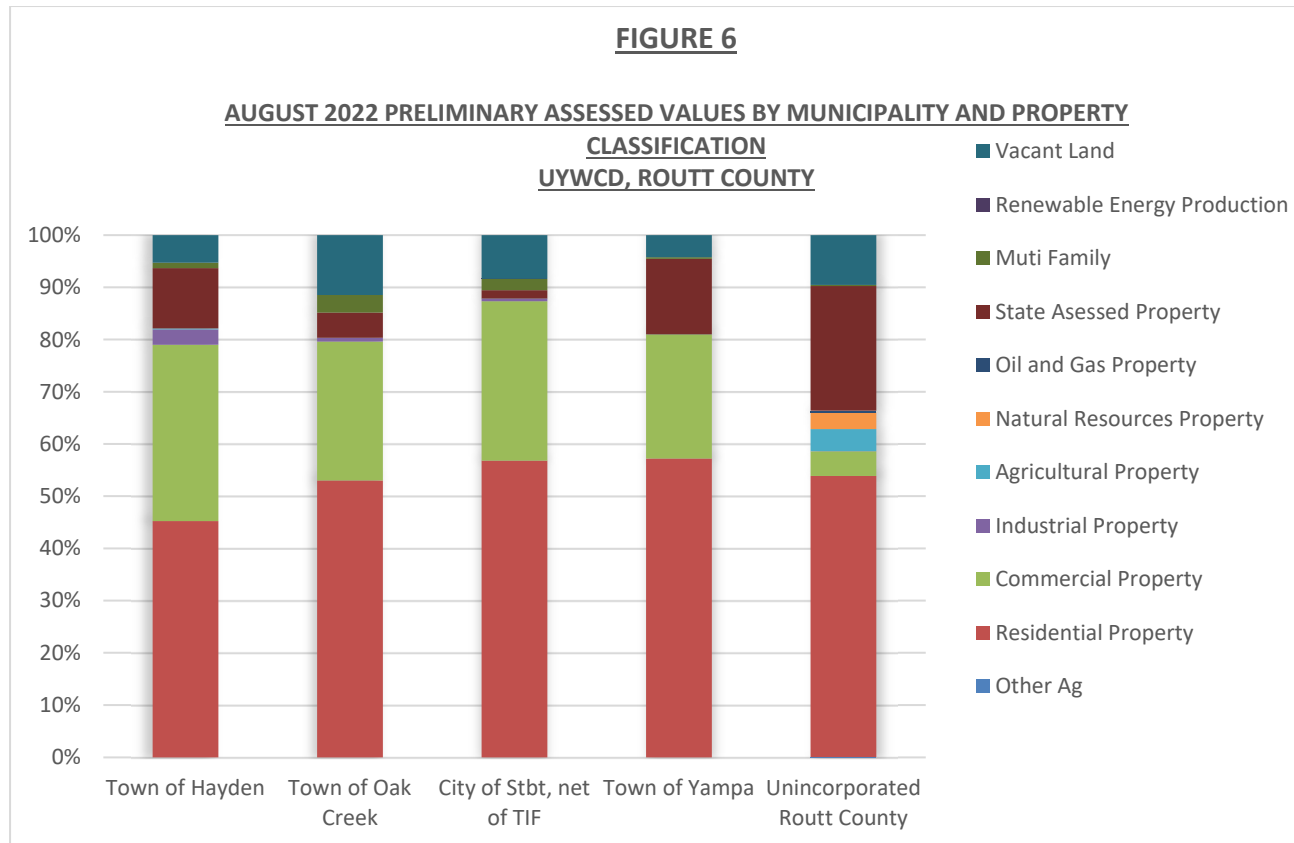
Figure 5



*Net of assessed values generating UYWCD property tax revenues diverted towards Steamboat’s Urban Renewal Authority (URA) Tax Increment Financing (TIF)



Residential, Commercial, State Assessed and Vacant Land are the four property classifications with the larger aggregate share of assessed values associated with the UYWCD in **Routt County**, across all municipalities and in Unincorporated Routt County. (Figure 6).





State Assessed and Natural Resources Property Valuations

State Assessed and Natural Resources Property classifications include power plants and coal mines. They are valued annually, and valuation is based on the prior year’s income and the price of the production and the property.

As the energy industry in Routt and Moffat counties moves towards renewable energy production, the owners of power plants and their supplying coal mines in these counties have publicly announced changes in operations or the planned, gradual closure of facilities. The timing of closures has been broadly outlined but is yet to be specifically confirmed. The known facility closure information is as follows:

Moffat County:

- **Craig Station Unit 1 and 2**, owned by PacifiCorp, Platte River Power Authority, Salt River Project, and Tri-State Generation are to close in **2025 and 2028**.
- **Craig Station Unit 3**, solely owned by Tri-State, is to be shut down by **2030**.
- **Trapper Mine**, owned by Trapper Mining Inc, closure expected to follow/lag activities at the Craig Station(s); between **2026 and 2030**.

Routt County

- **Hayden Power Plant**, owned by Xcel Energy
 - Unit 2, to be closed by **2027**
 - Unit 1, to be closed by **2028**
- **Twenty Mile Coal Mine**, owned by Peabody Energy, reduced operations in recent years. Reduced production may continue through 2030.

Table 5 illustrates possible closure dates of coal mines and power plants within the UYWCD boundaries, and valuation and collection years that would be affected.

Table 5

Valuation year ↓ ↓ ↓	Power & Coal Facilities, possible closing schedule (year)			Collection year ↓ ↓ ↓
	Craig Power Station	Trapper Mine	Hayden Powerplant	
2023				2024
2024				2025
2025	Unit 1, 2025			2026
2026		2026 to 2030		2027
2027			Unit 2, 2027	2028
2028	Unit 2, 2028		Unit 1, 2028	2029
2029				2030
2030	Unit 3, 2030			2031
2031				2032
2032				2033



For example, the retirement of Craig Station Unit 1 was announced to take place sometime in 2025. On January 1, 2026, the Moffat County assessor would reclassify the property according to its actual new use. Tax collections in the year 2026 would reflect adjustments in valuation, based on 2025 income, price of production and value of the property.

Based on the estimated retirement schedule that was published for the Craig Stations, the Trapper Mine and the Hayden Power Plant, there would be annual adjustments to collections for a six-year period, beginning in 2026 and ending in 2031.

An analysis of the most recent data available indicates that based on preliminary August 2022 valuations, UYWCD tax collections originating from energy production (power and coal) represent \$428,651 or 16% of estimated 2023 UYWCD total levies.

Power and coal collections are 95% of estimated 2023 UYWCD revenues in Moffat County, and 6% of estimated District tax levies in Routt County (**Table 6**).

Table 6

<u>Projected 2023 UYWCD Tax Revenues, based on August 2022 preliminary property valuations</u>				
<u>Revenues by county and by source – energy/non-energy.</u>				
	Aug '22 assessed valuation	Mill Levy	Projected 2023 income	Comments
Routt	1,315,348,359	1.82	2,393,934	89% of all revenues originate in RC
Moffat	166,264,835	1.82	302,602	11% of all revenues originate in MC
	<u>1,481,613,194</u>		<u>2,696,536</u>	
Hayden Pwr Plant	63,451,380	1.82	115,482	
Twenty Mile Coal	13,641,340	1.82	24,827	
	<u>77,092,720</u>		<u>140,309</u>	140.3K RC Power & Coal revenues projected for '23
Craig Pwr Plant	145,208,892	1.82	264,280	
Trapper Mine	13,221,156	1.82	24,063	
	<u>158,430,048</u>		<u>288,343</u>	288.3K MC Power & Coal revenues projected for '23
2023 Projected income, excluding Energy sources listed above:				
Routt	1,238,255,639	1.82	2,253,625	If we exclude powerplants & coal mines...
Moffat	7,834,787	1.82	14,259	99.4% of all revenues originate in RC
	<u>1,246,090,426</u>		<u>2,267,884</u>	0.6% of all revenues originate in MC
PROJECTED INCOME, BY SOURCE:				
ROUTT	1,315,348,359	1.82	2,393,934	
Energy	77,092,720	1.82	140,309	6% of RC revenues originate in coal&power plant
Other	1,238,255,639	1.82	2,253,625	94% of RC revenues originate in all other sources
MOFFAT	166,264,835	1.82	302,602	
Energy	158,430,048	1.82	288,343	95% of MC revenues originate in coal&power plant
Other	7,834,787	1.82	14,259	5% of MC revenues originate in all other sources
ROUTT & MOFFAT	1,481,613,194	1.82	2,696,536	
Energy	235,522,768	1.82	428,651	16% of District revenues originate in coal&power plants
Other	1,246,090,426	1.82	2,267,885	84% of District revenues originate in all other sources



Real Property Valuations

Additional fluctuations in tax collections of future years are expected, following changes in **Real Property** valuations. These fluctuations follow a two-year cycle.

Valuations originating from the period July 1, 2020, to June 30, 2022, support the 2023 reassessment and the 2024 intervening year, for 2024 and 2025 collections (**Table 7**).

Table 7

Valuation Period (date range) // → → → → → //		Assessment year			Collection year		
<i>start</i>	<i>end</i>	↓	↓	↓	↓	↓	↓
<i>Jul 1, 2018</i>	<i>Jun 30, 2020</i>	2021	reassessment	2022			
		2022	intervening		2023		
<i>Jul 1, 2020</i>	<i>Jun 30, 2022</i>	2023	reassessment	2024			
		2024	intervening		2025		
<i>Jul 1, 2022</i>	<i>Jun 30, 2024</i>	2025	reassessment	2026			
		2026	intervening		2027		
<i>Jul 1, 2024</i>	<i>Jun 30, 2026</i>	2027	reassessment	2028			
		2028	intervening		2029		
<i>Jul 1, 2026</i>	<i>Jun 30, 2028</i>	2029	reassessment	2030			
		2030	intervening		2031		
<i>Jul 1, 2028</i>	<i>Jun 30, 2030</i>	2031	reassessment	2032			
		2032	intervening		2033		
<i>Jul 1, 2030</i>	<i>Jun 30, 2032</i>	2033	reassessment	2034			
		2034	intervening		2035		

In August 2023 Routt and Moffat assessors will publish preliminary valuations that will allow the UYWCD to make an initial estimate of 2024 collections. 2025 collections are expected to be in a similar range.

While the Yampa Valley has experienced an increase in the market value of real property since the start of the pandemic in early 2020, the UYWCD experienced multiple decreasing valuation periods in the past (**Table 8**).

Total UYWCD certified valuations decreased by 19.1% in the 2011 reassessment year, when compared with the prior valuation period. The following reassessment year, in 2013, valuations decreased again, by an additional 10%. Valuations had a slow recovery in reassessment years that followed, with a 5% and a 2.3% in 2015 and 2017, respectively (**Table 8**).



Table 8

Dec-Dec Valuation, variation			Valuation Period (date range)		Assessment year			Collection year		
Routt	Moffat	Total	→ → → → → →		↓	↓	↓	↓	↓	↓
			start	end						
-21.5%	1.2%	-19.1%	Jul 1, 2008	Jun 30, 2010	2011	reassessment	2012			
0.9%	0.2%	0.8%			2012	intervening	2013			
-12.0%	3.2%	-10.0%	Jul 1, 2010	Jun 30, 2012	2013	reassessment	2014			
-0.8%	-1.6%	-0.9%			2014	intervening	2015			
5.9%	0.4%	5.0%	Jul 1, 2012	Jun 30, 2014	2015	reassessment	2016			
0.8%	-1.0%	0.5%			2016	intervening	2017			
4.4%	-10.2%	2.3%	Jul 1, 2014	Jun 30, 2016	2017	reassessment	2018			
0.6%	12.5%	2.1%			2018	intervening	2019			
10.6%	1.4%	9.3%	Jul 1, 2016	Jun 30, 2018	2019	reassessment	2020			
0.1%	7.0%	1.0%			2020	intervening	2021			
9.3%	-2.3%	7.7%	Jul 1, 2018	Jun 30, 2020	2021	reassessment	2022			
					2022	intervening	2023			

The UYWCD preliminary 2023 budget draft has been prepared for review and discussion. It currently indicates:

- 2023 UYWCD tax collections based on preliminary valuations are approximately 70% of annual UYWCD revenues.
- Tax levies are a significant funding source for UYWCD facilities.

Evaluation of the financial health of the UYWCD in future years should include following:

- The effect of annual inflation on a tax revenue cycle based on a two-year real property valuation period.
- The effect of annual inflation on a recurring five-and-a-half-year cycle, from beginning of real property valuations to end of collections.
- The multi-year period for revenues to return to earlier levels, after both increasing and decreasing two-year assessment cycles.
- Increasing capital maintenance and capital replacement costs, and appropriately matching capital reserves.
- Changing economic activities in Routt and Moffat counties.

An Act

SENATE BILL 23-303

BY SENATOR(S) Fenberg and Hansen, Bridges, Buckner, Hinrichsen, Moreno, Priola;
also REPRESENTATIVE(S) deGruy Kennedy and Weissman, Amabile, Bird, Boesenecker, Brown, Dickson, Duran, Herod, Jodeh, Joseph, Kipp, Lindsay, McCormick, Michaelson Jenet, Ricks, Sharbini, Sirota, Snyder, Story, Titone, Woodrow, Young, McCluskie.

CONCERNING A REDUCTION IN PROPERTY TAXES, AND, IN CONNECTION THEREWITH, CREATING A LIMIT ON ANNUAL PROPERTY TAX INCREASES FOR CERTAIN LOCAL GOVERNMENTS; TEMPORARILY REDUCING THE VALUATION FOR ASSESSMENT OF CERTAIN RESIDENTIAL AND NONRESIDENTIAL PROPERTY; CREATING NEW SUBCLASSES OF PROPERTY; PERMITTING THE STATE TO RETAIN AND SPEND REVENUE UP TO THE PROPOSITION HH CAP; REQUIRING THE RETAINED REVENUE TO BE USED TO REIMBURSE CERTAIN LOCAL GOVERNMENTS FOR LOST PROPERTY TAX REVENUE AND TO BE DEPOSITED IN THE STATE EDUCATION FUND TO BACKFILL THE REDUCTION IN SCHOOL DISTRICT PROPERTY TAX REVENUE; TRANSFERRING GENERAL FUND MONEY TO THE STATE PUBLIC SCHOOL FUND AND TO A CASH FUND TO ALSO BE USED FOR THE REIMBURSEMENTS; ELIMINATING THE CAP ON THE AMOUNT OF EXCESS STATE REVENUES THAT MAY BE USED FOR THE REIMBURSEMENTS FOR THE 2023 PROPERTY TAX YEAR; REFERRING A BALLOT ISSUE; AND

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.

MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 22-40-102, **amend** (3) and (6) as follows:

22-40-102. Certification - tax revenues - repeal. (3) (a) The board of education of a school district which had an actual enrollment of more than fifty thousand pupils during the preceding school year may make the certification provided for in subsection (1) of this section no later than December 15.

(b) (I) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, THE DEADLINE SET FORTH IN SUBSECTION (3)(a) OF THIS SECTION IS POSTPONED FROM DECEMBER 15, 2023, TO JANUARY 5, 2024.

(II) THIS SUBSECTION (3)(b) IS REPEALED, EFFECTIVE JULY 1, 2025.

(6) (a) Each school district, with such assistance as may be required from the department of education, shall inform the county treasurer for each county within the district's boundaries no later than December 15 of each year of said district's general fund mill levy in the absence of funds estimated to be received by said district pursuant to the "Public School Finance Act of 1994", article 54 of this title TITLE 22, and the estimated funds to be received for the general fund of the district from the state.

(b) (I) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, THE DEADLINE SET FORTH IN SUBSECTION (6)(a) OF THIS SECTION IS POSTPONED FROM DECEMBER 15, 2023, TO JANUARY 5, 2024.

(II) THIS SUBSECTION (6)(b) IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 2. In Colorado Revised Statutes, 25-2-103, **add** (4.7) as follows:

25-2-103. Centralized registration system for all vital statistics - office of the state registrar of vital statistics created - appointment of registrar - rules. (4.7) NOTWITHSTANDING ANY OTHER PROVISION OF LAW

THAT LIMITS THE SHARING OF VITAL STATISTICS, AFTER RECEIVING THE LIST OF NAMES AND SOCIAL SECURITY NUMBERS OF INDIVIDUALS WHO HAD PROPERTY CLASSIFIED AS PRIMARY RESIDENCE REAL PROPERTY OR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY THAT IS PROVIDED BY THE PROPERTY TAX ADMINISTRATOR PURSUANT TO SECTION 39-1-104.6 (5)(c), THE STATE REGISTRAR SHALL IDENTIFY ALL INDIVIDUALS ON THE LIST WHO HAVE DIED AND TRANSMIT A LIST OF THE NAMES AND SOCIAL SECURITY NUMBERS OF SUCH INDIVIDUALS TO THE ADMINISTRATOR.

SECTION 3. In Colorado Revised Statutes, **add** part 2 to article 77 of title 24 as follows:

PART 2
SUBMISSION OF BALLOT ISSUE - VOTER-APPROVED
REVENUE CHANGE - PROPERTY TAX REDUCTION
BACKFILL

24-77-201. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACCOUNT" MEANS THE PROPOSITION HH GENERAL FUND EXEMPT ACCOUNT IN THE GENERAL FUND CREATED IN SECTION 24-77-203 (3)(a).

(2) "BALLOT ISSUE" MEANS THE QUESTION REFERRED TO VOTERS IN ACCORDANCE WITH SECTION 24-77-202 (1).

(3) "EXCESS STATE REVENUES CAP" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-77-103.6 (6)(b).

(4) "STATE REVENUES" MEANS STATE REVENUES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17).

(5) "STATE SURPLUS" MEANS THE AMOUNT OF STATE REVENUES THAT EXCEED THE EXCESS STATE REVENUES CAP FOR A GIVEN STATE FISCAL YEAR.

24-77-202. Submission of ballot issue - voter-approved revenue change. (1) AT THE ELECTION HELD ON NOVEMBER 7, 2023, THE SECRETARY OF STATE SHALL SUBMIT TO THE REGISTERED ELECTORS OF THE

STATE FOR THEIR APPROVAL OR REJECTION THE FOLLOWING BALLOT ISSUE:
"SHALL THE STATE REDUCE PROPERTY TAXES FOR HOMES AND BUSINESSES,
INCLUDING EXPANDING PROPERTY TAX RELIEF FOR SENIORS, AND BACKFILL
COUNTIES, WATER DISTRICTS, FIRE DISTRICTS, AMBULANCE AND HOSPITAL
DISTRICTS, AND OTHER LOCAL GOVERNMENTS AND FUND SCHOOL DISTRICTS
BY USING A PORTION OF THE STATE SURPLUS UP TO THE PROPOSITION HH CAP
AS DEFINED IN THIS MEASURE?"

(2) FOR PURPOSES OF SECTION 1-5-407, THE BALLOT ISSUE IS A
PROPOSITION TO BE IDENTIFIED AS "PROPOSITION HH". SECTION 1-40-106
(3)(d) DOES NOT APPLY TO THE BALLOT ISSUE.

**24-77-203. Retention of excess state revenues - transfer to state
education fund - local government reimbursement - legislative
declaration.** (1) (a) IF A MAJORITY OF THE ELECTORS VOTING ON THE
BALLOT ISSUE VOTE "YES/FOR", THEN FOR EACH FISCAL YEAR COMMENCING
ON OR AFTER JULY 1, 2023, THE STATE IS AUTHORIZED TO RETAIN AND SPEND
ALL OF THE STATE SURPLUS THAT IS LESS THAN THE PROPOSITION HH CAP,
WHICH IS:

(I) FOR THE 2023-24 FISCAL YEAR, AN AMOUNT EQUAL TO THE
EXCESS STATE REVENUES CAP FOR THE 2022-23 FISCAL YEAR, ADJUSTED FOR
INFLATION PLUS ONE PERCENTAGE POINT, THE PERCENTAGE CHANGE IN
STATE POPULATION, THE QUALIFICATION OR DISQUALIFICATION OF
ENTERPRISES, AND DEBT SERVICE CHANGES; AND

(II) FOR THE FISCAL YEAR 2024-25 AND EACH SUCCEEDING FISCAL
YEAR, AN AMOUNT EQUAL TO THE PROPOSITION HH CAP FOR THE PRIOR
FISCAL YEAR, ADJUSTED FOR INFLATION PLUS ONE PERCENTAGE POINT, THE
PERCENTAGE CHANGE IN STATE POPULATION, THE QUALIFICATION OR
DISQUALIFICATION OF ENTERPRISES, AND DEBT SERVICE CHANGES.

(b) (I) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION AND
EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(b)(II) OF THIS SECTION,
IF THE GENERAL ASSEMBLY DOES NOT ENACT LEGISLATION TO ESTABLISH
VALUATIONS FOR ASSESSMENT FOR THE PROPERTY TAX YEARS COMMENCING
ON AND AFTER JANUARY 1, 2033, THAT ARE LESS THAN OR EQUAL TO THE
TEMPORARILY REDUCED VALUATIONS FOR ASSESSMENT ESTABLISHED IN
SECTIONS 39-1-104 (1)(b)(V), (1.8)(a)(III), (1.8)(a)(IV), AND (1.8)(b)(VI)
AND 39-1-104.2 (3)(q)(III) AND (3)(r)(IV) IN SENATE BILL 23-303 FOR THE

PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2032, FOR THE SAME CLASSES OF PROPERTY, THEN, FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2032, AND EACH FISCAL YEAR THEREAFTER, THE PROPOSITION HH CAP IS AN AMOUNT EQUAL TO THE EXCESS STATE REVENUES CAP.

(II) IF THE PROPOSITION HH CAP IS REDUCED BY OPERATION OF SUBSECTION (1)(b)(I) OF THIS SECTION, THE GENERAL ASSEMBLY MAY, WITHOUT ADDITIONAL VOTER APPROVAL, ENACT LEGISLATION TO RESTORE THE CAP FOR A FISCAL YEAR TO AN AMOUNT THAT IS LESS THAN OR EQUAL TO THE AMOUNT THAT THE PROPOSITION HH CAP WOULD HAVE BEEN FOR THE FISCAL YEAR UNDER SUBSECTION (1)(a)(II) OF THIS SECTION IF SUBSECTION (1)(b)(I) OF THIS SECTION HAD NOT APPLIED IF, FOR THE PROPERTY TAX YEAR THAT ENDS DURING THE FISCAL YEAR, THE GENERAL ASSEMBLY:

(A) ESTABLISHES VALUATIONS FOR ASSESSMENT THAT ARE LESS THAN OR EQUAL TO THE TEMPORARILY REDUCED VALUATIONS FOR ASSESSMENT ESTABLISHED IN SECTIONS 39-1-104 (1)(b)(V), (1.8)(a)(III), (1.8)(a)(IV), AND (1.8)(b)(VI) AND 39-1-104.2 (3)(q)(III) AND (3)(r)(IV) IN SENATE BILL 23-303 FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2032, FOR THE SAME CLASSES OF PROPERTY; OR

(B) REDUCES THE VALUATIONS FOR ASSESSMENT DIFFERENTLY FROM THE VALUATIONS FOR ASSESSMENT ESTABLISHED IN SENATE BILL 23-303, BUT THE AGGREGATE REDUCTION IN THE VALUATION FOR ASSESSMENT STATEWIDE FROM THE REDUCTIONS IS GREATER THAN OR EQUAL TO THE ESTIMATED AGGREGATE REDUCTION IN THE VALUATION FOR ASSESSMENTS FROM THE MINIMUM REDUCTIONS IN VALUATION FOR ASSESSMENT NECESSARY TO MEET THE CONDITION SPECIFIED IN SUBSECTION (1)(b)(II)(A) OF THIS SECTION.

(c) FOR PURPOSES OF THE CALCULATION SET FORTH IN THIS SUBSECTION (1):

(I) INFLATION AND THE PERCENTAGE CHANGE IN STATE POPULATION ARE THE SAME RATES THAT ARE USED IN CALCULATING THE MAXIMUM ANNUAL PERCENTAGE CHANGE IN STATE FISCAL YEAR SPENDING PURSUANT TO SECTION 24-77-103; AND

(II) THE QUALIFICATION OR DISQUALIFICATION OF AN ENTERPRISE OR

A DEBT SERVICE CHANGE AFFECTS THE PROPOSITION HH CAP IN THE SAME MANNER AS THE CHANGE AFFECTS THE LIMITATION ON STATE FISCAL YEAR SPENDING.

(2) THIS SECTION DOES NOT AFFECT THE AMOUNT THAT THE STATE IS PERMITTED TO RETAIN AND SPEND UNDER THE AUTHORITY CONFERRED BY THE VOTERS' APPROVAL OF SECTION 24-77-103.6.

(3) (a) THE PROPOSITION HH GENERAL FUND EXEMPT ACCOUNT IS HEREBY CREATED IN THE GENERAL FUND. THE ACCOUNT CONSISTS OF AN AMOUNT EQUAL TO THE AMOUNT OF STATE SURPLUS THAT THE STATE IS AUTHORIZED TO RETAIN AND SPEND UNDER THIS PART 2 FOR THE PRIOR FISCAL YEAR, IF ANY. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE PROPOSITION HH GENERAL FUND EXEMPT ACCOUNT TO THE ACCOUNT.

(b) THE MONEY IN THE ACCOUNT FOR EACH FISCAL YEAR BEGINNING WITH THE 2023-24 FISCAL YEAR MUST BE USED AS FOLLOWS:

(I) THE MONEY IS FIRST USED TO PROVIDE REIMBURSEMENTS TO LOCAL GOVERNMENTS UNDER SECTION 39-3-210 (4)(a)(II);

(II) IF THERE IS ANY MONEY REMAINING AFTER THE ALLOCATION SET FORTH IN SUBSECTION (3)(b)(I) OF THIS SECTION, THE STATE TREASURER SHALL TRANSFER AN AMOUNT EQUAL TO THE REMAINDER, FIVE PERCENT OF THE TOTAL AMOUNT IN THE ACCOUNT FOR THE FISCAL YEAR, OR TWENTY MILLION DOLLARS, WHICHEVER AMOUNT IS THE LEAST, TO THE HOUSING DEVELOPMENT GRANT FUND CREATED IN SECTION 24-32-721 (1) TO BE USED TO REDUCE THE AMOUNT OF PROPERTY TAXES THAT ARE PAID AS A PORTION OF A TENANT'S RENT THROUGH A PROGRAM ESTABLISHED UNDER SUBSECTION (2)(d)(VI) OF SAID SECTION; AND

(III) AS SOON AS POSSIBLE AFTER RECEIVING THE REPORT FROM THE PROPERTY TAX ADMINISTRATOR IN ACCORDANCE WITH SECTION 39-3-210 (3), THE STATE TREASURER SHALL TRANSFER THE AMOUNT, IF ANY, IN THE ACCOUNT THAT IS IN EXCESS OF THE AMOUNT THAT WILL BE USED IN ACCORDANCE WITH SUBSECTIONS (3)(b)(I) AND (3)(b)(II) OF THIS SECTION TO THE STATE EDUCATION FUND CREATED IN SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION.

(4) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) PUBLIC SCHOOL FUNDING CONSISTS OF A COMBINATION OF STATE AND LOCAL SCHOOL DISTRICT REVENUE;

(b) UNDER THE CURRENT SCHOOL FINANCE FORMULA, AN INCREASE IN STATE FUNDING CAN BACKFILL A DECREASE IN LOCAL PROPERTY TAX REVENUE;

(c) REDUCTIONS IN PROPERTY TAX VALUATIONS REDUCE THE LOCAL PROPERTY TAX REVENUE COLLECTED FOR LOCAL GOVERNMENTS, INCLUDING SCHOOL DISTRICTS;

(d) MONEY IN THE STATE EDUCATION FUND IS USED TO PROVIDE FUNDING FOR LOCAL SCHOOL DISTRICTS; AND

(e) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT TRANSFERRING A PORTION OF THE MONEY FROM THE ACCOUNT TO THE STATE EDUCATION FUND IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION PROVIDES ADDITIONAL FUNDING TO LOCAL SCHOOL DISTRICTS IN ORDER TO BACKFILL PROPERTY TAX REVENUE REDUCTIONS RESULTING FROM PROPERTY TAX CHANGES ENACTED IN SENATE BILL 23-303 AND THAT THE MONEY SO TRANSFERRED SHALL NOT SUPPLANT GENERAL FUND APPROPRIATIONS MADE FOR SCHOOL DISTRICTS' TOTAL PROGRAM, AS DEFINED BY SECTION 22-54-103 (6).

24-77-204. Repeal. (1) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT ISSUE VOTE "NO/AGAINST", THEN THIS PART 2 IS REPEALED, EFFECTIVE JULY 1, 2024.

(2) IF A MAJORITY OF THE ELECTORS VOTING ON THE BALLOT ISSUE VOTE "YES/FOR", THEN THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

SECTION 4. In Colorado Revised Statutes, 22-55-103, **amend** (1) as follows:

22-55-103. State education fund - creation - transfers to fund - use of money in fund - permitted investments - exempt from spending limitations. (1) In accordance with section 17 (4) of article IX of the state constitution, there is hereby created in the state treasury the state education

fund. The fund ~~shall consist~~ CONSISTS of state education fund revenues, MONEY TRANSFERRED TO THE FUND IN ACCORDANCE WITH SECTION 24-77-203 (3)(b)(III), all interest and income earned on the deposit and investment of ~~moneys~~ MONEY in the fund, and any gifts or other ~~moneys~~ MONEY that are exempt from the limitation on state fiscal year spending set forth in section 20 (7)(a) of article X of the state constitution and section 24-77-103 ~~C.R.S.~~, that may be credited to the fund. All interest and income derived from the deposit and investment of ~~moneys~~ MONEY in the fund ~~shall be~~ ARE credited to the fund. At the end of any state fiscal year, all unexpended and unencumbered ~~moneys~~ MONEY in the fund ~~shall remain~~ REMAINS in the fund and shall not revert to the general fund or any other fund.

SECTION 5. In Colorado Revised Statutes, 24-77-106.5, **amend** (1) as follows:

24-77-106.5. Annual financial report - certification of excess state revenues. (1) (a) For each fiscal year, the controller shall prepare a financial report for the state for purposes of ascertaining compliance with the provisions of this article. Any financial report prepared pursuant to this section shall include, but shall not be limited to, state fiscal year spending, reserves, revenues, revenues that the state is authorized to retain and spend pursuant to voter approval of section 24-77-103.6 OR PURSUANT TO PART 2 OF THIS ARTICLE 77, and debt. ~~Such~~ THE financial report shall be audited by the state auditor.

(b) Notwithstanding section 24-1-136 (11)(a)(I), based upon the financial report prepared in accordance with subsection (1)(a) of this section for any given fiscal year, the controller shall certify to the governor, the general assembly, and the executive director of the department of revenue no later than September 1 following the end of a fiscal year the amount of state revenues in excess of the limitation on state fiscal year spending imposed by section 20 (7)(a) of article X of the state constitution, if any, for such fiscal year and the state revenues in excess of such limitation that the state is authorized to retain and spend pursuant to voter approval of section 24-77-103.6 OR PURSUANT TO PART 2 OF THIS ARTICLE 77.

SECTION 6. In Colorado Revised Statutes, **add** 29-1-306 as follows:

29-1-306. Limitation on property tax revenue - temporary property tax credit - governing body override - notice - definitions. (1)
AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS APPLICABLE SUCCESSOR INDEX.

(b) "LOCAL GOVERNMENT" MEANS A GOVERNMENTAL ENTITY AUTHORIZED BY LAW TO IMPOSE AD VALOREM TAXES ON TAXABLE PROPERTY LOCATED WITHIN ITS TERRITORIAL LIMITS; EXCEPT THAT THE TERM EXCLUDES SCHOOL DISTRICTS AND ANY COUNTY, CITY AND COUNTY, CITY, OR TOWN THAT HAS ADOPTED A HOME RULE CHARTER.

(c) "PROPERTY TAX LIMIT" MEANS THE LIMIT ESTABLISHED IN SUBSECTION (2) OF THIS SECTION ON A LOCAL GOVERNMENT'S PROPERTY TAX REVENUE FOR A PROPERTY TAX YEAR.

(2) (a) FOR PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2023, A LOCAL GOVERNMENT'S PROPERTY TAX REVENUE FOR A PROPERTY TAX YEAR SHALL NOT INCREASE BY MORE THAN INFLATION FROM THE LOCAL GOVERNMENT'S PROPERTY TAX REVENUE FOR THE PRIOR PROPERTY TAX YEAR, UNLESS THE GOVERNING BODY OF THE LOCAL GOVERNMENT APPROVES THE INCREASE IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION. THE GOVERNING BODY MAY ENACT A TEMPORARY PROPERTY TAX CREDIT THAT IS UP TO THE NUMBER OF MILLS NECESSARY TO PREVENT THE LOCAL GOVERNMENT'S PROPERTY TAX REVENUE FROM EXCEEDING THIS PROPERTY TAX LIMIT.

