

AGENDA
UPPER YAMPA WATER CONSERVANCY DISTRICT
BOARD OF DIRECTORS MEETING
WEDNESDAY, DECEMBER 18, 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) Approval of Agenda for Meeting; action item
- (3) Public Input and Comment;
- (4) *1:35 pm* Discussion on Colorado River Issues with Andy Mueller,
General Manager Colorado River District;
 - a) Risk Study Phase III Funding Request
- (5) *3:35 pm* Strategic Planning Committee;
 - a) Update on the Draft Strategic Plan
- (6) *4:35 pm* Update on the Stagecoach Reservoir 303(d) Impairment List;
- (7) *4:45 pm* Report from General Counsel;
 - a) Water Resumes
 - b) Status of other Water Cases, if any
- (8) New Business;
- (9) Adjournment.





BOARD COMMUNICATION FORM

From: _ Kevin McBride _____

Date: _ 12/13/19 _____

Item: _ "Big River Issues" _____

X_____ DIRECTION
X_____ INFORMATION
_____ MOTION
_____ RESOLUTION

I. Request/Issue and Background Information:

A variety of individual programs, discussions, meetings and studies are associated with the use and administration of the Colorado River Basin. This includes the Colorado Water Plan, the Drought Contingency Plan, Demand Management, the IBCC, The Yampa-White- Green Roundtable and of course the UYWCD Board. In the past the Board has taken positions on some of these discussions. Also, the draft strategic plan includes the following:

Goal 1 Upper Yampa Basin water resources and local water uses are protected from trans-basin diversions and Colorado River administration that would adversely impact those uses.

Objectives

- 1) *Develop District understanding and policies to address Big River issues.*
- 2) *Prevent out-of-District transfers of water that could have adverse impacts for the District as a whole and its constituents.*

In addition, there is a request from the River District to aid in funding the Risk Management Study phase III. This should be discussed.

II. Summary and Alternatives:

This is primarily an informational item. Direction on aiding in the funding of the phase III work is discretionary.

III. Staff Recommendation:

The UYWCD should support the phase III study with the understanding that an apportionment "run" should be made in the modelling effort.

IV. Legal Issues:

None



V. Consistency with Board Goals and Policies:

See above

Attachments:

Summary of past meeting minutes

Request from the Colorado River Water Conservation District

Excerpts from past Upper Yampa Water Conservancy District minutes

November 2013:

Report of the General Manager

Master Planning Update - Manager McBride presented the Board with a memorandum with Master Planning Updates, and discussed it.

The District's modeling is still under development, and is on parallel track with the modeling by the Basin Roundtable. That modeling is being developed by CDM Smith, and will be folded into the "Basin Implementation Plan" (BIP) required as part of the "Colorado Water Plan". AMEC has been selected for the lead on the BIP which should facilitate our incorporation of the District's Master Planning into the BIP process.

Mr. McBride presented and explained maps with baselines of modeled average demands and shortages in the upper Yampa River. Director Monger expressed interest in seeing, of the six possible scenarios, that of dry years with high demands.

Director Brenner inquired what historical data was incorporated in each model. Mr. McBride clarified that both models include data from the last fifty years, or historical data. However, only the District's modeling incorporates paleodata, while the CDM data shown uses slightly different hydrology.

As a State wide plan is being developed, the Western Slope basins are trying to reach an agreement outlining how they would approach discussions as a group. A draft of the West Slope Basin Roundtable Position Statement was reviewed. The document references agreements negotiated by the West Slope. Director Sharp reminded the Board that the District had not been participatory or signatory of the Colorado Cooperative Agreement. He therefore recommend that the Position Statement be modified to more accurately reflect that fact. Mr. Sharp stated that the western slope is trying to create a common voice and reach agreements, and voiced his opinion that it is a good approach for common interests, however, the distinctions in our positions should be taken into account. In particular, the District being more junior results in increased risk and vulnerability.

Director Sharp moved that the District recommend to and forward to the Yampa/White Roundtable, changes to the West Slope Basin Roundtable Position Statement so it reads "Certain West Slope Entities have" instead of "The West Slope has", and "The West Slope Signatory Entities intend" instead of "The West Slope intends". Director Monger seconded the motion, which was unanimously approved. There was general agreement that the edited document be brought to the IBCC as well, and to support the Western Slope Basin Roundtables, inclusive of the proposed amendments. There was consensus that District staff and Directors bring the subject to attention and for discussion in the next Yampa/White Roundtable meeting. Director Brenner proposed that the Roundtable have a more regular meeting schedule so issues that concern the District can be addressed.

Director Sharp moved that we convey to the Yampa/White Basin Roundtable and the IBCC that we do not approve the Risk Management for New Supply Development statement because it does not recognize the Yampa Doctrine with respect to the Yampa River.

Director Hermann seconded the motion which was unanimous approved.

