

**WEST DIVIDE WATER CONSERVANCY DISTRICT
818 Taughenbaugh Blvd., Suite 101
Rifle, Colorado 81650**

MINUTES OF BOARD OF DIRECTORS MEETING

~~February 17, 2023~~ *March 16, 2023*

CALL TO ORDER

The regular Board of Directors meeting was called to order at the District office at 9:00 a.m. by President Samuel B. Potter.

ROLL CALL

The following directors were present: President Samuel B. Potter, Vice President Dan R. Harrison, Secretary Richard L. McNeill, Treasurer Tom Jankovsky. Director Kelly Couey was absent. Also in attendance were Tammy Keenan, Office Manager; Wendy Ryan Colorado River Engineering, Inc.; Edward B. Olszewski, Counsel; Brendon Langenhuizen, Colorado River District, attended via zoom.

PUBLIC COMMENT

There was no comment from the public.

MINUTES

Rick McNeill moved the minutes of the February 17, 2023, meeting be approved as received; Dan R. Harrison seconded; motion carried.

FINANCE REPORT

Bills to be Paid: Rick McNeill moved the attached list of bills be paid; Dan R. Harrison seconded; motion carried.

Financial Statements: Rick McNeill moved the February 2023, Financial Statements prepared by Barnes, Pearson & Rudow, LLC be accepted; Dan R. Harrison seconded; motion carried.

Barnes Pearson & Rudow, PC Engagement Letter: Rick McNeill moved and directed the President to accept and sign the engagement letter; Dan R. Harrison seconded; motion carried. (Attached)

Payroll reports processing letter: Rick McNeill moved and directed the President to accept and sign the payroll reports processing letter; Dan R. Harrison seconded; motion carried. (Attached)

Accounts Receivable: The board reviewed the current accounts receivable.

RIVER DISTRICT REPORT

Brendon Langenhuizen discussed the System Conservation Pilot Program with the board of directors. (Staff recommendation attached)

He also discussed the current snow pack and the predictions of several reservoirs. A few of the reservoirs he discussed were:

Williams Fork - not expected to fill this year.

Willow Creek - expected to fill and spill and release a lot of sediment.

Granby – expected to fill and spill

Wolford – expected to fill and spill

A big run off is expected which will potentially help the fish recovery and natural rebirth.. High sediment loading is anticipated from runoff on recent burn scars. High runoff can potentially provide flushing flows to move the sediment downstream, but the amount deposited depends on how quickly runoff occurs.

Releases from Lake Powell are being discussed and may increased to 7.7 million acre feet but nothing has been decided yet. The River District thinks that the water should not be released.

WATER CONTRACTS

Rick McNeill moved to approve the assignment with **Black Bear Ranch, LLLP and West Divide Water Conservancy District to Black Bear Ranch, LLC, Carlos Longoria and West Divide Water Conservancy District**; seconded by Tom Jankovsky; motion carried; assignment approved.

Rick McNeill moved to approve the assignment with **Black Bear Ranch, LLC and West Divide Water Conservancy District to Ebbs and Flowers, Alex Shabtai, and West Divide Water Conservancy District**; seconded by Tom Jankovsky; motion carried; assignment approved.

Rick McNeill moved approval of the following assignments; seconded by Tom Jankovsky; motion carried; assignments approved.

Barry and Darcy Croissant; assignment from **Todd and Stacey Simon**, 1. a.f., Domestic, Silt Interconnect.

GMCO Investments, LLC, a Colorado limited liability company; assignment from **CR112 Inc**, 1. a.f., Commercial, General Stored Water.

Tito and Aide Ruiz; assignment from **Esau and Samuel Ruiz, Ruiz Minor Subdivision (Lot 2)**, 1. a.f., Domestic, General Stored Water.

Lyman Fogel; Rick McNeill moved approval of this amended contract, 1.00 a.f., domestic, Silt Interconnect amending from 3 homes and 3 ADUs to 7 homes; seconded by Tom Jankovsky; motion carried.

ROUNDTABLE REPORT

There was no roundtable report this month.

WATER RESOURCES' REPORT

No report this month.

HYDROLOGISTS' REPORT

Water Watch and Augmentation reports were provided and discussed.

Received oral report on pending projects from Wendy Ryan.

CRYSTAL RIVER

Wendy Ryan is updating the augmentation strategy and scenario modeling to include Beaver Lake with an adjustable minimum pool. CPW is ok with drawing it down each year as the fish are restocked annually. It will also include the Janeway Nature-Based Solution, most returns are during no-call periods.