(b) THE LIMIT SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION IS BASED ON THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS MOST RECENTLY PUBLISHED ESTIMATE OF INFLATION FOR THE PRIOR CALENDAR YEAR THAT IS AVAILABLE AS OF DECEMBER 15 OF THE PROPERTY TAX YEAR FOR WHICH THE LIMIT IS BEING CALCULATED.

(3) (a) FOR PURPOSES OF CALCULATING THE PROPERTY TAX LIMIT, PROPERTY TAX REVENUE THAT IS FROM THE FOLLOWING SOURCES OR IS USED FOR THE FOLLOWING PURPOSES IS EXCLUDED FROM PROPERTY TAX REVENUE FOR THE PROPERTY TAX YEAR:

(I) PROPERTY TAX REVENUE FROM THE INCREASED VALUATION FOR ASSESSMENT WITHIN THE TAXING ENTITY FOR THE PRECEDING YEAR THAT IS ATTRIBUTABLE TO NEW CONSTRUCTION AND PERSONAL PROPERTY CONNECTED THEREWITH, AS DEFINED BY THE PROPERTY TAX ADMINISTRATOR IN MANUALS PREPARED PURSUANT TO SECTION 39-2-109 (1)(e);

(II) PROPERTY TAX REVENUE FROM THE INCREASED VALUATION FOR ASSESSMENT ATTRIBUTABLE TO A CHANGE IN LAW FOR A PROPERTY TAX CLASSIFICATION OR TO THE ANNEXATION OR INCLUSION OF ADDITIONAL LAND, THE IMPROVEMENTS THEREON, AND PERSONAL PROPERTY CONNECTED THEREWITH WITHIN THE TAXING ENTITY FOR THE PRECEDING YEAR;

(III) PROPERTY TAX REVENUE FOR PROPERTY THAT HAD PREVIOUSLY BEEN OMITTED FROM THE ASSESSMENT ROLL;

(IV) PROPERTY TAX REVENUE ABATED OR REFUNDED BY THE LOCAL GOVERNMENT DURING THE PROPERTY TAX YEAR;

(V) PROPERTY TAX REVENUE ATTRIBUTABLE TO PREVIOUSLY LEGALLY EXEMPT FEDERAL PROPERTY THAT BECOMES TAXABLE IF SUCH PROPERTY CAUSES AN INCREASE IN THE LEVEL OF SERVICES PROVIDED BY THE LOCAL GOVERNMENT; AND

(VI) ANY AMOUNT FOR THE PAYMENT OF EXPENSES INCURRED IN THE REAPPRAISAL OF CLASSES OR SUBCLASSES ORDERED OR CONDUCTED BY THE STATE BOARD OF EQUALIZATION FOR THE PAYMENT TO THE STATE OF EXCESS STATE EQUALIZATION PAYMENTS TO SCHOOL DISTRICTS, WHICH EXCESS IS DUE TO THE UNDERVALUATION OF TAXABLE PROPERTY.

(b) FOR PURPOSES OF CALCULATING THE PROPERTY TAX LIMIT, PROPERTY TAX REVENUE THAT IS FROM THE FOLLOWING SOURCES OR IS USED FOR THE FOLLOWING PURPOSES IS EXCLUDED FROM PROPERTY TAX REVENUE FOR THE PROPERTY TAX YEAR AND THE PRIOR PROPERTY TAX YEAR:

(I) PROPERTY TAX REVENUE FROM PRODUCING MINES OR LANDS OR LEASEHOLDS PRODUCING OIL OR GAS;

(II) AN AMOUNT TO PROVIDE FOR THE PAYMENT OF BONDS AND INTEREST THEREON, OR FOR THE PAYMENT OF ANY OTHER CONTRACTUAL

OBLIGATION THAT HAS BEEN APPROVED BY A MAJORITY OF THE LOCAL GOVERNMENT'S VOTERS VOTING THEREON AT ANY ELECTION HELD BEFORE, ON, OR AFTER NOVEMBER 7, 2023; AND

(III) ANY REVENUE FROM A MILL LEVY THAT HAS BEEN APPROVED BY VOTERS OF THE LOCAL GOVERNMENT, WITHOUT LIMITATION AS TO RATE OR AMOUNT, AT ANY ELECTION HELD BEFORE, ON, OR AFTER NOVEMBER 7, 2023.

(c) A TEMPORARY PROPERTY TAX CREDIT CREATED UNDER SUBSECTION (2)(a) OF THIS SECTION DOES NOT CHANGE THE UNDERLYING MILL LEVY IMPOSED BY A LOCAL GOVERNMENT. REDUCING OR ELIMINATING A TEMPORARY PROPERTY TAX CREDIT DOES NOT REQUIRE PRIOR VOTER APPROVAL UNDER SECTION 20 (4)(a) OF ARTICLE X OF THE STATE CONSTITUTION.

(4) A LOCAL GOVERNMENT MAY IMPOSE A MILL LEVY THAT WOULD EXCEED THE PROPERTY TAX LIMIT IF THE FOLLOWING PROCEDURES ARE FOLLOWED:

(a) THE GOVERNING BODY OF THE LOCAL GOVERNMENT MUST PUBLISH NOTICE OF ITS PROPOSED INTENT TO EXCEED THE PROPERTY TAX LIMIT IN A NEWSPAPER IN EACH COUNTY IN WHICH THE LOCAL GOVERNMENT IS LOCATED AND ON THE WEBSITE OF THE GOVERNING BODY, IF THE GOVERNING BODY MAINTAINS A WEBSITE, AT LEAST TEN DAYS IN ADVANCE OF THE PUBLIC HEARING AT WHICH THE MILL LEVY IS TO BE APPROVED;

(b) THE NOTICE MUST INCLUDE:

(I) THE PROPOSED MILL LEVY IF THE GOVERNING BODY APPROVES A MILL LEVY THAT WOULD EXCEED THE PROPERTY TAX LIMIT;

(II) ANY TEMPORARY PROPERTY TAX CREDITS; AND

(III) THE DATE, TIME, AND LOCATION OF THE PUBLIC HEARING;

(c) THE GOVERNING BODY OF THE LOCAL GOVERNMENT MUST PROVIDE THE PUBLIC AN OPPORTUNITY TO PRESENT ORAL TESTIMONY AT AN OPEN MEETING WITHIN REASONABLE TIME LIMITS AND WITHOUT AN UNREASONABLE RESTRICTION ON THE NUMBER OF INDIVIDUALS ALLOWED TO

MAKE PUBLIC COMMENT; AND

(d) THE GOVERNING BODY OF THE LOCAL GOVERNMENT MUST ADOPT A RESOLUTION OR ORDINANCE TO APPROVE A MILL LEVY THAT EXCEEDS THE PROPERTY TAX LIMIT AT THE PUBLIC HEARING AFTER THE GOVERNING BODY HAS HEARD FROM INTERESTED TAXPAYERS.

(5) THE FINAL DECISION BY A GOVERNING BODY TO IMPOSE A MILL LEVY THAT EXCEEDS THE PROPERTY TAX LIMIT IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SUBSECTION (4) OF THIS SECTION IS DEEMED TO BE FINAL AND CONCLUSIVE AND IS NOT SUBJECT TO APPEAL TO COURT.

(6) IF A LOCAL GOVERNMENT EXCEEDS THE PROPERTY TAX LIMIT FOR A PROPERTY TAX YEAR AND DOES NOT COMPLY WITH SUBSECTION (4) OF THIS SECTION, THEN THE LOCAL GOVERNMENT SHALL REFUND TO TAXPAYERS ANY PROPERTY TAXES COLLECTED ABOVE THE PROPERTY TAX LIMIT.

SECTION 7. In Colorado Revised Statutes, 39-1-103, **add** (5)(g) as follows:

39-1-103. Actual value determined - when - legislative declaration. (5) (g) FOR PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2024, THE ACTUAL VALUE OF RENEWABLE ENERGY AGRICULTURAL LAND IS BASED ON THE WASTE LAND SUBCLASS VALUATION FORMULA PROVIDED BY THE ADMINISTRATOR. IF ANY PORTION OF THE LAND IS USED FOR NONAGRICULTURAL COMMERCIAL OR NONAGRICULTURAL RESIDENTIAL PURPOSES, THAT PORTION IS VALUED ACCORDING TO THE USE, AS REQUIRED BY SUBSECTION (5)(a) OF THIS SECTION.

SECTION 8. In Colorado Revised Statutes, 39-1-104, **amend** (1), (1.6)(c), and (1.8); and **add** (1.9) as follows:

39-1-104. Valuation for assessment - definitions. (1) (a) EXCEPT AS SET FORTH IN SUBSECTION (1)(b) OF THIS SECTION, the valuation for assessment of ~~all taxable property~~ REAL AND PERSONAL PROPERTY THAT IS CLASSIFIED AS LODGING PROPERTY in the state ~~shall be~~ IS twenty-nine percent of the actual value thereof. ~~as determined by the assessor and the administrator in the manner prescribed by law, and that percentage shall be uniformly applied, without exception, to the actual value, so determined, of the real and personal property located within the territorial limits of the~~

~~authority levying a property tax, and all property taxes shall be levied against the aggregate valuation for assessment resulting from the application of that percentage.~~

(b) (I) ~~Notwithstanding subsection (1)(a) of this section,~~ For the property tax year commencing on January 1, 2023, the valuation for assessment of nonresidential property that is classified as lodging property is temporarily reduced to ~~twenty-seven and nine-tenths~~ TWENTY-SEVEN AND EIGHTY-FIVE ONE-HUNDREDTHS percent of an amount equal to the actual value minus the lesser of thirty thousand dollars or the amount that ~~reduces~~ CAUSES the valuation for assessment to BE one thousand dollars.

(II) FOR THE PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2027, THE VALUATION FOR ASSESSMENT OF REAL AND PERSONAL PROPERTY THAT IS CLASSIFIED AS LODGING PROPERTY IS TEMPORARILY REDUCED TO TWENTY-SEVEN AND EIGHTY-FIVE ONE-HUNDREDTHS PERCENT OF THE ACTUAL VALUE THEREOF.

(III) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2027, AND JANUARY 1, 2028, THE VALUATION FOR ASSESSMENT OF REAL AND PERSONAL PROPERTY THAT IS CLASSIFIED AS LODGING PROPERTY IS TEMPORARILY REDUCED TO TWENTY-SEVEN AND SIXTY-FIVE ONE-HUNDREDTHS PERCENT OF THE ACTUAL VALUE THEREOF.

(IV) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2029, AND JANUARY 1, 2030, THE VALUATION FOR ASSESSMENT OF REAL AND PERSONAL PROPERTY THAT IS CLASSIFIED AS LODGING PROPERTY IS TEMPORARILY REDUCED TO TWENTY-SIX AND NINE-TENTHS PERCENT OF THE ACTUAL VALUE THEREOF.

(V) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2031, AND JANUARY 1, 2032, THE VALUATION FOR ASSESSMENT OF REAL AND PERSONAL PROPERTY THAT IS CLASSIFIED AS LODGING PROPERTY IS TEMPORARILY REDUCED TO:

(A) TWENTY-FIVE AND NINE-TENTHS PERCENT OF THE ACTUAL VALUE THEREOF, IF, FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2031, THE AVERAGE INCREASE IN TOTAL VALUATION FOR ASSESSMENT OF TAXABLE REAL PROPERTY WITHIN THE THIRTY-TWO COUNTIES WITH THE SMALLEST INCREASES IN TOTAL VALUATION IS GREATER

THAN OR EQUAL TO THREE AND SEVEN-TENTHS PERCENT FROM THE PRIOR PROPERTY TAX YEAR; OR

(B) TWENTY-SIX AND NINE-TENTHS PERCENT OF THE ACTUAL VALUE THEREOF, IF, FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2031, THE AVERAGE INCREASE IN TOTAL VALUATION FOR ASSESSMENT OF TAXABLE REAL PROPERTY WITHIN THE THIRTY-TWO COUNTIES WITH THE SMALLEST INCREASES IN TOTAL VALUATION IS LESS THAN THREE AND SEVEN-TENTHS PERCENT FROM THE PRIOR PROPERTY TAX YEAR.

~~(c) This subsection (1) only applies to nonresidential property that is classified as lodging property.~~

(1.6) (c) Real and personal agricultural property is a subclass of nonresidential property for purposes of the valuation for assessment. REAL PROPERTY THAT IS CLASSIFIED AS AGRICULTURAL LAND THAT CONTAINS A RENEWABLE ENERGY FACILITY, AS DESCRIBED IN SECTION 39-4-102 (1.5), IF THE LAND WAS CLASSIFIED BY THE ASSESSOR AS AGRICULTURAL LAND AT THE TIME THE FACILITY WAS CONSTRUCTED UNDER SECTION 39-1-102 (1.6)(a), IS CLASSIFIED AS RENEWABLE ENERGY AGRICULTURAL LAND, WHICH IS A SUBCLASS OF AGRICULTURAL PROPERTY FOR PURPOSES OF THE VALUATION FOR ASSESSMENT. THIS CLASSIFICATION APPLIES FOR A PROPERTY TAX YEAR THAT THE REAL PROPERTY IS STILL USED FOR AGRICULTURAL PURPOSES AND TO THE PORTION OF THE LAND THAT IS ATTRIBUTABLE TO OR USED IN CONJUNCTION WITH THE RENEWABLE ENERGY FACILITY.

(1.8) (a) The valuation for assessment of real and personal property that is classified as agricultural property or renewable energy production property is twenty-nine percent of the actual value thereof; except that THE VALUATION FOR ASSESSMENT OF THIS PROPERTY IS TEMPORARILY REDUCED AS FOLLOWS:

(I) For THE property tax years commencing on January 1, 2022, AND January 1, 2023, ~~and January 1, 2024~~, the valuation for assessment of this property is ~~temporarily reduced to~~ twenty-six and four-tenths percent of the actual value thereof;

(II) FOR THE PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2031, THE VALUATION FOR

ASSESSMENT OF THIS PROPERTY, EXCLUDING RENEWABLE ENERGY AGRICULTURAL LAND, IS TWENTY-SIX AND FOUR-TENTHS PERCENT OF THE ACTUAL VALUE THEREOF;

(III) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2031, AND JANUARY 1, 2032, THE VALUATION FOR ASSESSMENT OF THIS PROPERTY, EXCLUDING RENEWABLE ENERGY AGRICULTURAL LAND, IS:

(A) TWENTY-FIVE AND NINE-TENTHS PERCENT OF THE ACTUAL VALUE THEREOF, IF, FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2031, THE AVERAGE INCREASE IN TOTAL VALUATION FOR ASSESSMENT OF TAXABLE REAL PROPERTY WITHIN THE THIRTY-TWO COUNTIES WITH THE SMALLEST INCREASES IN TOTAL VALUATION IS GREATER THAN OR EQUAL TO THREE AND SEVEN-TENTHS PERCENT FROM THE PRIOR PROPERTY TAX YEAR; OR

(B) TWENTY-SIX AND FOUR-TENTHS PERCENT OF THE ACTUAL VALUE THEREOF, IF, FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2031, THE AVERAGE INCREASE IN TOTAL VALUATION FOR ASSESSMENT OF TAXABLE REAL PROPERTY WITHIN THE THIRTY-TWO COUNTIES WITH THE SMALLEST INCREASES IN TOTAL VALUATION IS LESS THAN THREE AND SEVEN-TENTHS PERCENT FROM THE PRIOR PROPERTY TAX YEAR; AND

(IV) FOR THE PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2033, THE VALUATION FOR ASSESSMENT OF RENEWABLE ENERGY AGRICULTURAL LAND IS TWENTY-ONE AND NINE-TENTHS PERCENT OF THE ACTUAL VALUE THEREOF.

(b) The valuation for assessment of all nonresidential property that is not specified in subsection (1) or (1.8)(a) of this section is twenty-nine percent of the actual value thereof; except that ~~for the property tax year commencing on January 1, 2023,~~ the valuation for assessment of this property is temporarily reduced to:

(I) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, for all of the property listed by the assessor under any improved commercial subclass codes, twenty-seven and ~~nine-tenths~~ EIGHTY-FIVE ONE-HUNDREDTHS percent of an amount equal to the actual value minus the lesser of thirty thousand dollars or the amount that ~~reduces~~ CAUSES the valuation for assessment to BE one thousand dollars; ~~and~~

(II) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, ~~twenty-seven and nine-tenths~~ EIGHTY-FIVE ONE-HUNDREDTHS percent of the actual value of all other nonresidential property that is not specified in ~~subsections~~ SUBSECTION (1), (1.8)(a), ~~and~~ OR (1.8)(b)(I) of this section;

(III) FOR THE PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2027, TWENTY-SEVEN AND EIGHTY-FIVE ONE-HUNDREDTHS PERCENT OF THE ACTUAL VALUE OF ALL OTHER NONRESIDENTIAL PROPERTY THAT IS NOT SPECIFIED IN SUBSECTION (1) OR (1.8)(a) OF THIS SECTION OR THAT IS NOT UNDER A VACANT LAND SUBCLASS;

(IV) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2027, AND JANUARY 1, 2028, TWENTY-SEVEN AND SIXTY-FIVE ONE-HUNDREDTHS PERCENT OF THE ACTUAL VALUE OF ALL OTHER NONRESIDENTIAL PROPERTY THAT IS NOT SPECIFIED IN SUBSECTION (1) OR (1.8)(a) OF THIS SECTION OR THAT IS NOT UNDER A VACANT LAND SUBCLASS;

(V) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2029, AND JANUARY 1, 2030, TWENTY-SIX AND NINE-TENTHS PERCENT OF THE ACTUAL VALUE OF ALL OTHER NONRESIDENTIAL PROPERTY THAT IS NOT SPECIFIED IN SUBSECTION (1) OR (1.8)(a) OF THIS SECTION OR THAT IS NOT UNDER A VACANT LAND SUBCLASS; AND

(VI) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2031, AND JANUARY 1, 2032:

(A) TWENTY-FIVE AND NINE-TENTHS PERCENT OF THE ACTUAL VALUE OF ALL OTHER NONRESIDENTIAL PROPERTY THAT IS NOT SPECIFIED IN SUBSECTION (1) OR (1.8)(a) OF THIS SECTION OR THAT IS NOT UNDER A VACANT LAND SUBCLASS, IF, FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2031, THE AVERAGE INCREASE IN TOTAL VALUATION FOR ASSESSMENT OF TAXABLE REAL PROPERTY WITHIN THE THIRTY-TWO COUNTIES WITH THE SMALLEST INCREASES IN TOTAL VALUATION IS GREATER THAN OR EQUAL TO THREE AND SEVEN-TENTHS PERCENT FROM THE PRIOR PROPERTY TAX YEAR; OR

(B) TWENTY-SIX AND NINE-TENTHS PERCENT OF THE ACTUAL VALUE OF ALL OTHER NONRESIDENTIAL PROPERTY THAT IS NOT SPECIFIED IN SUBSECTION (1) OR (1.8)(a) OF THIS SECTION OR THAT IS NOT UNDER A

VACANT LAND SUBCLASS, IF, FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2031, THE AVERAGE INCREASE IN TOTAL VALUATION FOR ASSESSMENT OF TAXABLE REAL PROPERTY WITHIN THE THIRTY-TWO COUNTIES WITH THE SMALLEST INCREASES IN TOTAL VALUATION IS LESS THAN THREE AND SEVEN-TENTHS PERCENT FROM THE PRIOR PROPERTY TAX YEAR.

(b.5) (I) FOR PURPOSES OF SUBSECTIONS (1)(b)(V), (1.8)(a)(III), AND (1.8)(b)(VI) OF THIS SECTION, THE TOTAL VALUATION FOR ASSESSMENT OF TAXABLE REAL PROPERTY FOR ASSESSMENT EXCLUDES THE VALUATION FOR ASSESSMENT FROM PRODUCING MINES AND LANDS OR LEASEHOLDS PRODUCING OIL OR GAS.

(II) THE ADMINISTRATOR SHALL CALCULATE THE AVERAGE INCREASE IN TOTAL VALUATION FOR ASSESSMENT OF TAXABLE REAL PROPERTY WITHIN THE THIRTY-TWO COUNTIES WITH THE SMALLEST INCREASES IN TOTAL VALUATION FOR PURPOSES OF SUBSECTIONS (1)(b)(V), (1.8)(a)(III), AND (1.8)(b)(VI) OF THIS SECTION BASED ON INFORMATION PROVIDED BY COUNTY ASSESSORS IN ACCORDANCE WITH SUBSECTION (1.8)(b.5)(III) OF THIS SECTION AND THE ABSTRACT OF ASSESSMENT FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2030.

(III) NO LATER THAN MAY 5, 2031, EACH ASSESSOR SHALL PROVIDE THE ADMINISTRATOR WITH AN ESTIMATE OF THE TOTAL VALUATION FOR ASSESSMENT OF TAXABLE REAL PROPERTY LOCATED WITHIN THE COUNTY BASED ON THE NOTICES OF VALUATION FOR THE PROPERTY TAX YEAR.

(IV) ON OR BEFORE JULY 1, 2031, THE ADMINISTRATOR SHALL PUBLISH ON THE WEBSITE MAINTAINED BY THE DIVISION OF PROPERTY TAXATION IN THE DEPARTMENT OF LOCAL AFFAIRS WHETHER THE RATES SET FORTH IN SUBSECTIONS (1)(b)(V)(A), (1.8)(a)(III)(A), AND (1.8)(b)(VI)(A) OF THIS SECTION APPLY OR WHETHER THE RATES SET FORTH IN SUBSECTIONS (1)(b)(V)(B), (1.8)(a)(III)(B), AND (1.8)(b)(VI)(B) OF THIS SECTION APPLY FOR PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2031, AND JANUARY 1, 2032.

(c) The actual value of real and personal property specified in ~~subsection (1.8)(a) or (1.8)(b)~~ SUBSECTION (1), (1.8)(a), OR (1.8)(b) of this section is determined by the assessor and the administrator in the manner prescribed by law, and a valuation for assessment percentage is uniformly

applied, without exception, to the actual value, AS so determined OR AS SO DETERMINED AND THEN REDUCED, of the various classes and subclasses of real and personal property located within the territorial limits of the authority levying a property tax, and all property taxes are levied against the aggregate valuation for assessment resulting from the application of the percentage.

(d) As used in this section, unless the context otherwise requires, "nonresidential property" means all taxable real and personal property in the state other than residential real property, producing mines, or lands or leaseholds producing oil or gas. Nonresidential property includes the subclasses of agricultural property, lodging property, and renewable energy production property, for purposes of the ~~ratio~~ of valuation for assessment.

(1.9) (a) THE TEMPORARY REDUCTIONS IN THE VALUATIONS FOR ASSESSMENT SET FORTH IN SUBSECTIONS (1)(b) AND (1.8) OF THIS SECTION MADE IN SENATE BILL 23-303 ARE CONTINGENT ON THE STATE'S AUTHORITY TO RETAIN AND SPEND STATE SURPLUS UP TO THE PROPOSITION HH CAP UNDER PART 2 OF ARTICLE 77 OF TITLE 24. NOTWITHSTANDING ANY PROVISION OF SUBSECTIONS (1)(b) AND (1.8) OF THIS SECTION TO THE CONTRARY, IF, FOR A FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2023, THE STATE IS NOT PERMITTED TO RETAIN AND SPEND STATE SURPLUS UP TO THE PROPOSITION HH CAP FOR THE FISCAL YEAR FOR ANY REASON, EXCLUDING A LEGISLATIVE ENACTMENT BY THE GENERAL ASSEMBLY, THEN FOR THE PROPERTY TAX YEAR THAT BEGINS DURING THE FISCAL YEAR AND ALL PROPERTY TAX YEARS THEREAFTER, THE TEMPORARY REDUCTIONS IN THE VALUATION FOR ASSESSMENT SET FORTH IN SUBSECTIONS (1)(b) AND (1.8) OF THIS SECTION MADE IN SENATE BILL 23-303 DO NOT APPLY.

(b) THE STATE CONTROLLER SHALL NOTIFY THE ADMINISTRATOR IF SUBSECTION (1.9)(a) OF THIS SECTION APPLIES, AND THE ADMINISTRATOR SHALL PUBLISH NOTICE ON THE WEBSITE MAINTAINED BY THE DIVISION OF PROPERTY TAXATION IN THE DEPARTMENT OF LOCAL AFFAIRS THAT THE APPLICABLE TEMPORARY REDUCTIONS SET FORTH IN SUBSECTIONS (1)(b) AND (1.8) OF THIS SECTION MADE IN SENATE BILL 23-303 DO NOT APPLY.

SECTION 9. In Colorado Revised Statutes, 39-1-104.2, **amend** (3)(q) and (3)(r); and **add** (1)(a.3), (1)(a.7), (3.5), and (3.7) as follows:

39-1-104.2. Residential real property - valuation for assessment

- legislative declaration - definitions. (1) As used in this section, unless the context otherwise requires:

(a.3) "PRIMARY RESIDENCE REAL PROPERTY" MEANS PROPERTY THAT IS CLASSIFIED AS SUCH UNDER SECTION 39-1-104.6.

(a.7) "QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY" MEANS PROPERTY THAT IS CLASSIFIED AS SUCH UNDER SECTION 39-1-104.7 (2).

(3) (q) The ~~ratio of~~ valuation for assessment for multi-family residential real property is 7.15 percent of THE actual value THEREOF for property tax years commencing on or after January 1, 2019; except that THE VALUATION FOR ASSESSMENT IS TEMPORARILY REDUCED AS FOLLOWS:

(I) For the property tax ~~years~~ YEAR commencing on January 1, 2022, ~~and January 1, 2024~~, the ~~ratio of~~ valuation for assessment for multi-family residential real property is ~~temporarily reduced to~~ 6.8 percent of THE actual value THEREOF;

(II) For the property tax year commencing on January 1, 2023, the ~~ratio of~~ valuation for assessment for multi-family residential real property is ~~temporarily reduced to 6.765 percent~~ 6.7 PERCENT OF THE AMOUNT EQUAL TO THE actual value OF THE PROPERTY MINUS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE AMOUNT THAT CAUSES THE VALUATION FOR ASSESSMENT OF THE PROPERTY TO BE ONE THOUSAND DOLLARS; AND

(III) FOR THE PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2033, THE VALUATION FOR ASSESSMENT FOR MULTI-FAMILY RESIDENTIAL REAL PROPERTY IS 6.7 PERCENT OF THE AMOUNT EQUAL TO THE ACTUAL VALUE OF THE PROPERTY MINUS THE LESSER OF FORTY THOUSAND DOLLARS OR THE AMOUNT THAT CAUSES THE VALUATION FOR ASSESSMENT OF THE PROPERTY TO BE ONE THOUSAND DOLLARS.

(r) The ~~ratio of~~ valuation for assessment for all residential real property other than multi-family residential real property is 7.15 percent of THE actual value THEREOF; except that THE VALUATION FOR ASSESSMENT IS TEMPORARILY REDUCED AS FOLLOWS:

(I) For the property tax year commencing on January 1, 2022, the ~~ratio of~~ valuation for assessment for all residential real property other than multi-family residential real property is ~~temporarily reduced to~~ 6.95 percent of THE actual value THEREOF;

(II) For the property tax year commencing on January 1, 2023, the ~~ratio of~~ valuation for assessment for all residential real property other than multi-family residential real property is ~~6.765 percent~~ 6.7 PERCENT of THE AMOUNT EQUAL TO THE actual value ~~and~~ OF THE PROPERTY MINUS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE AMOUNT THAT CAUSES THE VALUATION FOR ASSESSMENT OF THE PROPERTY TO BE ONE THOUSAND DOLLARS;

(III) For the property tax year commencing on January 1, 2024, the ~~ratio of~~ valuation for assessment for all residential real property other than multi-family residential real property is ~~temporarily established as the percentage calculated in accordance with section 39-1-104.4~~ 6.7 PERCENT OF THE AMOUNT EQUAL TO THE ACTUAL VALUE OF THE PROPERTY MINUS THE LESSER OF FORTY THOUSAND DOLLARS OR THE AMOUNT THAT CAUSES THE VALUATION FOR ASSESSMENT OF THE PROPERTY TO BE ONE THOUSAND DOLLARS; AND

(IV) FOR PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2025, BUT BEFORE JANUARY 1, 2033:

(A) THE VALUATION FOR ASSESSMENT FOR PRIMARY RESIDENCE REAL PROPERTY, INCLUDING MULTI-FAMILY PRIMARY RESIDENCE REAL PROPERTY, IS 6.7 PERCENT OF THE AMOUNT EQUAL TO THE ACTUAL VALUE OF THE PROPERTY MINUS THE LESSER OF FORTY THOUSAND DOLLARS OR THE AMOUNT THAT CAUSES THE VALUATION FOR ASSESSMENT OF THE PROPERTY TO BE ONE THOUSAND DOLLARS;

(B) THE VALUATION FOR ASSESSMENT FOR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY, INCLUDING MULTI-FAMILY QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY, IS 6.7 PERCENT OF THE AMOUNT EQUAL TO THE ACTUAL VALUE OF THE PROPERTY MINUS THE LESSER OF ONE HUNDRED FORTY THOUSAND DOLLARS OR THE AMOUNT THAT CAUSES THE VALUATION FOR ASSESSMENT OF THE PROPERTY TO BE ONE THOUSAND DOLLARS; AND

(C) THE VALUATION FOR ASSESSMENT FOR ALL RESIDENTIAL REAL PROPERTY THAT IS NOT SPECIFIED IN SUBSECTION (3)(q)(III), (3)(r)(IV)(A), OR (3)(r)(IV)(B) OF THIS SECTION IS 6.7 PERCENT OF THE ACTUAL VALUE THEREOF.

(3.5) (a) THE TEMPORARY REDUCTIONS IN THE VALUATIONS FOR ASSESSMENT SET FORTH IN SUBSECTION (3) OF THIS SECTION MADE IN SENATE BILL 23-303 ARE CONTINGENT ON THE STATE'S AUTHORITY TO RETAIN AND SPEND STATE SURPLUS UP TO THE PROPOSITION HH CAP UNDER PART 2 OF ARTICLE 77 OF TITLE 24. NOTWITHSTANDING ANY PROVISION OF SUBSECTION (3) OF THIS SECTION TO THE CONTRARY, IF, FOR A FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2023, THE STATE IS NOT PERMITTED TO RETAIN AND SPEND STATE SURPLUS UP TO THE PROPOSITION HH CAP FOR THE FISCAL YEAR FOR ANY REASON, EXCLUDING A LEGISLATIVE ENACTMENT BY THE GENERAL ASSEMBLY, THEN FOR THE PROPERTY TAX YEAR THAT BEGINS DURING THE FISCAL YEAR AND ALL PROPERTY TAX YEARS THEREAFTER, THE TEMPORARY REDUCTIONS IN THE VALUATION FOR ASSESSMENT SET FORTH IN SUBSECTION (3) OF THIS SECTION MADE IN SENATE BILL 23-303 DO NOT APPLY.

(b) THE STATE CONTROLLER SHALL NOTIFY THE ADMINISTRATOR IF SUBSECTION (3.5)(a) OF THIS SECTION APPLIES, AND THE ADMINISTRATOR SHALL PUBLISH NOTICE ON THE WEBSITE MAINTAINED BY THE DIVISION OF PROPERTY TAXATION IN THE DEPARTMENT OF LOCAL AFFAIRS THAT THE APPLICABLE TEMPORARY REDUCTIONS SET FORTH IN SUBSECTION (3) OF THIS SECTION MADE IN SENATE BILL 23-303 DO NOT APPLY.

(3.7) (a) THE ADMINISTRATOR SHALL CONVENE A WORKING GROUP WITH REPRESENTATIVES, INCLUDING ASSESSORS AND ELECTED COUNTY OFFICIALS FROM SMALL-, MEDIUM-, AND LARGE-SIZED COUNTIES AND A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF REAL ESTATE PROFESSIONALS, TO MAKE RECOMMENDATIONS ABOUT WAYS TO STREAMLINE AND IMPROVE THE DESIGNATION OF THE PRIMARY RESIDENCE REAL PROPERTY IN THE EVENT THAT VOTERS APPROVE THE BALLOT ISSUE REFERRED IN ACCORDANCE WITH SECTION 24-77-202. IN FORMULATING ITS RECOMMENDATIONS, THE WORKING GROUP SHALL CONSIDER INFORMATION TECHNOLOGY NEEDS AND ADMINISTRATIVE IMPACTS. ON OR BEFORE JANUARY 1, 2024, THE WORKING GROUP SHALL PROVIDE A REPORT OF ITS RECOMMENDATIONS TO THE SENATE LOCAL GOVERNMENT AND HOUSING COMMITTEE, AND THE HOUSE OF REPRESENTATIVES TRANSPORTATION,

HOUSING, AND LOCAL GOVERNMENT COMMITTEE; EXCEPT THAT NO REPORT IS DUE IF THE BALLOT ISSUE DOES NOT PASS.

