

AGENDA
UPPER YAMPA WATER CONSERVANCY DISTRICT
BOARD OF DIRECTORS MEETING
WEDNESDAY, JULY 24, 2019 (1:30 PM)
MOUNTAIN VALLEY BANK COMMUNITY ROOM
2220 CURVE PLAZA, STEAMBOAT SPRINGS, CO

- (1) *1:30 pm* Establishment of Quorum and Call to Order;
- (2) Consent Agenda; action item
 - a) Approval of Disbursements
 - b) Budget Comparison
 - c) Approval of the minutes of the April 24, 2019; May 15, 2019; and June 19, 2019 Board Meetings
- (3) Approval of Agenda for Meeting; action item
- (4) Public Input and Comment;
- (5) *1:40 pm* 2018 Audit; action item
- (6) *1:45 pm* Report of the General Manager;
 - a) Contract Negotiations
 - b) Stagecoach Firming Project
 - c) New Hire
 - d) 360 review Staff and Board Governance
- (7) *3:15 pm* Report from District Engineer
 - a) Reservoir Water Status
 - b) Capital Projects
 - c) Stillwater Ditch, Special Use Permit action item
- (8) *3:40 pm* Report from General Counsel;
 - a) Water Resumes
 - b) Status of other Water Cases, if any
 - c) Peabody (American Land Holdings) Water Contract action item
- (9) *4:00 pm* Executive Session with Bob Weiss, legal Counsel, under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, and Contract Negotiations. Mere presence or participation of an attorney at an executive session of the local politic body is not sufficient to satisfy the requirements of this subsection (4).
- (10) New Business;
- (11) Adjournment.

2)





BOARD COMMUNICATION FORM

From: Karina Craig

Date: July 17, 019

Item: Financial Reports: Cash Disbursement Report, Budget Comparison Report, Banking Resolution

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

The Cash Disbursement Report contains reconciled disbursements incurred through credit card through July 17, 2019 and check payments through June 30, 2019. Disbursements include operating and capital expenditures.

The Budget Comparison report was run on July 1st, for transactions up to and including June 30, 2019. Additional transactions for the month of June are expected.

More attendees from our Board are expected at the Colorado Water Congress, when compared to previous years, and the Board is meeting at a higher frequency than in 2018, when the 2019 budget was developed. Thus, this department *may* go over budget and *might* need an amendment towards year end.

Costs from CBI work with the Board and staff is charged to the Public Information department. If the District spends the full \$100,000 typically set aside for grants, the Public Information budget *might* need to be amended.

All remaining expenditure line items (operating & capital expenditures) in the budget comparison report are expected to be within budget.

Power Revenues and Routt County Property Tax Revenues shown are for the period January-June 2019. Moffat County Tax Revenues reported are those for the January-May 2019 period. Water storage revenues are being invoiced in the month of July, and in later months this year.

II. Summary and Alternatives: none.



III. Staff Recommendation: Accept reports.

IV. Legal Issues: None

V. Consistency with Board Goals and Policies:

Attachments:

Attachment 1: Cash Disbursement Report

Attachment 2: Budget Comparison Report

Additional Attachments: none.

a)



Cash Disbursement Report

As of June 30, 2019

Date	Name	Memo	Amount
05/15/2019	Edge Communications	Phone & Internet 5/6 to 6/5/19	103.14
05/16/2019	Wells Fargo	Bank Fees	12.64
05/18/2019	Amazon	Safety Toe Boot	219.95
05/22/2019	SmartVault	Software, interphase with quickbooks	34.60
05/22/2019	Stevens Water	Staff Gages Yamcolo Maintenance	114.75
05/23/2019	Adobe	Adobe software May 2019	24.99
05/24/2019	US Postal Service	AECOM Certified Mail	6.24
05/29/2019	Steamboat Lumber	SW Ditch maintenance	117.89
05/29/2019	Axis Steel	Bar Channel SW Ditch maintenance	42.00
05/29/2019	Axis Steel	HR Plate Stagecoach water mntc	30.94
05/29/2019	Axis Steel	HR Plate Stagecoach power mntc	30.94
05/31/2019	vistaprint	Business cards	59.15
05/31/2019	Quickbooks Payroll Service	June Payroll	19,854.22
05/31/2019	Expense Reimbursements	Mileage, Phone, Travel and Training	429.29
06/02/2019	Mountain Temp Services	Clerical work, 5/20 and 5/22.	231.00
06/03/2019	NDS Northwest Data Services	LT workstation and server remote monitoring & management; advanced protection	86.00
06/04/2019	AJ Madison	Office Fridge	639.00
06/04/2019	CrashPlan Code42	Cloud Backup June 2019	9.99
06/04/2019	Budget Conferencing Inc. - PGI	Conference Calls 05/20/19 to 06/19/19	349.63
06/05/2019	Wild Plum	Meeting: 360 review	135.00
06/05/2019	Amazon	Avery Address Labels	8.01
06/05/2019	CenturyLink	SC Telephone 06/01/19 to 06/30/19	142.59
06/06/2019	Grainger	Red pass & annual membership fee	129.00
06/06/2019	NDS Northwest Data Services	IT Services.	280.00
06/06/2019	Confluence Resource Management	Stagecoach Wetlands. Equipment mobilization, Mini Excavator. Labor, Cottowoods.	2,515.71
06/11/2019	Restaurant.	Food Board Meeting	66.25
06/12/2019	Restaurant.	Food Board Meeting	140.00
06/12/2019	Wells Fargo	Bank Fees	31.53
06/12/2019	City Market	Food Board Meeting	41.49
06/14/2019	Conoco Universal WEX	Gas SC and Tvl and Mtngs May 2019	516.57
06/16/2019	Wells Fargo	Bank Fees	10.57
06/17/2019	CenturyLink	Office Telephone 06/06/19- 07/06/19	230.26
06/20/2019	Verizon Wireless	SC cell phones 06/04/19 to 07/13/19	103.71
06/20/2019	CDC Civil Design Consultants	Five Pine Mesa Ditch repairs	2,131.35
06/21/2019	Staples	Filing Cabinets new office	1,742.47
06/21/2019	AECOM	Stagecoach Firming Project 04/27/19 to 05/31/19	4,619.87
06/27/2019	Internal Revenue Service	Federal Tax Withholdings.	9,931.50
06/17/2019	Directors	BOD Meetings. Director Fees	1,800.00

Total**46,972.24**

b)



UPPER YAMPA WATER CONSERVANCY DISTRICT - JUNE 30, 2019 BUDGET COMPARISON REPORT

	2017 ACTUALS	2018 ACTUALS	2019 BUDGET	2019 YTD ACTUALS	2019 PROJECTIONS
Fund Opening Balance including Encumbered Funds	10,938,095	12,683,250	14,263,919	14,263,919	14,263,919
Encumbered Funds	919,734	919,734	919,734	919,734	919,734
Stagecoach Wetlands Mitigation Reserve	419,734	419,734	419,734	419,734	419,734
Routt County Road #14 Contribution	500,000	500,000	500,000	500,000	500,000
Unencumbered Funds	10,018,361	11,763,516	13,344,185	13,344,185	13,344,185
Revenues					
Facilities					
Stagecoach Reservoir					
Power Sales	185,472	129,492	200,000	115,776	200,000
Water Sales	451,518	505,201	403,144		427,790
Yamcolo Reservoir					
Water Sales	128,275	130,760	133,410		121,052
Stillwater Ditch & Reservoir Company	7,523	7,744	7,965		7,965
Property taxes	2,172,483	2,269,399	2,284,084	2,126,979	2,284,084
Interest earned	122,297	249,892	284,500	161,137	284,500
Other income	0				
	revenues	3,067,568	3,292,487	3,313,103	2,403,892
Expenditures					
Operating					
Facilities					
Stagecoach Reservoir - Power Generation	180,845	171,623	248,954	84,654	248,954
Stagecoach Reservoir - Water storage	227,639	279,641	266,927	87,447	266,927
Yamcolo Reservoir	127,624	132,790	144,594	50,588	144,594
Stillwater Ditch & Reservoir Company	25,134	12,550	45,065	10,994	45,065
Administration	127,512	139,144	203,198	77,263	203,198
Board of Directors	49,330	64,906	83,105	37,512	83,105
External Affairs	57,688	58,016	129,754	27,712	129,754
Finance	95,906	99,340	132,880	50,762	132,880
Legal	97,116	166,889	178,567	52,288	178,567
Planning	80,112	136,625	432,927	228,943	432,927
Grants, Scholarships & Public Information	67,411	39,021	257,588	43,421	257,588
Treasurer fees	70,180	72,507	73,786	67,355	73,786
	Subtotal Operating	1,206,499	1,373,053	2,197,345	818,939
Capital					
Stagecoach Reservoir - Power Generation	35,421	3,967	102,900	19,483	102,900
Stagecoach Reservoir - Water storage	54,644	27,462	62,900	14,458	62,900
Yamcolo Reservoir	25,566	302,537	108,900	18,487	108,900
Stillwater Ditch & Reservoir Company	283		40,300	278	40,300
Elk River Augmentation	0				
Office Space		4,800	130,000	67,106	130,000
	Subtotal Capital	115,914	338,766	445,000	445,000
	expenditures	1,322,413	1,711,818	2,642,345	938,751
	net income (loss)	1,745,155	1,580,669	670,759	683,047
Ending Fund Balance	12,683,250	14,263,919	14,934,678	15,729,061	14,946,966

6)



a)



BOARD COMMUNICATION FORM

July 24, 2019 Board Meeting

From: Kevin McBride, General Manager

Date: July 19, 2019

Item: Yamcolo/Stagecoach Contracting update

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information: This District Negotiating Committee is engaged in contracting discussions with a number of parties for Stagecoach and Yamcolo contracts.

A. Yamcolo Irrigators Association (YIA). YIA has accepted the District's offer of \$12 /AF for 2019 water. The District sent proposed contract amendment to YIA on May 12, 2019 based on Board direction and after review of the draft by the Negotiating Committee. This draft makes a number of changes to the YIA agreement, including the pricing provisions which would fix until 2041 the price of YIA water starting in 2020 at \$13/AF and increasing annually by CPI subject to certain limitations. YIA responded on May 30, 2019 expressing concern over some of the Amendment provisions. We have asked YIA to blackline our draft. We have heard from Al Snyder that it has been a busy Spring and they hope to respond shortly.

B. Stillwater Ditch. The District received draft contract from the former shareholders to re-acquire the Ditch Company and the Negotiating Committee met with the shareholder representatives on June 18. Bob Weiss prepared redraft after the meeting and Negotiating Committee met to discuss on July 10. Bob is working on updated version for approval of the Negotiating Committee which will the go back to the Shareholders. We have attached for discussion a chart showing proposed allocation of the capacity of the Ditch.

C. Tri-State Agreement. Tri-State terminated its Stagecoach contract effective July 15, 2020. We have scheduled an executive session to discuss legal issues related to Tri-State contract.

D. Yamcolo Individual Irrigators (3500 AF Yamcolo water). We will complete a form of contract for the Individual irrigators for a term beginning 2020 irrigation season when we have agreement with the Stillwater ditch shareholders. We have met with the individual irrigator representatives and have an outline of a proposed agreement.