MARTIN RESERVOIRS

Wendy Ryan will be applying for the USBR Small Storage Projects Funding and must submit a feasibility study, showing there is a market for the water, prior to applying. She has consulted with Amy Moyer from the River District on changing funding sources.. She has requested letters of support from Ski Sunlight.

Survey Quotes were provided and discussed with the board.

Tom Jankovsky moved to contract with Bookcliff to survey the area; seconded by Rick McNeill; motion carried.

Due to existing involvement with Colorado River Engineering and in the best interest of the District Tom Jankovsky moved to enter into a sole source contract with Colorado River Engineering for civil engineering of the Martin Reservoir Expansion Project; seconded by Rick McNeill; motion carried.

ACTIVE CALLS

Rifle Creek – Rifle Creek Cannon Ditch is on an active call.

ATTORNEY'S REPORT

Received written and oral report from counsel.

NEW BUSINESS

The next meeting is scheduled for Thursday April 20, 2023.

DIRECTORS' COMMENTS

Rick McNeill discussed the existing water court case between the River District and Colorado Springs with the board.

EXECUTIVE SESSION

Executive session was not needed this month.

ADJOURN

Meeting adjourned at 10:45 a.m.

SIGNED:


Richard L. McNeill, Secretary

ATTEST:

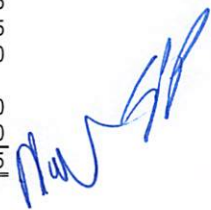


Samuel B. Potter, President

GENERAL FUND				
Num	Name	Memo	Account	Amount
DD11	Keenan, Tamara S	Direct Deposit	5221 · Salary	2,336.23
eft	American Funds		2227 · Simple IRA Payable	107.93
eft	American Funds		2227 · Simple IRA Payable	359.76
eft	Electronic Federal Tax Payment Syst	84-0976632	2205-FICA/MED/FWT Payable	968.42
5637	Bookcliff Professional Building, LLC		5395 · Rent--Office unit	996.35
5637	Bookcliff Professional Building, LLC		5394 · Rent-Prop. Taxes/Ins/Utilities	200.00
eft	Capital One, F.S.B.	Comcast	5390 · Telephone & Internet	186.32
eft	Capital One, F.S.B.	Zoom	5390 · Telephone & Internet	16.21
eft	Capital One, F.S.B.	Postage	5300 · Postage/Box Rent/Etc.	33.17
eft	Capital One, F.S.B.	Water, coffee pot, cleaning supplies	5100 · Office Supplies	134.31
5639	Column Software PBC	Public Notice # 4CD76509-0005	5290 · Legal Notices	189.20
5639	Column Software PBC	Public Notice # 4CD76509-0006	5290 · Legal Notices	189.20
5639	Column Software PBC	Public Notice # 4CD76509-0007	5290 · Legal Notices	395.12
5639	Column Software PBC	Public Notice # 4CD76509-0008	5290 · Legal Notices	395.12
5640	Barnes, Pearson & Rudow, PC	Feb	5150 · Accounting	715.00
5641	Mountain Valley Technology, Inc	Website email issues & security	5390 · Telephone & Internet	487.50
	CEBT	TSK Health Ins	5222 · Medical Insurance--Employer	955.26
5642	Olszewski, Massih & Maurer, P.C.	General	5280 · Legal	507.50
				<u>9,172.60</u>



GENERAL STORED WATER				
Num	Name	Memo	Account	Amount
2582	Silt Mesa Interconnect Enterprise Fun	Velasco	4025 · In/Domestic	375.00
2595	Silt Mesa Interconnect Enterprise Fun	Marney S2467	4025 · In/Domestic	375.00
2596	Fourmile Creek Enterprise Fund	Coats F1127	4025 · In/Domestic	750.00
2597	Silt Credit Card Payments	Laho	4025 · In/Domestic	375.00
2594	Silt Credit Card Payments	Harvey S2450	4025 · In/Domestic	375.00
2598	General Fund	1st Qtr Reimbursement	7062 · Personnel Service Proration	7,418.50
2598	General Fund	1st Qtr Reimbursement	7063 · Office Rent Proration	1,727.50
2598	General Fund	1st Qtr Reimbursement	7064 · Directors Fees Proration	1,804.75
2598	General Fund	1st Qtr Reimbursement	7061 · Accounting Fees Proration	2,626.00
2599	Colorado River Engineering, Inc.	Task 8 Subconsultant Coordination	Martin Grant	661.25
2599	Colorado River Engineering, Inc.	Task 10 Reporting & Documentation	Martin Grant	1,665.00
2599	Colorado River Engineering, Inc.	Task 3 Flood inundation	Martin Grant	4,635.00
2599	Colorado River Engineering, Inc.	Task 2 SMA files	Martin Grant	31.25
2600	Colorado River Water Conservation D	O&M 10 A. F.	7076 · CRWCD--Wolford	412.50
2601	Colorado River Water Conservation D	100 A.F	7074 · CRWCD--Ruedi II	23,150.00
2602	Olszewski, Massih & Maurer, P.C.	CRWCD	7047 · Legal--General	288.75
2602	Olszewski, Massih & Maurer, P.C.	Contracts	7047 · Legal--General	192.50
2602	Olszewski, Massih & Maurer, P.C.	Crystal	7048 · Legal--Crystal River	341.25
2602	Olszewski, Massih & Maurer, P.C.	Martin Diligence	7046 · Legal--WD project Diligence	603.75
2602	Olszewski, Massih & Maurer, P.C.	Area A	7047 · Legal--General	723.75
2602	Olszewski, Massih & Maurer, P.C.	Alsburly Diligence	7053 · Legal - Alsburly	87.50
2603	Colorado River Engineering, Inc.	Alsburly Diligence	7034 · Hydrology--Alsburly	780.00
2603	Colorado River Engineering, Inc.	General	7032 · Hydrology--General	2,887.50
				<u>52,286.75</u>