(b) THIS SUBSECTION (3.7) IS REPEALED, EFFECTIVE JULY 1, 2024.

SECTION 10. In Colorado Revised Statutes, **repeal** 39-1-104.3 and 39-1-104.4 as follows:

39-1-104.3. Partial real property tax reductions - residential property - definitions - repeal. ~~(1) As used in this section, unless the context otherwise requires, "residential real property" means property listed by the assessor under any residential real property classification code.~~

~~(2) For the property tax year commencing on January 1, 2023, the valuation for assessment for residential real property is six and seven hundred sixty-five thousandths percent, as set forth in section 39-1-104.2 (3)(q)(H) and (3)(r)(H), of the amount equal to the actual value, determined pursuant to section 39-1-103, minus the lesser of fifteen thousand dollars or the amount that reduces the valuation for assessment to one thousand dollars.~~

~~(3) This adjustment does not apply to any other class of property.~~

~~(4) This section is repealed, effective July 1, 2025.~~

39-1-104.4. Adjustment of residential rate. ~~(1) The ratio of valuation for assessment for residential real property other than multi-family residential real property for the property tax year commencing on January 1, 2024, is equal to the percentage necessary for the following to equal a total of seven hundred million dollars:~~

~~(a) The aggregate reduction of local government property tax revenue during the property tax year commencing on January 1, 2023, as a result of the changes made in Senate Bill 22-238, enacted in 2022, that reduced valuations for assessment set forth pursuant to sections 39-1-104 (1)(b) and (1.8)(b), 39-1-104.2 (3)(q)(H) and (3)(r)(H), and 39-3-104.3 (2); and~~

~~(b) The aggregate reduction of local government property tax revenue during the property tax year commencing on January 1, 2024, as a~~

~~result of the reduced valuations for assessment set forth pursuant to sections 39-1-104 (1.8)(a) and 39-1-104.2 (3)(q)(I) and (3)(r)(III) for the property tax year commencing on January 1, 2024.~~

~~(2) On or before March 21, 2024, based on the information available on that date, the property tax administrator shall submit a report to the general assembly calculating the ratio of valuation for assessment specified in subsection (1) of this section:~~

SECTION 11. In Colorado Revised Statutes, add 39-1-104.6 and 39-1-104.7 as follows:

39-1-104.6. Primary residence real property. (1) Definitions. AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) (I) "OWNER-OCCUPIER" MEANS AN INDIVIDUAL WHO:

(A) IS AN OWNER OF RECORD OF RESIDENTIAL REAL PROPERTY THAT THE INDIVIDUAL OCCUPIES AS THE INDIVIDUAL'S PRIMARY RESIDENCE;

(B) IS NOT AN OWNER OF RECORD OF THE RESIDENTIAL REAL PROPERTY THAT THE INDIVIDUAL OCCUPIES AS THE INDIVIDUAL'S PRIMARY RESIDENCE, BUT EITHER IS A SPOUSE OR CIVIL UNION PARTNER OF AN OWNER OF RECORD OF THE RESIDENTIAL REAL PROPERTY AND WHO ALSO OCCUPIES THE RESIDENTIAL REAL PROPERTY AS THE OWNER OF RECORD'S PRIMARY RESIDENCE, OR IS THE SURVIVING SPOUSE OR PARTNER OF AN INDIVIDUAL WHO WAS AN OWNER OF RECORD OF THE RESIDENTIAL REAL PROPERTY AND WHO OCCUPIED THE RESIDENTIAL REAL PROPERTY WITH THE SURVIVING SPOUSE OR PARTNER AS THEIR PRIMARY RESIDENCE UNTIL THE OWNER OF RECORD'S DEATH; OR

(C) IS NOT AN OWNER OF RECORD OF THE RESIDENTIAL REAL PROPERTY THAT THE INDIVIDUAL OCCUPIES AS THE INDIVIDUAL'S PRIMARY RESIDENCE, ONLY BECAUSE THE PROPERTY HAS BEEN PURCHASED BY OR TRANSFERRED TO A TRUST, A CORPORATE PARTNERSHIP, OR ANY OTHER LEGAL ENTITY SOLELY FOR ESTATE PLANNING PURPOSES AND IS THE MAKER OF THE TRUST OR A PRINCIPAL OF THE CORPORATE PARTNERSHIP OR OTHER LEGAL ENTITY;

(D) OCCUPIES RESIDENTIAL REAL PROPERTY AS THE INDIVIDUAL'S

PRIMARY RESIDENCE AND IS THE SPOUSE OR CIVIL UNION PARTNER OF A PERSON WHO ALSO OCCUPIES THE RESIDENTIAL REAL PROPERTY, WHO IS NOT THE OWNER OF RECORD OF THE PROPERTY ONLY BECAUSE THE PROPERTY HAS BEEN PURCHASED BY OR TRANSFERRED TO A TRUST, A CORPORATE PARTNERSHIP, OR ANY OTHER LEGAL ENTITY SOLELY FOR ESTATE PLANNING PURPOSES, AND WHO IS THE MAKER OF THE TRUST OR A PRINCIPAL OF THE CORPORATE PARTNERSHIP OR OTHER LEGAL ENTITY; OR

(E) OCCUPIES RESIDENTIAL REAL PROPERTY AS THE INDIVIDUAL'S PRIMARY RESIDENCE AND IS THE SURVIVING SPOUSE OR PARTNER OF A PERSON WHO OCCUPIED THE RESIDENTIAL REAL PROPERTY WITH THE SURVIVING SPOUSE OR PARTNER UNTIL THE PERSON'S DEATH, WHO WAS NOT THE OWNER OF RECORD OF THE PROPERTY AT THE TIME OF THE PERSON'S DEATH ONLY BECAUSE THE PROPERTY HAD BEEN PURCHASED BY OR TRANSFERRED TO A TRUST, A CORPORATE PARTNERSHIP, OR ANY OTHER LEGAL ENTITY SOLELY FOR ESTATE PLANNING PURPOSES PRIOR TO THE PERSON'S DEATH, AND WHO WAS THE MAKER OF THE TRUST OR A PRINCIPAL OF THE CORPORATE PARTNERSHIP OR OTHER LEGAL ENTITY PRIOR TO THE PERSON'S DEATH.

(II) "OWNER-OCCUPIER" ALSO INCLUDES ANY INDIVIDUAL WHO, BUT FOR THE CONFINEMENT OF THE INDIVIDUAL TO A HOSPITAL, NURSING HOME, OR ASSISTED LIVING FACILITY, WOULD OCCUPY THE RESIDENTIAL REAL PROPERTY AS THE INDIVIDUAL'S PRIMARY RESIDENCE AND WOULD MEET ONE OR MORE OF THE OWNERSHIP CRITERIA SPECIFIED IN SUBSECTION (1)(a)(I) OF THIS SECTION, IF THE RESIDENTIAL REAL PROPERTY:

(A) IS TEMPORARILY UNOCCUPIED; OR

(B) IS OCCUPIED BY THE SPOUSE, CIVIL UNION PARTNER, OR A FINANCIAL DEPENDENT OF THE INDIVIDUAL.

(b) "OWNER OF RECORD" MEANS AN INDIVIDUAL WHOSE NAME APPEARS ON A VALID RECORDED DEED TO RESIDENTIAL REAL PROPERTY AS AN OWNER OF THE PROPERTY.

(c) "QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY" MEANS A PROPERTY THAT IS CLASSIFIED AS SUCH UNDER SECTION 39-1-104.7.

(d) "SURVIVING SPOUSE OR PARTNER" MEANS AN INDIVIDUAL WHO WAS LEGALLY MARRIED TO ANOTHER INDIVIDUAL, OR WAS A PARTNER IN A CIVIL UNION WITH ANOTHER INDIVIDUAL, AT THE TIME OF THE OTHER INDIVIDUAL'S DEATH AND WHO HAS NOT REMARRIED OR ENTERED INTO ANOTHER CIVIL UNION.

(2) **Classification.** (a) EXCEPT AS SET FORTH IN SECTION 39-1-104.7, FOR PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2025, RESIDENTIAL REAL PROPERTY THAT AS OF THE ASSESSMENT DATE IS USED AS THE PRIMARY RESIDENCE OF AN OWNER-OCCUPIER IS CLASSIFIED AS PRIMARY RESIDENCE REAL PROPERTY, WHICH IS A SUBCLASS OF RESIDENTIAL REAL PROPERTY, IF:

(I) THE OWNER-OCCUPIER COMPLETES AND FILES AN APPLICATION IN THE MANNER REQUIRED BY SUBSECTION (3) OF THIS SECTION; AND

(II) THE CIRCUMSTANCES THAT QUALIFY THE PROPERTY FOR THE CLASSIFICATION HAVE NOT CHANGED SINCE THE FILING OF THE APPLICATION.

(b) UNDER NO CIRCUMSTANCES IS THE CLASSIFICATION ALLOWED FOR PROPERTY TAXES ASSESSED DURING ANY PROPERTY TAX YEAR PRIOR TO THE YEAR IN WHICH AN OWNER-OCCUPIER FIRST FILES AN APPLICATION IN THE MANNER REQUIRED BY SUBSECTION (3) OF THIS SECTION. IF OWNERSHIP OF RESIDENTIAL REAL PROPERTY THAT QUALIFIED AS PRIMARY RESIDENCE REAL PROPERTY AS OF THE ASSESSMENT DATE CHANGES AFTER THE ASSESSMENT DATE, THE CLASSIFICATION IS ALLOWED ONLY IF AN OWNER-OCCUPIER WHOSE STATUS AS AN OWNER-OCCUPIER QUALIFIED THE PROPERTY FOR THE CLASSIFICATION HAS FILED AN APPLICATION BY THE DEADLINE SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION.

(c) IF AN INDIVIDUAL OWNS AND OCCUPIES A DWELLING UNIT IN A COMMON INTEREST COMMUNITY, AS DEFINED IN SECTION 38-33.3-103 (8), AS THE INDIVIDUAL'S PRIMARY RESIDENCE, ONLY THE DWELLING UNIT THAT THE INDIVIDUAL OCCUPIES AS THE INDIVIDUAL'S PRIMARY RESIDENCE MAY QUALIFY AS PRIMARY RESIDENCE REAL PROPERTY OR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY.

(d) FOR PURPOSES OF THIS SUBSECTION (2), TWO INDIVIDUALS WHO ARE LEGALLY MARRIED OR ARE CIVIL UNION PARTNERS, BUT WHO OWN MORE THAN ONE PARCEL OF RESIDENTIAL REAL PROPERTY, ARE DEEMED TO

OCCUPY THE SAME PRIMARY RESIDENCE AND ONLY THAT PROPERTY MAY BE CLASSIFIED AS PRIMARY RESIDENCE REAL PROPERTY. IF AN INDIVIDUAL IS AN OWNER-OCCUPIER OF A RESIDENTIAL REAL PROPERTY AND AN OWNER OF RECORD ON ANOTHER PROPERTY ALONG WITH A MEMBER OF THE INDIVIDUAL'S FAMILY OTHER THAN THE INDIVIDUAL'S SPOUSE, THEN THE OTHER FAMILY MEMBER MAY BE AN OWNER-OCCUPIER OF THE OTHER PROPERTY.

(e) REAL PROPERTY THAT MIGHT OTHERWISE BE CLASSIFIED AS MULTI-FAMILY RESIDENTIAL REAL PROPERTY THAT CONTAINS A UNIT THAT QUALIFIES AS PRIMARY RESIDENCE REAL PROPERTY UNDER THIS SECTION IS CLASSIFIED AS MULTI-FAMILY PRIMARY RESIDENCE REAL PROPERTY.

(3) Applications. (a) FOR A PROPERTY TO BE CLASSIFIED AS PRIMARY RESIDENCE REAL PROPERTY OR AS QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY, AN INDIVIDUAL MUST FILE WITH THE ASSESSOR A COMPLETED APPLICATION NO LATER THAN MARCH 15 OF THE FIRST PROPERTY TAX YEAR FOR WHICH THE CLASSIFICATION IS SOUGHT. AN APPLICATION RETURNED BY MAIL IS DEEMED FILED ON THE DATE IT IS POSTMARKED.

(b) (I) AN APPLICANT MUST COMPLETE AN APPLICATION FOR PROPERTY TO BE CLASSIFIED AS PRIMARY RESIDENCE REAL PROPERTY OR AS QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY ON A FORM PRESCRIBED BY THE ADMINISTRATOR THAT INCLUDES THE FOLLOWING INFORMATION:

(A) THE APPLICANT'S NAME, MAILING ADDRESS, AND SOCIAL SECURITY NUMBER;

(B) THE ADDRESS AND SCHEDULE OR PARCEL NUMBER OF THE PROPERTY;

(C) THE NAME AND SOCIAL SECURITY NUMBER OF THE APPLICANT'S SPOUSE OR CIVIL UNION PARTNER WHO OCCUPIES THE PROPERTY AS THE SPOUSE OR CIVIL UNION PARTNER'S PRIMARY RESIDENCE;

(D) IF A TRUST IS THE OWNER OF RECORD OF THE PROPERTY, THE NAMES OF THE MAKER OF THE TRUST, THE TRUSTEE, AND THE BENEFICIARIES OF THE TRUST;

(E) IF A CORPORATE PARTNERSHIP OR OTHER LEGAL ENTITY IS THE OWNER OF RECORD OF THE PROPERTY, THE NAMES OF THE PRINCIPALS OR THE CORPORATE PARTNERSHIP OR OTHER LEGAL ENTITY;

(F) A STATEMENT OF WHETHER THE APPLICANT PREVIOUSLY QUALIFIED FOR THE PROPERTY TAX EXEMPTION FOR QUALIFYING SENIORS ALLOWED BY SECTION 39-3-203 (1) FOR A DIFFERENT PROPERTY THAN THE PROPERTY THAT THE APPLICANT CURRENTLY OCCUPIES AS THE APPLICANT'S PRIMARY RESIDENCE;

(G) AN AFFIRMATION, IN A FORM PRESCRIBED BY THE ADMINISTRATOR, THAT THE APPLICANT BELIEVES, UNDER PENALTY OF PERJURY IN THE SECOND DEGREE AS DEFINED IN SECTION 18-8-503, THAT ALL INFORMATION PROVIDED BY THE APPLICANT IS CORRECT; AND

(H) ANY OTHER INFORMATION THAT THE ADMINISTRATOR REASONABLY DEEMS NECESSARY.

(II) THE ADMINISTRATOR SHALL ALSO INCLUDE IN THE APPLICATION A STATEMENT THAT AN APPLICANT, OR, IF APPLICABLE, THE TRUSTEE, HAS A LEGAL OBLIGATION TO INFORM THE ASSESSOR WITHIN SIXTY DAYS OF ANY CHANGE IN THE OWNERSHIP OR OCCUPANCY OF THE RESIDENTIAL REAL PROPERTY FOR WHICH CLASSIFICATION AS PRIMARY RESIDENCE REAL PROPERTY OR AS QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY HAS BEEN APPLIED FOR OR ALLOWED THAT WOULD PREVENT THE CLASSIFICATION FROM BEING ALLOWED FOR THE PROPERTY.

(c) FOR PURPOSES OF THE APPLICATION AND RELATED PROVISIONS IN THIS SECTION, REAL PROPERTY THAT IS MULTI-FAMILY PRIMARY RESIDENCE REAL PROPERTY IS TREATED AS PRIMARY RESIDENCE REAL PROPERTY AND MULTI-FAMILY QUALIFIED-SENIOR PRIMARY REAL RESIDENCE IS TREATED AS QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY.

(4) **Penalties.** (a) IN ADDITION TO ANY PENALTIES PRESCRIBED BY LAW FOR PERJURY IN THE SECOND DEGREE, AN APPLICANT WHO KNOWINGLY PROVIDES FALSE INFORMATION ON AN APPLICATION OR ATTEMPTS TO CLAIM MORE THAN ONE PROPERTY AS PRIMARY RESIDENCE REAL PROPERTY OR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY FOR THE SAME PROPERTY TAX YEAR SHALL:

(I) NOT BE ABLE TO CLAIM THE PROPERTY AS PRIMARY RESIDENCE REAL PROPERTY OR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY FOR THE PROPERTY TAX YEAR;

(II) PAY, TO THE TREASURER OF A COUNTY IN WHICH PROPERTY WAS IMPROPERLY CLASSIFIED AS PRIMARY RESIDENCE REAL PROPERTY OR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY DUE TO THE PROVISION BY THE APPLICANT OF FALSE INFORMATION OR THE FILING OF MORE THAN ONE APPLICATION, AN AMOUNT EQUAL TO THE AMOUNT OF PROPERTY TAXES NOT PAID AS A RESULT OF THE IMPROPER CLASSIFICATION AS PRIMARY RESIDENCE REAL PROPERTY OR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY; AND

(III) UPON CONVICTION OF PERJURY, BE REQUIRED TO PAY TO THE TREASURER OF ANY COUNTY IN WHICH AN INVALID APPLICATION WAS FILED AN ADDITIONAL AMOUNT EQUAL TO TWICE THE AMOUNT OF THE PROPERTY TAXES IDENTIFIED IN SUBSECTION (4)(a)(II) OF THIS SECTION PLUS INTEREST, CALCULATED AT THE ANNUAL RATE CALCULATED PURSUANT TO SECTION 39-21-110.5 FROM THE DATE THE INVALID APPLICATION WAS FILED UNTIL THE DATE THE APPLICANT MAKES THE PAYMENT REQUIRED BY THIS SUBSECTION (4)(a)(III).

(b) IF AN APPLICANT OR A TRUSTEE FAILS TO INFORM THE ASSESSOR WITHIN SIXTY DAYS OF ANY CHANGE IN THE OWNERSHIP OR OCCUPANCY OF RESIDENTIAL REAL PROPERTY FOR CLASSIFICATION AS A PRIMARY RESIDENCE REAL PROPERTY OR A QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY THAT HAS BEEN APPLIED FOR OR ALLOWED THAT WOULD PREVENT THE CLASSIFICATION FROM BEING ALLOWED FOR THE PROPERTY AS REQUIRED BY SUBSECTION (3)(b) OF THIS SECTION:

(I) THE CLASSIFICATION IS NOT ALLOWED WITH RESPECT TO THE RESIDENTIAL REAL PROPERTY FOR THE SUBSEQUENT PROPERTY TAX YEAR; AND

(II) THE APPLICANT OR TRUSTEE SHALL PAY, TO THE TREASURER OF ANY COUNTY IN WHICH THE CLASSIFICATION WAS IMPROPERLY ALLOWED DUE TO THE APPLICANT'S OR TRUSTEE'S FAILURE TO IMMEDIATELY INFORM THE ASSESSOR OF ANY CHANGE IN THE OWNERSHIP OR OCCUPANCY OF RESIDENTIAL REAL PROPERTY, AN AMOUNT EQUAL TO THE AMOUNT OF PROPERTY TAXES NOT PAID AS A RESULT OF THE IMPROPER CLASSIFICATION

AS PRIMARY RESIDENCE REAL PROPERTY OR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY PLUS INTEREST, CALCULATED AT THE ANNUAL RATE SPECIFIED IN SECTION 39-21-110.5 FROM THE DATE ON WHICH THE CHANGE IN THE OWNERSHIP OR OCCUPANCY OCCURRED UNTIL THE DATE THE APPLICANT MAKES THE PAYMENT REQUIRED BY THIS SUBSECTION (4)(b)(II).

(c) ANY AMOUNT REQUIRED TO BE PAID TO A TREASURER PURSUANT TO SUBSECTION (4)(a) OR (4)(b) OF THIS SECTION IS DEEMED PART OF THE LIEN OF GENERAL TAXES IMPOSED ON THE PERSON REQUIRED TO PAY THE AMOUNT AND HAS THE PRIORITY SPECIFIED IN SECTION 39-1-107 (2).

(5) **Confidentiality.** (a) COMPLETED APPLICATIONS FOR CLASSIFICATION AS PRIMARY RESIDENCE REAL PROPERTY OR AS QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY ARE CONFIDENTIAL; EXCEPT THAT:

(I) (A) AN ASSESSOR OR THE ADMINISTRATOR MAY RELEASE STATISTICAL COMPILATIONS OR INFORMATIONAL SUMMARIES OF ANY INFORMATION CONTAINED IN THE APPLICATIONS AND SHALL PROVIDE A COPY OF AN APPLICATION TO THE APPLICANT WHO RETURNED THE APPLICATION AND THE TREASURER OF THE SAME COUNTY AS THE ASSESSOR;

(B) AN ASSESSOR OR THE ADMINISTRATOR MAY INTRODUCE A COPY OF AN APPLICATION AS EVIDENCE IN ANY ADMINISTRATIVE HEARING OR LEGAL PROCEEDING IN WHICH THE ACCURACY OR VERACITY OF THE APPLICATION IS AT ISSUE SO LONG AS NEITHER THE APPLICANT'S SOCIAL SECURITY NUMBER NOR ANY OTHER SOCIAL SECURITY NUMBER SET FORTH IN THE APPLICATION ARE DIVULGED.

(II) A TREASURER SHALL KEEP CONFIDENTIAL EACH INDIVIDUAL APPLICATION RECEIVED FROM AN ASSESSOR BUT MAY RELEASE STATISTICAL COMPILATIONS OR INFORMATIONAL SUMMARIES OF ANY INFORMATION CONTAINED IN APPLICATIONS AND MAY INTRODUCE A COPY OF AN APPLICATION AS EVIDENCE IN ANY ADMINISTRATIVE HEARING OR LEGAL PROCEEDING IN WHICH THE ACCURACY OR VERACITY OF THE APPLICATION IS AT ISSUE SO LONG AS NEITHER THE APPLICANT'S SOCIAL SECURITY NUMBER NOR ANY OTHER SOCIAL SECURITY NUMBER SET FORTH IN THE APPLICATION IS DIVULGED.

(III) THE ADMINISTRATOR MAY SHARE INFORMATION CONTAINED IN

AN APPLICATION, INCLUDING ANY SOCIAL SECURITY NUMBER SET FORTH IN THE APPLICATION, WITH THE DEPARTMENT OF REVENUE TO THE EXTENT NECESSARY TO ENABLE THE ADMINISTRATOR TO VERIFY THAT THE APPLICANT SATISFIES LEGAL REQUIREMENTS FOR THE CLASSIFICATION.

(b) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (5)(a) OF THIS SECTION, THE ADMINISTRATOR, AN ASSESSOR, OR A TREASURER SHALL NOT GIVE ANY OTHER PERSON ANY LISTING OF APPLICANTS OR ANY OTHER INFORMATION THAT WOULD ENABLE A PERSON TO EASILY ASSEMBLE A MAILING LIST OF APPLICANTS FOR THE PRIMARY RESIDENCE REAL PROPERTY CLASSIFICATION OR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY CLASSIFICATION.

(c) IN ACCORDANCE WITH SECTION 25-2-103 (4.7), THE ADMINISTRATOR SHALL ANNUALLY PROVIDE TO THE STATE REGISTRAR OF VITAL STATISTICS OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT A LIST, BY NAME AND SOCIAL SECURITY NUMBER, OF EVERY INDIVIDUAL WHO HAD PROPERTY CLASSIFIED AS PRIMARY RESIDENCE REAL PROPERTY OR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY FOR THE IMMEDIATELY PRECEDING YEAR SO THAT THE REGISTRAR CAN PROVIDE TO THE ADMINISTRATOR A LIST OF ALL THE INDIVIDUALS ON THE LIST WHO HAVE DIED. NO LATER THAN APRIL 1, 2026, AND APRIL 1 OF EACH YEAR THEREAFTER, THE ADMINISTRATOR SHALL FORWARD TO THE ASSESSOR OF EACH COUNTY THE NAME AND SOCIAL SECURITY NUMBER OF EACH DECEASED INDIVIDUAL WHO HAD RESIDENTIAL REAL PROPERTY LOCATED WITHIN THE COUNTY THAT WAS SO CLASSIFIED FOR THE IMMEDIATELY PRECEDING YEAR, SO THAT THE ASSESSOR CAN CHANGE THE CLASSIFICATION OF THE PROPERTY, IF NECESSARY.

(6) **Notice.** (a) AS SOON AS PRACTICABLE AFTER JANUARY 1, 2025, AND AFTER JANUARY 1 OF EACH YEAR THEREAFTER, EACH COUNTY TREASURER SHALL, AT THE TREASURER'S DISCRETION, MAIL OR ELECTRONICALLY SEND TO EACH PERSON WHOSE NAME APPEARS ON THE TAX LIST AND WARRANT AS AN OWNER OF RESIDENTIAL REAL PROPERTY NOTICE OF THE PRIMARY RESIDENCE REAL PROPERTY AND THE QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY CLASSIFICATIONS. THE TREASURER SHALL MAIL OR ELECTRONICALLY SEND THE NOTICE EACH YEAR ON OR BEFORE THE DATE ON WHICH THE TREASURER MAILES THE PROPERTY TAX STATEMENT FOR THE PREVIOUS PROPERTY TAX YEAR PURSUANT TO SECTION 39-10-103. THE ADMINISTRATOR SHALL PRESCRIBE THE FORM OF THE

NOTICE, WHICH MUST INCLUDE A STATEMENT OF THE ELIGIBILITY CRITERIA FOR THE PRIMARY RESIDENCE REAL PROPERTY AND QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY CLASSIFICATIONS AND INSTRUCTIONS FOR OBTAINING A RELATED APPLICATION.

(b) TO REDUCE MAILING COSTS, AN ASSESSOR MAY COORDINATE WITH THE TREASURER OF THE SAME COUNTY TO INCLUDE NOTICE WITH THE TAX STATEMENT FOR THE PREVIOUS PROPERTY TAX YEAR MAILED PURSUANT TO SECTION 39-10-103, OR MAY INCLUDE NOTICE WITH THE NOTICE OF VALUATION MAILED PURSUANT TO SECTION 39-5-121 (1)(a).

(7) Notice of classification - appeal. (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7)(b) OF THIS SECTION, AN ASSESSOR SHALL ONLY CLASSIFY PROPERTY AS PRIMARY RESIDENCE REAL PROPERTY OR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY IF AN APPLICANT HAS TIMELY RETURNED AN APPLICATION IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION THAT ESTABLISHES THAT EITHER CLASSIFICATION IS APPROPRIATE.

(II) IF THE INFORMATION PROVIDED ON OR WITH AN APPLICATION INDICATES THAT THE APPLICANT IS NOT ENTITLED TO THE CLASSIFICATION, OR IS INSUFFICIENT TO ALLOW THE ASSESSOR TO DETERMINE WHETHER THE PROPERTY MEETS THE CLASSIFICATION, THE ASSESSOR SHALL DENY THE APPLICATION AND MAIL TO THE APPLICANT A STATEMENT PROVIDING THE REASONS FOR THE DENIAL AND INFORMING THE APPLICANT OF THE APPLICANT'S RIGHT TO CONTEST THE DENIAL PURSUANT TO SUBSECTION (7)(b) OF THIS SECTION. THE ASSESSOR SHALL MAIL THE STATEMENT NO LATER THAN AUGUST 1 OF THE PROPERTY TAX YEAR FOR WHICH THE APPLICATION WAS FILED.

(b) (I) AN APPLICANT WHOSE APPLICATION HAS BEEN DENIED MAY CONTEST THE DENIAL BY REQUESTING A HEARING BEFORE THE COUNTY COMMISSIONERS SITTING AS THE COUNTY BOARD OF EQUALIZATION NO LATER THAN AUGUST 15 OF THE PROPERTY TAX YEAR FOR WHICH THE APPLICATION WAS FILED. THE HEARING SHALL BE HELD ON OR AFTER AUGUST 1 AND NO LATER THAN SEPTEMBER 1 OF THE PROPERTY TAX YEAR FOR WHICH THE APPLICATION WAS FILED, AND THE DECISION OF THE COUNTY BOARD OF EQUALIZATION IS NOT SUBJECT TO FURTHER ADMINISTRATIVE APPEAL BY EITHER THE APPLICANT OR THE ASSESSOR.

(II) AN INDIVIDUAL WHO HAS NOT TIMELY FILED AN APPLICATION WITH THE ASSESSOR BY MARCH 15 MAY FILE A LATE APPLICATION NO LATER THAN THE JULY 15 THAT IMMEDIATELY FOLLOWS THAT DEADLINE. THE ASSESSOR SHALL ACCEPT ANY SUCH APPLICATION BUT MAY NOT ACCEPT ANY LATE APPLICATION FILED AFTER JULY 15. A DECISION OF AN ASSESSOR TO DISALLOW THE FILING OF A LATE APPLICATION AFTER JULY 15 OR TO GRANT OR DENY THE CLASSIFICATION TO AN APPLICANT WHO HAS FILED A LATE APPLICATION AFTER MARCH 15 BUT NO LATER THAN JULY 15 IS FINAL, AND AN APPLICANT WHO IS DENIED LATE FILING OR AN EXEMPTION MAY NOT CONTEST THE DENIAL.

(III) THE COUNTY BOARD OF EQUALIZATION MAY APPOINT INDEPENDENT REFEREES TO CONDUCT HEARINGS REQUESTED PURSUANT TO SUBSECTION (7)(b)(I) OF THIS SECTION ON BEHALF OF THE COUNTY BOARD AND TO MAKE FINDINGS AND SUBMIT RECOMMENDATIONS TO THE COUNTY BOARD FOR ITS FINAL ACTION.

(8) Reporting to administrator. (a) NO LATER THAN SEPTEMBER 10, 2025, AND SEPTEMBER 10 OF EACH YEAR THEREAFTER, EACH ASSESSOR SHALL FORWARD TO THE ADMINISTRATOR A REPORT ON THE RESIDENTIAL REAL PROPERTY IN THE ASSESSOR'S COUNTY THAT QUALIFIES AS PRIMARY RESIDENCE REAL PROPERTY OR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY FOR THE CURRENT PROPERTY TAX YEAR. FOR EACH UNIT OF RESIDENTIAL REAL PROPERTY, THE REPORT MUST INCLUDE:

(I) THE LEGAL DESCRIPTION OF THE PROPERTY;

(II) THE SCHEDULE OR PARCEL NUMBER FOR THE PROPERTY; AND

(III) THE NAME AND SOCIAL SECURITY NUMBER OF THE APPLICANT WHO CLAIMED AN EXEMPTION FOR THE PROPERTY AND, IF APPLICABLE, THE APPLICANT'S SPOUSE OR CIVIL UNION PARTNER WHO OCCUPIES THE PROPERTY.

(b) (I) NO LATER THAN NOVEMBER 1, 2025, AND NOVEMBER 1 OF EACH YEAR THEREAFTER, THE ADMINISTRATOR SHALL PROVIDE WRITTEN NOTICE TO AN APPLICANT THAT THE APPLICANT IS INELIGIBLE AND THE REASON FOR THE INELIGIBILITY. THE NOTICE MUST ALSO INCLUDE A STATEMENT SPECIFYING THE DEADLINE AND PROCEDURES FOR PROTESTING THE DENIAL OF THE CLASSIFICATION.

(II) AN APPLICANT WHOSE CLAIMS FOR THE CLASSIFICATION ARE DENIED BY THE ADMINISTRATOR PURSUANT TO SUBSECTION (8)(b)(I) OF THIS SECTION MAY FILE A WRITTEN PROTEST WITH THE ADMINISTRATOR NO LATER THAN NOVEMBER 15 OF THE YEAR IN WHICH THE CLASSIFICATION WAS DENIED. AN APPLICATION RETURNED BY MAIL IS DEEMED FILED ON THE DATE IT IS POSTMARKED. IF THE GROUND FOR THE DENIAL IS THAT THE APPLICANT, OR THE APPLICANT AND THE APPLICANT'S SPOUSE OR CIVIL UNION PARTNER, CLAIMED MULTIPLE CLASSIFICATIONS, THE SOLE GROUND FOR A PROTEST IS THAT THE APPLICANT, OR THE APPLICANT AND THE APPLICANT'S SPOUSE OR CIVIL UNION PARTNER, FILED ONLY ONE CLAIM FOR THE CLASSIFICATION, AND THE PROTEST MUST SPECIFY THE PROPERTY IDENTIFIED BY THE ADMINISTRATOR IN THE NOTICE DENYING THE CLASSIFICATION FOR WHICH NO CLASSIFICATION WAS CLAIMED. IF THE GROUND FOR THE DENIAL IS THAT THE APPLICANT IS NOT AN OWNER-OCCUPIER OF THE RESIDENTIAL REAL PROPERTY FOR WHICH THE CLASSIFICATION IS CLAIMED, THE SOLE GROUNDS FOR A PROTEST ARE THAT THE APPLICANT ACTUALLY IS AN OWNER-OCCUPIER AND THAT THE APPLICANT QUALIFIES FOR THE CLASSIFICATION.