E. Other Stagecoach Municipal contracts. I plan to schedule discussion of this at August or September Board meeting.

II. Summary and Alternatives: See above

III. Staff Recommendation: Negotiating Committee Continue with discussions and preparation of proposed contracts.

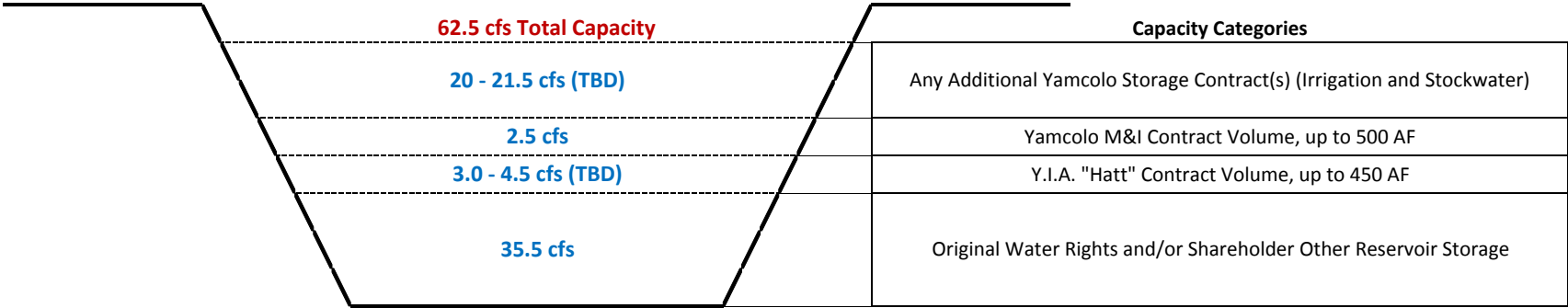
IV. Legal Issues: As described above.

V. Consistency with Board Goals and Policies: N/A

VI. Fiscal Impact: N/A

Attachments: Stillwater Dich allocation
Yamcolo and Stagecoach Summary of contracts.

**Stillwater Ditch
Proposed Ditch Capacity Allocation**



DRAFT

STAGECOACH WATER CONTRACTS - SUMMARY BY POOL AND FILLING PRIORITY - 2019 through 2024 & beyond

CONTRACTOR/ AF & PRICE		EXPIRATION of PRIMARY/EXTENDED TERM	CURRENT AMOUNT (AF)	2019-2020	2021	2024 & beyond
MUNICIPAL / INDUSTRIAL POOL 9,000 AF						
EXTENSION NOT SIGNED	Tri-State Generation and Transmission Association, Inc.	14-Jul-20 (1)	7,000 AF (5)	\$43.50	?	?
	City of Steamboat Springs	15-Jul-19 (2)	552 AF	\$35.00?	?	?
EXTENSION SIGNED	Mt. Werner Water and Sanitation District	15-Jul-19 (2)	200 AF	\$35.00?	?	?
	Tree Haus Metropolitan District	15-Jul-21 (2)(8)	50 AF	\$35.00	\$35.00	?
	Town of Hayden	15-Jul-21 (2)(8)	200 AF	\$35.00	\$35.00	?
	Dakota Ridge Homeowners Association	15-Jul-21 (2)(8)	50 AF	\$35.00	\$35.00	?
	Alpine Mountain Ranch Metropolitan District (Alpine Land)	15-Jul-21 (2)(8)	83 AF	\$43.50	\$43.50	?
	Alpine Mountain Ranch Metropolitan District (Alpine Land)	15-Jul-21 (2)(8)	17 AF	\$43.50	\$43.50	?
	Brian Stahl et al.	15-Jul-21 (2)(8)	58 AF	\$43.50	\$43.50	?
	Agate Creek Preserve	15-Jul-21 (2)	20 AF	\$43.50	\$43.50	?
	Sidney Peak Ranch Ltd., liability company	15-Jul-23 (2)	20 AF	\$43.50	\$43.50	?
	Morrison Creek Metropolitan Water and Sanitation District	15-Jul-19 (4)	500 AF	\$35.00	\$35.00	\$35.00
EXTENSION SIGNED	Peabody Coal Company (Seneca Coal)	15-Jul-19 (3)	100 AF	\$35.00?	?	?
	Edexco, Inc. d/b/a Raindrop Water, Inc.	1-Jun-19 (3)	50 AF	\$43.50?	?	?
Subtotal M&I Contracted			8,900 AF	\$373,108?		
AUGMENTATION POOL 2,000 AF				>27.76	>27.76	>27.76
	Augmentation water (40 yr term, when contracted)	40 yr terms (varies)	28 AF \$198.40/ AF	\$198.40 af + CPI?	+ CPI ?	+ CPI ?
Subtotal Augmentation Contracted			28 AF	> \$5,508	> \$5,508	> \$5,508
FORMER EXCHANGE POOL 4,000 AF				442	?	?
	Brian Stahl et al.	30-Nov-19 (2)(7)(8)	192 AF (6)	\$43.50	?	?
	Steamboat Ski and Resort Corp	28-Feb-41 (9)	250 AF	+ CPI	+ CPI	+ CPI
Subtotal Former Exchange Pool, Contracted			442 AF	> 37884.5		
RAISE POOL 3,164 AF				?	?	?
	Colorado Water Trust (annual basis)		1,800 AF \$40.23/ AF	?	?	?
Subtotal Raise Pool, Contracted			1,800 AF?			
PREFERRED REMAINDER POOL 3,275 AF						
EMERGENCY REMAINDER POOL 15,000 AF						
Total Under Contract			11,170 AF			
M&I Pool, AF of water, price to be set					7,192	20

- (1). Option to extend for life of reservoir at price based on "Costs of operating, repairing, renovating and maintaining the existing storage equipment and facilities".
- (2). Right to extend for "life of Stagecoach Reservoir" for purchase price based on " District's costs of operating, repairing, renovating and maintaining Stagecoach Reservoir".
- (3). No right to extend.
- (4). Five successive 10-year options at \$35.00/AF. 2020-2029; 2030-2039; 2040-2049; 2050-2059; 2060-~~2069~~.
- (5). **Reduced from 9,000 AF under 1985 agreement.**
- (6). Water allocated from Tri-State release water (2,000 AF released from Colorado-Ute 1985 agreement). Subject to reduction
- (7). Original Stagecoach allocation of 15,000 AF: 2,000 AF-municipal; 9,000 AF-industrial; and 4,000 AF-agricultural. Now allocated; 1,900 AF-municipal; 7,000 AF-Tri-State; 2,000 AF-augmentation; and 192 AF-Stahl Stagecoach release.
- (8) Interim agreement continues pricing until and including year 2021
- (9) Contract is not renewable. *Right of First Offer* for a period of five years after end of contract term

YAMCOLO WATER CONTRACTS - SUMMARY

POOL / CONTRACTOR	EXPIRATION	2018-2019	
		AMOUNT	PRICE
M&I Pool		1,010 AF	
Mt. Werner Water and Sanitation District	15-Jul-41	300 AF	\$82.00 <i>CPI ADJ</i>
Morrison Creek Metropolitan Water and Sanitation District	15-Jul-41	60 AF	\$82.00 <i>CPI ADJ</i>
Town of Yampa	15-Jul-41	300 AF	\$82.00 <i>CPI ADJ</i>
Town of Hayden	15-Jul-41	300 AF	\$82.00 <i>CPI ADJ</i>
Steamboat II Water and Sanitation District	15-Jul-41	50 AF (Reduced from 100)	\$82.00 <i>CPI ADJ</i>
		0 AF	
Yamcolo Irrigators Association Pool		3,000 AF	
Yamcolo Irrigators Association, Inc.	Perpetual (1)	3,000 AF	\$15.98 (1)
Former Tristate Pool / AKA Individual Irrigators		4,000 AF	
Stillwater Land & Livestock, LLC (Ted & Kristie Stites)	15-Jul-19 (4)	164 AF	\$4.00 <i>NO CPI</i>
JoJanKim LLC	15-Jul-19 (4)	46 AF	\$4.00 <i>NO CPI</i>
JoJanKim LLC	15-Jul-19 (4)	90 AF	\$4.00 <i>NO CPI</i>
Elizabeth Kirkpatrick	15-Jul-19 (4)	300 AF	\$4.00 <i>NO CPI</i>
Alfred Fisher III and Barbara Fisher (Sleeping Lion Ranch LLC)	15-Jul-19 (4)	2,700 AF	\$4.00 <i>NO CPI</i>
Alfred Fisher III (Sleeping Lion Ranch LLC)	15-Jul-19 (4)	200 AF	\$4.00 <i>NO CPI</i>
Doris E. Huffstetler and the Bueford E. Huffstetler Family Trust	15-Jul-19 (4)	65 AF	\$4.00 <i>NO CPI</i>
Jim & Dean Rossi	15-Jul-19 (4)	100 AF	\$4.00 <i>NO CPI</i>
Jeff Connett	15-Jul-19 (4)	50 AF	\$4.00 <i>NO CPI</i>
Tim & Donna Corrigan (Myriad Springs Ranch)	15-Jul-19 (4)	25 AF	\$4.00 <i>NO CPI</i>
Robert and Mary Jane Logan	15-Jul-19 (4)	20 AF	\$4.00 <i>NO CPI</i>
Peter Flint and Janice Symchych	15-Jul-19 (4)	55 AF	\$4.00 <i>NO CPI</i>
Lawrence Ricca & Sons	15-Jul-19 (4)	100 AF	\$4.00 <i>NO CPI</i>
Porcupine Ridge Ranch LLC	15-Jul-19 (4)	85 AF	\$4.00 <i>NO CPI</i>
Enlargement 500 AF		0 AF	
		0 ?	?
Total under contract:		4,010 AF (2) (3)	

2020-2041		2042-FUTURE
AMOUNT	PRICE	PRICE
1,510 AF		
300 AF	PREV YR + CPI	?
60 AF	PREV YR + CPI	?
300 AF	PREV YR + CPI	?
300 AF	PREV YR + CPI	?
50 AF	PREV YR + CPI	?
500 AF	?	?
3,000 AF		
3,000 AF	? (COST BASED)	? (COST BASED)
3,500 AF		
3,500 AF	?	?
500 AF		
AF	?	?
8,010?	?	?

Notes:

- Price for 2011 and 2012 set by Arbitration Settlement Agreement. 2011 payable in 2 installments, \$6.52 per AF due November 1, 2011; balance due April 1, 2013. 2012 payable in 2 installments, \$6.52+CPI due
- Yamcolo Second Enlargement in the amount of 500 AF. No water under contract at present time.
- Original 1981 Yamcolo contracts allocate total 9,000 AF storage as follows: permanent conservation pool-1,000 AF; municipal users- 1,010 AF; industrial users-3,990 AF; and agricultural users-3,000 AF. Therefore municipal unchanged at 1,010 AF and agricultural unchanged at 3,000 AF. Yamcolo/Stagecoach exchange irrigators committed out of Yamcolo at 4,000 AF.
- Stagecoach Contract. No right to extend.

Additional Notes:

- Abatement: equally to YIA and municipals until full allocation of 1,010 AF to municipals, then allocation to YIA until full allocation of 3,000 AF, then remainder to Yamcolo/Stagecoach exchange irrigators proportionally.

b)





BOARD COMMUNICATION FORM

From: Kevin McBride General Manager_____

Date: July 17, 2019_____

Item: Stagecoach Firming

x_____ DIRECTION
X_____ INFORMATION
_____ MOTION
_____ RESOLUTION

I. Request/Issue and Background Information:

The Board is familiar with the work staff has been doing with AECOM regarding firming Stagecoach Reservoir. AECOM has presented information on a draft purpose and need statement and on alternatives. The purpose and need for firming is supported by the modeling done as part of the District's planning efforts. Project alternatives have focused on three projects in the Morrison Creek Drainage. Staff wishes to discuss briefly with the Board the current status of these and other current activities, contract negotiations, State water planning efforts, and local non-consumptive efforts and their considerations moving forward with AECOM's work.

Based upon the brief discussion and direction from the Board, Staff will work with AECOM on a presentation and the August meeting.