FOURMILE CREEK

Num	Name	Memo	Account	Amount
1995	General Fund #1414008103	1st Qtr Reimbursement	8056 · Rent--office Space Proration	581.50
1995	General Fund #1414008103	1st Qtr Reimbursement	8058 · Accounting Fees Proration	884.00
1995	General Fund #1414008103	1st Qtr Reimbursement	8057 · Directors fees Proration	607.50
1995	General Fund #1414008103	1st Qtr Reimbursement	8059 · Personnel Service Proration	2,497.50
1996	Colorado River Engineering, Inc.	General	8030 · Hydrology	1,300.00
1996	Colorado River Engineering, Inc.	Estimated releases	8033 · Hydrology -- Martin # 1 & 2	520.00
1997	Olszewski, Massih & Maurer, P.C.	General	8050 · Legal--General	901.25
1998	Garfield County Clerk & Recorder	Memorandum recording	8070 · Memorandum Recording Fees	13.00
				7,304.75

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SILT INTERCONNECT

Num	Name	Memo	Account	Amount
543	Garfield County Clerk & Recorder	Memorandum	8000 · Memorandum Recording Fees	39.00
544	Farmers Irrigation Company	26 Shares	7015 · Farmers Irrigation Water	614.00
545	Bureau of Reclamation	Carriage of non-project water in Silt pump	7010 · Warren Act/Non-Project Water	1,881.14
546	General Fund 1414008103	1st Qtr Reimbursement	8100 · Rent--Office Space Proration	383.00
546	General Fund 1414008103	1st Qtr Reimbursement	8200 · Personnel Service Proration	1,644.25
546	General Fund 1414008103	1st Qtr Reimbursement	8400 · Directors Fees Proration	400.00
546	General Fund 1414008103	1st Qtr Reimbursement	8300 · Accounting Fees Proration	582.00
				5,543.39

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GRAND TOTAL

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74,387.49



Barnes Pearson & Rudow PC

Guiding you beyond tax season

January 1, 2023

West Divide Water Conservancy District
P.O. Box 1478
Rifle, CO 81650

You have requested that we prepare the 2023 monthly financial statements of West Divide Water Conservancy District, which comprise the Statement of Assets, Liabilities, and Fund Balances- modified cash Basis, and the related Statement of Revenues and Expenses- cash basis for the period then ended. We are pleased to confirm our acceptance and understanding of this engagement to prepare the financial statements of West Divide Water Conservancy District by means of this letter.

Our Responsibilities

The objective of our engagement is to prepare financial statements in accordance with the modified cash basis of accounting based on information provided by you. We will conduct our engagement in accordance with Statements on Standards for Accounting and Review Services (SSARSs) promulgated by the Accounting and Review Services Committee of the AICPA and comply with AICPA's Code of Professional Conduct, including the ethical principles of integrity, objectivity, professional competence, and due care.

We are not required to, and will not, verify the accuracy or completeness of the information you will provide to us for the engagement or otherwise gather evidence for the purpose of expressing an opinion or a conclusion. Accordingly, we will not express an opinion or a conclusion or provide any assurance on the financial statements.

Our engagement cannot be relied upon to identify or disclose any financial statement misstatements, including those caused by fraud or error, or to identify or disclose any wrongdoing within the entity or noncompliance with laws and regulations.

Management Responsibilities

The engagement to be performed is conducted on the basis that management acknowledges and understands that our role is to prepare financial statements in accordance with the modified cash basis of accounting.