(c) NO LATER THAN DECEMBER 1, 2025, AND EACH DECEMBER 1 THEREAFTER, AND AFTER EXAMINING THE REPORTS SENT BY EACH ASSESSOR, DENYING CLAIMS FOR CLASSIFICATIONS, AND DECIDING PROTESTS IN ACCORDANCE WITH SUBSECTION (8)(b) OF THIS SECTION, THE ADMINISTRATOR SHALL PROVIDE WRITTEN NOTICE TO THE ASSESSOR OF EACH COUNTY IN WHICH AN APPLICATION HAS BEEN DENIED BECAUSE THE APPLICANT WAS INELIGIBLE.

39-1-104.7. Qualified-senior primary residence real property - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "OWNER-OCCUPIER" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-1-104.6 (1)(a).

(b) "SENIOR HOMESTEAD EXEMPTION" MEANS THE PROPERTY TAX EXEMPTION FOR QUALIFYING SENIORS ALLOWED BY SECTION 39-3-203 (1).

(2) (a) FOR PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2025, RESIDENTIAL REAL PROPERTY THAT AS OF THE ASSESSMENT DATE IS USED AS THE PRIMARY RESIDENCE OF AN OWNER-OCCUPIER IS CLASSIFIED AS QUALIFIED-SENIOR PRIMARY RESIDENCE

REAL PROPERTY, WHICH IS A SUBCLASS OF RESIDENTIAL REAL PROPERTY, IF:

(I) THE REAL PROPERTY WOULD OTHERWISE BE CLASSIFIED AS PRIMARY RESIDENCE REAL PROPERTY UNDER SECTION 39-1-104.6; AND

(II) THE OWNER-OCCUPIER OF THE PROPERTY PREVIOUSLY QUALIFIED FOR THE SENIOR HOMESTEAD EXEMPTION FOR A DIFFERENT PROPERTY AND DOES NOT QUALIFY FOR THE SENIOR HOMESTEAD EXEMPTION FOR THE CURRENT PROPERTY TAX YEAR.

(b) REAL PROPERTY THAT MIGHT OTHERWISE BE CLASSIFIED AS MULTI-FAMILY RESIDENTIAL REAL PROPERTY THAT CONTAINS A UNIT THAT QUALIFIES AS QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY UNDER THIS SECTION IS CLASSIFIED AS MULTI-FAMILY QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY.

SECTION 12. In Colorado Revised Statutes, 39-1-111, **amend** (1) and (5) as follows:

39-1-111. Taxes levied by board of county commissioners - repeal. (1) (a) No later than December 22 in each year, the board of county commissioners in each county of the state, or such other body in the city and county of Denver as shall be authorized by law to levy taxes, or the city council of the city and county of Broomfield, shall, either by an order to be entered in the record of its proceedings or by written approval, levy against the valuation for assessment of all taxable property located in the county on the assessment date, and in the various towns, cities, school districts, and special districts within such county, the requisite property taxes for all purposes required by law.

(b) (I) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, THE DEADLINE SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION IS POSTPONED FROM DECEMBER 22, 2023, TO JANUARY 12, 2024.

(II) THIS SUBSECTION (1)(b) IS REPEALED, EFFECTIVE JULY 1, 2025.

(5) (a) If, after certification of the valuation for assessment pursuant to section 39-5-128 and notification of total actual value pursuant to section 39-5-121 (2)(b) but prior to December 10, changes in such valuation for assessment or total actual value are made by the assessor, the assessor shall

send a single notification to the board of county commissioners or other body authorized by law to levy property taxes, to the division of local government, and to the department of education that includes all of such changes that have occurred during said specified period of time. Upon receipt of such notification, such board or body shall make adjustments in the tax levies to ensure compliance with section 29-1-301, ~~C.R.S.~~, if applicable, and may make adjustments in order that the same amount of revenue be raised. A copy of any adjustment to tax levies shall be transmitted to the administrator and assessor. Nothing in this subsection (5) shall be construed as conferring the authority to exceed statutorily imposed mill levy or revenue-raising limits.

(b) (I) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, THE DEADLINE SET FORTH IN SUBSECTION (5)(a) OF THIS SECTION IS POSTPONED FROM DECEMBER 10, 2023, TO DECEMBER 29, 2023.

(II) THIS SUBSECTION (5)(b) IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 13. In Colorado Revised Statutes, 39-5-128, **amend** (1) as follows:

39-5-128. Certification of valuation for assessment - repeal.

(1) (a) No later than August 25 of each year, the assessor shall certify to the department of education, to the clerk of each town and city, to the secretary of each school district, and to the secretary of each special district within the assessor's county the total valuation for assessment of all taxable property located within the territorial limits of each such town, city, school district, or special district and shall notify each such clerk, secretary, and board to officially certify the levy of such town, city, school district, or special district to the board of county commissioners no later than December 15. The assessor shall also certify to the secretary of each school district the actual value of the taxable property in the district.

(b) (I) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, THE DEADLINE SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION FOR OFFICIALLY CERTIFYING A LEVY IS POSTPONED FROM DECEMBER 15, 2023, TO JANUARY 5, 2024.

(II) THIS SUBSECTION (1)(b) IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 14. In Colorado Revised Statutes, 39-3-210, **amend** (1)(a), (1)(e), (3), (4)(b), (5), and (6); **repeal and reenact, with amendments,** (2) and (4)(a); and **add** (1)(a.3), (1)(b.5), (1)(d.5), (1)(e.5), (1)(f.3), (1)(f.7), (2.5), (4.5), and (5.5) as follows:

39-3-210. Reporting of property tax revenue reductions - reimbursement of local governmental entities - definitions - local government backfill cash fund - creation - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Additional state revenues" means the ~~lesser of two hundred forty million dollars or the total amount of the~~ state revenues in excess of the limitation on state fiscal year spending imposed by section 20 (7)(a) of article X of the state constitution that the state is required to refund under section 20 (7)(d) of article X of the state constitution, including any amount specified in section 24-77-103.8, that ~~exceeds~~ EXCEED the ~~amounts~~ AMOUNT projected to be refunded as required by ~~sections 39-3-209 and 39-22-627~~ SECTION 39-3-209 for the state fiscal year commencing on July 1, 2022.

(a.3) "COUNTY" INCLUDES A CITY AND COUNTY.

(b.5) "FUND" MEANS THE LOCAL GOVERNMENT BACKFILL CASH FUND CREATED IN SUBSECTION (5.5)(a) OF THIS SECTION.

(d.5) "LOCAL GOVERNMENTAL ENTITY" MEANS A GOVERNMENTAL ENTITY AUTHORIZED BY LAW TO IMPOSE AD VALOREM TAXES ON TAXABLE PROPERTY LOCATED WITHIN ITS TERRITORIAL LIMITS; EXCEPT THAT THE TERM EXCLUDES SCHOOL DISTRICTS.

(e) "Municipality" means a home rule or statutory city, town, OR territorial charter city. ~~or city and county.~~

(e.5) "PROPOSITION HH GENERAL FUND EXEMPT ACCOUNT" MEANS THE PROPOSITION HH GENERAL FUND EXEMPT ACCOUNT CREATED IN SECTION 24-77-203 (3)(a).

(f.3) "SELECT SPECIAL DISTRICT" MEANS A FIRE DISTRICT, HEALTH SERVICE DISTRICT, WATER DISTRICT, SANITATION DISTRICT, OR LIBRARY DISTRICT.

(f.7) "TOTAL PROPERTY TAX REVENUE REDUCTION" MEANS THE AMOUNT THAT A TREASURER CALCULATES FOR A LOCAL GOVERNMENTAL ENTITY IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION.

(2)(a)(I) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2023, AND JANUARY 1, 2024, EACH TREASURER SHALL CALCULATE THE TOTAL PROPERTY TAX REVENUE REDUCTION FOR EACH LOCAL GOVERNMENTAL ENTITY WITHIN THE TREASURER'S COUNTY AS A RESULT OF ALL OF THE CUMULATIVE TEMPORARY REDUCTIONS IN VALUATION FOR ASSESSMENT MADE IN SENATE BILL 22-238, ENACTED IN 2022, AND SENATE BILL 23-303.

(II) FOR THE PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2025, BUT BEFORE JANUARY 1, 2033, EACH TREASURER SHALL CALCULATE THE TOTAL PROPERTY TAX REVENUE REDUCTION FOR EACH LOCAL GOVERNMENTAL ENTITY WITHIN THE TREASURER'S COUNTY AS A RESULT OF ALL OF THE TEMPORARY REDUCTIONS IN VALUATION FOR ASSESSMENT MADE IN SENATE BILL 23-303.

(b)(I) WHEN CALCULATING THE TOTAL PROPERTY TAX REVENUE REDUCTION FOR A LOCAL GOVERNMENTAL ENTITY FOR A PROPERTY TAX YEAR AS REQUIRED BY THIS SECTION, A TREASURER SHALL USE THE LOCAL GOVERNMENTAL ENTITY'S MILL LEVY FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2022, EXCLUDING ANY MILLS LEVIED TO PROVIDE FOR THE PAYMENT OF BONDS AND INTEREST THEREON OR FOR THE PAYMENT OF ANY OTHER CONTRACTUAL OBLIGATION THAT HAS BEEN APPROVED BY A MAJORITY OF THE LOCAL GOVERNMENTAL ENTITY'S VOTERS VOTING THEREON.

(II) NOTWITHSTANDING SUBSECTION (2)(a) OF THIS SECTION, A TREASURER IS NOT REQUIRED TO DETERMINE THE TOTAL PROPERTY TAX REVENUE REDUCTION FOR A LOCAL GOVERNMENTAL ENTITY THAT IS INELIGIBLE TO RECEIVE A REIMBURSEMENT FROM THE STATE FOR A PROPERTY TAX YEAR IN ACCORDANCE WITH SUBSECTION (4.5)(b)(I)(B) OF THIS SECTION.

(c)(I) FOR THE PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2033, EACH ASSESSOR SHALL CALCULATE THE DIFFERENCE IN ASSESSED VALUE OF REAL PROPERTY FOR EACH LOCAL GOVERNMENTAL ENTITY WITHIN THE ASSESSOR'S COUNTY FOR

THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2022, AND THE PROPERTY TAX YEAR.

(II) NOTWITHSTANDING SUBSECTION (2)(c)(I) OF THIS SECTION, AN ASSESSOR IS NOT REQUIRED TO CALCULATE THE DIFFERENCE IN ASSESSED VALUE OF REAL PROPERTY FOR A LOCAL GOVERNMENTAL ENTITY, EXCLUDING A COUNTY, THAT IS INELIGIBLE TO RECEIVE A REIMBURSEMENT FROM THE STATE FOR A PROPERTY TAX YEAR IN ACCORDANCE WITH SUBSECTION (4.5)(b)(I)(B) OF THIS SECTION.

(d) FOR PURPOSES OF THIS SECTION, A LOCAL GOVERNMENTAL ENTITY WITHIN A COUNTY INCLUDES THE COUNTY ITSELF.

(2.5) (a) ON OR BEFORE SEPTEMBER 15, 2023, EACH TREASURER SHALL REPORT THE FOLLOWING ESTIMATES TO THE ADMINISTRATOR FOR ALL LOCAL GOVERNMENTAL ENTITIES WITHIN THE TREASURER'S COUNTY:

(I) THE TOTAL PROPERTY TAX REVENUE REDUCTION FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, THAT IS BASED ON THE:

(A) TEMPORARY REDUCTIONS IN THE VALUATION FOR ASSESSMENT MADE IN SENATE BILL 22-238, ENACTED IN 2022; AND

(B) CUMULATIVE TEMPORARY REDUCTIONS IN THE VALUATION FOR ASSESSMENT MADE IN SENATE BILL 22-238, ENACTED IN 2022, AND SENATE BILL 23-303, IF A MAJORITY OF VOTERS APPROVE THE BALLOT ISSUE REFERRED IN ACCORDANCE WITH SECTION 24-77-202; AND

(II) THE INCREASE IN ASSESSED VALUE FROM THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2022, TO THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, THAT IS BASED ON THE:

(A) TEMPORARY REDUCTIONS IN THE VALUATION FOR ASSESSMENT MADE IN SENATE BILL 22-238, ENACTED IN 2022; AND

(B) CUMULATIVE TEMPORARY REDUCTIONS IN THE VALUATION FOR ASSESSMENT MADE IN SENATE BILL 22-238, ENACTED IN 2022, AND SENATE BILL 23-303, IF A MAJORITY OF VOTERS APPROVE THE BALLOT ISSUE REFERRED IN ACCORDANCE WITH SECTION 24-77-202.

(b) THE ADMINISTRATOR SHALL PROVIDE THE ESTIMATES RECEIVED IN ACCORDANCE WITH SUBSECTION (2.5)(a) OF THIS SECTION TO THE DEPARTMENT OF REVENUE AND LEGISLATIVE COUNCIL STAFF.

(3) No later than March 1, 2024, ~~each~~ AND MARCH 1 OF THE NEXT NINE YEARS THEREAFTER, A treasurer shall report the amounts specified in subsection (2) of this section, as applicable and the basis for the amounts to the administrator. ~~and~~ The administrator may require a treasurer to provide additional information as necessary to evaluate the accuracy of the amounts reported. The administrator shall confirm that the reported amounts are correct or rectify the amounts, if necessary. The administrator shall then forward the correct amounts for ~~each~~ A county to the state treasurer to enable the state treasurer to issue a reimbursement warrant to ~~each~~ A treasurer in accordance with subsection (4) of this section.

(4) (a) (I) NO LATER THAN APRIL 15, 2024, THE STATE TREASURER SHALL ISSUE A WARRANT, TO BE PAID UPON DEMAND FROM ADDITIONAL STATE REVENUES FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2022, AND, IF NECESSARY, FROM OTHER MONEY IN THE GENERAL FUND, TO EACH TREASURER THAT IS EQUAL TO THE TOTAL REIMBURSEMENT AMOUNTS SET FORTH IN SUBSECTION (4.5) OF THIS SECTION FOR ALL LOCAL GOVERNMENTAL ENTITIES WITHIN THE TREASURER'S COUNTY FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023.

(II) NO LATER THAN APRIL 15, 2025, AND APRIL 15 OF THE NEXT EIGHT YEARS THEREAFTER, THE STATE TREASURER SHALL ISSUE A WARRANT, TO BE PAID UPON DEMAND FIRST FROM THE FUND, AND, IF NECESSARY, FROM STATE REVENUES IN THE PROPOSITION HH GENERAL FUND EXEMPT ACCOUNT, TO EACH TREASURER THAT IS EQUAL TO THE TOTAL REIMBURSEMENT AMOUNTS SET FORTH IN SUBSECTION (4.5) OF THIS SECTION FOR ALL LOCAL GOVERNMENTAL ENTITIES WITHIN THE TREASURER'S COUNTY FOR THE PRIOR PROPERTY TAX YEAR.

(b) Each treasurer shall distribute the total amount received from the state treasurer to the local governmental entities, excluding school districts, within the treasurer's county as if the revenues had been regularly paid as property tax, but so that the local governmental entities only receive the amounts determined pursuant to ~~subsection (4)(a)~~ of this section.

(4.5) (a) EXCEPT AS SET FORTH IN SUBSECTIONS (4.5)(b), (4.5)(c),

AND (4.5)(d) OF THIS SECTION, THE REIMBURSEMENT FOR A LOCAL GOVERNMENTAL ENTITY FOR A PROPERTY TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2033, IS EQUAL TO:

(I) FOR COUNTIES WITH A POPULATION THAT IS THREE HUNDRED THOUSAND OR LESS:

(A) THE ENTIRE AMOUNT OF THE TOTAL PROPERTY TAX REVENUE REDUCTION FOR EACH LOCAL GOVERNMENTAL ENTITY WITHIN A COUNTY THAT HAD AN INCREASE OF LESS THAN TEN PERCENT IN THE ASSESSED VALUE OF REAL PROPERTY FROM THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2022, TO THE PROPERTY TAX YEAR FOR WHICH THE REIMBURSEMENT IS BEING CALCULATED; AND

(B) NINETY PERCENT OF THE TOTAL PROPERTY TAX REVENUE REDUCTION FOR EACH LOCAL GOVERNMENTAL ENTITY THAT HAD AN INCREASE OF TEN PERCENT OR MORE IN THE ASSESSED VALUE OF REAL PROPERTY FROM THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2022, TO THE PROPERTY TAX YEAR FOR WHICH THE REIMBURSEMENT IS BEING CALCULATED;

(II) FOR COUNTIES WITH A POPULATION GREATER THAN THREE HUNDRED THOUSAND:

(A) THE ENTIRE AMOUNT OF THE TOTAL PROPERTY TAX REVENUE REDUCTION FOR EACH MUNICIPALITY OR SELECT SPECIAL DISTRICT THAT HAD AN INCREASE OF LESS THAN TEN PERCENT IN THE ASSESSED VALUE OF REAL PROPERTY FROM THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2022, TO THE PROPERTY TAX YEAR FOR WHICH THE REIMBURSEMENT IS BEING CALCULATED;

(B) NINETY PERCENT OF THE TOTAL PROPERTY TAX REVENUE REDUCTION FOR EACH MUNICIPALITY OR SELECT SPECIAL DISTRICT THAT HAD AN INCREASE OF TEN PERCENT OR MORE IN THE ASSESSED VALUE OF REAL PROPERTY FROM THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2022, TO THE PROPERTY TAX YEAR FOR WHICH THE REIMBURSEMENT IS BEING CALCULATED; AND

(C) SIXTY-FIVE PERCENT OF THE TOTAL PROPERTY TAX REVENUE REDUCTION FOR ALL LOCAL GOVERNMENTAL ENTITIES BESIDES A

MUNICIPALITY OR A SELECT SPECIAL DISTRICT.

(b) (I) EXCEPT AS SET FORTH IN SUBSECTION (4.5)(b)(II) OF THIS SECTION, FOR PROPERTY TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 2024, A LOCAL GOVERNMENTAL ENTITY IS INELIGIBLE TO RECEIVE REIMBURSEMENT UNDER THIS SECTION IF:

(A) THE LOCAL GOVERNMENTAL ENTITY HAS AN INCREASE OF TWENTY PERCENT OR MORE IN THE ASSESSED VALUE OF REAL PROPERTY FROM THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2022, TO THE PROPERTY TAX YEAR FOR WHICH A REIMBURSEMENT AMOUNT IS CALCULATED; OR

(B) THE LOCAL GOVERNMENTAL ENTITY IS WITHIN A COUNTY THAT HAS A POPULATION GREATER THAN THREE HUNDRED THOUSAND AND WAS INELIGIBLE TO RECEIVE A REIMBURSEMENT UNDER SUBSECTION (4.5)(b)(I)(A) OF THIS SECTION FOR A PRIOR PROPERTY TAX YEAR.

(II) THE REIMBURSEMENT FOR A FIRE DISTRICT, HEALTH SERVICE DISTRICT, OR AMBULANCE DISTRICT THAT WOULD OTHERWISE BE INELIGIBLE TO RECEIVE A REIMBURSEMENT BASED ON SUBSECTION (4.5)(b)(I) OF THIS SECTION IS EQUAL TO FIFTY PERCENT OF THE DISTRICT'S TOTAL PROPERTY TAX REVENUE REDUCTION FOR THE PROPERTY TAX YEAR.

(c) (I) FOR A PROPERTY TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2033, THE TOTAL OF ALL REIMBURSEMENTS STATEWIDE UNDER THIS SECTION SHALL NOT EXCEED THE TOTAL OF THE AMOUNT IN THE FUND AND AN AMOUNT EQUAL TO TWENTY PERCENT OF THE AMOUNT IN THE PROPOSITION HH GENERAL FUND EXEMPT ACCOUNT AS OF THE DATE THAT THE TREASURER IS MAKING THE REIMBURSEMENTS.

(II) IF THE TOTAL OF ALL REIMBURSEMENTS STATEWIDE WOULD OTHERWISE EXCEED THE LIMIT SET FORTH IN SUBSECTION (4.5)(c)(I) OF THIS SECTION FOR A PROPERTY TAX YEAR, THE STATE TREASURER SHALL PROVIDE THE REIMBURSEMENTS OTHERWISE SPECIFIED IN THIS SUBSECTION (4.5) TO ALL FIRE DISTRICTS, HEALTH SERVICE DISTRICTS, AND AMBULANCE DISTRICTS AND THEN PROPORTIONALLY REDUCE THE REIMBURSEMENT AMOUNT FOR ALL OTHER LOCAL GOVERNMENTAL ENTITIES SO THAT THE TOTAL OF ALL REIMBURSEMENTS STATEWIDE, INCLUDING THE

REIMBURSEMENT AMOUNTS FOR ALL FIRE DISTRICTS, HEALTH SERVICE DISTRICTS, AND AMBULANCE DISTRICTS, EQUALS THE LIMIT FOR THE PROPERTY TAX YEAR.

(III) THE STATE TREASURER SHALL REDUCE A LOCAL GOVERNMENTAL ENTITY'S REIMBURSEMENT AS NECESSARY TO AVOID THE LOCAL GOVERNMENTAL ENTITY EXCEEDING ITS FISCAL YEAR SPENDING LIMIT UNDER SECTION 20 (7)(b) OF ARTICLE X OF THE STATE CONSTITUTION FOR THE FISCAL YEAR.

(d) IF A LOCAL GOVERNMENTAL ENTITY HAS AN INCREASE OF TWENTY PERCENT OR MORE IN THE ASSESSED VALUE OF REAL PROPERTY FROM THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2022, TO THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, THEN, FOR THE REIMBURSEMENT FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, THE LOCAL GOVERNMENTAL ENTITY'S TOTAL PROPERTY TAX REVENUE REDUCTION IS BASED ONLY ON THE TEMPORARY REDUCTIONS IN VALUATION FOR ASSESSMENT MADE IN SENATE BILL 22-238, ENACTED IN 2022.

(e) THE REIMBURSEMENT AMOUNTS SET FORTH IN THIS SECTION ARE BASED ON THE AMOUNTS THAT THE ADMINISTRATOR REPORTS TO THE TREASURER IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION. FOR PURPOSES OF THIS SUBSECTION (4.5), POPULATION IS DETERMINED PURSUANT TO THE MOST RECENTLY PUBLISHED POPULATION ESTIMATES FROM THE STATE DEMOGRAPHER APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS.

(f) IF A LOCAL GOVERNMENTAL ENTITY IS LOCATED IN MORE THAN ONE COUNTY, THEN THE PART LOCATED IN EACH COUNTY IS TREATED LIKE ANY OTHER LOCAL GOVERNMENTAL ENTITY LOCATED WITHIN THE COUNTY FOR THE PURPOSE OF DETERMINING THE REIMBURSEMENT AMOUNT UNDER SUBSECTION (4.5)(a) OF THIS SECTION, BUT, FOR THE PURPOSE OF APPLYING SUBSECTION (4.5)(b) OF THIS SECTION, THE ENTIRE LOCAL GOVERNMENTAL ENTITY IS CONSIDERED.

(5) On or before March 21, 2024, based on the information available as of that date, the property tax administrator shall submit a report to the general assembly describing the ~~aggregate reduction of local government~~ TOTAL property tax revenue ~~during~~ REDUCTION FOR ALL LOCAL

GOVERNMENTAL ENTITIES STATEWIDE FOR the property tax year commencing on January 1, 2023. ~~as a result of the changes made in Senate Bill 22-238, enacted in 2022, that reduced valuations for assessment set forth pursuant to sections 39-1-104(1)(b) and (1.8)(b), 39-1-104.2(3)(q)(H) and (3)(r)(H), and 39-3-104.3(2).~~

(5.5) (a) THE LOCAL GOVERNMENT BACKFILL CASH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY TRANSFERRED TO THE FUND IN ACCORDANCE WITH SUBSECTION (5.5)(b) OF THIS SECTION. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE LOCAL GOVERNMENT BACKFILL CASH FUND TO THE FUND.

(b) ON FEBRUARY 1, 2024, THE STATE TREASURER SHALL TRANSFER ONE HUNDRED TWENTY-EIGHT MILLION DOLLARS FROM THE GENERAL FUND TO THE FUND.

(c) THE MONEY IN THE FUND IS AVAILABLE FOR THE STATE TREASURER TO PAY THE WARRANTS REQUIRED TO BE ISSUED IN ACCORDANCE WITH SUBSECTION (4)(a)(II) OF THIS SECTION.

(6) This section is repealed, effective ~~July 1, 2025~~ JULY 1, 2035.

SECTION 15. In Colorado Revised Statutes, **amend** 39-5-129 as follows:

39-5-129. Delivery of tax warrant - public inspection - repeal.

(1) As soon as practicable after the requisite taxes for the year have been levied but in no event later than January 10 of each year, the assessor shall deliver the tax warrant under ~~his~~ THE hand and official seal OF THE ASSESSOR to the treasurer, which shall be made readily available to the general public during the collection year in a convenient location in the courthouse. The assessor shall retain one or more true copies thereof, which shall be made readily available to the general public during the collection year in a convenient location in the courthouse. Such tax warrant shall set forth the assessment roll, reciting the persons in whose names taxable property in the county has been listed, the class of such taxable property and the valuation for assessment thereof, the several taxes levied against such valuation, and the amount of such taxes extended against each separate valuation. At the end of the warrant, the aggregate of all taxes levied shall

be totaled, balanced, and prorated to the several funds of each levying authority, and the treasurer shall be commanded to collect all such taxes.

(2) (a) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, THE DEADLINE SET FORTH IN SUBSECTION (1) OF THIS SECTION IS POSTPONED FROM JANUARY 10, 2024, TO JANUARY 19, 2024.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 16. In Colorado Revised Statutes, 39-10-103, **add** (1)(c) as follows:

39-10-103. Tax statement - repeal. (1) (c) (I) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, THE TREASURER SHALL MAIL THE STATEMENT AS SOON AS PRACTICABLE AFTER JANUARY 19, 2024.

(II) THIS SUBSECTION (1)(c) IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 17. In Colorado Revised Statutes, 39-21-113, **amend** (24) as follows:

39-21-113. Reports and returns - rule - repeal. (24) Notwithstanding any other provision of this section, the executive director, after receiving from the property tax administrator a list of individuals who are claiming EITHER the property tax exemptions for qualifying seniors and disabled veterans allowed under part 2 of article 3 of this ~~title~~ TITLE 39 OR THE PRIMARY RESIDENCE REAL PROPERTY OR QUALIFIED-SENIOR PRIMARY RESIDENCE REAL PROPERTY CLASSIFICATION FOR THE PROPERTY, shall provide to the property tax administrator information pertaining to the listed individuals, including their names, social security numbers, marital and income tax filing status, and residency status, needed by the administrator to verify that the exemption OR CLASSIFICATION is allowed only to applicants who satisfy legal requirements for claiming it. The administrator and the administrator's agents, clerks, and employees shall keep all information received from the executive director confidential, and any individual who fails to do so is guilty of a misdemeanor and subject to punishment as specified in subsection (6) of this section.

SECTION 18. In Colorado Revised Statutes, 39-22-2002, **add** (5.5)

as follows:

39-22-2002. Fiscal years commencing on or after July 1, 1998 - state sales tax refund - authority of executive director - repeal.

(5.5) (a) IN ADDITION TO THE CALCULATIONS OTHERWISE REQUIRED BY THIS SECTION, NO LATER THAN OCTOBER 1, 2023, THE EXECUTIVE DIRECTOR SHALL CALCULATE THE AMOUNT OF THE IDENTICAL INDIVIDUAL REFUND CALCULATED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION AND THE INCOME CLASSIFICATIONS AND THE AMOUNT OF THE REFUND ALLOWED FOR EACH INCOME CLASSIFICATION PURSUANT TO SECTION 39-22-2003 (3) FOR THE TAXABLE YEAR COMMENCING DURING THE FISCAL YEAR BASED ON THE AMOUNT OF EXCESS STATE REVENUES THAT WILL BE REFUNDED UNDER SECTION 39-3-210 WITH OR WITHOUT THE PROVISIONS OF SENATE BILL 23-303 TAKING EFFECT.

(b) THIS SUBSECTION (5.5) IS REPEALED, EFFECTIVE JULY 1, 2024.

SECTION 19. In Colorado Revised Statutes, 22-54-114, **add** (10) as follows:

22-54-114. State public school fund - repeal. (10) (a) ON FEBRUARY 1, 2024, THE STATE TREASURER SHALL TRANSFER SEVENTY-TWO MILLION DOLLARS FROM THE GENERAL FUND TO THE STATE PUBLIC SCHOOL FUND FOR THE PURPOSE OF OFFSETTING REDUCTIONS IN SCHOOL DISTRICT PROPERTY TAX REVENUE.

(b) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 20. In Colorado Revised Statutes, 39-5-121, **add** (3.5) as follows:

39-5-121. Notice of valuation - legislative declaration - definition - repeal. (3.5) (a) ON OR BEFORE MARCH 1, 2024, THE ADMINISTRATOR SHALL PREPARE A DESCRIPTION OF THE PROPERTY TAX CLASSES AND SUBCLASSES SET FORTH IN SECTIONS 39-1-104 AND 39-1-104.2, THE VALUATION FOR ASSESSMENT FOR THE DIFFERENT CLASSES AND SUBCLASSES, THE PROPERTY TAX YEARS THAT THE VARIOUS VALUATIONS FOR ASSESSMENT APPLY, AND INFORMATION ABOUT THE APPLICATION PROCESS SET FORTH IN SECTION 39-1-104.6(3). THE ASSESSOR SHALL EITHER INCLUDE THE DESCRIPTION ALONG WITH A NOTICE OF VALUATION THAT IS

REQUIRED TO BE SENT IN THE 2024 CALENDAR YEAR UNDER SUBSECTION (1) OR (1.5) OF THIS SECTION OR MAKE IT AVAILABLE ON THE ASSESSOR'S WEBSITE.

(b) THIS SUBSECTION (3.5) IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 21. In Colorado Revised Statutes, 39-10-104.5, amend (3)(a) as follows:

39-10-104.5. Payment dates - optional payment dates - failure to pay - delinquency. (3) (a) (I) If the first installment is not paid on or before the last day of February, then delinquent interest on the first installment shall accrue at the rate of one percent per month from the first day of March until the date of payment; except that, if payment of the first installment is made after the last day of February but not later than thirty days after the mailing by the treasurer of the tax statement, or true and actual notification of an electronic statement, pursuant to section 39-10-103 (1)(a), no such delinquent interest shall accrue. If the second installment is not paid by the fifteenth day of June, delinquent interest on the second installment shall accrue at the rate of one percent per month from the sixteenth day of June until the date of payment. Interest on the first installment shall continue to accrue at the same time that interest is accruing on the unpaid portion of the second installment. The taxpayer shall continue to have the option of paying delinquent property taxes in two equal installments until one day prior to the sale of the tax lien on such property pursuant to article 11 of this title.

(II) (A) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2023, DELINQUENT INTEREST DOES NOT ACCRUE IF PAYMENT OF THE FIRST INSTALLMENT IS MADE AFTER THE LAST DAY OF FEBRUARY BUT NOT LATER THAN FIFTEEN DAYS AFTER THE MAILING BY THE TREASURER OF THE TAX STATEMENT, OR TRUE AND ACTUAL NOTIFICATION OF AN ELECTRONIC STATEMENT, PURSUANT TO SECTION 39-10-103 (1).

(B) THIS SUBSECTION (3)(a)(II) IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 22. Appropriation. (1) For the 2023-24 state fiscal year, \$62,426 is appropriated to the department of local affairs. This appropriation is from the general fund. To implement this act, the

department may use this appropriation for the purchase of information technology services.

(2) For the 2023-24 state fiscal year, \$62,426 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of local affairs under subsection (1) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of local affairs.

(3) For the 2023-24 state fiscal year, \$94,162,222 is appropriated to the department of education. This appropriation is from the state education fund created in section 17 (4)(a) of article IX of the state constitution. To implement this act, the department may use this appropriation for the state share of districts' total program funding.

SECTION 23. Effective date. (1) Except as otherwise provided in subsection (2) of this section, this act takes effect only if a majority of voters approve the ballot issue referred in accordance with section 24-77-202, Colorado Revised Statutes, enacted in section 3 of this act, and in which case this act takes effect on the date of the official declaration of the vote thereon by the governor.

(2) Section 3, section 39-1-104.2 (3.7) enacted in section 9 of this bill, section 39-3-210 (1)(a.3), (1)(e), and (2.5) enacted or amended in section 14 of this act, section 18, this section 23, and section 24 of this act take effect upon passage.