Director Monger expressed his concern that the Basin Implementation Plan might be overly influenced by the River District and suggested that Round Table members review carefully the progress of the plan.

January 2014:

Draft Roundtable “White Paper” - Manager McBride presented the draft Yampa/White/Green Basin Roundtable White Paper, it was reviewed and discussed. Director Hermann suggested we take an advocacy position. Director Hermann made reference to the last paragraph and expressed his opinion that in the event of a call by downstream states, the call should be apportioned among the water users in the Basin. Director Hermann agreed that equitable apportionment should be used, with percentages. The Compact Compliance study was discussed. Director Brenner stated he strongly supports the concept expressed on the third paragraph. Manager McBride updated the board on recent Round Table discussions. The Board asked McBride to keep the Board apprised on the process.

Mr. McBride explained that the Roundtable’s modeling was done by CDM, with a baseline model for the Yampa using 50 years of hydrologic modelling. Different 50 year “scenarios” were used and many modelling runs made. CDM is not doing the BIP for the Roundtable but these runs will be used for it. Director Brenner asked if the Roundtable had reviewed the white paper; Manager McBride indicated the Roundtable will review the paper in February. Different scenarios of drought and water shortages were discussed. Director Brenner suggested to take a look at the project of Trout Creek, with a point of delivery downstream.

March 2014:

Master Planning/Colorado Water Plan – Manager McBride presented the Yampa/White/Green Roundtable White Paper that was approved by the Roundtable March 12, 2014. Mr. McBride asked the board to consider if they would like to ratify, agree, or propose modifications to proposals in the White Paper.

Discussion followed.

Director Brenner moved to support the White Paper as presented, with a strong a cover letter expressing the District’s great reservations on any major trans-basin water diversions particularly due to low water levels in Lake Powell. Also the need for equitable apportionment to be adopted for the Yampa River, and the need to acknowledgment of the value of contribution of the Yampa River to the State’s compact obligations. Director Monger seconded the motion, which was unanimously

approved. The Board asked Manager McBride to draft the letter and submit it to the Roundtable after review.

Opposition to Public Trust Resolution – The Colorado Water Congress has taken the initiative to urge organizations across the state, including the District, to oppose the Public Trust Doctrine., specifically, by issuing a resolution in support of the Opposition. Counsel Weiss gave a brief description of the Public Trust Initiative; it introduces a public interest component on what has been private property ownership. It opposes historic practices and rights by the Prior Appropriation Doctrine. Director Monger noted that the initiative has been approved at a Title setting level.

Counsel Weiss presented a “Resolution in Opposition to Public Trust Doctrine Initiatives” for the Board’s review and consideration. Director Monger moved to approve the resolution presented. Director Murphy seconded the motion, which was unanimously approved.

March 2015:

Master Planning – Mr. McBride spoke of the modelling the District is undertaking. The model being developed by the YWG Roundtable includes a scenario of the basin with high future demands and a dry hydrologic regime. The UYWCD’s will use the high future demands but will examine the hydrology known as “Direct Paleo” which includes individual drought years more severe than the “dry” hydrology in previous simulations. The model simulates the river under strict administration. We will be evaluating model results to determine how the administration is likely to occur and thus evaluate its implications on the District’s water rights portfolio.

Meetings pertaining the State Water Plan were discussed, including the West Slope Caucus. Discussions included the differing positions of the various Roundtables and have centered in finding a common footing in the Western Slope in ongoing discussions with the Eastern Slope. Discussions are being framed on two things; the administration of the Colorado River Compact, and attempts to reduce demands on Lake Mead.

A memo by the Colorado River District on Colorado River water use by River Basin was presented and discussed. Director Sharp asked the Board if there was consensus to have staff request the River District work with the UYWCD in vetting the information in the analysis. This would include depletions considering the Yampa River PBO and uses in the YWG BIP based in part on SWSI studies.

Director Monger stated we ought to advise the River District to treat everybody equally by river basin. Manager McBride stated the BIP will be published with a disclaimer that all data is preliminary. Director Monger stated the round table will go back out with a request of qualifications; he further suggested the District would be an appropriate fiscal agent and perhaps a project manager for that. Director Brenner suggested the District continue to remind them the importance of the Colorado River Compact. The combination of the drought in California and our compact obligations are very important and should be one of the most important items in the water plan.

Director Sharp asked Manager McBride to write a brief letter to Eric Kuhn explaining that their figure is in need of revision; their amount is based on averages while we ought to be also be planning for the worst case scenario. Director Brenner feels we should state the plan does not accurately reflect the extent of the State's compact obligations.