Management has the following overall responsibilities that are fundamental to our undertaking the engagement to prepare your financial statements in accordance with SSARSs:

Over for Signature

Telephone: (970) 384-0400

1607 Grand Avenue, Suite 32 * P.O. Box 2298 * Glenwood Springs, CO 81602

- a. The design, implementation, and maintenance of internal controls relevant to the preparation of financial statements that are free from material misstatement whether due to fraud or errors
- b. The prevention and detection of fraud
- c. To ensure that the entity complies with the laws and regulations applicable to its activities
- d. The accuracy and completeness of the records, documents, explanations, and other information, including significant judgments, you provide to us for the engagement to prepare financial statements
- e. To provide us with:
 - i. Documentation, and other related information that is relevant to the preparation and presentation of the financial statements,
 - ii. Additional information that may be requested for the purpose of the preparation of the financial statements, and
 - iii. Unrestricted access to persons within West Divide Water Conservancy District of whom we determine necessary to communicate.

The financial statements will not be accompanied by a report. You understand and agree that the financial statements will clearly indicate that no assurance is provided on them.

Other Relevant Information

Fees for preparation of the financial statements will be \$715 per month. All invoices are due and payable upon presentation.

Please sign and return the attached copy of this letter to indicate your acknowledgement of, and agreement with, the arrangements for our engagement to prepare the financial statements described herein, and our respective responsibilities.

Sincerely yours,

Barnes Pearson & Rudow PC

Acknowledged and agreed on behalf of West Divide Water Conservancy District:



Signature

Samuel B. Potter, P.S.

Printed Name and Title

3/16/2023

Date



Barnes Pearson & Rudow PC

Guiding you beyond tax season

PLEASE READ, SIGN AND RETURN THIS LETTER TO OUR OFFICE

January 1, 2023

West Divide Water Conservancy District
PO Box 1478
Rifle, CO 81650

RE: Payroll report processing

Dear Board of Directors:

We appreciate the opportunity to assist you with your accounting needs. This letter is to confirm our understanding of the terms under which we have agreed to do work with West Divide Water Conservancy District.

Each quarter we will prepare the payroll reports based on the information present in QuickBooks. We will review tax payments. We will initiate any necessary payments for you or request that you make the payments. We will notify you of amounts paid.


It is management's responsibility to substantiate and authorize all payroll records. We will not audit, examine, or review time records. Management is responsible for providing information regarding employees' paid sick leave wages which may be eligible for payroll tax credits based on the legislation recently passed by Federal and/or state agencies.

Fees for payroll preparation will be \$230 each quarter. All invoices are due and payable upon presentation.

It is our policy to keep work papers related to this engagement for seven years. We do not keep original documentation. It is your responsibility to retain and protect your records for possible future use, including potential examination by any government or regulatory agency.

We will be pleased to discuss this letter with you at any time. If the foregoing is in accordance with your understanding, please sign the copy of this letter in the space provided and return it to our office. Thank you for this opportunity to serve you.

Very truly yours,


Barnes, Pearson & Rudow, PC

APPROVED:

Signature

Date

3/16/2023

Telephone: (970) 384-0400

1607 Grand Avenue, Suite 32 * P.O. Box 2298 * Glenwood Springs, CO 81602



COLORADO
Colorado Water Conservation Board
Department of Natural Resources

1313 Sherman Street, Room 718
Denver, CO 80203
P (303) 866-3441
F (303) 866-4474

Jared Polis, Governor
Dan Gibbs, DNR Executive Director
Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board Members
FROM: Amy Ostdiek and Michelle Garrison
DATE: March 15, 2023
SUBJECT: Agenda Item 12: System Conservation Pilot Program

Staff Recommendation:

Staff recommends the Board approve the Upper Colorado River Commission's System Conservation Pilot Program Projects as Water Conservation Projects subject to C.R.S. §§ 37-92-103(2) and 37-92-305(3)(c).

In June 2022, the Commissioner of the Bureau of Reclamation called on the Colorado River Basin States to create a plan to conserve an additional 2-4 million acre-feet of water above efforts already underway, in an effort to protect critical infrastructure at Lake Powell and Lake Mead. In July 2022, the Upper Division States responded with a Five-Point Plan, while recognizing that we were not the cause of the crisis and had limited options to respond due to ongoing and deep hydrologic and legal water shortages, coupled with depleted storage.

One component of this plan is reauthorization of the System Conservation Pilot Program (SCPP). This program entails temporary, voluntary, and compensated reductions in consumptive use across the Upper Basin for the purpose of mitigating the impacts of drought in the Upper Colorado River Basin. The SCPP was reauthorized by Congress, and a Request for Proposals was released in December 2022. Applications were accepted through March 1, 2023.