SECTION 24. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



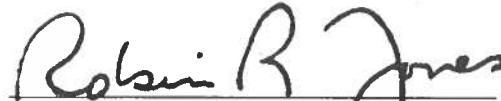
Steve Fenberg
PRESIDENT OF
THE SENATE



Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

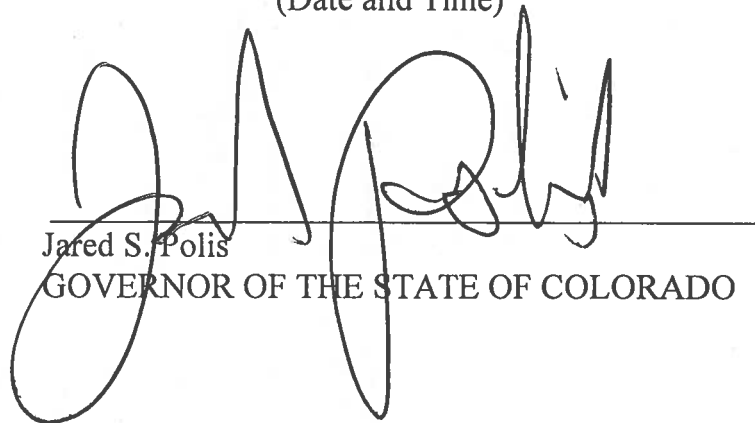


Cindi L. Markwell
SECRETARY OF
THE SENATE



Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED Wednesday May 24th 2023 at 11:15 AM
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO



BOARD COMMUNICATION FORM

From: Scott Grosscup, legal counsel

Date: June 30, 2023

Item: Water Resumes for March/April

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I have reviewed the water resumes of water applications filed in Water Divisions 5 and 6 in the month May. June's resume is not available at the time of writing this memo. I did not see any water court applications filed in the month of May to be of concern to the District. I will report on the June resumes if they are available at the board meeting.

PENDING WATER CASES

STATUS OF OTHER WATER CASES



BOARD COMMUNICATION FORM

From: Scott Grosscup, legal counsel

Date: June 30, 2023

Item: Water Court Cases Update

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

Following is an update of the status of water court cases in which the Upper Yampa Water Conservancy District is an Applicant or Opposer and matters pending before the Utah Division of Water Resources.

Case No. 20CW3019 and Case No. 20CW3020 – Diligence application filed by Public Service Company of Colorado for 52.5 cfs decreed to the Wessels Canal Hinman Park Reservoir and the Saddle Mountain Pump Station. The District entered a stipulation in the two cases. This matter is set for a 5-day trial to begin October 23, 2023. The Engineers are asserting the conditional water rights should be cancelled.

Case No. 21CW3046. Tri-State’s diligence application for the Craig Station Ditch and Pipeline in the amount of 15.07 cfs, conditional. No other statements of opposition were filed to the application. The Division Engineer has recommended the water right be cancelled. Tri-State has responded by arguing the Division Engineer’s analysis is too simplistic and that it can and will develop the conditional water rights notwithstanding its portfolio of water rights. This case is tied to the listing of absolute portions of the same water rights owned by Tri-State on the abandonment list. Tri-State has provided a proposed stipulation for consideration.

Case No. 21CW3053. Dean and Jim Rossi have withdrawn their application for new junior water rights and to add an alternate point of diversion so that their water rights in the Powell Ditch and Laramore Ditch and may refile in the future.

Case No. 22CW3002 - Yamcolo Reservoir Second Filling – The District filed its application for finding of reasonable diligence or to make absolute for the Yamcolo Reservoir Second Filling water right on January 24, 2022. This water right is conditional in the amount of 7,066 acre feet. Tri State and the United States Forest Service have filed statements of opposition. We responded to the Division Engineer’s initial Consultation Report and the Division Engineer has issued a subsequent report. In that report, the Division Engineer recommends 3,500 acre feet of the remaining conditional amounts be canceled based on the District’s Master Plan.

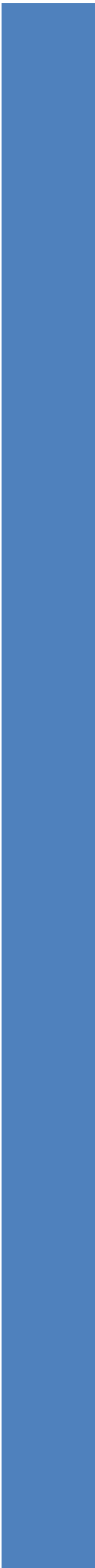
Case No. 22CW3018 Pleasant Valley Reservoir Rights at Yamcolo Reservoir – This application confirms the Pleasant Valley Reservoir Rights stored in Yamcolo Reservoir have been made absolute for all decreed uses. Tri-State has filed a statement of opposition. We have responded to the Division Engineer’s consultation report which raised questions about whether the various uses had been cancelled and how power could be produced from Yamcolo Reservoir. The Division Engineer has provided comments on the proposed ruling of referee that do not modify the substance of the relief requested but clarify the water right at issue. Tri-State has provided a proposed stipulation for consideration.

Case No. 22CW3102 – Opposition to Water Measurement Rules – The State Engineer and Division Engineer for Water Division 6 submitted proposed Rules to require all water users to install measuring devices for their water facilities subject to the terms of the proposed rules. The water court approves and adopts the rules as the formal rule-making body. Several opposers have reached stipulations with the State including Upper Yampa. The case is set for a five-day trial beginning February 26, 2024.

Case No. 22CW3107 – Diligence on Yampa River Augmentation Plan – This case requests a finding of reasonable diligence and to make absolute in part on appropriative rights of exchange used within the District’s Yampa River umbrella augmentation plan. Tri-State filed a statement of opposition. There are no case management plans in place, and we are waiting for the Division Engineer’s consultation report. Tri-State has provided a proposed stipulation for consideration.

Case No. 22CW3108 –Little Morrison Diversion – Requests a finding of reasonable diligence on the Little Morrison Diversion and Little Morrison Diversion Alternate Point in the amount of 50 c.f.s. to deliver water from Morrison Creek into Little Morrison Creek and provide an additional source to fill Stagecoach Reservoir. Tri-State and the Margaret Hagenbuch Trust filed statements of opposition. There are no case management plans in place, and we are waiting for the Division Engineer’s consultation report. Tri-State has provided a proposed stipulation for consideration.

Water Horse Resources – The parties are waiting on the court’s decision on motion for summary judgment.



BOARD COMMUNICATION FORM
July 12, 2023, Meeting

From: Bob Weiss, District Counsel
Date: June 25, 2023
Item: Augmentation Plans Policies and Contract Amendments

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

The District has decreed two augmentation plans, one for the Yampa and one for the Elk River Basin. The Yampa River plan was decreed in Case No. 06CW49 on December 15, 2008 and commits 2,000 acre-feet of water to the plan, primarily from Stagecoach Reservoir. The Elk River plan was decreed in Case No. 15CW3058 on July 29, 2018, with the primary source of water being 360 acre-feet in Steamboat Lake under a contract with Colorado Division of Parks and Wildlife (“CPW”).

For each augmentation plan, the Board has adopted water marketing policies and a standard form contract. At the May 17, 2023 Board meeting District staff discussed with the Board several issues regarding the Yampa and Elk River plans and contracts. The policies for both plans establish a contract term of 40 years and make no provision for renewal. Since the contracts provide for a fixed 40-year term they will expire on a staggered basis. The District's lease for Steamboat Lake water with CPW expires August 1, 2041. The lease may be renewed upon agreement of the parties but only for additional 25-year periods. The 40 year augmentation contracts for the Elk River plan extend beyond the current expiration date of the CPW Steamboat Lake water lease.

At the May 17 meeting, the Board directed staff to present to the Board at the July 12, 2023 meeting the following changes to the Yampa and Elk River policies and contracts:

1. All new contracts to expire in 40 years and extend current contracts to 40 years from date of revised policy and provide a 35-year renewal provision.
2. Contracts should terminate on a fixed date rather than 40-year staggered terms.
3. Amend the Elk River Augmentation Plan to make District performance contingent on the availability of source water under the augmentation plan.

II Summary and Alternatives:

The requested changes have been made Policies and contracts and are shown in blackline on the attached drafts.

III. Staff Recommendation:

Staff recommends that the Board consider the proposed modifications to the Policies and contracts.

III Legal Issues:

Legal issues are addressed above.

IV. Consistency with Board Goals and Policies:

N/A

V. Fiscal Impact:

Since the augmentation pricing is adjustable annually, provisions regarding renewal and staggered terms should not have any material impact on pricing. Contracts which are renewed as a group rather than a rolling basis would probably reduce the cost of administration of the contracts.

Attachments:

Yampa River Augmentation Plan Water Marketing Policy and form of Contract

Elk River Augmentation Plan Water Marketing Policy and form of Contract

WATER MARKETING POLICY FOR THE YAMPA BASIN AUGMENTATION
PLAN OF THE
UPPER YAMPA WATER CONSERVANCY DISTRICT
FOR AUGMENTATION PLAN SERVICE

ADOPTED JULY ~~2012~~, ~~2022~~2023

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1. PURPOSE OF MARKETING PROGRAM

The Upper Yampa Water Conservancy District's (~~"District"~~) purpose is to conserve, develop, and stabilize supplies of water for domestic, irrigation, manufacturing, and other beneficial uses and by the construction of works for such purposes. The District also plans for and assists with the development of water resources of the District for municipal, domestic, industrial, recreational, and other beneficial uses of water resources within the District among other purposes. The District's water rights include rights to Stagecoach and Yamcolo reservoir water among others.

The District is authorized to appropriate water rights and initiate and implement plans for augmentation for the benefit of water users within the District's boundaries. Water is available to provide contracts to District constituents to augment their out-of-priority depletions pursuant to the Augmentation Decree of the District Court for Water Division No. 6, Case No. 06CW049, which is defined below. The District's Board of Directors has approved the marketing of such water and other District water supplies as may be used to complement the use of such Reservoirs' water supplies through a contracting program described herein.

2. AUTHORITIES UNDER PROGRAM

- a. The General Manager is delegated the authority of the Board to implement and administer this Policy and the issuance of the augmentation contracts made pursuant to this Policy for Small Applications and Small Commercial Applications as defined in this Policy not exceeding 10-acre feet per year, and authority to approve assignments of all contracts issued for both Small and Large Applications. The General Counsel shall assist in the negotiation and drafting of the contracts.
- b. The Board retains authority to approve Large Applications and Large Commercial Applications along with all other powers not specifically delegated.
- c. The General Manager and General Counsel may make non-substantive interpretations of the Water Marketing Policy for the Yampa Basin Augmentation Plan and the Yampa River Augmentation Contract on a case-by-case basis, where reasonably necessary to accomplish the objectives of ~~the this policy~~ Policy, including non-substantive changes to the form of contract adopted under this Policy.

3. DEFINITIONS

- a. "Area A": Areas described below and governed under this Water Marketing Policy; provided, that only the portions of Area A that are located within the District's boundaries may be served by the District.
- b. "Area B": Areas outside of Area A as described below.

- c. "Augmentation Decree": Decree entered in Case No. 06CW49, District Court, Water Division 6, on December 15, 2008, as such Decree may be amended.
- d. "Augmentation Plan" or "Plan for Augmentation": Means a detailed plan to increase the supply of water available for beneficial use as defined in C.R.S. § 37-92-103(9).
- e. "Contract": A water allotment contract issued by the District for delivery of water up to the annual amount specified in the Contract ("Contracted Water") consistent with this Water Marketing Policy for the Yampa Basin Augmentation Plan to the person(s) or legal entity(s) named in the Contract (the "Contractor(s)").
- f. "District": The Upper Yampa Water Conservancy District, a political subdivision of the State of Colorado, its Board of Directors, employees and agents.
- f.g. "General Manager": The general manager of the District.
- g.h. "Division Engineer": The engineer assigned to oversee the water matters for Water Division No. 6 as specified under C.R.S. § 37-92-202.
- h.i. Equivalent Residential Unit ("EQR"): Equal to 350 gallons per day.
- i.j. "Large Applications": A contract application to the District to augment uses, other than commercial or industrial uses, with a planned average daily diversion rate in excess of 112 gallons per minute (0.25 c.f.s.) or that identifies planned total annual diversions exceeding thirty (30) acre feet per year.
- j.k. "Large Commercial Applications": A contract application to the District to augment commercial or industrial uses that either exceeds a planned average daily diversion rate of 15 gallons per minute or for which the following commercial EQR ratings do not apply, or both:
- Office = 0.6 EQR/1,000 square feet.
 - Warehouse – 0.30 EQR/1,000 square feet.
 - Retail Sales = 0.60 EQR/1,000 square feet.
- k.l. "Small Applications": A contract application to the District to augment commercial or industrial uses with planned diversions not to exceed an average daily diversion rate of 15 gallons per minute and for which the diversion and depletion criteria detailed in paragraphs 9.A through 9.E of the Augmentation Decree apply, or to augment any other uses with planned diversions not to exceed 112 gallons per minute (0.25 c.f.s.) or that identifies planned total annual diversions not exceeding thirty (30) acre feet per year and for which the diversion and depletion criteria detailed in paragraphs 9.A through 9.E of the Augmentation Decree apply.
- l.m. "Small Commercial Applications": A contract application to the District to augment commercial or industrial uses that does not exceed a planned average daily

diversion rate of 15 gallons per minute and for which the following commercial EQR ratings apply:

- Office = 0.6 EQR/1,000 square feet.
- Warehouse – 0.30 EQR/1,000 square feet.
- Retail Sales = 0.60 EQR/1,000 square feet.

~~m.n.~~ Uses

- i. “Commercial Use”: Water for motels, hotels, restaurants, office buildings, shops stores and other commercial facilities, military and nonmilitary institutions, and water for off-stream fish hatcheries.
- ii. “Domestic Use”: The use of water by individuals, cities, towns, public or quasi-public districts, private corporations, homeowners’ associations, or other entities used for all such indoor household purposes as drinking, food preparation, bathing, washing clothes and dishes, flushing toilets, and such outdoor purposes as watering lawns and gardens, excepting only the commercial, industrial and irrigation uses of water defined.
- iii. “Industrial Use”: Water used for fabrication, processing, washing, and cooling, and includes such industries as chemical and allied products, food, mining, paper and allied products, petroleum refining, and steel, including cooling system, cooling-system type, mining water use, public-supply deliveries, public-supply water use, self-supplied water use, and thermoelectric-power water use.
- iv. “Irrigation Use”: Water that is applied by an irrigation system to assist in the growing of crops and pastures or to maintain vegetative growth in recreational lands such as parks and golf courses including water that is applied for pre-irrigation, frost protection, chemical application, weed control, field preparation, crop cooling, harvesting, dust suppression, the leaching of salts from the root zone, and water lost in conveyance.
- v. “Livestock Use”: Water used to water domesticated livestock such as cattle or horses, such use shall require 11 gallons of water per day per head and is considered 100% consumptive.
- vi. “Recreation Use”: The use of water to replace the evaporative loss from ponds, reservoirs, stream channels, spas, pools and similar water features.

~~m.o.~~ “Water Court”: The District Court in and for Colorado Water Division No. 6 as defined in C.R.S. § 37-92-201.

4. SOURCES AND SCOPE OF MARKETING PROGRAM

- a. Sources of Water available for augmentation or exchange
 - i. "Stagecoach Reservoir Supply": Water delivered from Stagecoach Reservoir, for which storage water right decrees were obtained by the District in Case Nos. CA3538, W-414-72, W-946-76, W-1091-76, 94CW149, 95CW78, 97CW84, and 01CW41, District Court for Colorado Water Division No. 6, and for which additional storage water right decrees may be obtained in the future by the District, water available from the District's contractual right to water deliveries, and other water sources available to the District for use in its Water Marketing Program.
 - ii. "Yamcolo Reservoir Supply": Water delivered from Yamcolo Reservoir, for which storage water right decrees were obtained by the District in Case Nos. W-946-76, 82CW211, 01CW41, and 03CW58, District Court for Colorado Water Division No. 6, and for which additional storage water right decrees may be obtained in the future by the District, water available from the District's contractual right to water deliveries, and other water sources available to the District for use in its Water Marketing Program.

b. Volumetric Description

The total maximum amount of augmentation or exchange water involved in and committed to the District in this plan for augmentation is 2,000 acre feet or such lesser amount available pursuant to retained jurisdiction or future board direction. The amount needed by any individual Contractor will depend on the nature and amount of its uses and, in some situations, the location of its diversions and return flows in relation to senior diversions.

c. Geographic Area

Area A is a region within the Yampa River basin upstream from the confluence of the Yampa River and Elkhead Creek where use of the water rights in the Augmentation Decree can fully augment structures developed by District Contractors. **Exhibit A.** All areas outside of the below described areas are referred to as Area B. The augmentation plan allows direct augmentation on the Yampa Mainstem and exchange augmentation on the Yampa Tributaries. The amounts of water available for exchange have been allocated among the sub areas within District Area A as described below. The exchange amounts represent consumptive use amounts associated with diversions by District Contractors within the respective sub-Area A.

- i. Area A-1: Includes all areas tributary to the Upper Yampa River above Stagecoach Reservoir dam to an upstream terminus located where the Bear River crosses the Medicine Bow-Routt National Forest Boundary which is a distance of approximately 21 miles. The boundaries of Area A-1 are depicted on the map that is attached hereto as **Exhibit A-1**. The total amount of augmentation water available for Area A-1 is 920 acre feet. Total diversions associated with this Area A-1 are limited to 12.8 c.f.s. The rate of exchange

- within Area A-1 is 3.5 c.f.s. for the entire area A-1 and not to exceed 1.0 c.f.s. within any one of the eleven major tributaries: (1) Middle Creek, (2) Raspberry Creek, (3) Whipple Creek, (4) Lawson Creek, (5), Bear River, (6) Watson Creek, (7) Meadowbrook Creek, (8) Little White Snake Creek, (9) Jack Creek, (10) Martin Creek, and (11) Little Morrison Creek (service within Little Morrison Creek currently is unavailable pending development of an additional augmentation source).
- ii. Area A-2: Includes all areas tributary to the Yampa River between Stagecoach Reservoir Dam and the downstream terminus at the “D-Hole” RICD Structure within the City of Steamboat Springs, which is immediately below the confluence of the Yampa River with Soda Creek. This area covers a distance along the river of approximately 23 miles. The boundaries of Area A-2 are depicted on the map that is attached hereto as **Exhibit A-2**. The total amount of augmentation water available for Area A-2 is 800 acre feet. Total diversions associated with this Area A-2 are limited to 11.1 c.f.s. The rate of exchange within Area A-2 is 3.0 c.f.s. for the entire area A-2, and not to exceed 0.75 c.f.s. within any one of the nine major tributaries listed below. This amount does not include the amount of exchange for Area A-1, which is upstream of and tributary to, Area A-2. The tributaries are: (1) Morrison Creek, (2) McKinnis Creek, (3) Walton Creek, (4) Butcherknife Creek, (5) Soda Creek, (6) Agate Creek, (7) Oak Creek, (9) Grouse Creek, and (10) Dry Creek.
 - iii. Area A-3: Includes all areas tributary to the Yampa River between the “D-Hole” RICD Structure within the City of Steamboat Springs and the confluence of the Yampa River with Trout Creek, including Trout Creek, but excluding the Elk River watershed. This area covers a distance along the river of approximately 12 miles. The boundaries of Area A-3 are depicted on the map that is attached hereto as **Exhibit A-3**. The total amount of augmentation water available for Area A-3 is 120 acre feet. The rate of exchange within Area A-3 is 0.5 c.f.s. for the entire area A-3 and not to exceed 0.25 c.f.s. within any one of the three major tributaries listed below. The total diversions associated with Area A-3 are limited to 1.7 c.f.s. This amount does not include the amount of exchange for Area A-1 or A-2, both of which is upstream of and tributary to, Area A-3. The tributaries are: (1) Trout Creek, (2) Cow Creek, and (3) Slate Creek.
 - iv. Area A-4: Includes all areas tributary to the Yampa River between the confluence of the Yampa River with Trout Creek and its confluence with Elkhead Creek, but excluding Elkhead Creek. This area covers a distance along the river of approximately 34 miles. The boundaries of Area A-4 are depicted on the map that is attached hereto as **Exhibit A-4**. The total amount of augmentation water available for Area A-4 is 160 acre feet. The rate of exchange within Area A-4 is 0.6 c.f.s. for the entire area A-4 and not to exceed 0.3 c.f.s. within any one of the twelve tributaries listed below. The total diversions associated with Area A-4 are limited to 2.4 c.f.s. This amount does not include the amount of exchange for Area A-1, A-2, or A-3, all of which are upstream of and tributary to, Area A-4. The tributaries are: (1) Coal Bank Gulch, (2) Morgan Creek, (3) Goose Creek, (4)

Wolf Creek, (5), Butcherknife Gulch, (6) Tow Creek, (7) Cheney Creek, (8) Coal View Gulch, (9) Grassy Creek, (10) Sage Creek, (11) Dry Creek, and (12) Smuin Gulch.

5. CONTRACTING PROCESS AND TERMS

a. Application Process

- i. Written Application:** Prospective Applicants for Contracts shall make written application to the District on forms prepared by District staff and approved by the General Manager and General Counsel. Such completed application forms shall be accompanied by the Applicant's non-reimbursable payment to the District of the application fee for processing of the application for approval. Application fees for Contract applications that are denied by the District or the Division Engineer shall not be refunded.
- ii. Served Property:** Applicant must use the water allotted pursuant to its Contract for beneficial purposes by diversion at Applicant's point of diversion under the District's direct flow water rights and/or for use by augmentation or exchange. Applicant must use the water allotted by the District within or through facilities or upon lands owned, operated, or served by Applicant which are described in the Application. Applicant shall provide proof of ownership of, or legal right to use, the property and facilities to be served by the Contract. All lands, facilities, and areas served by the Contracted Water shall be situated within the boundaries of the District. Unless otherwise agreed by the General Manager, the Application shall include both a legal description suitable for recordation in the real property records and accurate and legible map of the actual location of use.
- iii. Verification of Need:** The application process shall include a description by the Applicant of the nature of its water service, its places of use, its available water rights and supplies, and need for Contracted Water. The need of the Applicant for program water in the quantity requested shall be verified by the General Manager, in consultation with the General Counsel as necessary. If the General Manager determines that all or any portion of a Water Contract request is not based upon legitimate need, the General Manager shall report that finding to the District Board, which shall make the final decision, and the Board will allow the Applicant to present written information in support of its claimed need. The Board's decision on such matters shall be final.
- iv. Review by Division Engineer:** Any Large Application or Commercial Application as such terms are defined in the Augmentation Decree submitted to the District will be submitted to and may be reviewed by the Division Engineer. The Applicant for such applications shall be responsible for providing the information required in Paragraph 9(H)(3)(ii) of the Augmentation Decree to the extent applicable. These Applications will also be provided to the Opposers listed in Paragraph 9(H)(8) of the Augmentation Decree for informational purposes only. The Opposers may communicate specific concerns to the District,

the Division Engineer, or both. The Division Engineer shall review the Application to determine whether any existing water right will be injured, or whether the calculated amount of depletions is reasonable, or whether the site-specific conditions described in any lagged depletion analysis is reasonable. The Division Engineer has sixty (60) days to provide written specific objections to the District. If no objections are made within said 60-day period, the District may issue a Contract. If the Division Engineer, within the 60-day period, provides written objection to the approval of such application, the District must deny such application.

- v. Review of Applications within Catamount Metropolitan District: Pursuant to paragraph 9.H.(7) of the Augmentation Decree, applications for a water allotment contract for a structure located within the boundary of the Catamount Metropolitan District (Catamount) shall be provided to Catamount for review. Catamount has thirty (30) days to provide written specific objections to the District. If no objections are made within said 30-day period, the District may issue a Contract. If Catamount, within the 30-day period, provides written objection to the approval of such application, the District must deny such application.
- vi. Review of Small Applications on Oak Creek and Walton Creek: Pursuant to paragraph 9.H.(8)(ii) of the Augmentation Decree, applications for Small Applications on Oak Creek and Walton Creek are to be provided to the Sidney Peak Ranch owners Association and Steamboat Alpine Development, LLC, respectively, who shall have thirty (30) days to provide written and specific objections to the District. The District has no duty to accept, agree with, or act upon such objection from either party.
- vii. Contract Execution: The Applicant shall have sixty (60) days after mailing or electronically transmitting the final Contract documents to them in which to execute the final Contract and deliver the executed originals to the District's offices. If such execution and delivery are not accomplished in that time, the Applicant shall be deemed to have rejected the District's offer to contract.

b. Quantities

- i. Minimum: The minimum amounts of water that may be contracted pursuant to this Policy shall be 0.1-acre feet annually. Quantity will not be pro-rated based on non-use in any part of the project year.
- ii. Maximum: The maximum amount of water that may be contracted for the benefit of any single property on a case-by-case basis shall be 10-acre feet without prior Board approval.
- iii. Water Contracts shall be rounded off in one-tenth acre foot units.

iv. Changes per Division Engineer review or retained jurisdiction: The District reserves the right to change quantities in a Contract per orders from the Division Engineer or Water Court as allowed under the Augmentation Decree.

c. Deliveries

i. Project Year: The basis for calculating payment and delivery obligations shall be "Project Year" or multiples thereof, which shall be the period from April in one year through March in the succeeding year.

d. Charges and Fees

i. Application Fees:

(1) The Board shall determine application fees annually.

(2) The application fee for a Water Supply Contract shall be determined annually by the Board for each application type. An application will not be processed until the appropriate application fee has been received. See **Appendix A** for current application fees.

(3) Requests for contract amendments may require a new application process and payment of associated Application fees, except that General Manager may authorize amendments to correct errors and make other non-material revisions to a Contract which would not have the Application submitted for such Contract, as amended, subject to any notice provision of paragraph 5 above. See **Appendix A** for current amendment fee.

ii. Rates for Classes of Users: The price for each type of water shall be reviewed and set annually by the Board of Directors. Any approved Contract is subject to change in price as annually determined by the District. The price is a "take or pay" price and is payable with respect to the maximum contract amount allotted to the Contractor, whether or not in any year such Contractor in fact takes and uses all of the Contracted Water. See **Appendix A** for current water supply pricing.

iii. Minimum Charges: The minimum annual contract charge will be for 1.0-acre feet. See **Appendix A** for current water supply pricing.

iv. O&M Assessments: Contractor shall pay any special assessment levied by the District on Contractor to recoup expenses from extraordinary maintenance incurred by the District.

v. The current version of the Appendix A Stagecoach Water Pricing matrix shall be annually substituted for the prior year when adopted by the Board.

e. Required Meters

Contractor agrees to provide, at its own expense, a continuous flow recording device with remote readout, or other device as required by the Contract and to be in compliance with the Division of Water Resources (DWR) measurement standards, to continuously and accurately measure at all times all water diverted pursuant to the terms of Contractor's water right and the terms of the Contract. On or before November 5 of each year, or more frequently if required by the Division Engineer, Contractor will provide accurate readings from such continuous flow recording device (recorded on a monthly basis for the period November 1 through October 31 of each year) to the District. Contractor acknowledges that failure to comply with this paragraph could result in legal action to terminate Contractor's diversion of water by the State of Colorado Division of Water Resources.

f. Use Reporting

- i. Commencement of Service: Service will commence upon execution of the Contract, payment of applicable fees, and approval as may be required under the Augmentation Decree by the Division Engineer or Water Court. Contractor must record water use at commencement of service.
- ii. Periodic Reporting per District Requirements: Contractor shall maintain an accounting of its use of all water used or supplied by Contractor on forms acceptable to the District specifically for the purpose of enabling the District to prove the use of project water rights and to administer and operate the project and water right decrees and/or administrative approvals related to Contractor's use of Contracted Water. Contractor shall submit its accounting forms and records to the District promptly upon request and shall assist the District as it may reasonably request in presenting and/or verifying such evidence of use in court or before administrative agencies by testimony of Contractor or its authorized and informed officers or agents.
- iii. District Right to Enter and Verify: Contractor acknowledges that District representatives or agents have the right to enter upon property that Contractor represented in the Application for which the Contracted Water is to be used. The District may verify water use in conformance with the Contract and Policy, including, but not limited to amounts, locations used, types of use, and accuracy of flow meters.

g. Well Permit

If Contractor intends to divert through a well, then Contractor must provide to District a copy of Contractor's valid well permit before the District is obligated to deliver any water hereunder, and it is the Contractor's continuous duty to maintain a valid well permit. Contractor shall also comply with all restrictions and limitations set forth in the well permit obtained from the Colorado Division of Water Resources pursuant to C.R.S. §37-90-137. The

Contractor must comply with any other statutory or regulatory requirements for issuance of well permits to be augmented pursuant to this plan, including the 600-foot spacing requirement of C.R.S. § 37-90-137(2)(b), if applicable. Compliance with said statutory well-spacing criteria shall be an express condition of the extension of service hereunder, and the District shall in no way be liable for a Contractor's failure to comply. Contractor agrees to mark the well in a conspicuous place with the permit number.

h. Noncompliance

- i. Report to Division Engineer: Breach of the Contract by the Contractor will result in the District reporting the noncompliance to the Division Engineer.
- ii. Curtail releases: The District may withhold deliveries of Contracted Water in the event of Contractor's nonpayment for Contracted Water or any other breach of the Contract by Contractor. Such remedies shall not be the exclusive remedies in the event of such a breach.

i. Assignment

- i. The water allotted under any Contract shall be beneficially used for the purposes and in the manner specified in the Application and the Contract. The Contract is for the exclusive benefit of the Contractor's property as specified in the Contract and shall inure to the benefit of any successor in interest to the fee title to said property upon written assignment and notice thereof to the District, and subject to compliance with this Water Marketing Policy for the Yampa Basin Augmentation Plan and the Contract terms, said assignment to be made using the District's approved form as modified with the approval of the General Manager. The restrictions on assignment contained herein shall not preclude the District from holding the Contractor, or any successor of the Contractor, responsible for the performance of all or any part of the Contractor's covenants and agreements contained in the Contract. For purposes of this Contract, any change in the ownership of the property served by the Contracted Water as specified in the application and/or the Contract shall constitute an assignment requiring execution of an instrument of assignment on the District's approved form, as modified with the approval of the General Manager, notice to the District and payment of the assignment fee.

- ii. The Board shall determine assignment fees annually. See **Appendix A** for current assignment fee.

j. Limitation on Sale

Contractor may not assign, sublet, sell, donate, loan or otherwise dispose of any of its rights to a Contract or Contracted Water separate from the property that it serves as specified in the Contract without prior written notice to, and the written approval (except as otherwise provided in paragraph 5. i. i. above) of the District as provided

in the Contract. The District will approve such disposition in all instances where the transfer is made to an entity such as a homeowners' association or special district created to serve the property originally represented to the District to be served with the Contracted Water. Any disposition of a Contractor's rights to a Contract or Contracted Water must be by written instrument signed by the District. As provided above, a fee will be imposed for each contract assignment.

k. Form of Contract, Term and Renewal

- i. Contracts shall be made in the form approved by the Board, as the same may be revised from time to time in the discretion of the Board. The form of contract approved as of the date of this Policy is attached at **Exhibit B**. The term of such contracts entered in to after July 12, 2023 shall be for a term shall be for 40 years commencing on January 1st of the year in which such contract is executed and ending on December 31, 2062. The General Manager shall have the authority to extend contracts entered in to on or prior to July 12, 2023 for a term ending December 31, 2062 with the agreement of the Contractor.
- ii. For Contracts ending December 31, 2062, the Contractor shall have the right to renew this Contract for the same Contracted Water Amount for a secondary term of thirty-five (35) years, subject to the District's current Policies and, upon such terms, conditions and pricing as the District is offering at that time, provided that the District is offering up the full amount of Contracted Water. In the event that the District, on a nondiscriminatory basis, decides not to offer up the full amount of the Contracted Water, Contractor shall have the right to renew for a secondary term of thirty-five (35) years such lesser portion of the Contracted Water as may be offered by the District. If Contractor desire to so renew this Contract, it shall provide the District written notice of its intention to do so at least ninety (90) days prior to the expiration of the initial term of this Contract. Thereafter, and prior to the expiration of the initial term, the District and Contractor shall execute a new or supplemental agreement of renewal on the District's standard form. If Contractor fails to renew as set forth above, no renewal term shall commence, and the District shall be free to contract for or otherwise dispose of the Contracted Water in its discretion.

6. DELIVERY CONTINGENCIES AND SHORTAGE CRITERIA

a. Shortages

Delivery of water is subject to limitations of the hydrological assumptions in **Appendix B** for Contractor's use of water, availability of water under the Augmentation Decree including limitations on exchanges, and the provision for curtailment below. In the event that the District is unable, because of either legal or physical reasons (including but not limited to, hydrologic shortages, ~~and~~ operational restrictions, or the unavailability for any reason of the water to be used for augmentation as described in the Augmentation Decree), to deliver any or all of the full amount of water contracted from the District, the District reserves the right to

apportion the available water among its several contractors or to entirely curtail such deliveries. If the District is to apportion the available water among its contractors as provided herein, the District shall notify the respective Contractors in writing of such fact by August 1st of that year. Water shortages among the District's Contractors shall be apportioned in the following sequence:

- i. Irrigation contracts are pro-rata shorted up to 100%.
- ii. Large and Small Commercial contracts and Industrial contracts are then pro-rata shorted up to 100%.
- iii. All remaining contracts then are shorted as necessary on a pro-rata basis.