May 2015:

Master Planning –Yampa/White Roundtable IBCC position

Engineer Rossi presented the Brief History of the Colorado River Compacts and the YWG BIP/IBCC Positions. Items reviewed and discussed included the Prior Appropriation Doctrine, Senior and Junior water right diversions and calls, relative junior and senior position of different States, the Colorado River Compact, the Upper and Lower Colorado basins, the 1948 Upper Basin Compact, management by the State of Colorado of the Colorado River Compact, negotiated equitable apportionment, current water use estimates for the Colorado Western Slope, and shortages in the Maybell Canal area based on modelled drought periods.

A graph representing Western Slope Flow allocations, with estimated future pre and post-compact depletions and remaining river flows by basin was also reviewed and discussed. Director Brenner expressed concern that future depletions are not accurately represented. Other topics discussed were trans-mountain diversions, administration based on strict appropriation and by equitable apportionment.

Letter Regarding the State Water Plan – Directors Brenner and Monger proposed a written position statement be issued on behalf of the Board stating the District's concerns as described above and strongly and clearly supporting equitable apportionment, and that the statement be sent to the Colorado Water Conservation Board (CWCB) and copied to the IBCC and other industry entities as appropriate.

a)



Kevin,

In follow up to our conversation this morning, the River District is seeking additional funding from various water user entities to conduct additional Risk Study Phase III work in all the West Slope basins, including additional work effort that may be desired by UYWCD and / or the Yampa-White BRT. The work would be conducted under the existing Risk Study Phase III contract with Hydros Consulting which the River District has extended until the end of 2020. The River District respectfully requests that UYWCD consider commit funding for Upper Yampa and Yampa-White specific efforts. The exact amount cannot be known until desired work efforts are scoped but I would not expect them to exceed \$20,000. In further consultation with you and the Y-W BRT additional funding may also be sought from other Y-W entities.

To aid your board's consideration I've also attached the October, 2019 memorandum to River District board regarding this matter.

Background

When Phase III of the Risk Study was being scoped and funded by the Colorado River District and Southwestern Water Conservation District it was understood that there would likely be;

1. Need for additional outreach over and above the amount included in the scope of work to adequately disseminate the findings,
2. Additional west slope-wide modeling efforts resulting from questions generated by the scoped modeling efforts. Such efforts might include, but not be limited to, Lake Powell risk profile questions and alternative curtailment assumptions between west slope basins and trans-mountain water users.
3. Need to "down-scale" the curtailment findings to address individual basin and sub-basin questions.

The original authorization for Phase III work was \$130,000, funded equally by the Colorado River District and Southwestern Water Conservation District. Currently Phase III is about \$8,000 over the original authorization primarily because of the extensive work with the 4-BRT chairs and technical advisory committees in advance and in follow-up of the 4-BRT meeting held June 20 In Grand Junction. At this time the only work to be completed under the original Phase III scope is minor editing of the final report.

It was anticipated that these additional work efforts would be added as additional tasks to the Phase III scope of work. Since more funding would be needed, the River District and Southwestern contemplated seeking additional funds from various conservancy districts and water user entities within their respective boundaries and pool that money to fund these efforts. Similar to the River District and Southwestern funding the original Phase III scope of work, the goal was to avoid seeking CWCB funding to allow the work to commence in a timely manner and without the risk of contention, however unlikely, that surrounded the Phase II CWCB funded effort. Southwestern solicited funding early in this process and has received \$12,000 to date from four entities to cover work in the SW. UGWCD, has committed \$8,500 for Upper Gunnison specific and Gunnison basin-wide work efforts. The River District is currently seeking approximately \$8,000 in additional commitments from Gunnison Basin constituent districts and water user entities to completely cover the cost of Gunnison Basin-specific work. Funding is also being sought from Colorado basin entities to cover the cost of similar work efforts in the Colorado basin.

Thank you for your consideration and if there are any questions please feel free to contact me.



John Currier, P.E. | Chief Engineer
201 Centennial Street | PO Box 1120




COLORADO RIVER DISTRICT

PROTECTING WESTERN COLORADO WATER SINCE 1937

MEMORANDUM

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

FROM: JOHN CURRIER, P.E. CHIEF ENGINEER 

SUBJECT: AMENDMENT TO RISK STUDY PHASE III CONTRACT CA18047 WITH HYDROS CONSULTING, INC.

DATE: 9/30/2019

ACTION REQUESTED: Board Authorization to:

- 1. Amend CA18047 to extend the expiration date of the contract by one year to 12/31/2020 and increase the contract amount by \$50,000 to a total of \$173,652,*
- 2. Increase the River District's authorized funding of CA18047 by \$5,000 to a total of \$70,000.*

STRATEGIC INITIATIVE(S):

- 2. Outreach in All Basins**
 - 3. Climate and Hydrologic Uncertainty**
 - 4. Colorado River Supplies**
 - 5. Transmountain Diversions (TMD):**
 - 6. Agricultural Water Use**
 - 7. Water Needs/Project Development**
 - 8. Colorado's Water Plan**
-

When Phase III of the Risk Study was being scoped and funded equally by the Colorado River District and Southwestern Water Conservation District it was understood that there would likely be;

1. Need for additional outreach over and above the amount included in the scope of work to adequately disseminate the findings.
2. Additional west slope-wide modeling efforts resulting from questions generated by the scoped modeling efforts. Such efforts might include, but not be limited to, Lake Powell risk profile questions and alternative curtailment assumptions between west slope basins and trans-mountain water users.