The SCPP will be administered by the Upper Colorado River Commission (UCRC) pursuant to a funding agreement executed on January 6, 2023, between the UCRC and the Department of the Interior through the Bureau of Reclamation. Part of the agreement includes a "Facilitation Exhibit" which describes how the UCRC will implement the funding agreement with Reclamation. The funding agreement requires that the proposed projects are to be selected based on criteria that shall be set by the UCRC. The criteria for the selection of pilot projects are set forth in the Facilitation Exhibit.

The funding agreement also includes a template implementation agreement that will be entered into between the UCRC and each participating water user after approval by the UCRC and Reclamation of a pilot project. The implementation agreement must be consistent with the terms of the funding agreement.

Under these agreements, the UCRC will grant final approval to projects for participation in the SCPP pursuant to criteria set by the UCRC.



Relevant to the concepts that the Pilot Program will explore, C.R.S. § 37-92-305(3)(c) provides that, except in Water Division 7, historical consumptive use in a change of water rights may not be reduced as the result of participation in a water conservation program approved by a state agency.¹

In addition, Section 37-92-103(2) defines abandonment of a water right such that any period of non-use of a water right shall be tolled if that water right is participating in “a water conservation program approved by a state agency...”

Thus, the CWCB Staff seeks to have the CWCB affirm that any projects participating in the SCPP are participating in a state-approved water conservation program.

Applications are currently under review by the UCRC to determine completeness and seek any missing or incomplete information, and to assess proposed conservation activities. Staff anticipates this preliminary review process will conclude by March 13, 2023, at which point CWCB Staff will provide the Board with a summary of the potential projects for CWCB approval pursuant to C.R.S §§ 37-92-103(2) and 305(3)(c) for final decision-making by the UCRC.

¹ C.R.S. § 37-92-305(3)(c):

(c) In determining the amount of historical consumptive use for a water right in division 1, 2, 3, 4, 5, or 6, the water judge shall not consider any decrease in use resulting from the following:

- (I) The land on which the water from the water right has been historically applied is enrolled under a federal land conservation program; or
- (II) The nonuse or decrease in use of the water from the water right by its owner for a maximum of five years in any consecutive ten-year period as a result of participation in:
 - (A) A water conservation program, including a pilot program, approved in advance by a water conservation district, water district, water authority, or water conservancy district for lands that are within the entity's jurisdictional boundaries or by a state agency with explicit statutory jurisdiction over water conservation or water rights;
 - (B) A water conservation program, including a pilot program, established through formal written action or ordinance by a water district, water authority, or municipality or its municipal water supplier for lands that are within the entity's jurisdictional boundaries;
 - (C) An approved land following program as provided by law in order to conserve water or to provide water for compact compliance; or
 - (D) A water banking program as provided by law.



System Conservation Pilot Program - Attachment 1

March 15, 2023 Update

Preliminary and Subject to Change

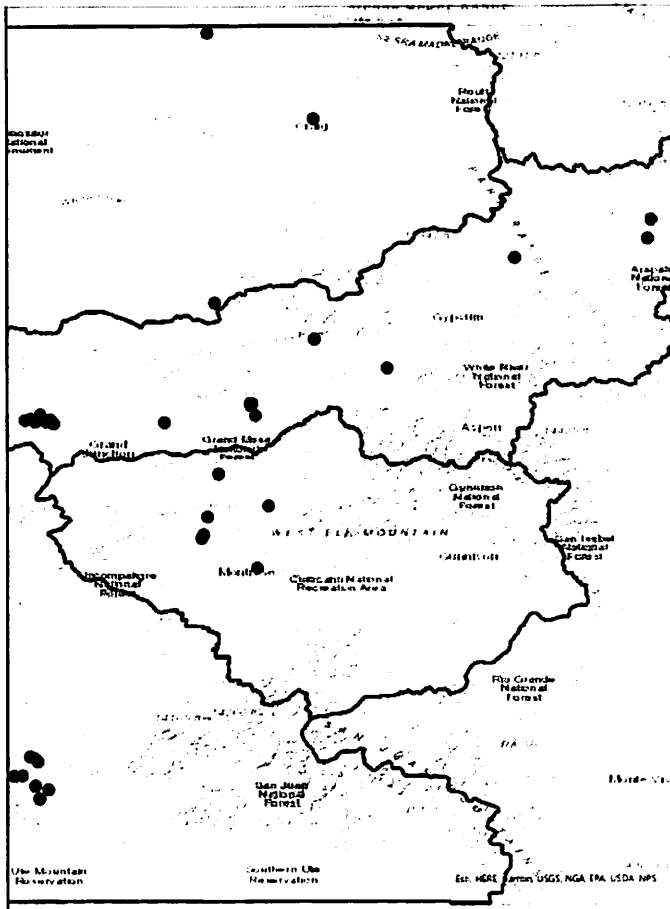
Summary of Proposals Received

For the System Conservation Pilot Program 2023, the UCRC received 36 complete and responsive Colorado project proposals totaling 5,480 acres and 8,334 acre-feet of estimated conserved consumptive use. Below is a table summarizing the project proposals by basin.