Replacement of depletions using the decreed appropriative exchanges shall require that said exchange(s) be in priority and have water physically and legally available in the exchange reach(es) from the exchanged from point to the exchanged-to point(s) in the amount(s) to be exchanged. Out-of-priority diversions not meeting this requirement shall be subject to curtailment.

7. HYDROLOGY ASSUMPTIONS

The District plans to utilize its direct flow and storage water rights appurtenant to Stagecoach and Yamcolo Reservoirs as the source of augmentation supply. The two reservoirs are located in the Upper Yampa River basin. The District has based its marketable yield for firm contracts on providing full delivery of 2000 acre feet per year on a model using data from 1988 to September 2005 Stagecoach operations, making some assumptions on how the reservoir will recover from drought conditions. Additional capacity is available in Yamcolo which provides operational flexibility to the District.

Resource Engineering Inc. completed a Report providing background information for this augmentation program including capacity of Stagecoach and Yamcolo Reservoirs to meet the 2000 acre foot augmentation demand. *Water Resources Report – Case No. 06CW049 – Upper Yampa Water Conservancy District* (February 29, 2008). The Report also included assumptions for calculating water requirements for the domestic in-house use, commercial use, irrigation use, surface evaporation, and livestock water use. The assumptions determined by this Report shall be used in any computation of water requirement by the Applicant or the District. The Report can be found in **Appendix B**.

CERTIFICATE OF SECRETARY

I hereby certify that the foregoing Water Marketing Policy for the Yampa Basin Augmentation Plan of the Upper Yampa Water Conservancy District for Augmentation Plan Service (Yampa Basin Augmentation Plan) dated July ~~2012~~, ~~2022~~2023, was approved by the Board of Directors of the Upper Yampa Water Conservancy District effective as of July ~~2012~~, ~~2022~~2023, and shall supersede and replace in their entirety all versions of this Water Marketing Policy for the Yampa River previously approved for the Yampa Basin Augmentation Plan.

By: _____
Andy Rossi, General Manager and Secretary/Treasurer

AUGMENTATION CONTRACT No. _____
UPPER YAMPA WATER CONSERVANCY DISTRICT
YAMPA RIVER SUPPLY

_____ (hereinafter "Contractor") has applied to the Upper Yampa Water Conservancy District (hereinafter the "District") a political subdivision of the State of Colorado, organized pursuant to and existing by virtue of Section 37-45-101, Colorado Revised Statutes, *et seq.*, for an augmentation contract for use of water supplies owned, leased, or hereafter acquired by the District. By execution of this Contract, Contractor and District agree to the following terms and conditions.

1. AUGMENTATION SUPPLY.

A. In consideration of the covenants and conditions herein contained, Contractor shall be entitled to the release of _____ acre feet per year of storage or other augmentation water owned or controlled by the District (the "Contracted Water") for use to augment depletions from Contractor's out-of-priority diversions pursuant to the District's Decree entered December 15, 2008 in Case No. 06CW049, Colorado Water Division No. 6 ("Augmentation Decree") and any amendments thereof obtained by the District in its sole discretion.

B. The Contracted Water amount is based on the water requirements table attached hereto as **Exhibit A**. Contractor shall restrict consumptive use under this Contract to that amount. Any increase or change in the water requirements to be supplied by the District may require application for and issuance of a replacement contract, and cancelation of this Contract.

C. Any quantity of the Contractor's Contracted Water that is not used by Contractor by the end of each water year shall not carry over for the Contractor's future use but shall revert to the water supplies of the District. Such reversion shall not entitle Contractor to any refund of payment made for such water supply.

D. Contracted Water will be derived from exercise of the District's water rights decreed for augmentation pursuant to the Augmentation Decree. The District shall have the right, but not the obligation, to designate the water right(s) from which the Contractor's Contracted Water shall be released and to change that designation at any time in its discretion.

E. Contractor's use of any of the Contracted Water shall be subject to any and all terms and conditions imposed by the Water Court on the use of the District's water rights.

F. The water service provided hereunder is expressly subject to the provisions of the District's Water Marketing Policy for the Yampa Basin

Augmentation Plan, which provides, in part, for the possible curtailment of uses upon the occurrence of certain events and upon the District giving notice of such curtailment, all as more fully set forth therein. The service is specifically dependent on the legal and physical availability of the Contracted Water for delivery, including the unavailability for any reason of the water to be used for augmentation as described in the Augmentation Decree, and the District shall have no liability to Contractor for its inability to deliver any or all of the Contracted Water for such reasons.

G. Nothing herein gives the Contractor any equitable or legal title interest or ownership in or to any of the District's water or water rights or the facilities by which they are managed for use. Contractor is only entitled to benefit from the water supply allotted hereunder subject to the limitations, obligations and conditions of this Contract. Contractor shall not institute any legal proceedings for the approval of an augmentation plan and/or any change of the District's water rights.

H. The District's issuance of this Contract to the Contractor is based upon the Contractor's written application and the related information provided by the Contractor to the District in connection with that application. Contractor represents and warrants that the information provided in the contract application is accurate and complete.

2. PURPOSE AND LOCATION OF USE.

A. Contractor will use the Contracted Water to augment diversions at Contractor's point(s) of diversion. Contractor will use the Contracted Water within or through facilities or upon land owned, operated, or served by Contractor, which land is within the District's boundaries and is described on **Exhibit B** attached hereto; provided, that the location and purpose of Contractor's use of Contracted Water must be legally recognized and permitted by the applicable governmental authorities having jurisdiction over the property served. Any change in the location of use shall require application for and issuance of a replacement contract.

B. Contractor's contemplated use for the Contracted Water is for augmentation of the following use or uses as the same are defined in the District's Water Marketing Policy for the Yampa Basin Augmentation Plan: [Select] Domestic, Commercial, Industrial, Irrigation, Livestock, Recreation (pond and channel evaporation).

3. AUGMENTATION PLAN IMPLEMENTATION AND COMPLIANCE.

A. The District shall be responsible for the implementation of the Augmentation Decree including, without limitation, the review of water allotment contract applications with the Division Engineer and any other parties, making

needed augmentation releases, and accounting for augmentation releases made for Contractor and other District allottees.

B. Contractor shall provide, at its own expense, a continuous flow recording device with remote readout, or other device as required by the Augmentation Decree and to be in compliance with the Division of Water Resources (DWR) measurement standards, to continuously and accurately measure at all times all water diverted pursuant to the Augmentation Decree. On or before November 5 of each year, or more frequently if required by the Division Engineer, Contractor shall provide accurate readings from such continuous flow recording device (recorded on a monthly basis for the period November 1 through October 31 of each year) to the District. Contractor acknowledges that failure to comply with these provisions could result in legal action to terminate Contractor's diversion of water by the State of Colorado Division of Water Resources.

C. Contractor hereby specifically allows the District, through its authorized agents, to enter upon Contractor's property during ordinary business hours for the purposes of determining Contractor's measurement capabilities and actual use of water.

D. If Contractor intends to divert through a well, Contractor must provide to the District a copy of Contractor's valid well permit before the District is obligated to deliver any Contracted Water, and it is the Contractor's continuous duty to maintain a valid well permit. Contractor shall also comply with all restrictions and limitations set forth in the well permit obtained from the Colorado Division of Water Resources. Contractor must comply with the well-spacing requirements set forth in C.R.S. § 37-90-137, as amended, if applicable. Compliance with said statutory well-spacing criteria is an express condition of the extension of service hereunder, and the District shall in no way be liable for a Contractor's failure to comply. Contractor agrees to mark the well in a conspicuous place with the permit number.

4. PAYMENTS.

A. Contractor shall pay the District annually for the Contracted Water herein at a price to be fixed annually by the Board of Directors of the District for such service. Payment of the annual fee shall be made, in full, within fifteen (15) days after the date of a notice from the District that the payment is due. Said notice will advise the Contractor, among other things, of the water delivery year to which the payment shall apply and the price which is applicable to that year. If a payment is not made by the due date, a late fee of \$50 (or such other amount as the Board may set from time to time) will be assessed and final written notice of the delinquent account and late fee assessment will be sent by the District to the Contractor at Contractor's address set forth below. If payment is not made within thirty (30) days after said final written notice, the District may, at its option, elect to terminate all of the Contractor's right, title, or interest under this Contract, in which event the Contracted Water may be

transferred, leased or otherwise disposed of by the District at the discretion of its Board of Directors. The price is a “take or pay” price and is payable with respect to the maximum contract amount allotted to the Contractor, whether or not in any year such Contractor in fact takes and uses all of the Contracted Water.

B. If water deliveries hereunder are made by or pursuant to agreement with some other person, corporation, quasi-municipal entity, or governmental entity, and in the event the Contractor fails to make payments as required hereunder, the District may, at its sole option and request, authorize said person or entity to curtail the Contractor’s water service pursuant to this Contract, and in such event neither the District nor such persons or entity shall be liable for such curtailment.

C. Contractor agrees that so long as this Contract is valid and in force, Contractor will budget and appropriate from such sources of revenues as may be legally available to the Contractor the funds necessary to make timely annual payments. Contractor will hold harmless the District and any person or entity involved in the delivery of water pursuant to this Contract for discontinuance in service due to the failure of Contractor to maintain the payments herein required on a current basis.

5. **TERM AND RENEWAL.**

The term of this contract shall ~~be for forty (40) years from commence on~~ January 1st of the year in which it is executed ~~and terminate on December 31, 2062.~~ The Contractor shall have the right to renew this Contract for the same Contracted Water amount for a secondary term of thirty-five (35) years, subject to the District’s current Policies and, upon such terms, conditions and pricing as the District is offering at the time, provided that the District is offering up the full amount of Contracted Water. In the event that the District, on a nondiscriminatory basis, decides not to offer up the full amount of the Contracted Water, Contractor shall have the right to renew for a secondary term of thirty-five (35) years such lesser portion of the Contracted Water as may be offered by the District. If Contractor desires to so renew this Contract, it shall provide the District written notice of its intention to do so at least ninety (90) days prior to the expiration of the initial term of this Contract. Thereafter, and prior to the expiration of the initial term, the District and Contractor shall execute a new or supplemental agreement of renewal on the District’s standard form. If Contractor fails to renew as set forth above, no renewal terms shall commence, and the District shall be free to contract for or otherwise dispose of the Contracted Water in its discretion.

6. **ASSIGNMENTS.**

A. The Contracted Water shall be beneficially used for the purposes and in the manner specified herein, and this Contract is for the exclusive benefit of the Contractor’s property and shall inure to the benefit of any successor in interest to the fee title to said property upon written assignment and notice thereof to the District,

and subject to compliance with the District's Water Marketing Policy for the Yampa Basin Augmentation Plan and the terms of this Contract, said assignment to be made using the District's approved form.

B. Upon the sale of the real property to which this Contract pertains, Contractor has a duty to make the buyer aware of this Contract and of the need to assign the Contract to the buyer. Written notice of assignment to the District shall be necessary for the assignment to become effective. Payment of an assignment fee in an amount determined annually by the Board shall be required for the assignment to be effective. Any assignment of less than all of the Contracted Water to any person or entity other than the person or entity simultaneously acquiring all of the Contractor's property shall not be effective unless approved by the District in its sole discretion.

C. If the Contracted Water will be used for the benefit of land that is now or will hereafter be subdivided or otherwise held or owned in separate ownership interests, Contractor may assign Contractor's rights hereunder only to a homeowners association, property owners association, water district, water and sanitation district or other special district, or other entity properly organized and existing under and by virtue of the laws of the State of Colorado, and then only if such entity establishes to the satisfaction and with the approval of the District that it has the ability and authority to assure its performance of the Contractor's obligations under this Contract. In no event shall the owner of a portion but less than all of the property served under this Contract have any rights hereunder, except as such rights may exist through an association or special district as above provided.

D. The restrictions on assignment contained herein shall not preclude the District from holding the Contractor, or any successor to the Contractor, responsible for the performance of all or any part of the Contractor's covenants and agreements herein contained.

7. MULTIPLE OWNERSHIP.

A. In the event of the division of the property served by this Contract into two or more parcels owned by different persons or entities, in addition to the obligations in Section 6.C. above, the Contractor shall give notice to purchasers of any part of the subject property of the obligations of this Contract and shall record such notice in the records of the Clerk and Recorder of the county in which such property is located.

B. If such divided property is to be served by a shared well, as a condition of service under this Contract, all of the owners of such property shall execute and record a well sharing agreement in a form acceptable to the District and provide evidence thereof to the District.

8. CONTRACTOR'S LEGAL COMPLIANCE.

A. Contractor's rights under this Contract shall be subject to the Water Marketing Policy for the Yampa Basin Augmentation Plan and to any Water Service Plan adopted by the District and amended from time to time; provided, that such Policy and Plan shall apply uniformly throughout the District among water users receiving the same service from the District. Contractor shall also be bound by all applicable laws and regulations, including, for example, the provisions of the Water Conservancy Act of the State of Colorado.

B. Contractor shall comply with all federal, state, and local governmental laws and regulations in the construction, maintenance, operation, replacement or repair of the facilities required to divert and use water that is augmented pursuant to this Contract. Upon demand of the District, Contractor shall provide the District with documentary proof of such compliance.

C. Contractor shall only charge its water customers, if any, who are supplied based upon the Contracted Water such rates, charges, and fees as are permitted by Colorado law.

D. Contractor shall not discriminate in availability of or charges for any water service or water supply made available pursuant to or based upon the Contracted Water on account of race, color, religion, national origin, or any other criteria prohibited under state or federal law.

E. Contractor shall implement and use commonly accepted conservation practices with respect to use of water augmented by the supply allotted under this Contract and shall be bound by any conservation plan hereafter adopted by the District, as the same may be amended from time to time.

9. CONTRACT TERMINATION.

A. Termination by District:

1. The District may terminate this Contract for any violation or breach of the terms of this Contract by Contractor, including as provided in Section 4.A. above regarding delinquent payments.

2. The District may terminate this Contract if, in its discretion, any judicial or administrative proceeding initiated by Contractor threatens the District's authority to contract for delivery or use of the District's water rights, or threatens the District's permits, water rights, or other interests of the District.

3. The District may terminate this contract if Contractor opposes any of the District's Water Court applications regarding the District's water rights used for augmentation pursuant to the Augmentation Decree.

B. Termination by Contractor: Contractor may terminate this Contract in its entirety for any reason by notifying the District in writing of the termination on or before April 1. Notice by said date will prevent the Contractor's liability for the next annual contract charge.

C. Notice to Division Engineer: Upon termination of this Contract by either the District or Contractor, the District will provide notice of such termination to the Office of the Division Engineer, Colorado Division of Water Resources. The District shall have no liability to Contractor for any administrative or legal action taken by the Division Engineer or other representatives of the State of Colorado to curtail or limit Contractor's use of water previously augmented by the Contracted Water under this Contract.

10. FORCE MAJEURE.

The District shall not be responsible for any losses or damages incurred as a result of the District's inability to perform pursuant to this Agreement due to the following causes if beyond the District's control and when occurring through no direct or indirect fault of the District, including without limitation: Acts of God; natural disasters; actions or failure to act by governmental authorities; unavailability of supplies or equipment necessary to the District's ability to perform; major equipment or facility breakdown; and changes in Colorado or federal law, including, without limitation, changes in any permit requirements.

11. NOTICES.

All notices required or appropriate under or pursuant to this contract shall be given in writing mailed or delivered to the parties or sent by internet communication at the following addresses:

Notice to Contractor

Email: _____

Notice to District
Upper Yampa Water Conservancy District
Attention: General Manager
P.O. Box 775529
Steamboat Springs, CO 80477

UYWCD@upperyampawater.com

Either Party may by notice given in accordance with this provision change the addresses to which future notices shall be mailed or delivered.

12. BREACH AND REMEDIES.

A. In the event of any breach of this Contract by the Contractor, the District may, in addition to contract termination as provided herein, pursue any additional remedy available to the District against the Contractor in law or in equity. Contractor may do likewise in the event of breach by the District. The prevailing party in any litigation regarding such breach shall be entitled to recovery of its reasonable attorneys' fees.

B. Venue for any dispute regarding this Contract shall be in the District Court for Routt County, Colorado.

13. RECORDING OF MEMORANDUM.

In lieu of recording this Water Augmentation Contract, a Memorandum of Water Augmentation Contract will be recorded with the Routt County Clerk and Recorder's Office. The costs of recording the Memorandum shall be paid by Contractor.

CONTRACTOR:

Signature

Name

Contractor's Address:

Telephone No.: _____

Email Address: _____

STATE OF _____)
) ss.
COUNTY OF _____)

STATE OF _____)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me this ____ day of _____, 20____, by _____, General Manager and Secretary, Upper Yampa Water Conservancy District.

WITNESS my hand and official seal.
My commission expires: _____

Notary Public

MARKETING POLICY FOR THE ELK RIVER AUGMENTATION
PLAN OF THE
UPPER YAMPA WATER CONSERVANCY DISTRICT
FOR AUGMENTATION PLAN SERVICE

ADOPTED JULY ~~2012~~, 202~~2~~3

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1. PURPOSE OF MARKETING PROGRAM

The Upper Yampa Water Conservancy District's (~~"District"~~) purpose is to conserve, develop, and stabilize supplies of water for domestic, irrigation, manufacturing, and other beneficial uses and by the construction of works for such purposes. The District also plans for and assists with the development of water resources of the District for municipal, domestic, industrial, recreational, and other beneficial uses of water resources within the District among other purposes. The District's water rights include rights to Stagecoach and Yamcolo reservoir and contract rights to Steamboat Lake water among others.

The District is authorized to appropriate water rights and initiate and implement plans for augmentation for the benefit of water users within the District's boundaries. Water is available to provide contracts to District constituents to augment their out-of-priority depletions pursuant to the Augmentation Decree of the District Court for Water Division No. 6, Case No. 15CW3058, which is defined below. The District's Board of Directors has approved the marketing of such water and other District water supplies as may be used to complement the use of such Reservoirs' water supplies through a contracting program described herein.

2. AUTHORITIES UNDER PROGRAM

- a. The General Manager is delegated the authority of the Board to implement and administer this Policy and the issuance of the augmentation contracts made pursuant to this Policy for Small Applications as defined in this Policy not exceeding 10-acre feet per year, and authority to approve assignments of all contracts issued for both Small, Large and Industrial Applications. The General Counsel shall assist in the negotiation and drafting of the contracts.
- b. The Board retains authority to approve Large Applications and Industrial Applications along with all other powers not specifically delegated.
- c. The General Manager and General Counsel may make non-substantive interpretations of the Water Marketing Policy for the Elk River Augmentation Plan and the Elk River Augmentation Contract on a case-by-case basis, where reasonably necessary to accomplish the objectives of ~~the this Policy~~, including non-substantive changes to the form of contract adopted under this Policy.

3. DEFINITIONS

- a. "Area A": Areas described below and governed under this Water Marketing Policy for the Elk River Augmentation Plan; provided, that only the portions of Area A that

are located within the District’s boundaries may be served by the District.

- b. “Area B”: Areas outside of Area A as described below.
- c. “Augmentation Decree”: Decree entered in Case No. 15CW3058, District Court, Water Division 6, on July 29, 2018, as such Decree may be amended.
- d. “Augmentation Plan” or “Plan for Augmentation”: Means a detailed plan to increase the supply of water available for beneficial use as defined in C.R.S. § 37-92-103(9).
- e. “Contract”: A water allotment contract issued by the District for delivery of water up to the annual amount specified in the Contract (“Contracted Water”) consistent with this Water Marketing Policy for the Elk River Augmentation Plan to the person(s) or legal entity(s) named in the Contract (the Contractor(s)).
- f. “District”: The Upper Yampa Water Conservancy District, a political subdivision of the State of Colorado, its Board of Directors, employees and agents.

f.g. “General Manager”: [The general manager of the District.](#)

g.h. “Division Engineer”: The engineer assigned to oversee the water matters for Water Division No. 6 as specified under C.R.S. § 37-92-202.

h.i. Equivalent Residential Unit (“EQR”): Equal to 350 gallons per day.

i.j. “Large Applications”: A contract application to the District to augment uses, other than industrial uses, with a planned average daily diversion rate in excess of 112 gallons per minute (0.25 c.f.s.) or that identifies planned total annual diversions exceeding thirty (30) acre feet per year.

j.k. “Industrial Applications”: A contract application to the District to augment industrial uses that either exceeds a planned average daily diversion rate of 15 gallons per minute or for which the following commercial EQR ratings do not apply:

- Single family home = 3.5 persons using 100 GPCD (gallons/capita/day) = 350 gallons per day = 1 Equivalent Residential Unit (EQR)
- Apartments = 0.75/EQR unit
- Mobile Homes = 0.75/EQR unit
- Office = 0.6 EQR/1,000 square feet

- Warehouse – 0.30 EQR/1,000 square feet

- Retail Sales = 0.60 EQR/1,000 square feet

k.l. “Small Applications”: A contract application to the District to augment uses that *do not* exceed a direct flow or storage diversion demand for groundwater or surface water of greater than 0.25 c.f.s. or 30 acre-feet annually.

l.m. “Water Court”: The District Court in and for Colorado Water Division No. 6 as defined in C.R.S. § 37-92-201.

4. SOURCES AND SCOPE OF MARKETING

a. Sources of Water Available for Augmentation or Exchange

- i. “In-Basin Supply”: Water delivered from Steamboat Lake, for which the District has a Water Lease with Colorado Parks and Wildlife for storage water right decrees were obtained in Case No. 90CW01 and 95CW142 District Court for Colorado Water Division No. 6, and for which additional storage water right decrees may be obtained in the future by the District, water available from the District’s contractual right to water deliveries, and other water sources available to the District for use in its Water Marketing Policy for the Elk River Augmentation Plan.
- ii. “Stagecoach Reservoir Supply”: Water delivered from Stagecoach Reservoir, for which storage water right decrees were obtained by the District in Cases No. CA3538, W-414-72, W-946-76, W-1091-76, 94CW149, 95CW78, 97CW84, and 01CW41, District Court for Colorado Water Division No. 6, and for which additional storage water right decrees may be obtained in the future by the District, water available from the District’s contractual right to water deliveries, and other water sources available to the District for use in its Water Marketing Policy for the Elk River Augmentation Plan.
- iii. “Yamcolo Reservoir Supply”: Water delivered from Yamcolo Reservoir, for which storage water right decrees were obtained by the District in Case Nos. W-946-76, 82CW211, 01CW41, and 03CW58, District Court for Colorado Water Division No. 6, and for which additional storage water right decrees may be obtained in the future by the District, water available from the District’s contractual right to water deliveries, and other water sources available to the District for use in its Water Marketing Policy for the Elk River Augmentation Plan.

b. Volumetric Description

The total maximum amount of augmentation or exchange water involved in and committed to the District in this plan for augmentation is 360-acre feet or such lesser amount available pursuant to retained jurisdiction or future board direction. The amount needed by any individual Contractor will depend on the nature and amount of its uses and, in some situations, the location of its diversions and return flows in relation to senior diversions.

c. Geographic Area

Area A encompasses portions of the Elk River below its confluence with Willow Creek including the West Fork of the Elk River and Willow Creek from its confluence with the Elk River extending to locations upstream from Steamboat Lake where use of the water rights in the Augmentation Decree can fully augment structures developed by District Contractees. **Exhibit A.** All areas outside of the below described areas are referred to as Area B. The augmentation plan allows direct augmentation on the Elk River and Yampa Mainstem and exchange augmentation on the Elk River Tributaries.

- i. Area A-1 includes structures that will divert water from within that portion of Area A encompassing all areas tributary to the Elk River and its tributaries in a stream reach extending from a downstream terminus at the confluence of the Elk River with the Yampa River to an upstream terminus located on the Elk River just upstream of its confluence with Willow Creek, a distance of approximately 27 miles. The boundaries of Area A-1 are depicted on the map that is attached hereto as **Exhibit A.** The total amount of augmentation water available for Area A-1 is 360-acre feet. The rate of exchange within Area A-1 is 1.4 c.f.s. for the entire area A-1 and not to exceed 0.3 c.f.s., with the exception of Salt Creek not to exceed 0.5 c.f.s., within any one of the seventeen major tributaries and watersheds: (1) Farnsworth Creek, (2) Trull Creek, (3) Dry Gulch, (4) Salt Creek, (5) Deep Creek, (6) Long Gulch, (7) Dutch Gulch, (8) McPhee Creek, (9) Sand Creek, (10) Cottonwood Gulch, (11) Greenville Creek, (12) Franz Creek, (13) Taylor Canyon, (14) Keller Ditch Area Watersheds, (15) Wither Ditch Area Watersheds, (16) Willow Creek Basin, and (17) Lester Creek.
- ii. Area A-2: Area A-2 includes structures that will divert water from within that portion of Area A encompassing all areas tributary to the West Fork of the Elk River and its tributaries in a stream reach extending from a downstream terminus at the confluence of the West Fork of the Elk River with the Yampa River to an upstream terminus located where the West Fork of the Elk River branches off the Elk River, a distance of approximately 1.9 miles. The boundaries of Area A-2 are depicted on the map that is attached hereto as **Exhibit A.** The total amount of augmentation water available for Area A-2 is 50-acre feet. The rate of exchange within Area A-2 is 0.2 c.f.s. for the entire area A-2, and not to

exceed 0.2 c.f.s. within major tributary listed below. This amount does not include the amount of exchange for Area A-1. The tributary is: (1) DeCora Gulch.

5. CONTRACTING PROCESS AND TERMS

a. Application Process

- i. **Written Application:** Prospective Applicants for Contracts shall make written application to the District on forms prepared by District staff and approved by the General Manager and General Counsel. Such completed application forms shall be accompanied by the Applicant's non-reimbursable payment to the District of the application fee for processing of the application for approval. Application fees for Contract applications that are denied by the District, or the Division Engineer shall not be refunded.
- ii. **Served Property:** Applicant must use the water allotted pursuant to its Contract for beneficial purposes by diversion at Applicant's point of diversion under the District's direct flow water rights and/or for use by augmentation or exchange. Applicant must use the water allotted by the District within or through facilities or upon lands owned, operated, or served by Applicant, which are described in the Application. Applicant shall provide proof of ownership of, or legal right to use, the property and facilities to be served by the Contract. All lands, facilities, and areas served by the Contracted Water shall be situated within the boundaries of the District. Unless otherwise agreed by the General Manager, the Application shall include both a legal description suitable for recordation in the real property records and accurate and legible map of the actual location of use.
- iii. **Verification of Need:** The application process shall include a description by the Applicant of the nature of its water service, its places of use, its available water rights and supplies, and need for Contracted Water. The need of the Applicant for program water in the quantity requested shall be verified by the General Manager, in consultation with the General Counsel as necessary. If the General Manager determines that all or any portion of a Water Contract request is not based upon legitimate need, the General Manager shall report that finding to the District Board, which shall make the final decision, and the Board will allow the Applicant to present written information in support of its claimed need. The Board's decision on such matters shall be final.
- iv. **Review by Division Engineer:** All applications submitted to the District will be submitted to and may be reviewed by the Division Engineer. The Applicant shall be responsible for providing the information required in Paragraph 8.7.2 of the Augmentation Decree to the extent applicable. Large and Industrial Applications

will also be provided to the Opposers listed in **Exhibit B** of the Augmentation Decree for informational purposes only. The Opposers may communicate specific concerns to the District, the Division Engineer, or both. The Division Engineer shall review the Application to determine whether any existing water right will be injured, or whether the calculated amount of depletions is reasonable, or whether the site-specific conditions described in any lagged depletion analysis is reasonable. The Division Engineer has sixty-three (63) days to provide written specific objections to the District. If no objections are made within said 63-day period, the District may issue a Water Contract. If the Division

Engineer, within the 63-day period, provides written objection to the approval of such large application, the District must deny such application.

- v. **Contract Execution:** The Applicant shall have sixty (60) days after mailing or electronically transmitting the final Contract documents to them in which to execute the final Contract and deliver the executed originals to the District's offices. If such execution and delivery are not accomplished in that time, the Applicant shall be deemed to have rejected the District's offer to contract.

b. **Quantities**

- i. **Minimum:** The minimum amounts of water that may be contracted pursuant to this Policy shall be 0.1-acre feet annually. Quantity will not be pro-rated based on non-use in any part of the project year.
- ii. **Maximum:** The maximum amount of water that may be contracted for the benefit of any single property on a case-by-case basis shall be 10-acre feet without prior Board approval.
- iii. **Water Contracts** shall be rounded off in one-tenth acre foot units.
- iv. **Changes per Division Engineer review or retained jurisdiction:** The District reserves the right to change quantities in a Water Contract per orders from the Division Engineer or Water Court as allowed under the Augmentation Decree.

c. **Deliveries**

- i. **Project Year:** The basis for calculating payment and delivery obligations shall be "Project Year" or multiples thereof, which shall be the period from April in one year through March in the succeeding year.

d. Charges and Fees

i. Application Fees:

(1) The Board shall determine application fees annually.

(2) The application fee for a Water Supply Contract shall be determined annually by the Board for each application type. An application will not be processed until the appropriate application fee has been received. See **Appendix A** for current application fees.