-
3. Need to “down-scale” the curtailment findings to address individual basin and sub-basin questions.

At the May 23, 2018 joint board meeting of the Colorado River District and the Southwestern Water Conservation District each board authorized \$65,000 to equally fund Phase III. Subsequently the scope of work was finalized and Hydros Consulting, Inc. estimated the cost of scoped tasks to be \$123,652. Currently Phase III is about \$12,000 over budget primarily because of the extensive work with the 4-BRT chairs and technical advisory committees in advance and in follow-up of the 4-BRT meeting held June 20 In Grand Junction. At this time the only work to be completed under the original Phase III scope is minor editing of the final report.

It was anticipated that additional work efforts would be added as additional tasks to the Phase III scope of work. Since more funding would be needed, the River District and Southwestern contemplated seeking additional funds from various conservancy districts and water user entities within their respective boundaries and pool that money to fund these efforts. Similar to the River District and Southwestern funding the original Phase III scope of work, the goal was to avoid seeking CWCB funding to allow the work to commence in a timely manner and without the risk of contention that surrounded the Phase II CWCB funded effort. Southwestern solicited funding early in this process and has received \$12,000 to date from four entities. The River District has received a commitment from the Upper Gunnison River Water Conservancy District consisting of \$5,000 that will be generally applied to additional Phase III work plus \$3,500 - \$4,500 that will be applied the Upper Gunnison specific work. We are currently soliciting additional funding from other entities within the River District and will provide a status update at the board meeting. **The intent is these additional Phase III efforts, estimated to be \$50,000, will be funded primarily from the additional funds received from various conservancy districts and water user entities within the boundaries of the Colorado River District and Southwestern District. Staff also requests that an additional \$5,000 in River District funds be authorized for these efforts.**

5)





BOARD COMMUNICATION FORM

From: Holly Kirkpatrick

Date: December 10, 2019

Item: Strategic Plan and Board Manual Update

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

The public comment period for the Strategic Plan draft ended on December 1, 2019. The Strategic Planning Committee met on November 26, 2019. It was determined at this meeting that Holly Kirkpatrick will incorporate the comments received in an updated draft of the strategic plan and distribute it to the Strategic Planning Committee for review in early January. The subcommittee hopes to have a final draft for approval at the January board meeting.

In addition, Bob Weiss is working on a board governance manual using the East Valley Water District Board of Directors Handbook as a guide. Holly Kirkpatrick is working on a preamble for the manual to provide some history of UYWCD. A draft of the board governance manual will also be distributed to the Strategic Planning Committee for review in early January. Kirkpatrick and Weiss have attached a memo summarizing the changes they are incorporating to the strategic plan and board governance manual.

II. Summary and Alternatives:

N/A

III. Staff Recommendation:

N/A

IV. Legal Issues:

N/A

V. Consistency with Board Goals and Policies:

Consistent with the adoption and implementation of the strategic plan and board governance policy.

Attachments:

Kirkpatrick memo

City of Steamboat Public Comment Letter



MEMORANDUM

TO: Board of Directors
FROM: Holly Kirkpatrick and Bob Weiss
DATE: December 10, 2019
RE: Strategic Plan and Board Governance Update

The comment period for the draft Strategic Plan was opened on November 1, 2019 and closed on December 1, 2019. The majority of comments received reflected clarification and consistency of specific terms throughout the document. Holly Kirkpatrick is revising the document to use clear, concise, and consistent terminology.

As mentioned at the November board meeting, the City of Steamboat Springs did provide a letter outlining their comments on the strategic plan draft. The letter is attached for your review.

In addition to the strategic plan, the Strategic Planning Committee will also review a board governance manual being developed by Bob Weiss using the East Valley Water District Board of Directors Handbook, which was distributed in the October and November Board packets, as a guide. The manual will also include a preamble outlining some key points in the history of the District.

The Strategic Planning Committee will review the updated strategic plan draft and a draft of the board governance manual in early January in hopes of having final drafts for approval at the January board meeting.