II. Summary and Alternatives:

See Above

III. Staff Recommendation:

Discussion purposes only

IV. Legal Issues:

N/A

V. Consistency with Board Goals and Policies:

N/A

c)





BOARD COMMUNICATION FORM

From: Kevin McBride General Manager_____

Date: July 17, 2019_____

Item: New Hire

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

Interviews of four candidates occurred on Friday the 19th of July after the due date for this memo. Attached is the letter to the candidates that received in person interviews. Along with the representatives of the hiring committee we will be able to update the Board on the process. Ideally, I will be able to review with the Board the offer to the top candidate.

II. Summary and Alternatives:

N/A

III. Staff Recommendation:

N/A

IV. Legal Issues:

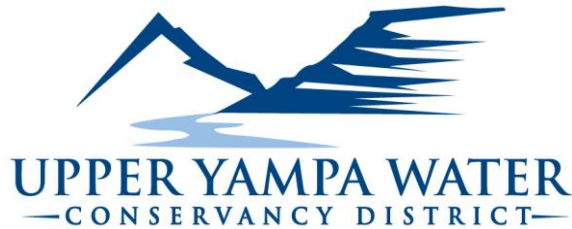
N/A

V. Consistency with Board Goals and Policies:

N/A

Attachments:

Attachment 1: Letter to in person applicants.



July 15, 2019

Dear Ms. Kirkpatrick,

Congratulations for being part of the group selected for in-person interviews at the Upper Yampa Water Conservancy District. Thank you for your interest in the position, and for the excellent work you have exhibited. Now for the interviews themselves.

You will be interviewed by the General Manager, key staff, and the hiring review committee of the Board of Directors. We expect the interviews to take approximately an hour. We would like to give you a chance to introduce yourself and then discuss three key areas, communications and media, business administration, and water resources. To accomplish this discussion, we will open our website and ask you to make recommendations on improvements to it (or how to proceed with that project) and other related media activities. For business administration I have attached a draft for a grant program that, if approved, would be administered by the District and would have several partners. Please look at that draft and share thoughts, or simply ask questions about program. We will then discuss water resources, a broad topic indeed. This might include questions about the different interest groups associated with water, water rights administration, local or interstate issues, and hydrology in general.

Please look at this interview as an opportunity for us to meet each other. We do not expect complete knowledge in each of these areas, all of us are continual learners. We'll end with follow up questions for everyone. Again, thank you for being part of our search process

Sincerely,

Kevin McBride

Kevin McBride, P.E.
General Manager
Upper Yampa Water Conservancy District
P.O. Box 775529
Steamboat Springs, CO 80477
kmcbride@upperyampawater.com
970-871-1035

Yampa/White/Green BRT

YWG WSRF GRANT APPLICATION FORM

SECTION 1 OF 3

PROJECT NAME: Diversion Infrastructure Improvement Project **APPLICANT:** Upper Yampa Water Conservancy District

PROJECT DESCRIPTION– Please provide a short description of your project (150 words or less)

Last year’s call on the Yampa River has reinforced the need for water users in the Yampa valley to be able to properly measure and control the amount of water being diverted. We propose a grant program that will encourage the improvement of infrastructure and will also increase the use of NRCS programs. It is estimated that there are more than 800 diversions without measuring devices within the Upper Yampa Water Conservancy District’s boundaries and many of these have rudimentary diversion infrastructure in need of improvement. Many do not have operational headgates, for example being controlled by plywood boards or reinforced by dirt plugs. As an alternate to pushup dams, projects could include more environmental friendly permanent structures to divert water as part of the headgate and measuring device project.

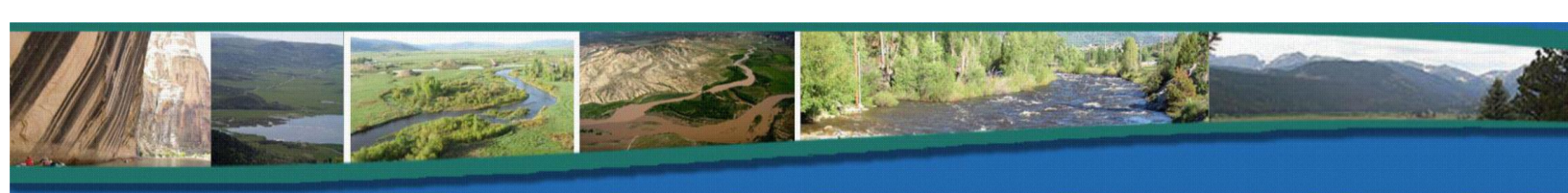
WSRA ELIGIBLE – Are you eligible for WSRF Funding? Yes No

YWG Basin – Are you in the Yampa/White/Green Drainage Basin? Yes No

Statement of work – Please include a proposed schedule & budget for this project (150 words or less)

The goal is to link together and streamline the process for diverters to apply for and receive funding and technical assistance to improve diversion infrastructure. It should be noted that all applicants will be required to demonstrate that they have decreed water rights. Tier1. Currently the UYWCD offers mini grants up to \$500 as a 50% match for diversion infrastructure projects if recommended by the Division of Water Resources. Grants are available for headgates and measuring devices, so the grant amount is capped at \$1,000 for a particular diversion (no limit on project cost). The cap under this proposed program will be increased to \$5,000 for projects not to exceed \$10,000. Tier 2. The NRCS has the ability to add \$100,000+ if projects meet their standards. By leveraging these monies with CWCB Water Supply Reserve Fund (WSRF) grant monies through the BRT, the number of projects and quality of outcome can be increased dramatically. Supplementing the cost of private engineering and cost share rates, if they are under 50%, will improve participation. It will also ensure that projects are completed in a timely manner. Additionally, proper design and installation of permanent diversion structures will significantly reduce water quality impairment and adverse effects to environmental and recreational interests will be avoided. Fishery improvements (e.g. fish passages, etc.) will be addressed on larger projects where warranted. TU may provide assistance on a case-by-case basis.

PARTNERS – List who are the partners or prospective partners for this project?



Yampa/White/Green BRT

YWG WSRF GRANT APPLICATION FORM

SECTION 1 OF 3

This project entails multiple government agencies working together to improve water security for water users as well as enhance existing infrastructure. Partners include: Natural Resources Conservation District (NRCS), Routt County Conservation District, Trout Unlimited (TU), Upper Yampa River Watershed Group (UYRWG), Colorado Division of Water Resources Division 6, Y/W/G Basin Roundtable (BRT)

Grant amount – What is the expected “ask amount” for this Project from the YWG BRT?

\$175,000

Are other WSRF BRT’s involved in this project? Yes No

[Click here to Explain if Yes](#)

Will there be a state wide Account Ask for this project? Yes No

If Yes how much?

[Click here to enter amount](#)

Project Classification – If this project has a public benefit component please explain whether it involves public water, public lands, public access or public beneficial use (i.e. water quality, water improvement, etc.) Please attach any reference material you feel is necessary.

These projects include addressing riparian and habitat-related issues when designing infrastructure. Fish passages will be included in engineered designs as appropriate.

How does your project help implement Colorado’s Water Plan?

Core water values indentified in the Colorado Water Plan include improving the efficiency and effectiveness of all water infrastructure which is a fundamental goal of this proposed project as it relates to agricultural users. Further, the Y/W/G BIP emphasizes as a priority goal the need to protect and encourage agricultural uses of water in the basin and improve agricultural water supplies to increase irrigated land and reduce shortages.

Water Right - Do you have water rights for this project? What is your water right?

All applicants will be required to demonstrate water rights prior to being eligible.

Yampa/White/Green BRT

Application: YWG BIP GOALS	Section 2 of 3
Goal 1: How does your project protect the YWG Basin from compact curtailment of existing decreed water uses and some increment of future uses?	
Improving measurement of water demand and water use by irrigators may help take some of the guesswork out of verifying needs in the basin which in turn could help protect existing and projected agricultural water use and needs. The YWG BIP recommends implementation of infrastructure projects that improve irrigation system efficiency (p.1-9).	
Goal 2: How does your project protect and encourage agriculture uses of water in the YWG Basin within the context of private property rights?	
The potential for additional calls on the Yampa River reinforces the need for water users in the Yampa valley to be able to properly measure and control the amount of water being diverted. If approved, this project will potentially provide funding to 20 tier 1 and 10 tier 2 infrastructure improvement applicants in the basin, resulting in the installation of properly functioning headgates and measuring devices that benefit diverters with water rights and their overall water security in the future. The YWG BIP encourages efficiency improvements that protect and encourage continued agricultural water use.	
Goal 3: How does your project improve agricultural water supplies to increase irrigated land and reduce shortages?	
The objectives of this project are three-fold: 1) to improve irrigation infrastructure for irrigators in the Upper Yampa River Basin by providing funds to install/improve infrastructure; 2) to ensure that diversions have water measurement devices thereby improving water security for water users; and 3) to provide supplemental funds for NRCS EQIP projects in need of additional matching funds. These projects include addressing riparian and habitat-related issues when designing infrastructure.	
Goal 4: How does your project identify and address municipal and industrial (M&I) water shortages?	
Improving diversion efficiency and security will benefit all users in the basin.	
Goal 5: How does your project quantify and protect environmental and recreational water uses at locations identified in the non-consumptive needs study of the YWG BRT?	
Proper design and installation of permanent diversion structures will significantly reduce water quality impairment and adverse effects to environmental and recreational interests will be avoided. Fishery improvements (e.g. fish passages, etc.) will be addressed on larger projects where warranted. TU may provide assistance on a case-by-case basis.	
Goal 6: How does your project maintain and consider the existing natural range of water quality that is necessary for current and anticipated water uses?	
As an alternate to installing in-stream pushup dams annually, properly designed projects would include more environmental friendly permanent structures to divert water as part of the headgate and measuring device project. Certain projects will incorporate fish passages with the involvement of Trout Unlimited.	

Yampa/White/Green BRT

<p>Goal 7: How does your project restore, maintain and modernize water storage and distribution infrastructure?</p>
<p>The majority of basins in Colorado have already implemented modern diversion infrastructure methods, this program would help bring the Upper Yampa basin into the 21st century.</p>
<p>Goal 8: How does your project develop an integrated system of water use, storage, administration and delivery to reduce water shortages and meet environmental and recreational needs?</p>
<p>This project blends well with objectives recently prioritized as needs in the basin by 2016 Upper Yampa River Watershed Plan developed by the Upper Yampa River Watershed Group; by the Division 6 Water Resources Division Engineer's Office, by UYWCD, and by the Y/W/G Basin Rountable.</p>
<p>Goal 9: Public Water Education</p>
<p>Successful projects that will result from this program will provide working models for other diverters and develop a level of trust in the process, both of which are beneficial outcomes. Sharing of best practices will also have a positive impact basin-wide. The UYRWG and RCCD can assist with getting the message out and helping to communicate successful projects to others.</p>
<p>Goal 10: Project provides for Multiple Beneficiaries or Objectives</p>
<p>The Upper Yampa Water Conservancy District and Natural Resource Conservation Service estimate that up to 20 tier 1 projects and 10 tier 2 projects can be performed under this program in 2020-2021 which will include proper installation of both headgates and measuring devices. This program requires that the structure has been identified by the Division of Water Resources as needing a headgate and/or measuring device or that their existing infrastructure is in need of improvement and requires the reporting of project costs that are reimbursed at the 50% level. Experience at NRCS places the average cost of a small size improvement project to be around \$1,000-\$10,000 with larger projects ranging higher. Tier 2 would be for projects that would be funded through NRCS EQIP using a Targeted Conservation Proposal. The proposal would request a specific pool of money that would be used for these projects. The EQIP program has set cost share rates for different practices. These rates are based on the size or amount of the practice/structure that is installed, and not the actual cost. Occasionally these rates can be lower than 50% of the incurred cost. In these cases, supplemental funds would be used to help incentivize the projects. NRCS currently has minimal engineering capacity, but still requires an approved design for projects. Supplementing the cost of external engineering would allow NRCS to cost share on more projects in a timelier manner.</p>
<p>Goal 11: Project Match</p>
<p>Tier 1: UYWCD =\$50,000/year for 2 years plus \$7,500 in-kind for administration; Tier 2= NRCS \$150,000</p>
<p>PLEASE ATTACH A PROJECT AREA MAP WITH THIS FORM</p>

Yampa/White/Green BRT

Please fill out the following budget and budget timeline table. For the Basin/State SWRF Grant desired date please indicated when you would like your grant application heard by the CWCB board (please review the CWCB WSRF grant guidelines for these dates). For the matching funds please indicate the latest date a matching grant will be awarded.