Basin	# Projects	Proposed Participating Acreage	Proposed Estimated Conserved Consumptive Use
Yampa	2	208	109
White	1	183	180
Upper Colorado	3	1,381	1,185
Lower Colorado	14	2,457	5,326
Gunnison	8	445	744
San Juan/Dolores	8	807	791
Total¹	36	5,480	8,334

Below is a map showing general locations of these projects.

¹ This table includes only proposals occurring exclusively in Colorado and does not include the Little Snake proposal (CO_WY_01 in the spreadsheet below).



Of these 36 proposals, 19 propose full-season following. Two proposals include foregoing late-season reservoir water. One proponent proposed a large-scale project to administer participation (capped at 1,000 total acres) on a lottery basis. Nine projects include partial season irrigation, which for many would mean only irrigating in the fall to establish lower water use crops for subsequent years. Eight projects would replace alfalfa with lower water use, drought-resistant annual grasses. Of the 36 proposals, 21 include irrigated fields within larger ditch companies. Fifteen have water rights that are not under a formal ditch company.

Saved water in this program becomes “system water” and does not include shepherding downstream of the participant’s point of diversion. Irrigation water will either be diverted at the ditch headgate and then “spilled” at some point down-ditch or will be bypassed at the headgate to ensure it is not available to non-participating ditch users. Proposals provide operating plans and general verification plans. Final verification plans will be included in the project contract. For many projects, verification will simply be ensuring that the land does not receive water - either via site visits or from satellite imagery. UCRC’s consultants will perform any necessary verification.

Updated SCPP Process Timeline

- December 13, 2022: Pre-Solicitation Notice with 02/01/2023 deadline
- January 19, 2023: Deadline extended to March 1, 2023
- March 1, 2023: 88 proposals received across the Upper Basin
- Next Steps:
 - Identify projects for preparation of draft Implementation Agreement with Verification Plan
 - Draft Implementation Agreements
 - Early April target for execution

Proposals Meeting UCRC Criteria based on Preliminary Analysis

Below is a summary of proposals deemed complete and meeting the criteria established by the UCRC based on preliminary review by staff of the Upper Division States. These projects are under further consideration for approval by the UCRC. If additional proposals are completed and/or deemed appropriate for UCRC consideration pursuant to the criteria, staff will return to the Board to seek approval of those projects pursuant to C.R.S. §§ 37-92-103(2) and 37-92-305(3)(c).

Project Name	Location	Type of Project	Timeframe	Crop	Proposed Acreage	Proposed Estimated Conserved Consumptive Use
CO_1 - Plateau Creek - Galloway	Mesa Creek trib to Plateau Creek	Deficit irrigation	April - June	Grass hay	101	96.7
CO_4 - Upper Colorado Granby - Orr	Upper Colorado	Full-Season Fallow	June - October	Grass hay	870	484.53
CO_7 - Upper Colorado Kremmling - Rahne	Upper Colorado	Full-Season Fallow	May - October	Grass hay/ Alfalfa	4.79	5.16
CO_8 - GVIC - Muhr	Colorado River - Grand Valley	Full-Season Fallow	April - October	Alfalfa/Corn/Small Grains	59.16	137.3
CO_12 - Uncompahgre	Uncompahgre - UVWUA	Full-Season Fallow	April 15 - October	Triticale and Corn	33.5	45.6

- Nauyokas						
CO_13 - Cimarron River - Epplesheimer	Cimarron River	Full-Season Fallow	April 15 - October 20	Alfalfa and Hay grass	125.1	274
CO_14 - Grand Valley - GVWUA -	Grand Valley	Combination	April - October	Varies	Max of 1000	Max of 3000
CO_15 - Dolores Project - Ives	Dolores Project	Crop Switching	May - November	Alfalfa to Multi- species forage	93.4	93.4
CO_16 - Dolores Project - Johnson	Dolores Project	Crop Switching	May - November	Alfalfa to Multi- species forage	128.66	149.25
CO_17 - Dolores Project - Mahaffrey	Dolores Project	Crop Switching	May - November	Alfalfa to Multi- species forage	173.05	131.23
CO_18 - Dolores Project - Neely	Dolores Project	Crop Switching	May - November	Alfalfa to Grass forage mix	125.8	144.67
CO_19 - Dolores Project - White	Dolores Project	Crop Switching	May - November	Alfalfa to Multi- species forage mix	46.64	24.25
CO_20 - Dolores Project - Oliver	Dolores Project	Crop Switching	May - November	Alfalfa to Multi- species forage		103