November 27th, 2019

C/O Holly Kirkpatrick
Board of Directors
Upper Yampa Water Conservancy District
PO Box 775088
Steamboat Springs, CO 80477

Re: Upper Yampa Water Conservancy District Strategic Plan – City of Steamboat Springs Feedback

Dear Sirs,

The City of Steamboat Springs (the City) would like to thank the Upper Yampa Water Conservancy District (the District) for the opportunity to comment on the District’s Draft Strategic Plan. The City is committed to enhancing water supply resiliency in the face of climate change and to the advancement of environmental sustainability for our community. According to the mission, vision, policies, and goals outlined in the District’s Draft Strategic Plan, it appears that the City’s and the District’s goals are aligned. Examples of this alignment include, but are not limited to:

Policy #1 – 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.

A recent economic analysis commissioned by The Nature Conservancy for the Yampa River Fund found that the Yampa River’s direct economic impact to the Routt County economy is over \$220 million annually – a value that includes outputs from agricultural, environmental, recreational, governmental and industrial sectors.¹

Policy #2 – Climate change must be considered in planning.

The City and the Mount Werner Water & Sanitation District (MWW) recently completed a Water Supply Master Plan that evaluated the risk and effects of climate change on its respective raw water supplies. The City and MWW are taking steps to secure its water supplies against the

¹ Summit Economics (July 2019). *Economic Impacts of the Yampa River on Routt County Past-Present-Future (Final Draft)*, prepared for the Yampa River Fund. Sponsored by: The Nature Conservancy.

likely impacts of climate change-induced drought, wildfire, and Colorado River Compact administration.

Policy #8 – A long-term municipal water supply is critical to a vibrant, diverse, and resilient economy within the District.

The City is and will likely continue to be the District’s largest customer and it appreciates the District’s recognition of the role that sustainable municipal water supplies play in supporting a “vibrant, divers, and resilient economy within the District.”

Policy #11 – Science-based water quality programs are important to maintaining the chemical, physical, biological, and aesthetic integrity of the reservoirs, rivers, and streams within the District.

The City is facing up to \$40 million in capital upgrades to its wastewater treatment plant to respond to more stringent water quality standards for metals, nutrients, and stream temperature. A portion of these pending expenditures results from degraded water quality in the Yampa River stemming from non-point pollution sources. The City has to rely upon entities with watershed-scale jurisdiction to protect water quality so that the financial burden of doing so does not fall solely upon the City and its customers.

Policy #15- As a taxpayer-supported public entity, the District values a two-way exchange of ideas and information with our community and constituents regarding the District’s program and priorities.

In its letter to the District dated November 13th, 2018², the City asked the District to enhance government transparency by making board packets, minutes, and agendas publicly available online and by contracting a qualified, independent firm to conduct a rate study for Stagecoach Reservoir. The City applauds the District for posting its materials online and for including in its November 20th, 2019 Board Packet the rate study provided by Anton Collins Mitchell LLP on January 5th, 2017.³ The City looks forward to its continued discussions about municipal, environmental, and recreational water contracts and the role of the District in enhancing water supplies and watershed health in the Upper Yampa River watershed.

In addition to the policy alignment described herein, the City offers the following suggestions to the District’s Draft Strategic Plan:

- 1) Several of the policies, goals, and objectives could be consolidated for clarity and to optimize the District’s effectiveness in achieving them.

² City of Steamboat Springs. Nov. 13th, 2018. *Letter to the Upper Yampa Water Conservancy District regarding the City’s Stagecoach Reservoir Contract.*

³ Anton Collins Mitchell LLP. Jan. 5th, 2017. *Upper Yampa Water Conservancy District Water Rate Study.* Retrieved online: <http://www.upperyampawater.com/wp-content/uploads/UYWCD-2019-1120-Full-Board-Packet.pdf>

- 2) The objectives and tasks outlined in the Strategic Plan are extensive and ambitious and the District should ensure that it has the capacity, resources, and political will to achieve them prior to including them in its Strategic Plan.
- 3) As a taxpayer-supported public entity, community collaboration and transparency, particularly in setting rates, should be integrated as a matter of practice into every goal and objective listed in the Strategic Plan. Having a Board of Directors that represent the diversity of interests and experiences of its constituents is critical. As such, the Board may want to consider enhancing its advertising, recruiting, vetting and selection process for new Board applicants.
- 4) The District should clearly define its policy on the maintenance of its \$13.5 million in unencumbered reserves.

The City and the District must work together to secure healthy, reliable water supplies for all beneficial uses in the Upper Yampa Basin and the City's views the District's Draft Strategic Plan as a step in the right direction.

Sincerely,



Kelly Romero-Heaney
Water Resources Manager
City of Steamboat Springs
kheaney@steamboatsprings.net

6)





BOARD COMMUNICATION FORM

From: _Kevin McBride _

Date: _12/11/2019_

Item: _Update on the CDPHE water quality standards setting_

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information:

The Colorado Water Quality Control Commission has proposed a 303d (impaired water body) listing for a stream segment of the Yampa River which is Stagecoach Reservoir for Total Arsenic and Dissolved Lead. Background information on stream standard setting is beyond the scope of this communication form but a link to the CDPHE website can be found here <https://www.colorado.gov/pacific/cdphe/water-quality-standards>.