BUDGET / GRANT TIMELINE			
Item:	Amount:	Desired Date:	% of Total Project
Basin WSRF Grant Amount	\$175,000	January 2020	46 %
State WSRF Grant Amount	0	n/a	0
Matching Funds	\$200,000	Click here to enter text.	54 %
In - kind Match	\$7,500	NA	
Project Total:	\$382,500	November, 2019	100%

Please fill out the matching funds table and add rows as needed. This table should list all matching cash provided by applicant, partners and other grants. The desired approval date column should list when the applicant will know if the funds are approved by other grantors. The final column should list if the funds are already secured, in process of being secured or will be requested after the Roundtables approval of funds.

Matching Funds/Grant and Timeline			
Matching Fund/Grant Entity	Amount	Desired Approval Date:	Funds Secured/In process/Requested after Roundtable approval
Applicant:	\$100,000	November 2019	Secured
NRCS	\$150,000	November 2019	In progress
TOTAL:	\$250,000		

Please fill out the In-kind Matching fund table describing who, amount and what the in-kind match is.

In-kind Match and Timeline		
In-kind Matching Entity	Amount	Description
Applicant:	\$7,500	Administration
Click here to enter text	Click here to enter amount	Click here to enter text.
TOTAL:	\$7,500	

Yampa/White/Green BRT

Project Being Evaluated		Date :		
YWG Matrix Criteria		Weight	Score	Score by Category
1	<p>Protect the Basin from compact curtailment of existing decreed water uses and some increment of future uses</p> <p>Secure an equitable allocation of native flow in the Yampa, White, and Green rivers to meet existing and future in-basin water demands including PBO depletion allowances.</p> <p>Maintain existing and future PBO depletion allowances for in-basin needs.</p> <p>Minimize and mitigate the risk of a Colorado River Compact shortage.</p> <p>Prevent pre-Compact water rights from being abandoned or placed on the Division 6 abandonment list.</p> <p>(0) - Meets no outcomes; (1) - Vaguely meets one outcome; (2) - Barely meets outcomes; (3) - Meets some outcomes; (4) - Meets most outcomes; (5) - Meets all outcomes</p>	8.3%	5	
2	<p>Protect and encourage agricultural uses of water in the YWG Basin within the context of private property rights</p> <p>Preserve the current baseline of approximately 119,000 irrigated acres and expand by 12% by 2030.</p> <p>Encourage land use policies and community goals which enhance agriculture and agricultural water rights.</p> <p>(0) - Meets no outcomes; (1) - Vaguely meets one outcome; (2) - Barely meets outcomes; (3) - Meets some outcomes; (4) - Meets most outcomes; (5) - Meets all outcomes</p>	8.3%	5	
3	<p>Improve agricultural water supplies to increase irrigated land and reduce shortages</p> <p>Reduce agricultural shortages basin-wide by 10 % by the year 2030.</p> <p>Preserve the current baseline of approximately 119,000 irrigated acres and expand by 12% by 2030.</p> <p>(0) - Meets no outcomes; (1) - Vaguely meets one outcome; (2) - Barely meets outcomes; (3) - Meets some outcomes; (4) - Meets most outcomes; (5) - Meets all outcomes</p>	8.3%	5	
4	<p>Identify and address M&I water shortages</p> <p>Identify and mitigate locations in the YWG Basin where M&I shortages may exist in drought scenarios and quantify the shortages in time, frequency, and duration.</p> <p>Identify and mitigate impacts throughout the YWG Basin in the context of water shortages (drought and climate change), wildfire and compact shortage on M&I demands.</p> <p>Identify projects and processes that can be used to meet M&I needs.</p> <p>Encourage collaborative multi-purpose storage projects.</p> <p>Support efforts of water providers to secure redundant supplies in the face of potential watershed impacts from wildfire.</p> <p>Encourage municipal entities to meet some future municipal water needs through water conservation and efficiency.</p> <p>(0) - Meets no outcomes; (1) - Vaguely meets one outcome; (2) - Barely meets outcomes; (3) - Meets some outcomes; (4) - Meets most outcomes; (5) - Meets all outcomes</p>	8.3%	5	
5	<p>Quantify and protect non-consumptive water uses</p> <p>assist with endangered fish recovery</p> <p>Increase non-consumptive use benefits</p> <p>(0) - Meets no outcomes; (1) - Vaguely meets one outcome; (2) - Barely meets outcomes; (3) - Meets some outcomes; (4) - Meets most outcomes; (5) - Meets all outcomes</p>	8.3%	5	
6	<p>Maintain and consider the existing natural range of water quality that is necessary for current and anticipated water uses</p> <p>Consider and maintain the existing water quality necessary for current and future water uses when reviewing IPPs.</p> <p>Support the implementation of water quality monitoring programs to create quality-controlled baseline data for all sub-basins of the YWG Basin.</p> <p>(0) - Meets no outcomes; (1) - Vaguely meets one outcome; (2) - Barely meets outcomes; (3) - Meets some outcomes; (4) - Meets most outcomes; (5) - Meets all outcomes</p>	8.3%	5	

Yampa/White/Green BRT

Project Being Evaluated		Date :		
YWG Matrix Criteria		Weight	Score	Score by Category
7	<p>Restore, maintain, and modernize water storage and distribution infrastructure</p> <p>Increased percentage of operable headgates. Where applicable, monitor the reduction in the loss of water through less wastage or seepage of water through leaky ditches, headgates, and storage ponds. Increased agricultural water storage in combination with multi-purpose opportunities when possible Implement projects focusing on the restoration, maintenance, and modernization of existing water infrastructure. (0) - Meets no outcomes; (1) - Vaguely meets one outcome; (2) - Barely meets outcomes; (3) - Meets some outcomes; (4) - Meets most outcomes; (5) - Meets all outcomes</p>	8.3%	5	
8	<p>Develop an integrated system of water use, storage, administration and delivery to reduce water shortages and meet environmental and recreational needs</p> <p>Success in permitting and constructing in-basin storage projects Reduction in consumptive shortages in drought scenarios Reduction in identified non-consumptive shortages in drought scenarios Administration and infrastructure improvements making decreed amounts of water available to diversion structures with less need for seasonal gravel dams in the river Reduce the potential incidence of severe low flows in order for water users to exercise their water rights. (0) - Meets no outcomes; (1) - Vaguely meets one outcome; (2) - Barely meets outcomes; (3) - Meets some outcomes; (4) - Meets most outcomes; (5) - Meets all outcomes</p>	8.3%	5	
9	<p>Public Water Education</p> <p>Provides for goals and objectives as set forth by Public Education Participcaton & Outreach Committee of the YWG Roundtable Provides for goals and objectives derived by Public Education and Public Outreach goals of the Colorado Water Plan (0) - Meets no outcomes; (1) - Vaguely meets one outcome; (2) - Barely meets outcomes; (3) - Meets some outcomes; (4) - Meets most outcomes; (5) - Meets all outcomes</p>	8.3%	5	
10	<p>Project provides for Multiple Beneficiaries or Objectives</p> <p>By definition projects meeting any of the BIP Goals meet at minimum one Public Benefit Goal How many parties are benefited by this project (0) - No parties; (1) - One Party; (2) - Two Parties; (3) - Three Parties; (4) - Four Parties; (5) - Five or More Parties</p>	8.3%	5	
11	<p>Project match</p> <p>Do the proponents of this project have their own money in this project Do the proponents of this project have more than the required 25% BRT match and/or the 50% CWCB Match (0) - < than 25%; (2) - < than 30%; (4) - < than 35%; (6) - < than 40%; (8) - < than 50%; (10) - > than 50%</p>	16.7%	10	
Evaluated by :		Total	60	0

Enter Title of Project Under File Tab/TitleEnter Title of Project Under File Tab/Title

d)





BOARD COMMUNICATION FORM

From: Ken Brenner and CBI facilitator Ryan Golten

Date: July 16, 2019

Item: Update and Request for Board Input by Special Committee on Strategic Plan document

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

At the June meeting, the Committee presented its preliminary Mission/Goals document for general feedback and specific input. At the meeting, the Board expressed its support for refining the document into a draft strategic plan with goals, objectives, and strategies/tasks. Since then, the Committee has refined the draft policy statements and goals, and has begun to develop to brainstorm objectives, along with potential strategies and/or tasks to accomplish them.

At this meeting, the Committee requests:

- Board input on concepts or language contained in the current draft (members are also welcomed to provide document edits in tracked changes subsequent to the meeting).
- Board support for conducting a 2.5-hour strategic planning exercise at the August Board work session to engage the Board in the developing Goals and Objectives, using the current draft as a straw-person/starting point.

II. Summary and Alternatives -- see above.

III. Staff Recommendation:

Continue to refine the strategic plan with input and suggestions from Board, staff, and interested members of the public.

IV. Legal Issues:

N/A

V. Consistency with Board Goals and Policies:

Consistent with Board direction.

Attachments/Relevant documents

Draft Mission/Goals document, revised 7/15/19 (Draft Strategic Plan)

UPPER YAMPA WATER CONSERVANCY DISTRICT MISSION, POLICIES & GOALS

Mission

To lead water resource management within the District's boundaries by responsibly conserving, protecting, developing, providing and enhancing the water ~~resources~~ security of the Upper Yampa River Basin. ~~The District will initiate and participate in works and projects that embody and promote the protection of water rights, provide broad benefits to District constituents and develop works and projects that provide responsible conservation, responsible growth, beneficial water storage and usage, and public awareness within the Upper Yampa Water Conservancy District.~~

[Placeholder for possible Vision Statement]

Ideas include, e.g.: An Upper Yampa Basin with safe, secure water storage for its customers that benefits [multiple/all/diverse?] beneficial uses in the Basin

The Board of Directors believes the Districts' mission is reflected in the following policy statements, as informed by guidance from the Upper Yampa District's 2017 community survey and 2019 stakeholder assessment report. Some of these policy statements reflect the District's responsibilities and core mission, while other policy statements reflect values and opportunities the Board sees embodied in carrying out its mission.

The statements and goals are not currently listed in order of priority. They are temporarily numbered for purpose of internal cross-referencing.

Policy Statements (note these may be simply included as 'Whereas' statements)

1. The Board acknowledges as an integral part of its vision, policies, and goals, the legislative declaration of the Colorado Water Conservancy Act (the "Act") under which the District was created, as set forth in Colo. Rev. Stat. Ann. §37-45-102. In addition, the Board acknowledges and seeks to prudently interpret and integrate the more recent federal and state mandates, statutes, policies, and regulations into the modern functioning of the District. [\[Consider moving into a Preamble section.\]](#)
2. The Board supports the concept that the Upper Yampa River Basin and the healthy functioning of its reservoirs, rivers and streams are essential to the District's agricultural, environmental, municipal, commercial, industrial, domestic, and recreational cultures, and, thus, its economic future.
3. The Board acknowledges that climate change should be considered in planning.
4. The Board considers irrigation, municipal, commercial, domestic and industrial uses, and opportunities to support environmental values and water-based recreation, to be important matters for the District and the public it serves, and seeks to achieve balance among uses of water within the District.