(3) Request for contract amendments may initiate a new application process and pay associated application fees, except that General Manager may authorize amendments to correct errors and make other non-material revisions to a Contract which would not have the Application submitted for such Contract, as amended, subject to any notice provision of this paragraph 5 or otherwise under the Augmentation Decree. See **Appendix A** for current amendment fee.

ii. Rates for Classes of Users: The price for each type of water shall be reviewed and set annually by the Board of Directors. Any approved Contract is subject to change in price as annually determined by the District. The price is a “take or pay” price and is payable with respect to the maximum contract amount allotted to the Contractor, whether or not in any year such Contractor in fact takes and uses all of the Contracted Water. See **Appendix A** for current water supply pricing.

iii. Minimum Charges: The minimum annual contract charge will be for 1.0-acre feet. See **Appendix A** for current water supply pricing.

iv. O&M Assessments: Contractor shall pay any special assessment levied by the District on Contractor to recoup expenses from extraordinary maintenance incurred by the District.

v. The current version of the **Appendix A** Upper Yampa Water Augmentation Plan Water Pricing shall be annually substituted for the prior year when adopted by the Board.

e. Required Meters

Contractor agrees to provide, at its own expense, a continuous flow recording device

with remote readout, or other device as required by the Contract and to be in compliance with the Division of Water Resources (DWR) measurement standards, to continuously and accurately measure at all times all water diverted pursuant to the terms of Contractor's water right and the terms of the Contract. On or before November 5 of each year, or more frequently if required by the Division Engineer, Contractor will provide accurate readings from such continuous flow recording device (recorded on a monthly basis for the period November 1 through October 31 of each year) to the District. Contractor acknowledges that failure to comply with this paragraph could result in legal action to terminate Contractor's diversion of water by the State of Colorado Division of Water Resources.

f. Use Reporting

- i. Commencement of Service: Service will commence upon execution of the Contract, payment of applicable fees, and approval as may be required under the Augmentation Decree by the Division Engineer or Water Court. Contractor must record water use at commencement of service.
- ii. Periodic Reporting per District Requirements: Contractor shall maintain an accounting of its use of all water used or supplied by Contractor on forms acceptable to the District specifically for the purpose of enabling the District to prove the use of project water rights and to administer and operate the project and water right decrees and/or administrative approvals related to Contractor's use of Contracted Water. Contractor shall submit its accounting forms and records to the District promptly upon request and shall assist the District as it may reasonably request in presenting and/or verifying such evidence of use in court or before administrative agencies by testimony of Contractor or its authorized and informed officers or agents.
- iii. District Right to Enter and Verify: Contractor acknowledges that District representatives or agents have the right to enter upon property that Contractor represented in the Application for which the Contract Water is to be used. The District may verify water use in conformance with the Contract and Policy, including, but not limited to amounts, locations used, types of use, and accuracy of flow meters.

g. Well Permit

If Contractor intends to divert through a well, then Contractor must provide to District a copy of Contractor's valid well permit before the District is obligated to deliver any water hereunder, and it is the Contractor's continuous duty to maintain a valid well permit. Contractor shall also comply with all restrictions and limitations

set forth in the well permit obtained from the Colorado Division of Water Resources pursuant to C.R.S. §37-90-137. The Contractor must comply with any other statutory or regulatory requirements for issuance of well permits to be augmented pursuant to this plan, including the 600-foot spacing requirement of C.R.S. § 37-90-137(2)(b), if applicable. Compliance with said statutory well-spacing criteria shall be an express condition of the extension of service hereunder, and the District shall in no way be liable for a Contractor's failure to comply. Contractor agrees to mark the well in a conspicuous place with the permit number.

h. Noncompliance

- i. Report to Division Engineer: Breach of the Contract by the Contractor will result in the District reporting the noncompliance to the Division Engineer.
- ii. Curtail releases: The District may withhold deliveries of Contracted Water in the event of Contractor's nonpayment for Contracted Water or any other breach of the Contract by Contractor. Such remedies shall not be the exclusive remedies in the event of such a breach.

i. Assignment

- i. The water allotted under any Contract shall be beneficially used for the purposes and in the manner specified in the Application and the Contract. The Contract is for the exclusive benefit of the Contractor's property as specified in the Contract and shall inure to the benefit of any successor in interest to the fee title to said property upon written assignment and notice thereof to the District, and subject to compliance with this Water Marketing Policy for the Elk River Augmentation Plan and Contract terms, said assignment to be made using the District's approved form as modified with the approval of the General Manager. The restrictions on assignment contained herein shall not preclude the District from holding the Contractor, or any successor of the Contractor, responsible for the performance of all or any part of the Contractor's covenants and agreements contained in the Contract. For purposes of this Contract, any change in the ownership of the property served by the Contracted Water as specified in the application and/or the Contract shall constitute an assignment requiring execution of an instrument of assignment on the District's approved form, as modified with the approval of the General Manager, notice to the District and payment of the assignment fee.
- ii. The Board shall determine assignment fees annually. See **Appendix A** for current assignment fee.

j. Limitation on Sale

Contractor may not assign, sublet, sell, donate, loan or otherwise dispose of any of its rights to a Contract or Contracted Water separate from the property that it serves as specified in the Contract without prior written notice to, and the written approval (except as otherwise provided in paragraph 5. i. (i.) above) of the District as provided in the Contract. The District will approve such disposition in all instances where the transfer is made to an entity such as a homeowners' association or special district created to serve the property originally represented to the District to be served with the Contracted Water. Any disposition of a Contractor's rights to a Contract or Contracted Water must be by written instrument signed by the District. As provided above, a fee will be imposed for each contract assignment.

k. Form of Contract, Term and Renewal

i. Contracts shall be made in the form approved by the Board, as the same may be revised from time to time in the discretion of the Board. The form of contract approved as of the date of this Policy is attached at **Exhibit C**. The term of such contracts entered in to after July 12, 2023 shall be for a term shall be for 40 years commencing on January 1st of the year in which such contract is executed and ending on December 31, 2062. The General Manager shall have the authority to extend contracts entered in to on or prior to July 12, 2023 for a term ending December 31, 2062 with the agreement of the Contractor.

ii. For Contracts ending December 31, 2062, the Contractor shall have the right to renew this Contract for the same Contracted Water Amount for a secondary term of thirty-five (35) years, subject to the District's current Policies and, upon such terms, conditions and pricing as the District is offering at that time, provided that the District is offering up the full amount of Contracted Water. In the event that the District, on a nondiscriminatory basis, decides not to offer up the full amount of the Contracted Water, Contractor shall have the right to renew for a secondary term of thirty-five (35) years such lesser portion of the Contracted Water as may be offered by the District. If Contractor desires to so renew this Contract, it shall provide the District written notice of its intention to do so at least ninety (90) days prior to the expiration of the initial term of this Contract. Thereafter, and prior to the expiration of the initial term, the District and Contractor shall execute a new or supplemental agreement of renewal on the District's standard form. If Contractor fails to renew as set forth above, no renewal term shall commence, and the District shall be free to contract for or otherwise dispose of the Contracted Water in its discretion.

6. DELIVERY CONTINGENCIES AND SHORTAGE CRITERIA

a. Shortages

Delivery of water is subject to limitations of the hydrological conditions, availability of water under the Augmentation Decree including limitations on exchanges, and the provision for curtailment below. In the event that the District is unable, because of either legal or physical reasons (including but not limited to, hydrologic shortages, ~~and~~ operational restrictions, or the unavailability for any reason of the water to be used for augmentation as described in the Augmentation Decree), to deliver any or all of the full amount of water contracted from the District, the District reserves the right to apportion the available water among its several contractors or to entirely curtail such deliveries. If the District is to apportion the available water among its contractors as provided herein, the District shall notify the respective Contractors in writing of such fact by August 1st of that year. Water shortages among the District's Contractors shall be apportioned in the following sequence:

- i. Large or Small Contracts used for solely for irrigation purposes are pro-rata shorted up to 100%.
- ii. Large and Industrial contracts are then pro-rata shorted up to 100%.
- iii. Small contracts then are shorted as necessary on a pro-rata basis.

Replacement of depletions using the decreed appropriative exchanges shall require that said exchange(s) be in priority and have water physically and legally available in the exchange reach(es) from the exchanged from point to the exchanged-to point(s) in the amount(s) to be exchanged. Out-of-priority diversions not meeting this requirement shall be subject to curtailment.

CERTIFICATE OF SECRETARY

I hereby certify that the foregoing Water Marketing Policy for the Elk River Augmentation Plan of the Upper Yampa Water Conservancy District for Augmentation Plan Service (Elk River Augmentation Plan) dated July ~~2012~~, 202~~32~~, was approved by the Board of Directors of the Upper Yampa Water Conservancy District effective as of July ~~1220~~, 202~~32~~, and shall supersede and replace in their entirety all versions of this Water Marketing Policy for the Elk River Augmentation Plan previously approved for the Elk River Augmentation Plan.

By: _____
Andy Rossi, General Manager and Secretary/Treasurer

AUGMENTATION CONTRACT No. _____
UPPER YAMPA WATER CONSERVANCY DISTRICT
ELK RIVER SUPPLY

_____ (hereinafter "Contractor") has applied to the Upper Yampa Water Conservancy District (hereinafter the "District") a political subdivision of the State of Colorado, organized pursuant to and existing by virtue of Section 37-45-101, Colorado Revised Statutes, *et seq.*, for an augmentation contract for use of water supplies owned, leased, or hereafter acquired by the District. By execution of this Contract, Contractor and District agree to the following terms and conditions.

1. AUGMENTATION SUPPLY.

A. In consideration of the covenants and conditions herein contained, Contractor shall be entitled to the release of _____ acre feet per year of storage or other augmentation water owned or controlled by the District (the "Contracted Water") for use to augment depletions from Contractor's out-of-priority diversions pursuant to the District's Decree entered July 29, 2018 in Case No. 15CW3058, Colorado Water Division No. 6 ("Augmentation Decree") and any amendments thereof obtained by the District in its sole discretion.

B. The Contracted Water amount is based on the water requirements table attached hereto as **Exhibit A**. Contractor shall restrict consumptive use under this Contract to that amount. Any increase or change in the water requirements to be supplied by the District may require application for and issuance of a replacement contract, and cancelation of this Contract.

C. Any quantity of the Contractor's Contracted Water that is not used by Contractor by the end of each water year shall not carry over for the Contractor's future use but shall revert to the water supplies of the District. Such reversion shall not entitle Contractor to any refund of payment made for such water supply.

D. Contracted Water will be derived from exercise of the District's water rights decreed for augmentation pursuant to the Augmentation Decree. The District shall have the right, but not the obligation, to designate the water right(s) from which the Contractor's Contracted Water shall be released and to change that designation at any time in its discretion.

E. Contractor's use of any of the Contracted Water shall be subject to any and all terms and conditions imposed by the Water Court on the use of the District's water rights.

F. The water service provided hereunder is expressly subject to the provisions of the District's Water Marketing Policy for the Elk River Augmentation Plan, which provides, in part, for the possible curtailment of uses upon the occurrence of certain events and upon the District giving notice of such curtailment, all as more

fully set forth therein. This may include curtailment of surface diversions that deplete an existing instream flow reach when a call is placed by the Colorado Water Conservation Board unless the Contractor has secured sufficient water under the Elk River Augmentation Plan and/or other lawfully available sources to fully augment one hundred percent (100%) of the Contractor's diversions as necessary to prevent injury to the instream flow water right. The service is specifically dependent on the legal and physical availability of the Contracted Water for delivery, including the unavailability for any reason of the water to be used for augmentation as described in the Augmentation Decree, and the District shall have no liability to Contractor for its inability to deliver any or all of the Contracted Water for such reasons.

G. Nothing herein gives the Contractor any equitable or legal title interest or ownership in or to any of the District's water or water rights or the facilities by which they are managed for use. Contractor is only entitled to benefit from the water supply allotted hereunder subject to the limitations, obligations, and conditions of this Contract. Contractor shall not institute any legal proceedings for the approval of an augmentation plan and/or any change of the District's water rights.

H. The District's issuance of this Contract to the Contractor is based upon the Contractor's written application and the related information provided by the Contractor to the District in connection with that application. Contractor represents and warrants that the information provided in the contract application is accurate and complete.

2. PURPOSE AND LOCATION OF USE.

A. Contractor will use the Contracted Water to augment diversions at Contractor's point(s) of diversion. Contractor will use the Contracted Water within or through facilities or upon land owned, operated, or served by Contractor, which land is within the District's boundaries and is described on **Exhibit B** attached hereto; provided, that the location and purpose of Contractor's use of Contracted Water must be legally recognized and permitted by the applicable governmental authorities having jurisdiction over the property served. Any change in the location of use shall require application for and issuance of a replacement contract.

B. Contractor's contemplated use for the Contracted Water is for augmentation of the following type of contract as the same are defined in the District's Water Marketing Policy for the Elk River Augmentation Plan: [Select] Large, Small, Industrial.

3. AUGMENTATION PLAN IMPLEMENTATION AND COMPLIANCE.

A. The District shall be responsible for the implementation of the Augmentation Decree including, without limitation, the review of water allotment contract applications with the Division Engineer and any other parties, making

needed augmentation releases, and accounting for augmentation releases made for Contractor and other District allottees.

B. Contractor shall provide, at its own expense, a continuous flow recording device with remote readout, or other device as required by the Augmentation Decree and to be in compliance with the Division of Water Resources (DWR) measurement standards, to continuously and accurately measure at all times all water diverted pursuant to the Augmentation Decree. On or before November 5 of each year, or more frequently if required by the Division Engineer, Contractor shall provide accurate readings from such continuous flow recording device (recorded on a monthly basis for the period November 1 through October 31 of each year) to the District. Contractor acknowledges that failure to comply with these provisions could result in legal action to terminate Contractor's diversion of water by the State of Colorado, Division of Water Resources.

C. Contractor hereby specifically allows the District, through its authorized agents, to enter upon Contractor's property during ordinary business hours for the purposes of determining Contractor's measurement capabilities and actual use of water.

D. If Contractor intends to divert through a well, Contractor must provide to the District a copy of Contractor's valid well permit before the District is obligated to deliver any Contracted Water, and it is the Contractor's continuous duty to maintain a valid well permit. Contractor shall also comply with all restrictions and limitations set forth in the well permit obtained from the Colorado Division of Water Resources. Contractor must comply with the well-spacing requirements set forth in C.R.S. § 37-90-137, as amended, if applicable. Compliance with said statutory well-spacing criteria is an express condition of the extension of service hereunder, and the District shall in no way be liable for a Contractor's failure to comply. Contractor agrees to mark the well in a conspicuous place with the permit number.

4. PAYMENTS.

A. Contractor shall pay the District annually for the Contracted Water herein at a price to be fixed annually by the Board of Directors of the District for such service. Payment of the annual fee shall be made, in full, within fifteen (15) days after the date of a notice from the District that the payment is due. Said notice will advise the Contractor, among other things, of the water delivery year to which the payment shall apply and the price which is applicable to that year. If a payment is not made by the due date, a late fee of \$50 (or such other amount as the Board may set from time to time) will be assessed and final written notice of the delinquent account and late fee assessment will be sent by the District to the Contractor at Contractor's address set forth below. If payment is not made within thirty (30) days after said final written notice, the District may, at its option, elect to terminate all of the Contractor's right, title, or interest under this Contract, in which event the Contracted Water may be transferred, leased or otherwise disposed of by the District at the discretion of its

Board of Directors. The price is a “take or pay” price and is payable with respect to the maximum allotted contract amount allotted to the Contractor, whether or not in any year such Contractor in fact takes and uses all of the contracted water.

B. If water deliveries hereunder are made by or pursuant to agreement with some other person, corporation, quasi-municipal entity, or governmental entity, and in the event the Contractor fails to make payments as required hereunder, the District may, at its sole option and request, authorize said person or entity to curtail the Contractor’s water service pursuant to this Contract, and in such event neither the District nor such persons or entity shall be liable for such curtailment.

C. Contractor agrees that so long as this Contract is valid and in force, Contractor will budget and appropriate from such sources of revenues as may be legally available to the Contractor the funds necessary to make timely annual payments. Contractor will hold harmless the District and any person or entity involved in the delivery of water pursuant to this Contract for discontinuance in service due to the failure of Contractor to maintain the payments herein required on a current basis.

5. TERM AND RENEWAL.

The term of this contract shall ~~be for forty (40) years from commence on~~ January 1st of the year in which it is executed ~~and terminate on December 31, 2062.~~ The Contractor shall have the right to renew this Contract for the same Contracted Water amount for a secondary term of thirty-five (35) years, subject to the District’s current Policies and, upon such terms, conditions and pricing as the District is offering at that time, provided that the District is offering up the full amount of Contracted Water. In the event that the District, on a nondiscriminatory basis, decides not to offer up the full amount of the Contracted Water, Contractor shall have the right to renew for a secondary term of thirty-five (35) years such lesser portion of the Contracted Water as may be offered by the District. If Contractor desires to so renew this Contract, it shall provide the District written notice of its intention to do so at least ninety (90) days prior to the expiration of the initial term of this Contract. Thereafter, and prior to the expiration of the initial term, the District and Contractor shall execute a new or supplemental agreement of renewal on the District’s standard form. If Contractor fails to renew as set forth above, no renewal term shall commence, and the District shall be free to contract for or otherwise dispose of the Contracted Water in its discretion.

6. ASSIGNMENTS.

A. The Contracted Water shall be beneficially used for the purposes and in the manner specified herein, and this Contract is for the exclusive benefit of the Contractor’s property and shall inure to the benefit of any successor in interest to the fee title to said property upon written assignment and notice thereof to the District, and subject to compliance with the District’s Water Marketing Policy for the Elk River

Augmentation Plan and the terms of this Contract, said assignment to be made using the District's approved form.

B. Upon the sale of the real property to which this Contract pertains, Contractor has a duty to make the buyer aware of this Contract and of the need to assign the Contract to the buyer. Written notice of assignment to the District shall be necessary for the assignment to become effective. Payment of an assignment fee in an amount determined annually by the Board shall be required for the approval of an assignment.

C. If the Contracted Water will be used for the benefit of land that is now or will hereafter be subdivided or otherwise held or owned in separate ownership interests, Contractor may assign Contractor's rights hereunder only to a homeowners association, property owners association, water district, water and sanitation district or other special district, or other entity properly organized and existing under and by virtue of the laws of the State of Colorado, and then only if such entity establishes to the satisfaction of the District that it has the ability and authority to assure its performance of the Contractor's obligations under this Contract. In no event shall the owner of a portion but less than all of the property served under this Contract have any rights hereunder, except as such rights may exist through an association or special district as above provided.

D. The restrictions on assignment contained herein shall not preclude the District from holding the Contractor, or any successor to the Contractor, responsible for the performance of all or any part of the Contractor's covenants and agreements herein contained.

7. MULTIPLE OWNERSHIP.

A. In the event of the division of the property served by this Contract into two or more parcels owned by different persons or entities, in addition to the obligations in Section 6.C. above, the Contractor shall give notice to purchasers of any part of the subject property of the obligations of this Contract and shall record such notice in the records of the Clerk and Recorder of the county in which such property is located.

B. If such divided property is to be served by a shared well, as a condition of service under this Contract, all of the owners of such property shall execute and record a well sharing agreement in a form acceptable to the District and provide evidence thereof to the District.

8. CONTRACTOR'S LEGAL COMPLIANCE.

A. Contractor's rights under this Contract shall be subject to the Water Marketing Policy for the Elk River Augmentation Plan and to any Water Service Plan adopted by the District and amended from time to time; provided, that such Policy

and Plan shall apply uniformly among water users receiving the same service from the District. Contractor shall also be bound by all applicable laws and regulations, including, for example, the provisions of the Water Conservancy Act of the State of Colorado.

B. Contractor shall comply with all federal, state, and local governmental laws and regulations in the construction, maintenance, operation, replacement or repair of the facilities required to divert and use water that is augmented pursuant to this Contract. Upon demand of the District, Contractor shall provide the District with documentary proof of such compliance.

C. Contractor shall only charge its water customers, if any, who are supplied based upon the Contracted Water such rates, charges, and fees as are permitted by Colorado law.

D. Contractor shall not discriminate in availability of or charges for any water service or water supply made available pursuant to or based upon the Contracted Water on account of race, color, religion, national origin, or any other criteria prohibited under state or federal law.

E. Contractor shall implement and use commonly accepted conservation practices with respect to use of water augmented by the supply allotted under this Contract and shall be bound by any conservation plan hereafter adopted by the District, as the same may be amended from time to time.

9. CONTRACT TERMINATION.

A. Termination by District:

1. The District may terminate this Contract for any violation or breach of the terms of this Contract by Contractor, including as provided in Section 4. A., above, regarding delinquent payments.

2. The District may terminate this Contract if, in its discretion, any judicial or administrative proceeding initiated by Contractor threatens the District's authority to contract for delivery or use of the District's water rights, or threatens the District's permits, water rights, or other interests of the District.

3. The District may terminate this contract if Contractor opposes any of the District's Water Court applications regarding the District's water rights used for augmentation pursuant to the Augmentation Decree.

B. **Termination by Contractor:** Contractor may terminate this Contract in its entirety for any reason by notifying the District in writing of the termination on or

before April 1. Notice by said date will prevent the Contractor's liability for the next annual contract charge.

C. Notice to Division Engineer: Upon termination of this Contract by either the District or Contractor, the District will provide notice of such termination to the Office of the Division 6 Engineer, Colorado Division of Water Resources. The District shall have no liability to Contractor for any administrative or legal action taken by the Division Engineer or other representatives of the State of Colorado to curtail or limit Contractor's use of water previously augmented by the Contracted Water under this Contract.

10. FORCE MAJEURE.

The District shall not be responsible for any losses or damages incurred as a result of the District's inability to perform pursuant to this Agreement due to the following causes if beyond the District's control and when occurring through no direct or indirect fault of the District, including without limitation: Acts of God; natural disasters; actions or failure to act by governmental authorities; unavailability of supplies or equipment necessary to the District's ability to perform; major equipment or facility breakdown; and changes in Colorado or federal law, including, without limitation, changes in any permit requirements.

11. NOTICES.

All notices required or appropriate under or pursuant to this contract shall be given in writing mailed or delivered to the parties or sent by internet communication at the following addresses:

Notice to Contractor

Email: _____

Notice to District

Upper Yampa Water Conservancy District
Attention: General Manager
P.O. Box 775529
Steamboat Springs, CO 80477
UYWCD@upperyampawater.com

Either Party may by notice given in accordance with this provision change the addresses to which future notices shall be mailed or delivered.

12. BREACH AND REMEDIES.

A. In the event of any breach of this Contract by the Contractor, the District may, in addition to contract termination as provided herein, pursue any additional remedy available to the District against the Contractor in law or in equity. Contractor may do likewise in the event of breach by the District. The prevailing party in any litigation regarding such breach shall be entitled to recovery of its reasonable attorneys' fees.

B. Venue for any dispute regarding this Contract shall be in the District Court for Routt County, Colorado.

13. RECORDING OF MEMORANDUM.

In lieu of recording this Water Augmentation Contract, a Memorandum of Water Augmentation Contract will be recorded with the Routt County Clerk and Recorder's Office. The costs of recording the Memorandum shall be paid by Contractor.

CONTRACTOR:

Signature

Name

Contractor's Address:

Telephone No.: _____

Email Address: _____

STATE OF _____)

) ss.

COUNTY OF _____)

Subscribed and sworn to before me this ____ day of _____, 20__, by

_____.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

**UPPER YAMPA WATER CONSERVANCY
DISTRICT**

By: _____
_____, President

ATTEST:

_____, General Manager and Secretary

STATE OF _____)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 20____, by
_____, President, Upper Yampa Water Conservancy District.

WITNESS my hand and official seal.
My commission expires: _____

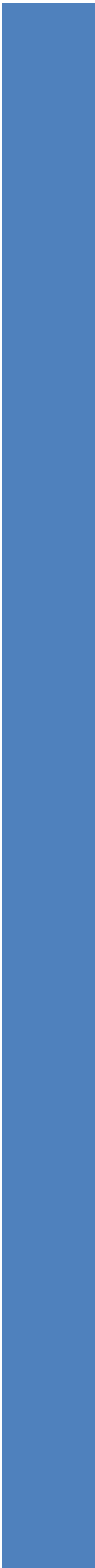
Notary Public

STATE OF _____)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 20____,
by _____, General Manager and Secretary, Upper Yampa
Water Conservancy District.

WITNESS my hand and official seal.
My commission expires: _____

Notary Public





BOARD COMMUNICATION FORM

From: Emily Lowell, District Engineer

Date: 7/12/2023

Item: Reservoir Water Status

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

Water storage data for Yamcolo Reservoir and Stagecoach Reservoir are included as reference materials for a summary discussion of the 2023 water year to date.

II. Summary:

Yamcolo Reservoir Status as of 6/30/2023 – Storage Releases

Stillwater Reservoir Water Stored at Yamcolo: 1,000 AF Released from 5/26-6/11; no remaining volume stored at Yamcolo

Current Storage Volume: 7,220 AF

Total Storage for 2023 Season: 7,585 AF

Yamcolo Storage Volume Released in last 30 days: 453 AF

Volume Stored in last 60 days: 2,062 AF

Current Outflow: 155 cfs

Stagecoach Reservoir Status as of 3/6/2023 – Holding Steading

Current Storage Volume: 35,838 AF

Volume Stored in last 30 days: 2,153 AF



Volume Stored in last 60 days: 7,469 AF

Current Inflow: 74 cfs

Current Outflow: 67 cfs

III. Staff Recommendation:

N/A

IV. Legal Issues:

N/A

V. Consistency with Board Goals and Policies:

Policy Statement: 2

Attachments:

1. Yamcolo Water Storage Data (WY 2023)
2. Stagecoach Water Storage Data (WY 2023)
3. DNR Drought Update
4. Yampa White Precipitation

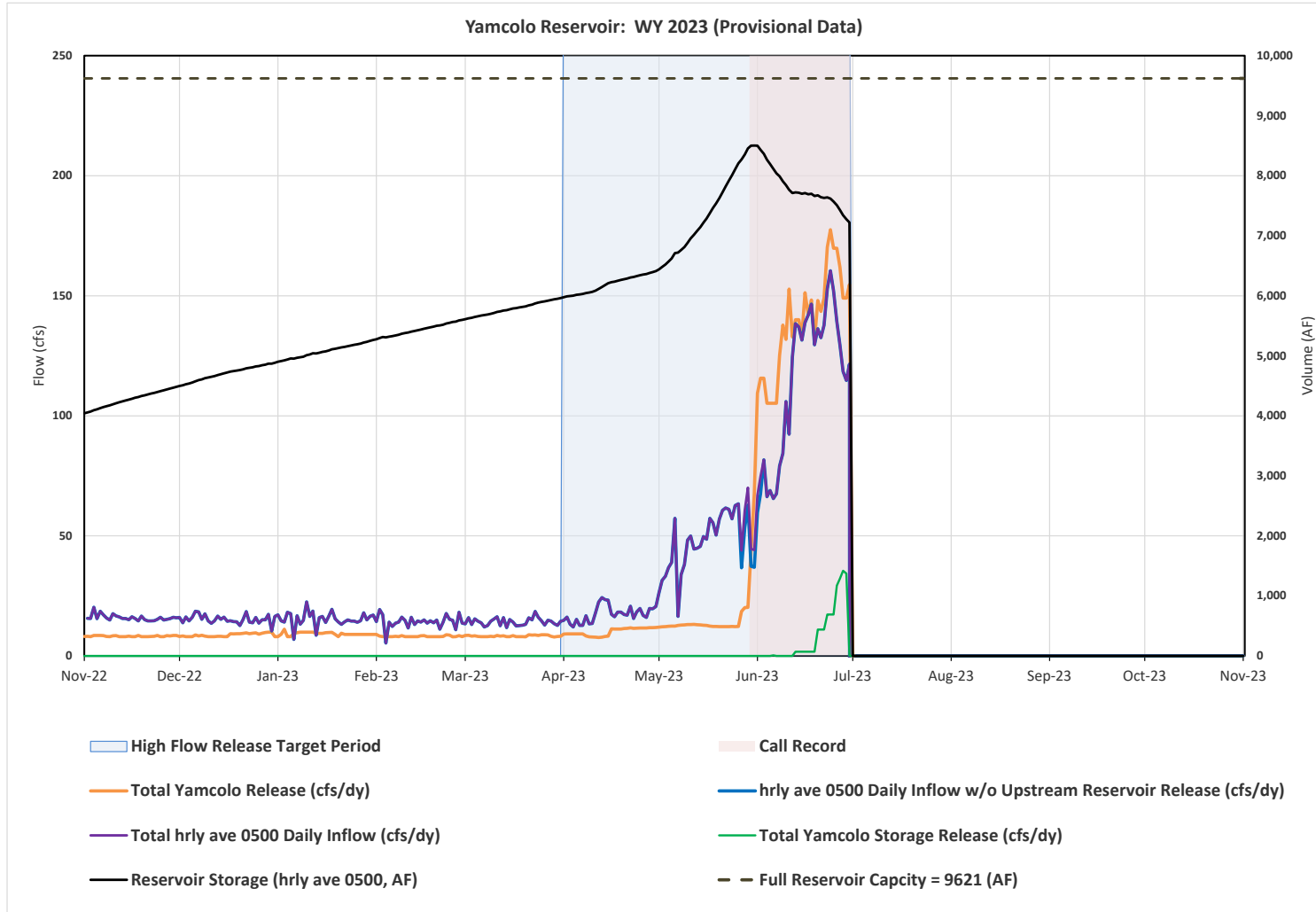
Yamcolo Reservoir Operations
Total Monthly Volume (AF)

Water Year 2023

INFLOW	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Total
Physical	915	938	948	790	874	1,038	2,891	6,787					15,180
Storable	439	446	457	346	382	562	2,161	6,073					10,865
Stored	442	399	382	335	353	436	2,062	-1,281					3,128

*1000 af of Stillwater Reservoir Stored, Full Release of that Volume 5/26-6/11/23

OUTFLOW	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Total
Operator	-490	-538	-568	-454	-510	-596	-983	-8,270					-12,409
Spill				0	0	0	0	0					0
Gage	-490	-538	-568	-454	-510	-596	-983	-8,270					-12,409



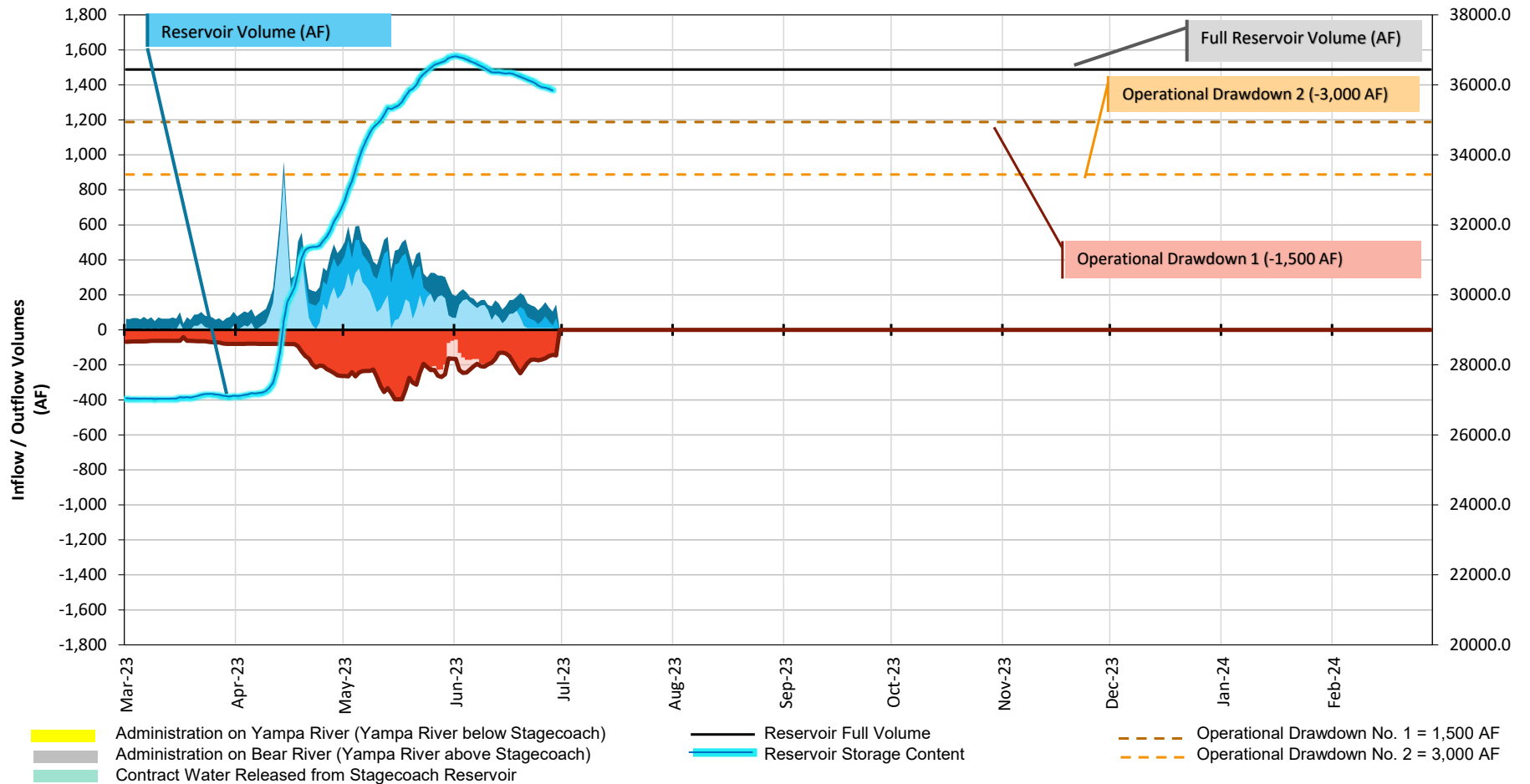
Stagecoach Reservoir Operations

Total Monthly Volume (AF)

Accounting Year 2023

INFLOW	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Total
Physical	2,171	9,396	13,063	4,713									29,343
Storable	228	7,022	10,212	2,716									20,178
Stored	227	5,464	5,316	2,153									13,161

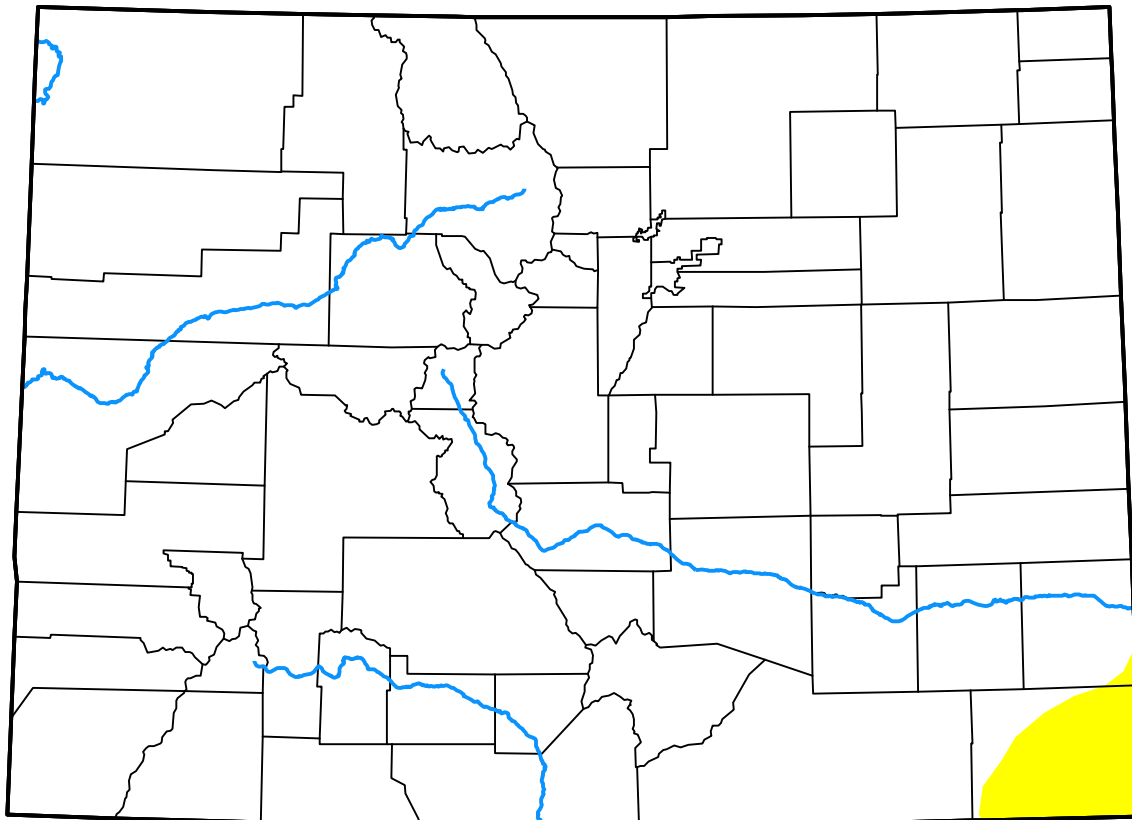
OUTFLOW	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Total
Operator	-2,054	-3,938	-8,495	-5,374									-19,862
Spill	0	0	-349	-507									-856
Gage	-2,054	-3,938	-8,495	-5,374									-19,862