Once the District was made aware of the situation, staff researched the impacts this could have on District operations and the information obtained supported that they would be minimal. However, an email from the GM to the CDPHE was written suggesting that the listing be reduced to the M&E (monitoring and evaluation) list to facilitate working with the basin's water quality monitoring program (recall that this includes Routt County, UYWCD, MCWSD, the City of Steamboat Springs, and MWW).

As a follow up a proposal was drafted by Leonard Rice Water Engineers to have a professional review of water quality standards and verification of the impact on the UYWCD.

II. Summary and Alternatives:

Retain LRWE as per the proposal.

Work with other water quality stakeholders on a course of action and possible retaining of LRWE on a basin wide basis.

Monitor CDPHE actions only.

III. Staff Recommendation:

Work with other water quality stakeholders on a course of action and possible retaining of LRWE on a basin wide basis.



IV. Legal Issues:
TBD

V. Consistency with Board Goals and Policies:
Water Quality is stated as a goal in the draft strategic plan.

Attachments:
CDPHE Standards webpage
Email from UYWCD to CDPHE
Proposal from LRWE



Water quality standards

[Back to Water Quality Control Commission](#)

The Water Quality Control Commission is responsible for adopting water quality standards for surface water and groundwater in Colorado. These standards (including use classifications, narrative and numerical standards, and antidegradation provisions) are set forth in specific commission regulations (see "Current water quality standards" link below). Standards are used for assessing the quality of Colorado waters and for establishing regulatory requirements for activities that may impact water quality.

[Current water quality standards: commission regulations 31-42](#)

[Standards adoption and revision process](#)

Summary of rulemaking hearing process, triennial review hearings, external proposals and resources

[Recent and pending water quality standards reviews](#)

Rulemakings for classifications and standards review, schedule of upcoming reviews, recent EPA actions

[Implementation of water quality standards](#)

Impaired waters lists and related documents, including Section 303(d) list, point source discharge permits, SB 89-181 implementing agencies' memoranda of agreement and annual reports

Dear Water Quality Control Commission,

My name is Kevin McBride and I am the General Manager of the Upper Yampa Water Conservancy District. The UYWCD owns and operates Stagecoach Reservoir. The District along with several other agencies in the Yampa Basin including Routt County fund water quality monitoring with the USGS in the Yampa River. We have recently become aware of the potential 303d listing of Stagecoach for total As and dissolved Pb. We were under the impression that the monitoring had not shown any particular problems but understand that the rationale for the Pb listing comes from data collected by our joint program. We welcome the opportunity to further discuss this listing and its possible implications to the UYWCD and its constituents. We suggest dissolved Pb be placed on the monitoring and evaluation listing to enable that discussion. We understand that As is a "roadmap" constituent and will not have immediate implications. We further understand that operation of the Reservoir under its water rights will not be effected by any listing the CDPHE might make. Thank you for the opportunity to comment. The UYWCD is committed to furthering its role in water resources management in part by increasing its engagement in this process and continuing its support for the water quality monitoring program currently in place.

Sincerely,
Kevin McBride

Kevin McBride, P.E.
General Manager
Upper Yampa Water Conservancy District
2220 Curve Plaza Suite 201
PO Box 775529
Steamboat Springs, CO 80477
970.871.1035 ext. 3

December 11, 2019

Kevin McBride, District Manager
Upper Yampa Water Conservancy District
2220 Curve Plaza Ste. 201
PO Box 775529
Steamboat Springs, CO

RE: Upper Yampa Water Conservancy District Regulatory Support Services

Dear Mr. McBride,

This proposal and cost estimate are prepared at your request, based on our understanding that the Upper Yampa Water Conservancy District (the District), located in Routt and Moffat Counties, Colorado, is interested in retaining support for the work described herein. Leonard Rice Engineers, Inc. (LRE) appreciates the opportunity to serve the District's water quality regulatory needs.

I. SCOPE OF SERVICES

The District's Stagecoach Reservoir (Segment COUCYA22¹) captures snow melt and releases it into the Yampa River (COUCYA02a²) to supplement low flows and provide a reliable year-round water supply for municipalities, agricultural irrigation, various industries, and even hydropower generation. The District recently learned that the Water Quality Control Division (WQCD) has proposed to include Stagecoach Reservoir (Segment COUCYA22_F) on the 303(d) List for total recoverable arsenic and dissolved lead at the 2019 Regulation 93 Rulemaking Hearing (RMH). LRE will provide the services described below including conducting a review of available water quality data for Stagecoach Reservoir to verify if the WQCD's 2019 Regulation 93 proposal for Stagecoach Reservoir was appropriate. LRE will also provide recommendations regarding potential regulatory options that could be pursued to provide regulatory relief related to the listing of the reservoir.