5. The Board affirms the importance of maintaining the structural integrity and protecting the water rights of the District's Yamcolo and the Stagecoach reservoirs.

6. The Board supports the District's collaboration in partnerships that protect the healthy functioning of reservoirs, rivers and streams, and the riparian and upland ecosystems and hydrology supporting such rivers and streams, where such participation advances the District's mission.

7. The Board supports ranching and irrigated agriculture in the District for its economic, socio-cultural values, aesthetic, and environmental contributions to the community.

8. The Board recognizes that prudent industrial uses, such as energy development and production, may require direct flow and storage water and support the economic welfare of the District.

9. The Board supports planning and development of long-term water supply strategies for future municipal uses to ensure a vibrant, diverse, and resilient economy within the District.

10. The Board affirms its support for water-based outdoor recreational activities in the District.

11. The Board supports land use policies by local governments that protect the Upper Yampa Basin's water resources and are compatible the District's ability to manage and develop the water resources within its boundaries.

12. The Board supports science-based programs related to monitoring, protection, and restoration, as appropriate, in order to maintain the chemical, physical, biological, and aesthetic integrity of the reservoirs, rivers, and streams within the District.

13. The Board believes the District should participate in local and statewide processes to address co-occurring challenges such as climate, environmental, social, political, legislative, administrative and economic changes.

14. The Board recognizes the need for collaborative efforts with partners to monitor, and, if warranted and specifically directed by Board action, to support or oppose legislation, regulations, litigation, or administrative actions that could impact the District's mission.

15. The Board opposes any new transfers of stream flow or storage water from the Upper Yampa River and its tributaries to other basins, because such transfers would interfere with existing beneficial uses of water, damage economic stability, may diminish flows supporting the Colorado River Compact and reduce environmental quality of stream flow within the District.

16. The Board supports providing water-related information to the public through Districts programs and partnerships.

17. The Board values a two-way exchange of ideas and information with our community regarding the District's programs and priorities.

18. The Board should continue to prudently seek to evaluate and develop financially viable water works within the District where appropriate for beneficial uses and conservation of water within the District.

19. The Board is committed to ensuring the financial viability of the District into the future consistent with the District's statutory responsibilities.

20. The Board recognizes the District is a taxpayer supported, public entity and is committed to being responsive to and engaged with our community and constituents.

District Goals

The goals below collectively represent the District's vision. The Board believes they capture and advance the policy statements listed above.

Goal 1 Protect Upper Yampa River Basin from the adverse effects of transmountain, transbasin or other legal transfers of water out of the District.

Example Objectives

- 1) Actively monitor and oppose water court activities that propose transmountain, transbasin, or other legal transfers of water out of the District
 - a. *Tasks include: legal counsel monitoring monthly filings and providing standing reports at monthly Board mtgs; monitoring activities for staff; Board members bringing issues/concerns to Board for discussion*

Goal 2 Prudently operate, maintain and improve the District's existing infrastructure.

Example Objectives

- 1) Ensure compliance with regulatory requirements
 - a. *Tasks include implementing requirements of FERC, dam safety, other regulatory agencies*
- 2) Allocate funds to maintain and/or improve our infrastructure

- a. *Tasks include: budgeting for O&M activities necessary to maintain and/or improve our water infrastructure (including Chief Engineer developing/annually updating 5-year capital improvement plan)*
- 3) Maintaining Stagecoach State Park
 - a. *Task: Develop a term sheet in anticipation of renegotiating lease of Stagecoach with CPW*

Goal 3 Promote and pursue water management that balances environmental and recreational uses of the Upper Yampa River along with the District's traditional role of protecting historic agricultural, municipal, commercial, domestic, and industrial uses.

Example Objectives

- 1) Improve efficiency of ditch diversions /constituent infrastructure
 - a. *Strategies may include: administer/increase grants program*
- 2) Maintain and/or increase level of partnering with entities that may want to purchase District water for environmental and recreational uses (e.g., Water Fund, FOTY, Yampatica, SBS)
- 3) Clarify District policy priorities and positions regarding District water management
 - a. *Tasks: develop pricing policy; clarify use (or non-use) of District general fund \$ to advance specific policy priorities*
 - b. Invite relevant groups to present; schedule Board discussions
- 4) Promote District's augmentation plan

Goal 4 Represent Upper Yampa Basin water interests at the local, regional and statewide levels on relevant policy, legislative, administrative, regulatory and judicial matters.

Example Objectives

- 1) Ensure representation of District interests on the IBCC, Basin Roundtable, Colorado River District, and CWCB
- 2) Convey District's message through developing/clarifying District policies in collaboration with Roundtable partners (*e.g., Yampa Doctrine, equitable apportionment/percentage of native flow/post-Compact proportional sharing, DCP/demand mgmt*)

Commented [R1]: Check wording pls

Goal 5 Anticipate and plan for future water needs in the District in anticipation of changing climate conditions, demographic shifts, and other relevant changes.

Example Objectives

- 1) Maintain District's Water Model
- 2) Board to stay informed of relevant climate, demographic, modeling scenarios, and other potential changes relevant to the District

- a. *Tasks could include: standing item on agendas for Board to share and receive relevant updates; guest speakers*
- 3) Increase engagement with partners and constituents regarding long-term Basin water needs
- 4) Anticipate and respond to changes in water contracts.

Goal 6 Study, address and promote water quality concerns, consistent with the District's role and responsibilities.

Example Objectives

- 1) Support existing monitoring efforts – and, where relevant, respond to concerns that arise, consistent with District's mission
 - a. *Tasks may include: annually fund USGS (and County long-term monitoring?); continue support for Watershed Group*
- 2) Work with CDPHE regarding current and future needs and role of District in addressing water quality, consistent with District's mission.

Commented [R2]: Pls correct

Goal 7 Create and support public education programs concerning water resources in the District.

Example Objectives

- 1) Increase local awareness of local water Issues
 - a. *Tasks may include: budgeting funds; supporting local education groups that support our mission and provide balanced perspective; exploring working with local partners to promote on-line adult learning programs; where needed, provide education re relevant issues and policies, e.g., demand mgmt., equitable apportionment*
- 2) Increase awareness of local water-related resources
 - a. *Tasks may include: creating clearinghouse of relevant programs, organizations, and agencies*

Goal 8 Engage District's constituencies, including Board and staff, in two-way communication regarding the goals and activities of the District and their relationship to broader water issues in the Upper Yampa River Basin.

Example Objectives

- 1) Educate constituents regarding District activities
 - a. *Tasks may include revising website describing history and achievements of UYWCD, with Board input*
- 2) Improve Board participation and representation with other organizations doing water-related work in the Upper Yampa Basin
 - a. *Tasks may include: clarifying District messaging*
- 3) Improve two-way exchange with partners regarding District priorities and activities

- a. *Tasks may include:* Host relevant groups at monthly Board mtgs; offering District constituents the opportunity to provide specific input to the District as relevant;
- 4) Increase public's understanding re role of the District
 - a. Consider annual report and/or event

Goal 9 Maintain, protect, and, where possible, enhance the District's water rights portfolio.

Example Objectives

- 1) Protect District's water rights consistent with legal and planning responsibilities.
 - a. *Legal/planning tasks – i.e., what we need to do, anticipate, and prepare for the unforeseen; anticipate next due diligence update, in light of court decrees and Master Plan; legal dept to prepare a list of tasks for upcoming due diligence*
 - b. *Other strategies include ensuring alignment between legal dept and Board; keep Board apprised of issues and relevant budget needs*
- 2) Ensure District involvement and advocacy on relevant water administration matters

Goal 10 Develop short- and long-term financial plans to support District goals, with projections for potential impacts to future revenues and expenses.

Example Objectives

Goal 11 Maintain a robust staff and legal department.

Example Objectives

- 1) Ensure staffing reflects needs of the District
- 2) Ensure legal departments reflects needs of the District
[Tasks may include succession planning]

7)



a)



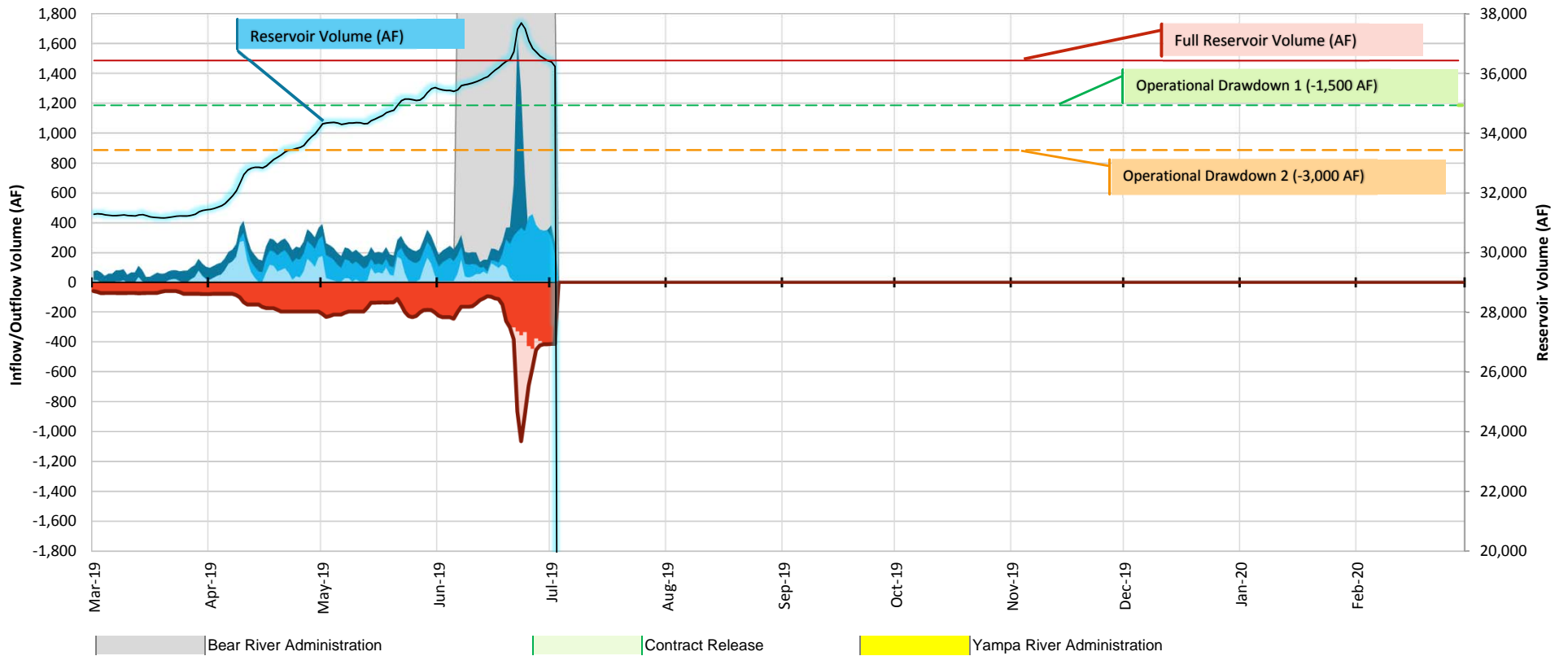
Stagecoach Reservoir Operations

Total Monthly Volume (AF)

Accounting Year 2019

INFLOW	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Total
Physical	2,475	7,391	7,401	10,885	650								28,803
Storable	413	5,011	4,942	6,791	491								17,648
Stored	405	2,869	1,764	1,354	21								6,412

OUTFLOW	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Total
Operator	-2,258	-4,544	-5,795	-9,660	-829								-23,086
Spill	0	0	0	-2,381	0								-2,381
Gage	-2,254	-4,544	-5,795	-9,731	-829								-23,154