CO_21 - Dolores Project - C Neely	Dolores Project	Crop Switching	May - November	Alfalfa to Grass forage mix		45.3
CO_22 - Dolores Project- White	Dolores Project	Crop Switching	May - November	Alfalfa to Multi- species forage		99.7
CO_23 - GVIC - Tonozzi	Grand Valley Irrigation	Full-Season Fallow	April - October	Alfalfa	15	38.16
CO_26 - GVIC - BernalFarms	Colorado River	Full-Season Fallow	April - October	Corn, Alfalfa rotation	15.84	38.1
CO_30 - Fortification Creek - Weaver	Fortification Creek	Full-Season Fallow	April 15 - August 31	Grass hay	31	66
CO_31 - GVIC - Baleztena	Colorado River	Full-Season Fallow	April through October	Alfalfa and Grass	30.5	71
CO_33 - Surface Creek - Schmalz	Surface and Kiser Creeks	Full-Season Fields and Partial-Season Fields	April 1 - October 15 (Full-Season) and April 1 to June 15 (Partial)	Alfalfa and Grass	133.3	153.2
CO_34 - Piceance Creek - Mtn Water	Piceance Creek	Full-Season Fallow	April 1 - October 31	Grass hay	183	186.9

CO_WY_1 - Little Snake ²	Little Snake	Full-Season Fallow	April 1 - October 31	Grass hay	2631	4230.9
Total					Up to 5,800.74	Up to 9,618.35

The table above reflects preliminary proposal estimates that are still subject to change and to ongoing discussions between UCRC and project proponents to determine if the projects will be selected for final contracting between each of the proponents and the UCRC. Further, the table may include projects that may ultimately be denied by UCRC. Finally, some projects remain under preliminary review by UCRC's consultant and await additional information from project proponents. Summaries of these projects will be provided to the Board in the near future if preliminarily deemed appropriate for further review by UCRC.

² This proposal includes acreage and proposed conserved consumptive use in both Wyoming and Colorado. Roughly 70% of the proposal is within Wyoming.



DATE FILED: February 26, 2023 1:58 PM
 FILING ID: 79ABA5143FF88
 CASE NUMBER: 2022CW3114

**REPORT OF THE DIVISION ENGINEER
 SUMMARY OF CONSULTATION**

CASE NO.: 22CW3114
APPLICANT: West Divide Water Conservancy District

<u>STRUCTURE</u>	<u>WDID</u>	<u>APPL. CLAIM</u>
Four Mile Canal and Siphon	3804681	Change of Water Right
WDWCD Four Mile Creek Plan for Augmentation	3807508	Amendment of Augmentation Plan
Neal Well	3808097	Augmented Structure
Horseshoe Acres Well #2	3806692	Augmented Structure
Trulove Pump	3808004	Augmented Structure
Trulove Pond #1	3808098	Augmented Structure
Trulove Pond #2	3808099	Augmented Structure
Joslin Well	3808106	Augmented Structure
Mollica Well	3808105	Augmented Structure
Pearson Well No. 1	3808104	Augmented Structure
McDermott Well No. 1	3808103	Augmented Structure
McDermott Well No. 2	3808102	Augmented Structure
Cappo Well	3808831	Augmented Structure
Purshell Pond	TBD	Augmented Structure
Berger Well No. 1	3806672	Augmented Structure
Berger Well No. 2	3806674	Augmented Structure

The application was filed with the court on November 29, 2022.