Task 1. Review of Water Quality Data for Stagecoach Reservoir

LRE will review the data that the WQCD used to propose the listing of Stagecoach Reservoir (COUCYA22_F) at the 2019 Regulation 93 RMH. LRE will also search for other water quality data that could be used to supplement the data that was used for the 2019 Regulation 93 RMH proposal. LRE will compile the relevant data and conduct its own analysis to confirm if the WQCD's analysis was appropriate. LRE will also summarize what a listing may mean to the District, based off of what LRE learns from the District about the District's operations and needs.

It is assumed that all water quality data provided by the District will be in an electronically manipulable format such as Microsoft Excel. Additional expenses not included in this estimate may

¹ Regulation 33, p. 197 "All lakes and reservoirs tributary to the Yampa River from the source to the confluence with Elkhead Creek, except for those listed in Segment 21. All lakes and reservoirs tributary to Elkhead Creek from the source to the confluence with the Yampa River, except for specific listings in Segment 23. All lakes and reservoirs tributary to the Little Snake River, including those on National Forest lands."

² Regulation 33, p. 180: "Mainstem of the Yampa River from the confluence with Wheeler Creek to a point immediately above the confluence with Oak Creek."

be incurred, for example if transcribing data or compiling data from multiple files is necessary, or if data require additional QA/QC.

The deliverable for this Task 1 will be a memorandum to the District that provides a summary of LRE's data analysis and related observations. This memorandum may be used by the District in future RMH testimony or negotiations with the WQCD.

We will begin Task 1 in January 2020 following receiving authorization to proceed. Task 1 can be completed in approximately 6 weeks, after work begins. Delays caused by major changes in the project plans or by circumstances beyond the control of the engineer, such as data inaccessibility or issues with the WQCD, could extend the time of completion.

Task 2. Positioning for Future Regulation 93 Rulemaking Hearings

The Regulation 93 RMH is a biennial RMH cycle with a focus on the two or three Colorado basins that most recently went through a basin RMH or are poised to have a basin RMH within the next year. In the case of the 2019 Regulation 93 RMH, these were Regulation 33/37 RMH (Upper Colorado and Lower Colorado, June 2019) and Regulation 38 RMH (South Platte, June 2020). As such, it is likely that the WQCD will focus its efforts for the next (2021) Regulation 93 RMH on basins other than the Upper Colorado. This means that stakeholders in the Upper Colorado River Basin (such as the District) may not be directly notified about data requests and/or other deadlines related to the 2021 Regulation 93 RMH, and/or may choose to be proponents to the RMH instead of requesting party status and responding to the WQCD's proposal.

As such, and based off of the findings from Task 1, LRE will work to recommend steps for the District to take to position itself for the 2021 Regulation 93 RMH. This will include initial recommendations for Regulation 93 RMH involvement (i.e., becoming a proponent or respondent for a proposal). LRE will work to identify key dates and deadlines pursuant to the 2021 Regulation 93 RMH. This will also assist the District with its 2021 budget planning. LRE will also conduct a review of water quality data from potentially contributing sources (COUCYA02a upstream of Stagecoach Reservoir) and discharge data from wastewater treatment facilities that discharge upstream of Stagecoach Reservoir, to identify potential sources of the parameters of concern, to better inform the District of additional potential regulatory paths. These may help inform the District regarding a potential proposal at the 2021 Regulation 93 RMH.

The deliverable for this Task 2 will be a memorandum to the District that provides a summary of LRE's findings and recommendations regarding the District's potential involvement in the 2021 Regulation 93 RMH. In this memorandum LRE will identify potential steps that the District may wish to take in 2021, and an accompanying schedule of key dates and deadlines. This will also assist with the District's budget preparations for 2021.

We can complete Task 2 within 6 weeks after Task 1 has been completed. Delays caused by major changes in the project plans or by circumstances beyond the control of the engineer, such as data inaccessibility or issues with the WQCD, could extend the time of completion.

Task 3. Project Coordination and Administration

This task covers time and expenses associated with internal project management functions for Tasks 1 and 2 above, including contract administrative support services, client communications associated

with the project, planning and coordination of work efforts, coordination with the District and other project team members, and preparation of progress reports to be submitted to the District with monthly invoices.

Task 4. Other Work as Directed

Depending on the findings from Tasks 1-3 above, The District may desire or need additional tasks completed. Such tasks could include but are not limited to items such as: preparation of formal comments to the WQCD, potential negotiations with WQCD staff, additional data analysis following these comments and negotiations, assistance with presentations to City staff and/or Board, future rulemaking hearing support, or possible site visit to assist with identification of future monitoring sites or updates to current monitoring program.

Prior to any Task 4 work, LRE will provide in writing (this can be via email), a task scope and costs for additional work under Task 4. LRE rates for additional work will be based on its current year's rate sheet.