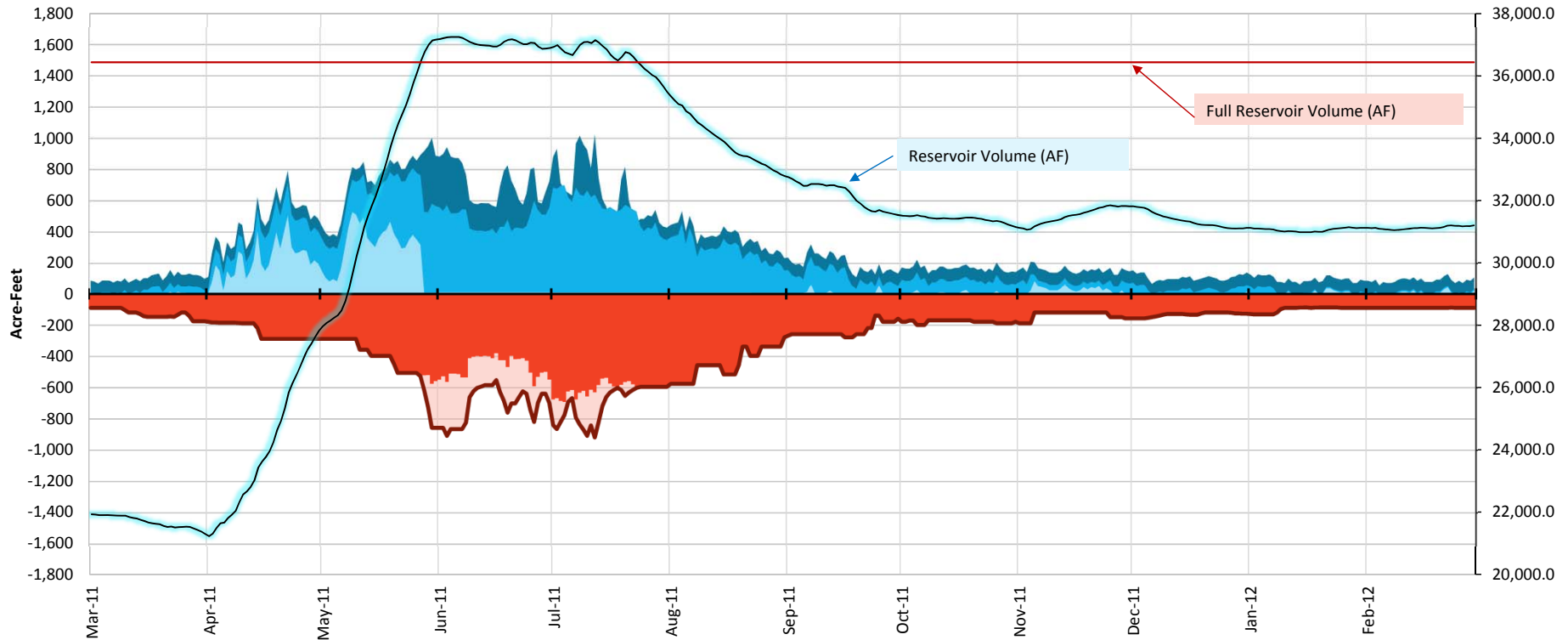


Stagecoach Reservoir Operations Total Monthly Volume (AF)

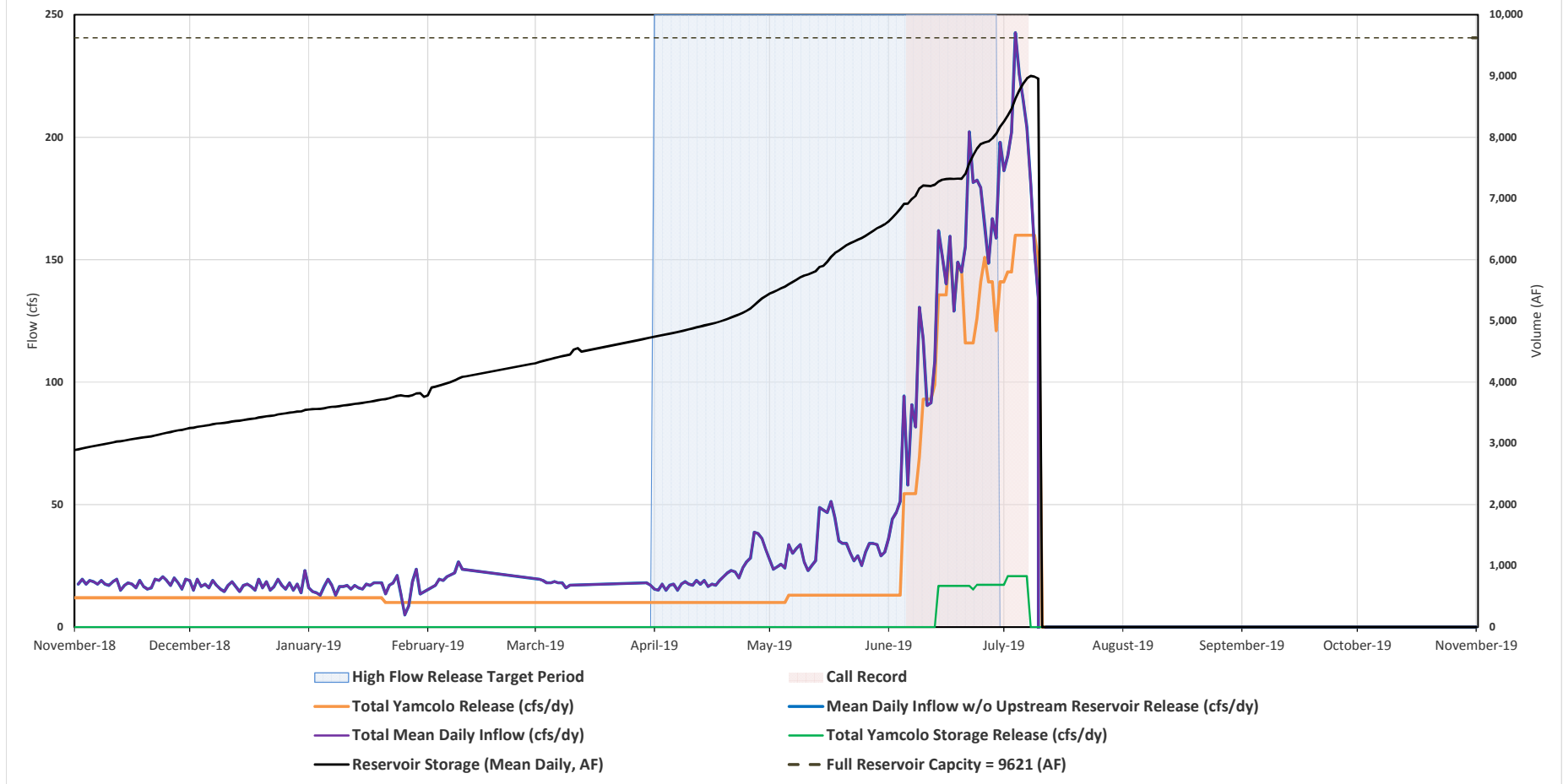
Accounting Year 2011

INFLOW	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Total
Physical	3,331	13,856	22,952	21,361	20,643	11,464	6,000	5,236	4,731	3,406	3,074	2,666	118,721
Storable	882	11,476	19,204	14,335	17,215	9,004	3,620	2,777	2,351	957	643	403	82,866
Stored	78	6,698	8,836	323	324	249	320	199	826	22	189	210	18,274

OUTFLOW	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Total
Operator	-3,917	-7,226	-13,387	-21,309	-21,739	-13,904	-7,071	-5,508	-4,042	-4,102	-3,074	-2,586	-107,867
Spill	0	0	-881	-7,296	-2,884	0	0	0	0	0	0	0	-11,062
Gage	-3,917	-7,226	-13,387	-21,309	-21,739	-13,904	-7,071	-5,508	-4,042	-4,102	-3,074	-2,586	-107,867



Yamcolo Reservoir: WY 2019 (Provisional Data)



b)





BOARD COMMUNICATION FORM

From: Andy Rossi

Date: 07/09/19

Item: Facilities Capital Projects

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

I. Summary and Background Information:

A verbal summary and information about the planned facilities maintenance projects for 2019 will be presented during the meeting.

II. Alternatives: NA

III. Staff Recommendation: NA

IV. Legal Issues: NA

V. Consistency with Board Goals and Policies: NA

Attachments

UYWCD Facilities Capital Projects Information

c)





a)



BOARD COMMUNICATION FORM

From: Scott Grosscup, legal counsel

Date: July 12, 2019

Item: Water Resume Review

X_____ DIRECTION
X_____ INFORMATION
_____ MOTION
_____ RESOLUTION

I. Request/Issue and Background Information: I reviewed the Water Resumes for Water Divisions 5 & 6 for water court filings in the month of May and did not identify any water applications that would impair or injure the District's water rights. Therefore, I do not recommend the District file a statement of opposition at this time.

Of potential interest, Tri-State Generation and Transmission Association did file an amendment to the application it filed in July of 2018 to claim certain pond rights absolute, which ponds are located around the Craig Station.

b)



BOARD COMMUNICATION FORM

From: Scott Grosscup, legal counsel

Date: July 17, 2019

Item: Water Court Cases Update

DIRECTION
 INFORMATION
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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. 17CW3043 – This is the application by the City of Steamboat Springs for an augmentation plan for Casey’s Pond. We received a proposed stipulation and ruling from the applicant consistent with the version the board approved at its February meeting. The ruling uses the District’s water rights from Stagecoach reservoir in its augmentation plan for Casey’s pond. We will continue to monitor the case to ensure that no concerns are raised in the use of the District’s water rights.

Case No. 18CW3020 – This is the application by the Mt. Werner Water & Sanitation District for new junior water rights at the Yampa Meadows Infiltration Gallery and plan for augmentation using water from Stagecoach Reservoir pursuant to a contract with the UYWCD. The applicant has provided a proposed ruling of referee. We have suggested some changes to how the District’s water rights are described in the plan for augmentation and are awaiting a further revised draft ruling of referee.

Case No. 19CW3005 – This is an application for finding of reasonable diligence filed by Tri-State Generation and Transmission Association related to conditional water rights it owns in the Four Counties Ditch No. 3, Headgate 8 and in the Wessels Canal. No other statements of opposition were filed. Next step is to await the Division Engineer’s Consultation Report.

Water Horse Resources – Utah counsel (Graham Gilbert of Snell & Wilmer) submitted a letter reply to Water Horse’s submittal of supplemental information on March 15, 2019. Counsel informs us that the Utah Division of Water Rights tries to issue its findings within six months of the hearing. A decision is expected this fall or winter but may be sooner or later as the Division sees fit.

c)



BOARD COMMUNICATION FORM

July 24, 2019 Meeting

(Not Confidential and Privileged Attorney-Client Communication)

From: Robert Weiss, legal counsel

Date of memo: July 14, 2019

Item: American Land Holdings of Colorado LLC (Peabody Energy) contract renewal

DIRECTION
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I. Request/Issue and Background Information: Peabody Coal Company bought 50 AF of Stagecoach water in 1989 in 30 year agreement which expires July 15, 2019. The contracted amount was later increased to 100 AF. A Peabody representative has contacted the District requesting renewal of the Agreement for 50 AF in the name of American Land Holdings of Colorado LLC, a subsidiary of Peabody Energy Corporation. Attached is proposed contract for 50 AF on the District's current form for a term ending November 1, 2041. The current price of \$35 AF would remain in effect for 100 AF for 2019. Repricing under new agreement for 50AF would be effective for Water Year 2020 at \$121.91plus CPI. The Board approved earlier version of this Agreement in May meeting. Peabody attorneys have asked for minor changes to use the water under a substitute water supply plan ("SWSP") in addition to for augmentation.