U.S. Drought Monitor

Colorado

June 27, 2023
 (Released Thursday, Jun. 29, 2023)
 Valid 8 a.m. EDT



Drought Conditions (Percent Area)

	None	D0-D4	D1-D4	D2-D4	D3-D4	D4
Current	98.11	1.89	0.00	0.00	0.00	0.00
Last Week <i>06-20-2023</i>	96.93	3.07	0.00	0.00	0.00	0.00
3 Months Ago <i>03-28-2023</i>	51.97	48.03	35.94	9.05	2.24	0.43
Start of Calendar Year <i>01-03-2023</i>	39.97	60.03	33.83	12.28	1.91	0.01
Start of Water Year <i>09-27-2022</i>	15.46	84.54	45.65	15.47	3.73	0.57
One Year Ago <i>06-28-2022</i>	1.17	98.83	86.07	44.87	5.90	0.23

Intensity:

- None
- D0 Abnormally Dry
- D1 Moderate Drought
- D2 Severe Drought
- D3 Extreme Drought
- D4 Exceptional Drought

The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. For more information on the Drought Monitor, go to <https://droughtmonitor.unl.edu/About.aspx>

Author:

Curtis Riganti
 National Drought Mitigation Center



droughtmonitor.unl.edu

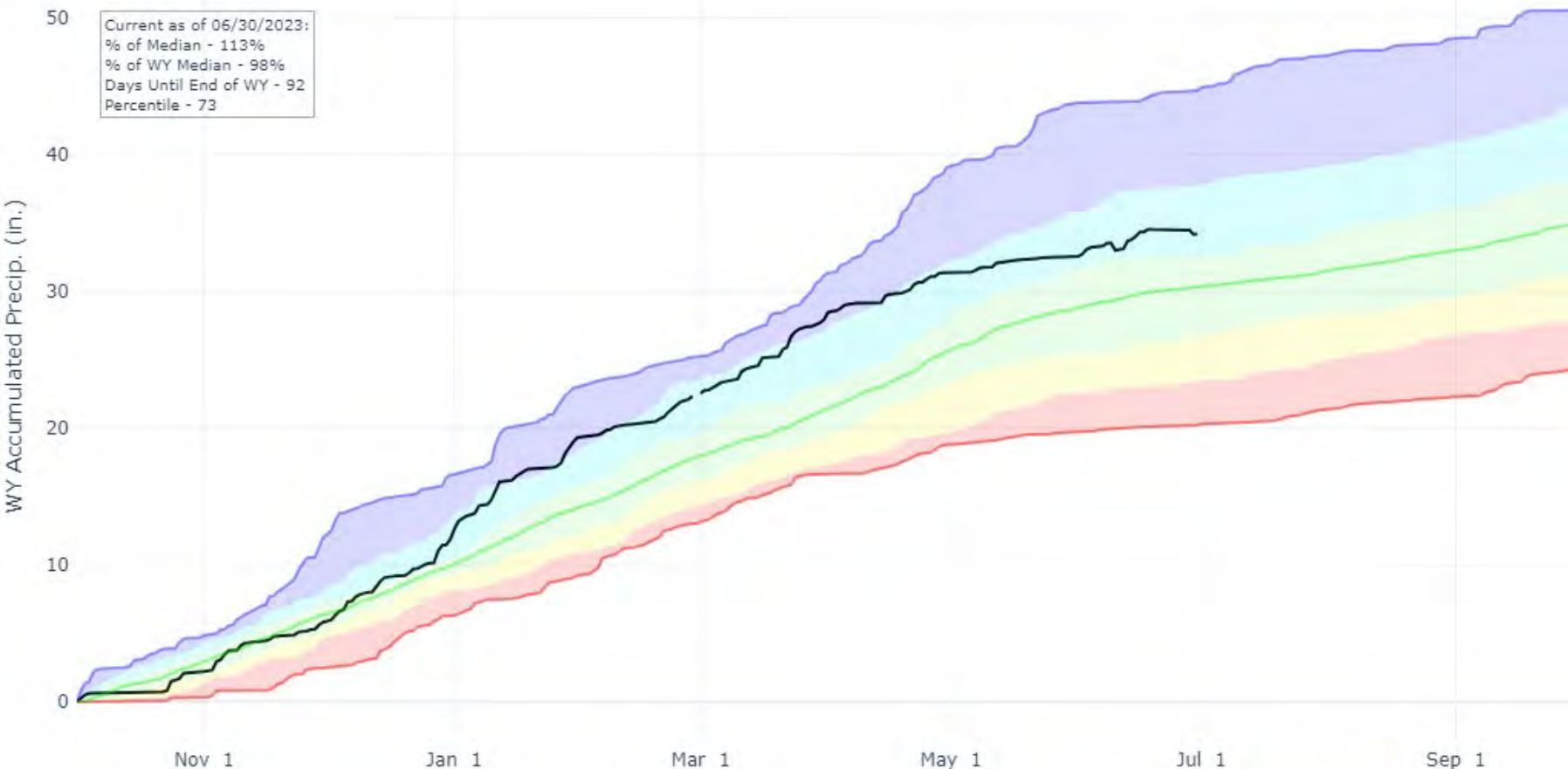
PRECIPITATION IN WHITE-YAMPA

Reset Range

[Link to data: CSV / JSON](#)

Station List

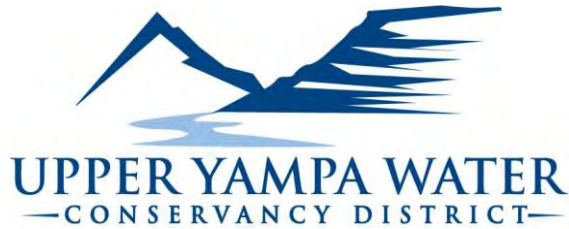
Current as of 06/30/2023:
% of Median - 113%
% of WY Median - 98%
Days Until End of WY - 92
Percentile - 73



- Max
- Median (POR)
- Median ('91-'20)
- Min
- Stats. Shading
- 2023 (21 sites)
- 2022 (21 sites)
- 2021 (21 sites)
- 2020 (21 sites)
- 2019 (21 sites)
- 2018 (21 sites)
- 2017 (21 sites)
- 2016 (21 sites)
- 2015 (21 sites)
- 2014 (21 sites)
- 2013 (21 sites)
- 2012 (21 sites)
- 2011 (21 sites)
- 2010 (21 sites)
- 2009 (21 sites)
- 2008 (21 sites)
- 2007 (21 sites)
- 2006 (21 sites)
- 2005 (21 sites)
- 2004 (19 sites)
- 2003 (19 sites)







BOARD COMMUNICATION FORM

From: Holly Kirkpatrick

Date: 6/30/2023

Item: UYWCD Grant Disbursements

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

The attached Diversion Infrastructure Improvement Project Grant Report and Community Grant Funding Report will be included in each board packet to provide a full background of all grant disbursements. The Diversion Infrastructure Improvement Project Report tracks all disbursements throughout the life of the project. The Community Grant Funding Report tracks disbursements on an annual basis.

II. Summary and Alternatives:

To date, there is \$94,899.10 remaining of the allocated \$200,000 for the Diversion Infrastructure Improvement Project. There are pending applications in the amount of \$6,000.

The Community Grant Funding Program has allocated \$100,000 for the 2023 budget, of which, \$20,000 has been awarded to the Yampatika Water Education Program.

III. Staff Recommendation: n/a

Please see the attached reports for disbursement details.

IV. Legal Issues: n/a

V. Consistency with Board Goals and Policies:

Goal 4, 7, and 8.

Attachments:

Attachment 1: Diversion Infrastructure Improvement Project Grant Report

Attachment 2: Community Grant Funding Report

Diversion Infrastructure Improvement Project Grant Funding

Structure Name	Applicant	Disbursement Date	UYWCD Funding	WSRF Funding	Total Project Cost
Boor #3	John Redmond	9/15/2020	\$ 968.86	\$ -	\$ 1,937.72
Boor #4	John Redmond	9/15/2020	\$ 968.86	\$ -	\$ 1,937.72
Beaver Creek Parshall Flume	John Redmond	9/15/2020	\$ 446.86	\$ -	\$ 893.72
Creek Ranch Headquarters Pond	Creek Ranch Owners Association	11/4/2020	\$ 459.20	\$ 459.19	\$ 1,836.77
Dry Creek Ditch	Kathleen Barnes	11/4/2020	\$ 2,288.49	\$ 2,288.49	\$ 9,153.97
Kemmer Ditch	Riverbank Ranches LLC	11/4/2020	\$ 1,233.00	\$ 1,233.00	\$ 4,932.00
Lucas Ditch #1	Rick Milway	11/23/2020	\$ 724.40	\$ -	\$ 1,448.80
Lucas Ditch #2	Rick Milway	11/23/2020	\$ 550.75	\$ -	\$ 1,101.50
Welch & Monson Ditch	Catamount Metropolitan District	3/8/2021	\$ 803.01	\$ 803.00	\$ 3,212.03
Martin Springs Diversion	Deborah Martin	3/8/2021	\$ 1,086.77	\$ 1,086.77	\$ 4,347.07
Duquette Ditch	Duckels Construction, Inc	3/8/2021	\$ 2,131.26	\$ 2,131.25	\$ 8,525.02
Brinker Creek Ditch	Finger Rock Preserve, LLC	3/8/2021	\$ 1,079.75	\$ 1,079.75	\$ 2,504.50
Hamill Ditch	Jake Hamill	3/8/2021	\$ 932.70	\$ -	\$ 1,865.40
Utley Ditch	Jake Hamill	3/8/2021	\$ 584.75	\$ 584.75	\$ 2,339.00
Grouse Creek Ditch	Joe Roberts	3/8/2021	\$ 1,431.61	\$ 1,431.61	\$ 5,726.43
Morrison Creek Ditch #2	Margaret E. Hagenbuch Trust	3/8/2021	\$ 1,128.61	\$ 1,128.61	\$ 4,514.44
Larsen Ditch	Mark Foster	3/8/2021	\$ 1,442.78	\$ 1,442.78	\$ 5,771.12
Sage Creek Diversion	The Nature Conservancy	3/8/2021	\$ 1,498.44	\$ 1,498.44	\$ 5,993.75
Baxter Ditch	Baxter Ditch Association	6/29/2021	\$ 2,500.00	\$ 2,500.00	\$ 11,527.67
Dequine Ditch	Lou Dequine	9/8/2021	\$ 895.32	\$ 895.32	\$ 3,581.28
Dequine Ditch Alternate Point #1	Lou Dequine	9/8/2021	\$ 416.44	\$ 416.43	\$ 1,665.73
Yampa Pump#2	Julie Green	9/8/2021	\$ 246.96	\$ 246.96	\$ 987.83
Middle Creek Ditch	Middle Creek Ranch, LLLP	9/8/2021	\$ 1,652.38	-	\$ 3,304.76
Steamboat Lake Golf Course Pond/Feeder Ditch	The Preserves at Pearl Lake Homeowners Association	9/8/2021	\$ 2,500.00	\$ 2,500.00	\$ 18,338.08
Elgin Creek Ditch	Hy Cattle Corporation	10/28/2021	\$ 951.68	\$ 951.67	\$ 3,806.70
Little Mountain Ditch	Bobby George	5/5/2022	\$ 1,500.00	\$ 1,500.00	\$ 6,000.00
Pennsylvania Ditch	Bobby George	10/1/2022	\$ 500.00	\$ -	\$ 3,000.00
Gibraltar Ditch	Lynn Powell & Bruchez Ranch, LLC	4/21/2023	\$ 25,000.00	\$ 25,000.00	\$ 394,230.30
Total Work Completed:			\$ 514,483.31		
TOTAL DISBURSED:			\$ 55,922.88	\$ 49,178.02	\$ 105,100.90
DIIP FUNDS REMAINING:			\$ 44,077.12	\$ 50,821.98	\$ 94,899.10

2023 Community Grant Funding

Project	Applicant	Date Approved	Amount Approved
Yampatika Water Education Program	Yampatika	11/16/2022	\$20,000
TOTAL APPROVED:			\$20,000.00
TOTAL FUNDS REMAINING:			\$80,000.00





BOARD COMMUNICATION FORM

From: Holly Kirkpatrick

Date: 7/3/2023

Item: Community Grant Funding Application - Community Agriculture Alliance

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

The Community Agriculture Alliance(CAA) is seeking community grant funding for an Ag Water Coordinator position that will focus specifically on outreach, education and implementation of multi-beneficial diversion infrastructure projects. CAA has supported two Ag Water Coordinator positions through grant funds from outside organizations since 2018 as part of the Yampa River Integrated Water Management Plan (IWMP). Now that the IWMP is complete, CAA is seeking funding to continue the work of the Ag Water Coordinator who serves the Upper Yampa Basin in Routt County.

If funded, Jeff Clyncke, who served in this Ag Water Coordinator role, would continue to manage diversion infrastructure projects throughout Routt County with a primary focus on the Upper Yampa Basin above Stagecoach Reservoir and along the Bear River. The Nickel Ditch, located in the Town of Yampa, has been identified as a demonstration project to assist with future outreach efforts.



II. Summary and Alternatives:

CAA has supported Ag Water Coordinator roles, which have proven to be successful in building relationships with water users and fostering collaboration among various stakeholders, since 2018. CAA is requesting \$15,000 in UYWCD Community Grant Funding for the continued work of an Ag Water Coordinator in the Upper Yampa Basin. CAA has received \$30,000 from The Nature Conservancy to fund coordination efforts for the demonstration project at the Nickel Ditch.

The UYWCD Board of Directors may move to approve full, partial, or no Community Grant Funding for this project.

III. Staff Recommendation:

Staff recommends funding the full grant request of \$15,000 for the Community Agriculture Alliance Ag Water Coordinator position that will support education, outreach, and implementation of diversion infrastructure projects in the Upper Yampa Basin.

IV. Legal Issues: N/A

V. Consistency with Board Goals and Policies:

Goal 4, 7 & 8

Attachments:

1. Community Agriculture Alliance - Bear River Diversion Outreach Application Packet



Community Grant Funding Application

Please refer to the UYWCD Community Grant Funding Guidelines prior to completing this application.

Applicant Information:

Applicant Name: _____

Organization (if applicable): _____

Primary Contact Information:

Name: _____

Address: _____

Phone: _____ E-mail: _____

Project Information:

Project Name: _____

Project Location: _____

Latitude and Longitude or PLSS: _____

Please attach a site map of project location.

Brief Project Summary (250 word limit):

Project Category(ies): *Please select the appropriate funding category(ies) for your proposed project (check all that apply):*

Infrastructure Improvements

Water Quality/Watershed Health

Water Supply Planning

Education and Outreach

River Restoration

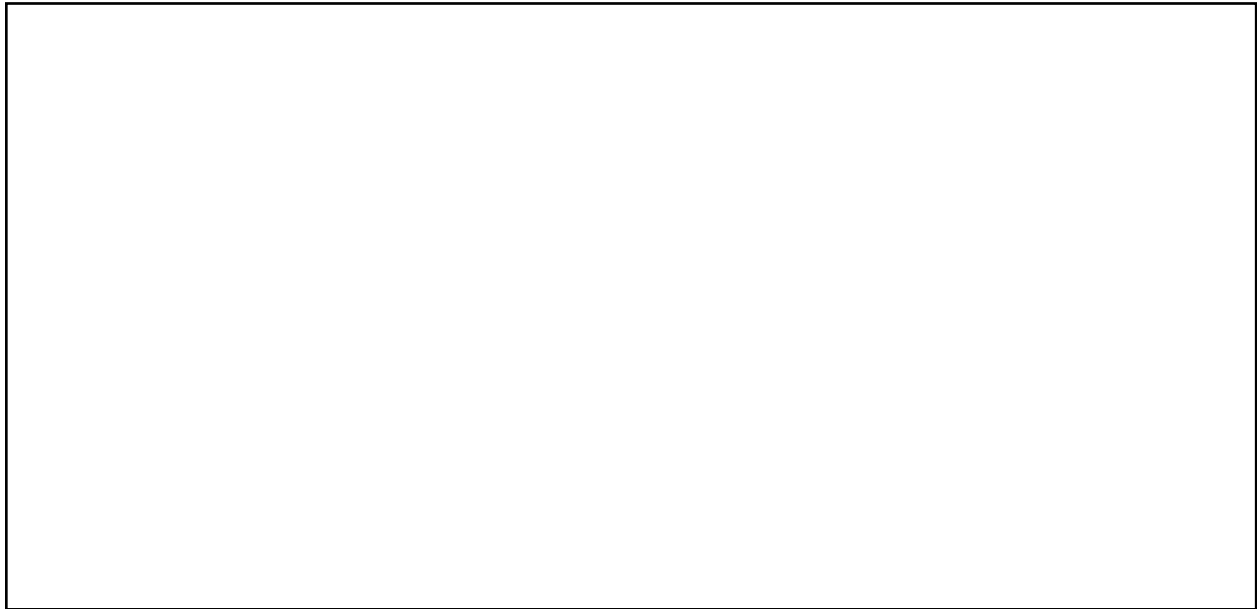
Please describe how the category(ies) selected above are addressed in your project objectives (300 word limit):

Project Timeline:

Anticipated Start Date: _____

Anticipated Completion Date: _____

Project Description and Tasks: Please outline this project by anticipated work tasks such as permitting, planning/design, construction, etc. For each task, please provide a detailed description, including methodology and anticipated start and end dates. Attach additional documentation including any existing engineering/design plans if applicable. (150 word limit)



Monitoring and Evaluation: Please describe the approach for monitoring and evaluating the progress of this project including specific measurable outcomes.(150 word limit)

Operations and Maintenance: Please outline existing and anticipated operations and maintenance costs associated with the project, including labor if applicable. Once the project is complete, how do you plan to cover ongoing expenses.(150 word limit)

Does this project require local, state or federal permitting?

Yes No

If yes, please list the anticipated permits below and include permitting status.

Is this project associated with decreed water rights?

___ Yes ___ No

If yes, please list the associated water rights holder, amount, and decreed use(s).

Does this project have the potential to cause injury to other water users?

___ Yes ___ No

If yes, please explain.

Please attach at least two letters of support for this project.

Alignment:

Please describe how your project aligns with the UYWCD Strategic Plan including goals, objectives, mission, and vision statements. (300 word limit)

Please describe how your project aligns with the Yampa/White/Green Basin Implementation Plan/Yampa River Integrated Water Management Plan, other local, state, or regional water management plans or programs, and/or any existing or planned projects in the Yampa River Basin. (250 word limit)

Budget:

Total Project Cost: \$47,000

Requested Amount: \$15,000

Please complete the Community Grant Funding Project Budget and Timeline Worksheet.

Project Partners: *List all partners involved with this project. Please include their role in the proposed project and the amount of their in-kind or cash contribution.*

Please describe planned efforts to meet the project budget. Should budget be exceeded please describe how additional costs may be covered. (100 word limit)



Signature of Applicant

6/22/2023

Date



Budget & Timeline Worksheet

Date: 6/9/23

Project Name: Bear River Diversion Outreach

Project Applicant: Community Agriculture Alliance

Matching Funds

Funding Partner*	Cash	In-Kind	Total	Funds Committed (Y/N)
TNC	\$ 30,000.00		\$ 30,000.00	Y
CAA		\$ 2,000.00	\$ 2,000.00	Y
			\$ -	
			\$ -	
			\$ -	
Total	\$ 30,000.00	\$ 2,000.00	\$ 32,000.00	

*Include applicant and additional partners

Project Budget & Timeline

Task No.	Task Description	Estimated Start Date	Estimated End Date		UYWCD Funds	Cash Match	In-kind Match	Total	
1	Bear River Water Coordination	7/15/2023	7/15/2024		\$ 2,500.00			\$ 2,500.00	
2	Nickle Diversion Design	7/15/2023	7/15/2024		\$ 5,000.00	\$ 15,000.00	\$ 1,000.00	\$ 21,000.00	
3	Outreach for Bear River Domonstratic	7/15/2023	45488.00		\$ 7,500.00	\$ 15,000.00	\$ 1,000.00	\$ 23,500.00	
								\$ -	
Total Project Cost					\$15,000	\$30,000	\$2,000	\$47,000	
								UYWCD	\$15,000
								Cash Match	\$30,000
								In-Kind Match	\$2,000

BEAR RIVER RESERVOIR CO.

YAMPA, COLORADO

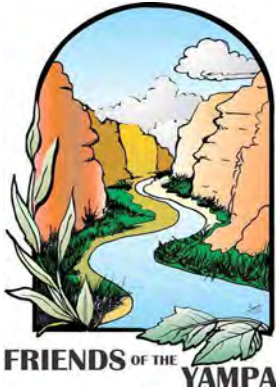
The Bear River Reservoir Co. is pleased to support the Community Agriculture Alliance's application to the Upper Yampa Water Conservancy District to assist with their Bear River Diversion and Outreach programs.

CAA's proactive involvement with numerous structures on the Bear River will, and already has, provided an enhanced awareness of and prompted discussions about diversion structures. Specifically, their assistance is essential to finding designs that are more fish and habitat friendly, procuring funding for them, and streamlining the process so that it is more efficient and less daunting to water users. Their efforts to find designs that can be modified for use in additional locations is an example of their outreach that can benefit numerous water users, aid in the efficient administration of the river, and improve environmental and fishery qualities of the river system itself.

We wholeheartedly support CAA's efforts on the Bear River and applaud their efforts to continue these projects. Please consider funding their organization to assist with their commitment to better water management and outreach to the agricultural community.



John Redmond
President, Bear River Reservoir Co.



Friends of the Yampa

www.friendsoftheyampa.com

PO Box 771654, Steamboat Springs, CO 80477

Mission: To protect and enhance the environmental and recreational integrity of the Yampa River and its tributaries thru stewardship, advocacy, education and partnerships.

June 14, 2023

Holly Kirkpatrick
Public Information and External Affairs Manager
2220 Curve Plaza Ste. 201
PO Box 775529
Steamboat Springs, CO 80477-5529

RE: Community Grants – Bear River Agriculture Outreach Coordinator

Dear Members of the Upper Yampa Water Conservancy District,

I am writing this letter on behalf of Friends of the Yampa to express our support for the grant application submitted by the Routt County Community Agricultural Alliance. The requested funds for the Agriculture Coordinator position, as outlined in the grant proposal, will play a vital role in the continued success of the outreach efforts on the Bear River.

Friends of the Yampa is a passionate advocate for the preservation and sustainable management of the Yampa River and its tributaries. We recognize the significance of the Bear River as a crucial water source for agricultural purposes, and we commend the efforts of the Agriculture Coordinator in coordinating water delivery and fostering collaboration among the Bear River irrigators.

The outlined tasks in the grant application highlight the essential responsibilities that the Agriculture Coordinator will undertake. The efforts to-date display the Coordinator's commitment to addressing water users' concerns, verifying their needs, and working closely with the Division of Water Resources (DWR) staff. Continuing this important effort will play a pivotal role in ensuring efficient water management during future irrigation seasons.

The Nickel Ditch Diversion Design, exemplifies the Coordinator's dedication to collaborating with stakeholders to explore alternative designs for the diversion. This initiative reflects a proactive approach towards improving the efficiency and effectiveness of water diversions in the Bear River system. The Coordinator's continued ability to be involved in this project will hopefully provide a demonstration that can inform additional efforts along the Bear River.

Moving forward, the Coordinator's engagement with Bear River water users through outreach efforts, individual meetings, and user group gatherings will facilitate the identification of necessary upgrades for water diversions, ensuring that future projects align with the needs and priorities of the community.

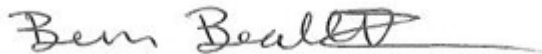
The proposed outcomes of the grant application are equally commendable. The documentation of coordination efforts between water users and DWR staff throughout the 2023 irrigation season will provide valuable insights and data to inform future decision-making processes. Additionally, the identification of three additional structures in need of improvement will contribute to enhancing the overall efficiency and sustainability of the Bear River water system.

Considering the importance of the Bear River and its impact on agricultural practices, we firmly believe that the Agriculture Coordinator position plays a crucial role in promoting sustainable water use and fostering collaborative efforts among stakeholders. The grant funding being sought through the Upper Yampa Water Conservancy District Community Grants program will enable the Agriculture Coordinator to continue their impactful work, benefiting the entire community.

We kindly request the Upper Yampa Water Conservancy District to carefully consider the grant application submitted by the Routt County Community Agricultural Alliance. By supporting this funding request, you will be making a significant investment in the future of agriculture in our region and ensuring the long-term viability of the Bear River system.

We appreciate this opportunity to lend our support to this exciting project.

Kind Regards,

A handwritten signature in cursive script that reads "Ben Beall". The signature is written in black ink and has a long, horizontal flourish extending to the right.

Ben S. Beall
President Friends of the Yampa



The Nature Conservancy in Colorado
2424 Spruce Street
Boulder, CO 80302

tel (303) 444-2950
fax (303) 444-2985
nature.org/colorado

June 20, 2023

Upper Yampa Water Conservancy District
2220 Curve Plaza
Steamboat Springs, CO 80487

RE: Community Agriculture Alliance's 2023 grant application

Dear UYWCD grant reviewers:

The Nature Conservancy (TNC) is glad to provide a letter of support for Community Agriculture Alliance's (CAA) application to the Upper Yampa Water Conservancy District (UYWCD) for water coordination on the Bear River and upgrades to the Nickel Ditch. TNC has been working with CAA since 2019 as part of the Yampa Integrated Water Management Plan (IWMP) as a funder and partner to promote projects that combine river health, landowner priorities, and improved irrigation infrastructure. CAA's proposal to UYWCD expands community-driven agricultural water management on the Bear River and bolsters support for updating the Nickel Diversion, both much-needed endeavors.

TNC is a District of Columbia, non-profit corporation with its principal place of business in Arlington, Virginia, USA. Our mission is to conserve the lands and waters on which all life depends. TNC has offices across the U.S. and in over 79 countries and territories around the world. Since 1951, TNC has been working with communities to protect more than 125 million acres of land and 5,000 miles of rivers worldwide. TNC's Colorado Field Office works with local communities to protect nature and livelihoods through improved land and water management.

As collaborators in river restoration and agricultural projects in the Yampa Valley, TNC and CAA share common goals of providing outreach and technical assistance to landowners; mitigating long-term impacts of drought and flooding on irrigation infrastructure; and addressing river health and floodplain connectivity in key areas. During this year's Yampa River Fund call for proposals, TNC provided matching funds to support CAA's work to promote new project development and outreach that can lead to success in securing larger grants through federal, state, and local opportunities.

CAA's proposal to UYWCD underscores the importance of direct collaboration with landowners to support decision-making and to advance projects that expand and promote resilient, systemic solutions to benefit the river and modernized irrigation infrastructure. CAA's work with local stakeholders is crucial to implement large-scale improvement projects as described in the Yampa-White-Green Basin Implementation Plan and IWMP recommendations. TNC looks forward to continuing work with CAA on multi-benefit projects that will benefit Yampa and Bear River water users and lead to much-needed upgrades to water management infrastructure.

Sincerely,

/s/ Jennifer Wellman

Jennifer Wellman, Freshwater Project Director
The Nature Conservancy in Colorado

AIRBORNE SNOW OBSERVATORY BRIEFING



NEW BUSINESS



EXECUTIVE SESSIONS

Executive session under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, Contract Negotiations and _____. 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.

Executive session under CRS § 24-6-402(4)(e)(I) for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators with respect to _____. This session will be recorded, and a copy of the recording maintained for not less than 90 days.

BOARD ACTIONS IN REGARD TO EXECUTIVE SESSION



DETERMINATION OF NEXT MEETING(s) AGENDA(s)



AGENDA

**UPPER YAMPA WATER CONSERVANCY DISTRICT
BOARD OF DIRECTORS MEETING
WEDNESDAY, SEPTEMBER 20, 2023 (12:00 PM)
MOUNTAIN VALLEY BANK COMMUNITY ROOM
2220 CURVE PLAZA, STEAMBOAT SPRINGS, CO
ONLINE MEETING:**

[HTTPS://US06WEB.ZOOM.US/J/89844327425?pwd=AWLZOXRRAFJRN1pZEGGxDTZNUdZyZz09](https://us06web.zoom.us/j/89844327425?pwd=AWLZOXRRAFJRN1pZEGGxDTZNUdZyZz09)

THE UPPER YAMPA WATER CONSERVANCY DISTRICT REQUESTS THAT UNVACCINATED PEOPLE ATTENDING THE BOARD OF DIRECTORS MEETING AT THE MOUNTAIN VALLEY BANK COMMUNITY ROOM WEAR A MASK.

MATERIALS FOR BOARD PACKET DUE: SEPTEMBER 11TH BY 5:00 PM

INSTRUCTIONS ON HOW TO JOIN A ZOOM MEETING FOLLOW THE AGENDA

A Board of Directors meeting packet is available for public review on our website at <https://upperyampawater.com/agendas-and-meeting-documents/> by the Friday before the meeting. Amendments to the Agenda and new documents that are generated or submitted after the original posting of the meeting materials will be posted under "Additional Documents" on the website for the relevant meeting.

QUESTIONS ON AGENDA AND/OR BOARD MATERIALS: Members of the public or Board of Directors with questions on the agenda or meeting materials, including the consent agenda, are welcome to contact the General Manager at the District offices prior to the meeting. You may reach the General Manager at: arossi@upperyampawater.com or (970) 871-1035 Ext. 2.

MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Input and Comment; and 2) Comments no longer than three (3) minutes on all scheduled public hearing items will be heard following the presentation. Please wait until you are recognized by the President. With the exception of subjects brought up during Public Input and Comment, on which no action will be taken or a decision made, the Board may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion" whether or not listed as an "Action Item."

- (1) **12:00 PM** Establishment of Quorum and Call to Order
- (2) **12:00 PM** Approval of Agenda for Meeting
- (3) **12:05 PM** Public Input and Comment

Action item

The Board will make no decision nor take action, except to direct the General Manager. Those addressing the Board are requested to identify themselves by name, organization, if any, and address. Comments shall not exceed three (3) minutes.

a. Update from CDWR

- (4) **12:10 PM** Board Member Reports
- (5) **XX:XX PM** Consent Agenda **Action item**
- a. Approval of the Minutes – July 12, 2023, Board Meeting
 - b. Financials
 - i. Approval of Disbursements
 - ii. Budget Comparison
- (6) **XX:XX PM** Report of General Manager
- a. General Manager Report
 - b. Augmentation Plan Updates
 - c. **UYWCD Strategic Plan**
 - d. **Presentation of First Draft of 20XX UYWCD Budget**
 - e. **UYWCD October XX, 20XX Board Retreat Draft Agenda**
 - f. **Determination of auditor**
 - g. **Employee Handbook Revisions**
- (7) **XX:XX PM** District Engineer Report
- a. Update on Reservoir Water Status
- (8) **XX:XX PM** Public Information Updates **Action item**
- a. Grant Disbursements
 - b. **New Grant Applications**
- (9) **XX:XX PM** Report of General Counsel
- a.
- (10) **XX:XX PM** Pending Water Cases
- a. Water Resumes
 - b. Status of Other Water Cases
- (11) **XX:XX PM** New Business (Limited to emergency matters that came up **Action item**
During the course of the meeting)
- (12) **XX:XX 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 _____(insert description) . 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. Executive session under CRS § 24-6-402(4)(e)(I) for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators with respect to _____(insert brief description). This session will be recorded, and a copy of the recording maintained for not less than 90 days.
- (13) **XX:XX PM** Board Actions in Regard to Executive Session
- (14) **XX:XX PM** Determination of Next Meeting(s) Agenda(s)
- (15) **XX:XX PM** Adjournment.