This work will be conducted on an as requested basis, and not all work items may be necessary depending on initial findings.

II. TIME REQUIRED

We can begin the proposed services as soon as we receive authorization to proceed. We estimate that all of services under Part I can be completed in 4 months.

Delays caused by major changes in the project plans or by circumstances beyond the control of the engineer could extend the time of completion.

III. PAYMENT

Payments for our services, like other professional services, are based on the actual time spent on your behalf and are measured by standard hourly rates in effect at the time the services are performed. For those assigned to your team, those rates currently range from \$205-\$265 for principals; \$105-\$180 for engineers and hydrologists; and \$95-\$130 for technicians, draftsmen, and computer operators. Individuals are assigned to a project based on the type of services involved and the experience and expertise of the individual.

Routine expenses such as telephone and copies are included in the rates above. Outside expenses such as laboratory analysis, obtaining aerial photos, or other special services incurred directly in connection with the project are billed at cost plus 5 percent to cover handling and administration. Reimbursable expenses billed at cost include airfares, automobile rental, and other travel or per diem costs for projects more than 100 miles from the office site. Subconsultants to LRE are billed at cost plus 10 percent.

The scope described under Part I represents our estimate of the services required based on the information provided. As the project proceeds and additional facts are discovered, it may be necessary to perform additional services and some items described may not be needed. For these reasons, we can provide only an estimate of the time and cost of completing the services.

We believe the services described above can be accomplished for \$22,000.

Invoices are submitted monthly for time and expenses incurred. Terms of payment are net 30 days. Overdue accounts are subject to an interest charge of 1.5 percent per month and services will stop whenever payment is overdue more than 75 days.

IV. LIMITATION OF LIABILITY

In recognition of the relative risks and benefits of the project to the District, and LRE, the risks have been allocated such that the District agrees, to the fullest extent permitted by law, to limit the liability of LRE and its officers, employees, and subconsultants, to the District and all of the District's contractors and consultants, for any and all claims, losses, costs, damages of any nature whatsoever; or claims expenses from any cause or causes, including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability of LRE to the District shall not exceed the total amount of \$100,000 or the total fees billed to this project, whichever is less. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

V. SPECIAL SERVICES

Services in addition to those described under Part I will be performed or obtained for the District's account upon request and approval at rates currently in effect. Special services may include, but are not limited to, expert testimony, appearances at public meetings, soil investigations, topographic and land surveys, including establishment of boundaries, well drilling, well and aquifer testing, electric logging, water quality sampling and analysis, preparation of construction drawings and specifications, material testing, and environmental permitting.

Acceptance of this proposal and authorization to proceed with the services can be indicated by signing one copy and returning it to us for our files. The terms of this proposal will be honored for a period of 30 days.

We look forward to discussing this proposal with you and if you have any questions or concerns about the services offered in the proposal please call us at 303-455-9589.

Thank you for providing us the opportunity to present this proposal to the District.

Sincerely,
LEONARD RICE ENGINEERS, INC.



Greg Roush, P.E.
Chief Operating Officer



Jessica DiToro, P.E.
Project Engineer

For: _____
Contracting Agency

By: _____
Authorized Signature/Title

Date: _____



BOARD COMMUNICATION FORM

From: Scott Grosscup, legal counsel

Date: December 13, 2019

Item: Water Resume Review

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information: I reviewed the Water Resumes for Water Divisions 5 and 6 for water court filings in the month of November and did not identify any water applications that would impair or injure the District's water rights.

BOARD COMMUNICATION FORM

From: Scott Grosscup, legal counsel

Date: December 13, 2019

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. 17CW3043 – This is the application by the City of Steamboat Springs for an augmentation plan for Casey’s Pond. The District has entered a stipulation consenting to the form of ruling 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. The Applicant is addressing issues with the CWCB concerning whether the CWCB’s instream flow right extends through 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. Next status conference with Water Referee is scheduled for early January.

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 and Yamcolo Reservoirs pursuant to two contracts with the UYWCD. We have worked with the Applicant and Division Engineer to accurately describe the water rights stored in Yamcolo Reservoir that may be used for augmentation purposes. We are awaiting a final proposed stipulation for signature.

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. The Division Engineer issued her consultation report questioning whether these water rights can ever be developed at the Craig Station Power Plant. She noted that the current structure is not even capable of diverting all of the absolute water rights decreed to the structure (118.43 cfs), let alone the additional conditional amounts. She is recommending that the Court deny the application and cancel the conditional water rights.

At a recent status conference, the water referee requested the Applicant respond to the Division Engineer's report by early February. TriState is currently in the process of developing a master plan as part of a settlement with the Division Engineer in another case. I anticipate that TriState will try to incorporate these water rights into that planning process in an effort to continue these rights for another six years. The next call with the Water Referee is scheduled for February.

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.