II. Summary and Alternatives: Move to approve the proposed contract or table or deny the requested renewal.

III. Staff Recommendation: Approve the proposed contract.

IV. Legal Issues: Contract is on District's current form.

V. Consistency with Board Goals and Policies: Contract is consistent with Board's water contracting policies.

VI. Fiscal Impact: Annual revenue will increase from \$3500 to approximately \$6050 in 2020.

Attachments: Contract

WATER SUPPLY CONTRACT

THIS WATER SUPPLY CONTRACT (“Contract”) is entered into by and between AMERICAN LAND HOLDINGS OF COLORADO, LLC, a Delaware limited liability company (“Contractor”), and UPPER YAMPA WATER CONSERVANCY DISTRICT, a Colorado water conservancy district (“Upper Yampa”), individually each a “Party” and collectively referred to herein as the “Parties,” effective as of the Effective Date set forth below.

RECITALS

A. Upper Yampa is a Colorado water conservancy district formed under the Water Conservancy Act, C.R.S. §§37-45-101 through 153, and is the owner and operator of Stagecoach Reservoir (hereinafter referred to as the “Reservoir” or “Stagecoach Reservoir”) in Routt County, Colorado.

B. Upper Yampa has stored and expects annually to store water in the Reservoir on the Yampa River under the absolute storage water rights it owns (“Water Rights”).

C. Contractor owns property in Routt County, Colorado which it holds for coal mining purposes.

D. Upper Yampa has designated certain pools of water within the Reservoir for the purpose of administration of the storage and release of water from the Reservoir (the below-described “Contract Pools,” or individually, a “Contract Pool”). Upper Yampa has adopted a filling priority for the various Contract Pools under the District Fill Policy as follows:

(i) 9,000 acre-feet “Municipal/Industrial Pool” – The Municipal/Industrial Pool consists of water currently allocated to Tri-State Generation and Transmission Association, Inc. (“TriState”) or its successors or assignees, or the municipal or industrial allottees of water from Stagecoach Reservoir who contract for all or part of the 7,000 acre-feet allotted to TriState if Upper Yampa's current contract with TriState for 7,000 acre-feet from Stagecoach is terminated or released or amended in whole or in part; and 2,000 acre-feet allocated for municipal use pursuant to existing contracts between Upper Yampa and such contracting entities or the municipal or industrial allottees of water from Stagecoach Reservoir who contract for all or part of the 2,000 acre-feet allotted to such contracting municipal users if Upper Yampa's current contract with any such municipal user for water from Stagecoach is terminated or released or amended in whole or in part;

(ii) 2,000 acre-feet “Augmentation Pool” – This Augmentation Pool consists of water allocated for augmentation use pursuant to the decree of the Water Court entered in Case No. 06CW49, Water Division 6;

(iii) 4,000 acre-feet “Former Exchange Pool” – The Former Exchange Pool consists of water formerly under contract to Tri-State and deliverable out of Yamcolo Reservoir pursuant to an exchange agreement which expired and was not renewed; the

Exchange Pool water is not subject to any exchange obligation or right or limitations on storage and use other than the District Fill Priority, but is called the “Former Exchange Pool” only for definitional purposes;

(iv) 3,164 acre-feet “Raise Pool” – The Raise Pool consists of water that represents the increase in capacity of the Reservoir resulting from the raise in the level of the spillway completed in 2011; the Raise Pool water is not subject to any right or limitations on storage and use other than the District Fill Priority, but is called the “Raise Pool” only for definitional purposes;

(v) 3,125 acre-feet “Preferred Remainder Pool” – The Preferred Remainder Pool consists of water not currently under contract, which represents a defined quantity of water in the Reservoir not allocated to the Contract Pools described in paragraphs D(i) through D(iv) above; the Preferred Remainder Pool water is not subject to any right or limitations on storage and use other than the District Fill Priority, but is called the “Preferred Remainder Pool” only for definitional purposes; and

(vi) 15,000 acre-feet, approximately, is the “Emergency Remainder Pool” – The Emergency Remainder Pool consists of water that represents the remaining capacity of the Reservoir not allocated to the Contract Pools described in paragraphs D(i) through D(v) above.

E. Upper Yampa and the Contractor desire to enter into this Contract for Upper Yampa to store and release unto Contractor 50 acre-feet of water stored in Stagecoach Reservoir from the Former Exchange Pool for beneficial uses by the Contractor on an annual basis during the Term of this Contract (the “Contracted Water”).

F. Subject to the terms of this Contract, Contractor will pay Upper Yampa for the use of Contracted Water.

NOW THEREFORE, in consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Contractor and Upper Yampa agree as follows:

USE OF WATER RIGHTS

1. Contract Price and Payment Procedure.

1.1 The purchase price for the Contracted Water from the Reservoir storage water allocated to the Contractor for Water Year 2020 under this Contract (the “First Water Year”) shall be an amount equal to the greater of (i) One Hundred Twenty One and 91/100 dollars (\$121.91) or (ii) the product obtained by multiplying One Hundred Twenty One and 91/100 dollars (\$121.91) by a fraction, the denominator of which is the Consumer Price Index for All Urban Consumers, Denver-Boulder-Greeley Metropolitan Area, “All Items” (1982 – 84 = 100), published by the Bureau of Labor Statistics of the United States Department of Labor (the “CPI”) for the semi-annual period ending December 31 in the Water Year prior to the Water

Year prior to the First Water Year and the numerator of which is the CPI for the semi-annual period ending December 31 of the Water Year prior to the First Water Year for each acre-foot of such Contracted Water stored in the Reservoir and available for release to the Contractor in such First Water Year. In the event the Bureau of Labor Statistics discontinues publication of the CPI in the format existing as of the Effective Date, then Upper Yampa shall select a reasonably comparable price index, which index shall be substituted for the CPI in this paragraph. If the base year used in computing the CPI is changed, the adjustment to the purchase price shall be changed accordingly, so that all applicable increases in the CPI are considered, notwithstanding any such change in the base year. For purposes of this Contract, a “Water Year” shall be the 12-month period from March 1 in a year through February 28 of the subsequent year, unless the beginning and end of such Water Year is changed by the Division Engineer for Water Division 6.

1.2 The annual price per acre-foot for the Contracted Water stored in the Reservoir and allocated and available for release to the Contractor in the next Water Year after the First Water Year, and in each Water Year thereafter during the Term of this Contract, shall be an amount equal to the greater of (i) the price per acre-foot charged to the Contractor for the Contracted Water the prior Water Year, or (ii) the product obtained by multiplying the price per acre-foot charged to the Contractor for the Contracted Water the prior Water Year by a fraction, the denominator of which is the CPI for the semi-annual period ending December 31 in the Water Year prior to the prior Water Year and the numerator of which is the CPI for the semi-annual period ending December 31 of the prior Water Year.

1.3 The annual payments for the Contracted Water shall be made by Contractor to Upper Yampa on or before July 31st of each year during the term of this Contract, beginning July 31, 2020. Any annual payment not made within fourteen (14) days after the due date shall bear interest at the rate of twelve percent (12%) per annum until paid. Payments due are based on the amount of Contracted Water and shall be made regardless of the amount of water delivered to Contractor and there shall be no abatement or setoff against any such payment, nor shall Contractor be permitted to withhold any payment required for any reason whatsoever, except only in the event the full Contracted Water has not been stored in the Reservoir by July 15 as described in Section 2.4 below.

1.4 As security for Upper Yampa, Contractor agrees to be bound by the provisions of C.R.S. § 37-45-125 (2018). If the annual payments herein required or some portion thereof are not fully met from such sources of revenue as may be legally available to Contractor for such purpose, such annual payment or such portion thereof may be met from assessments levied by Upper Yampa pursuant to C.R.S. § 37-45-125 (2018).

2. Storage and Delivery of Contracted Water.

2.1 Upper Yampa agrees, subject to physical water supply conditions, terms of the license issued by the Federal Energy Regulatory Commission, the administration of water rights by State of Colorado water officials, and the terms of this Contract, to store the Contracted Water in Stagecoach Reservoir prior to July 15th of each calendar year for release for Contractor’s beneficial use, upon request between July 15th and March 31st of the then current

Water Year. Contractor shall be entitled to one use of the water delivered hereunder to extinction, but shall not be entitled to the reuse or successive uses of such water. Contracted Water may only be used during the then current Water Year and no unreleased Contracted Water will be booked over to the succeeding Water Year. Unreleased Contracted Water does not carry-over from one Water Year to the next.

2.2 The Contracted Water shall be stored as part of the Former Exchange Pool of Upper Yampa, to be stored in the priority of such Contract Pool under the District Fill Policy. In the event space is made available in the Municipal/Industrial Pool due to the termination or amendment of Tri State's existing contract with Upper Yampa, then all or a portion of the Contracted Water shall be delivered from the Municipal/Industrial Pool.

2.3 Except in times of emergency, Contractor shall give at least forty-eight (48) hours advance written notice to Upper Yampa specifying the time and quantity of the Contracted Water requested to be released out of the Reservoir. The point of delivery of the Contracted Water shall be the discharge of the outlet works of the Reservoir. Responsibility for transportation and delivery of such Contracted Water after the point of delivery, and for all transit and transportation and carriage losses sustained in such delivery, shall be borne solely by Contractor. Upper Yampa shall maintain records of all releases of water from storage in the Reservoir, and shall maintain records of water levels in the Reservoir measured not less frequently than once per week. Contractor shall be entitled to inspect such records and copies shall be furnished to Contractor upon written request.

2.4 Upper Yampa shall allocate and charge any evaporation losses from water stored in the Reservoir against the Emergency Remainder Pool, and if there is insufficient water stored in the Emergency Remainder Pool, against the next most senior of the Contract Pools in ascending order of priority until all evaporation is accounted for and charged. If evaporation is charged against the Contract Pool in which the Contracted Water is stored (*i.e.* either the Former Exchange Pool, or in the event of termination or amendment to the Tri-State contract, the Municipal/Industrial Pool), then Upper Yampa shall first charge the evaporation against the unallocated water in that Contract Pool, and only if there is evaporation that still needs to be accounted for, then against the Contractor's storage account on a pro rata basis with other water that is stored and allocated to other water users in that Contract Pool.

2.5 In any calendar year when insufficient water is stored in the Reservoir to supply the full Contract Pools as measured at time of peak annual storage as reasonably determined by Upper Yampa, then the amount of water captured by Upper Yampa to fill the Reservoir shall be allocated for filling purposes to the Contract Pools in descending order of priority so that each Contract Pool is filled before allocation of any storage water to the next lower Contract Pool. Parties holding water from a Contract Pool that does not completely fill due to insufficient water available to that Contract Pool shall abate and share proportionately in any shortfall of stored water in that Contract Pool. If any part of the water allocated to Contractor by this Contract is reduced by such abatement, Upper Yampa shall notify Contractor in writing of such fact, and of the amount of the reduction in such water, by July 25th of that year, and in the absence of such notice the full amount of water for Contractor shall be deemed to have been in storage on or prior to July 15th of that year. The Contractor will be credited against that

Water Year's contract purchase price for the amount of such abatement shortage in acre-feet allocated to the Contractor, multiplied by that year's purchase price per acre-foot.

2.6 The Contracted Water shall only be beneficially used by Contractor for industrial and other purposes (e.g., reclamation and post-mining land uses) ~~in~~ associated with its coal mining operations, either directly or through a court approved augmentation plan or substitute water supply plan ("SWSP") approved by the State Engineer pursuant to C.R.S. § 37-92-308.

2.7 The Parties acknowledge that the turbine capacity to release stored water through the outlet works of Stagecoach Reservoir is 105 cfs, and that Upper Yampa may diminish the instantaneous rate of release of the Contracted Water after a request from Contractor, proportionally with diminishment of rates of releases of stored water to other contractees without discrimination, to the extent that, in conjunction with other adjusted required release rates by Upper Yampa for such other contractees, the maximum safe release rate of stored water and required bypasses through the outlet works is not exceeded.

3. Contractor's Water Use Obligations of the Contracted Water.

3.1 **Carriage and Transit Losses.** Contractor shall bear carriage and transit losses in the Contracted Water released by Upper Yampa, in such amounts as are determined by the Division Engineer for Water Division 6, from the point of delivery of Contracted Water to Contractor's point(s) of use and/or exchange or augmentation.

3.2 **Use per Contract and Law.** Contractor's use of Contracted Water shall in all instances be in accordance with the terms of this Contract, the permits and decrees of Upper Yampa's Water Rights, Upper Yampa's adopted Policies and Procedures, as they may change from time to time, and in accordance with applicable law and all decrees related to the Contracted Water. Upper Yampa warrants and represents to Contractor that the Contracted Water may be used by Contractor for industrial purposes, subject to (a) transit losses after release from Stagecoach Dam, (b) the terms of Section 3.3 below and any plan of augmentation obtained by Contractor to which Upper Yampa has consented, and (c) administration of the Yampa River at and above Contractor's point(s) of use and/or exchange or augmentation. . Upper Yampa does not, however, warrant or represent that any augmentation plan of Contractor is sufficient, adequate, effective, or lawful to accomplish its objectives or to protect the continued diversion of the Contracted Water during administration of the Yampa River. Contractor is not authorized to apply for or secure any change in the Water Rights of Upper Yampa for or associated with any of the sources of supply of the Contracted Water.

3.3 **Legal Approvals.** If Contractor requires a plan of augmentation or SWSP to utilize the Contracted Water, Contractor shall at its sole expense adjudicate such plan of augmentation, or obtain approval of such SWSP, needed for Contractor to use its Contracted Water. Upper Yampa may in its discretion become a co-applicant or opposer in the prosecution of any such applications, or submit comments regarding any SWSP, for the purpose of protecting its Water Rights and related policies and the operation of the Reservoir by Upper Yampa. If a Water Court decree is required for Contractor to use the Contract Water, Contractor shall cause

to be included in any final decree of the Water Court a provision conditioning Contractor's use of the Contracted Water on the existence of an Upper Yampa contract.

3.4 **Limitation on Disposition.** Contractor shall not sublet, sell, donate, loan, or otherwise dispose of any of its rights to Contracted Water without prior written notice to, and the written approval of, Upper Yampa and the payment of a transfer fee at the prevailing rate set forth by Upper Yampa.

3.5 **Assignment.** This Contract shall not be assigned or otherwise transferred by Contractor without the prior written consent of Upper Yampa, such consent not to be unreasonably withheld, conditioned or delayed. All assignments and transfers not in compliance with the foregoing shall be void and of no effect.

3.6 **Nondiscrimination.** Contractor and its employees shall not discriminate in the 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, sex, disability, national origin, or any other criteria prohibited under state or federal law.

3.7 **Accounting of Use.** Contractor shall maintain an accounting of its use of all water used or supplied by Contractor on form(s) acceptable to Upper Yampa specifically to enable Upper Yampa to prove the use of the Water Rights and to administer and operate the Reservoir 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 Upper Yampa promptly upon request and shall assist Upper Yampa 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.

3.8 Section 404 of the Clean Water Act (33 U.S.C. 1344) regulates the discharge of dredged or fill material into the waters of the United States. Contractor shall consult with the Army Corps of Engineers if construction of facilities necessary to use the Contracted Water requires Section 404 compliance, which may include obtaining a permit. Further consultation and approval by the United States Fish and Wildlife Service may be required to ensure compliance with the Endangered Species Act (16 U.S.C. 1531, et seq.) if Contractor proposes physical alterations to the designated critical habitat of the Colorado River endangered fish species.

4. Term.

4.1 **Term.** Except in the event of an early termination as provided in Section 5 below, the term of this Contract shall commence effective July 15, 2019 (the "Effective Date") and shall end on November 1, 2041 (the "Term"). This Contract is not renewable, although the Parties may at any time prior to the expiration of the Term enter into a new water allotment contract for the Contracted Water. Upper Yampa may not enter into a water allotment contract for the Contracted Water with any person or entity other than the Contractor during the Term of this Contract.

4.2 **Right of First Offer.** If Contractor and Upper Yampa do not enter into a new allotment contract for the Contracted Water before the end of the Term, then Contractor shall have a right of first offer for the Contracted Water for a period of five years after the end of the Term. If within the period of five years after the end of the Term of this Contract, Upper Yampa determines to offer for contract all or a portion of the Contracted Water from the applicable Contract Pool to any person or entity besides Contractor, Upper Yampa shall first notify Contractor of such decision and shall specify to Contractor the quantity, price (which may provide for annual adjustments), duration (but not to exceed 30 years), and terms and conditions upon which Upper Yampa offers to enter into a new water allotment contract (the “New Contract Offer”). For a period of 120 days after the giving of such notice, Upper Yampa will negotiate in good faith with Contractor regarding any and all of the provisions in such New Contract Offer, so long as Contractor first confirms in writing to Upper Yampa within 15 days of receipt of such notice that Contractor is willing to meet the quantity limitations and price and payment terms of the New Contract Offer. If the Parties have not entered into a new contract upon agreed terms and conditions within 120 days after the giving of such notice from Upper Yampa, then the New Contract Offer shall be deemed rejected. The terms and conditions of this Section 4.2 survive expiration of the Term to the extent set forth herein. If Upper Yampa enters into an allotment contract with any person or entity other than the Contractor for water from the applicable Contract Pool which does not include the Contracted Water, such action does not require compliance with this Section 4.2.

5. Contract Termination.

5.1 Termination by Upper Yampa.

5.1.1 Upper Yampa may terminate this Contract for a material breach of the terms of this Contract by Contractor, including Contractor’s failure to pay timely any amount due under this Contract, provided that Upper Yampa has first given at least 60 days prior written notice specifying in detail such material breach and giving Contractor the right within such 60-day period to cure and remedy such material breach.

5.1.2 Upper Yampa may also terminate this Contract if it reasonably believes that any judicial or administrative proceedings initiated by Contractor as contemplated in Section 3 above materially threaten or interfere with Upper Yampa’s authority to contract for delivery of Contracted Water or in any other way may injure Upper Yampa’s Water Rights, permits, or other interests associated with Upper Yampa’s Water Rights or the Reservoir or Reservoir operations.

5.1.3 Upper Yampa may terminate this Contract if its legal ability to deliver Contracted Water is materially impaired or is eliminated because of the termination or adverse modification of permits, decrees or other authorizations which are needed to deliver the Contracted Water.

5.2 Termination by Contractor.

5.2.1 Contractor may terminate this Contract only in whole and not in part, for any material breach of the terms of this Contract by Upper Yampa, including Upper Yampa's failure or inability to deliver Contracted Water for an extended period of time, provided that Contractor has first given at least 60 days prior written notice from Contractor to Upper Yampa specifying in detail such material breach and giving Upper Yampa the right within such 60-day period to cure and remedy such material breach.

5.2.2 Except as provided in these preceding sections, Contractor has no right to terminate or reform or rescind this Contract.

5.3 **Notice of Termination to Affected Officials.** Either Party may notify the Division Engineer and any other appropriate governmental officials of any termination of this Contract.

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

7. **Inspections.** Upper Yampa grants to the managerial staff of Contractor and any of its professional consultants access to Stagecoach Reservoir and Stagecoach Dam subject to this Contract at reasonable times and under reasonable protective terms and conditions.

8. **Miscellaneous Provisions.**

8.1 Upper Yampa may assign this Contract without necessity of Contractor's consent or approval to any entity which succeeds Upper Yampa in the ownership of Stagecoach Reservoir, and Upper Yampa or such successor may collaterally assign the proceeds of this Contract to any entity providing financing to Upper Yampa or its successor.

8.2 This Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties.

8.3 The Parties agree to communicate, coordinate and cooperate, if needed, on any required or desired water use accounting.

8.4 It is expressly acknowledged that Upper Yampa shall be solely responsible for operating, repairing, maintaining, enlarging, permitting, changing, renovating, or modifying the Reservoir, and that Upper Yampa shall be the sole owner of the Water Rights and the dam and all facilities and all lands used in connection with the construction, operation, repair, maintenance, enlarging, permitting, changing, renovating, or modifying the Reservoir and all

facilities in which Upper Yampa has ownership or rights which providing supplies of water for storage in the Reservoir.

8.5 No amendment, modification, or novation of this contract or its provisions and implementation shall be effective unless documented in writing which is approved and executed by both parties with the same formality as they have approved and executed this Contract.

8.6 Any notice required or permitted to be given by a party under or in connection with this Contract shall be in writing and shall be deemed duly given when personally delivered or sent by (i) registered or certified mail, return receipt requested, postage prepaid, (ii) expedited courier service, or (iii) email with confirmation of receipt, to the following addresses:

If to Contractor:

AMERICAN LAND HOLDINGS OF COLORADO, LLC
Attn: Mark A. Scimio, VP
701 Market St.
St. Louis, MO 63101
Email: mscimio@peabodyenergy.com

With a copy to:

AMERICAN LAND HOLDINGS OF COLORADO, LLC
Fred Eden, Land Dept.
PO Box 1508
Gillette, WY 82717-1508
Email: feden@peabodyenergy.com
Office: 307-685-6720

If to Upper Yampa:

Upper Yampa Water Conservancy District
Attention: General Manager
P.O. Box 883990
Steamboat Springs, Colorado 80477
Email: kmcbride@upperyampawater.com

Each party may change its address or contact information for notices under this Contract upon written notice to the other party in accordance with this paragraph.

9. Limited Representations by the Parties. Upper Yampa represents and warrants that it has full power and authority to execute this Contract, allocate and deliver the Contracted Water, and perform its obligations hereunder during the Term. Contractor represents and warrants that it has full power and authority to execute this Contract, receive Contracted Water at

the delivery point and cause it to be delivered to Contractor's point and locations of use, and pay for and perform its obligations hereunder during the Term.

10. Enforcement of this Contract; Remedies on Default.

10.1 Before commencing any action for enforcement of this Contract, the Party alleging a material breach of this Contract shall first give at least 60 days' prior written notice to the other Party specifying in detail such material breach and giving the other Party the right within such 60-day period to cure and remedy such material breach.

10.2 Specific performance and/or restraining orders and/or injunctive relief shall be the exclusive remedies for the violation or default by a Party in any provision of this Contract, except that Upper Yampa shall have all remedies at law for collection of sums required to be paid by Contractor hereunder which are not paid when due, including interest and attorneys' fees.

10.3 In the event of litigation between the Parties with respect to this Contract or any alleged material breach of the terms of this Contract, the Party substantially prevailing in such litigation shall recover from the other Party all reasonable attorneys' fees and costs of discovery and suit incurred by the substantially prevailing Party.

11. **Effective Date.** The effective date of this Contract shall be the last date below it is executed by all Parties.

IN WITNESS WHEREOF, Contractor and Upper Yampa have executed this Contract on the dates set forth below.

UPPER YAMPA WATER CONSERVANCY DISTRICT

DATE: _____

BY: _____
Ken Brenner, President

ATTEST:

UPPER YAMPA WATER CONSERVANCY DISTRICT

BY: _____
Kevin McBride, General Manager

AMERICAN LAND HOLDINGS OF COLORADO, LLC

DATE: _____

BY: _____
TitleMark A Scimio, Vice President