FINDINGS

1. The wells would be tributary to Fourmile Creek, which is a tributary of the Roaring Fork River, which is a tributary of the Colorado River. Diversion of ground water from the wells will influence the rate or direction of movement of water in those natural streams and their alluvium. The Colorado River is over-appropriated. At some or all times of the year, the water supply for said stream system is insufficient to satisfy all of the decreed water rights senior to an appropriation by the applicant. Diversions from the subject wells will cause depletions to this over appropriated system.
2. Neal Well: Permit No. 291717 was issued on June 20, 2013 pursuant to C.R.S. § 37-92-602(3)(b)(II), to construct a new well. The permitted location of the well is in the NE ¼ of the SE ¼ of Section 33, Township 7 South Range 89 West, Sixth PM on an 18 acre parcel of land described as a portion of the NE ¼ of the SE ¼ of said Section 33. The use of groundwater from this well is limited to ordinary household purposes inside one single family dwelling. The water shall not be used for irrigation or other purposes. The maximum pumping rate of this well shall not exceed 15 GPM. Evidence of construction was received on October 1, 2013 indicating the well was constructed on July 25, 2013 at a location with UTM coordinates of 299497 Easting and 4363691 Northing. Evidence of pump installation was received on August 10, 2015 indicating the pump was installed on July 31, 2015 and that the well produced 15 gallons per minute with a permanent pump. The permit is valid per C.R.S. § 37-92-602(3)(d)(II).
3. Horseshoe Acres Well # 2: Permit No. 213872 was issued on November 12, 1998 pursuant to C.R.S. § 37-92-602(3)(b)(II), to construct a new well. The permitted location of the well is in the SW ¼ of the NW ¼ of Section 26, Township 7 South Range 89 West, Sixth PM at a point 2075 feet from the North section line and 330 feet from the West section line of said Section 26. The use of groundwater from this well is limited to fire protection, ordinary household purposes inside up to three single family dwellings, the irrigation of not more than one acre of home



gardens and lawns, and the watering of domestic animals. The maximum pumping rate of this well shall not exceed 15 GPM. Evidence of construction was received on November 9, 2004 indicating the well was constructed on February 19, 1999. Evidence of pump installation was received on March 12, 1999 indicating the pump was installed on March 5, 1999 and that the well produced 15 gallons per minute with a permanent pump. The permit is valid per C.R.S. § 37-92-602(3)(d)(II).

4. Joslin Well: Permit No. 83277-F was issued on June 10, 2019 pursuant to C.R.S. § 37-90-137(2), for the expansion of use of an existing well. This permit was approved on the condition that the well is operated in accordance with the West Divide Water Conservancy District Augmentation Plan approved by the Division 5 Water Court in case no. 02CW0123. WDWCD contract #FM190320JJ(a). The permitted location of the well is in the SW ¼ of the NW ¼ of Section 3, Township 7 South Range 89 West, Sixth PM at a point with UTM coordinates of 300283.6 Easting and 4372109.5 Northing. The use of ground water from this well is limited to ordinary household purposes inside one (1) single family dwelling and the irrigation of not more than 19,500 square feet of home gardens and lawns. The maximum pumping rate of this well shall not exceed 15 GPM. The annual withdrawal of ground water from this well shall not exceed 1.5 acre-foot (488,775 gallons). Evidence of construction was received on October 12, 1976 indicating the well was constructed on July 8, 1976 under Permit No. 79508 (canceled). Evidence of pump installation was received on June 4, 2019 indicating the pump was installed on July 8, 1976 and that the well produced 12 gallons per minute with a permanent pump.
5. Mollica Well: A well permit has not been issued for this well.
6. Pearson Well No. 1: Permit No. 113431 was issued on March 26, 1980 pursuant to C.R.S. § 37-92-602(3)(b)(II), to construct a new well. The permitted location of the well is in the SE ¼ of the NE ¼ of Section 9, Township 7 South Range 89 West, Sixth PM at a point 1650 feet from the North section line and 1300 feet from the East section line of said Section 9. The use of groundwater from this well is limited to household use only, for one single family dwelling and not to be used for irrigation. The maximum pumping rate of this well shall not exceed 15 GPM. Evidence of well construction has not been received. The permit is not valid per C.R.S. § 37-92-602(3)(d)(II).
7. McDermott Well No. 1: A well permit has not been issued for this well.
8. McDermott Well No.2: A well permit has not been issued for this well.
9. Cappel Well: Permit No. 84497-F was issued on July 10, 2020 pursuant to C.R.S. § 37-90-137(2), to construct a new well. This permit was approved on the condition that the well is operated in accordance with the West Divide Water Conservancy District Augmentation Plan approved by the Division 5 Water Court in case no. 02CW0123. WDWCD contract #FM200521CPL(a). The permitted location of the well is in the NE ¼ of the SW ¼ of Section 34, Township 6 South Range 89 West, Sixth PM on a 7.918 acre parcel described as Lot 1 of Sunlight Parkway Minor Subdivision. The use of ground water from this well is limited to ordinary household purposes inside one (1) single family dwelling, one (1) accessory dwelling unit, and the irrigation of not more than one acre (43,560 square feet) of home gardens and lawns. The pumping rate of this well shall not exceed 15 GPM. The annual withdrawal of ground water from this well shall not exceed 2.57 acre-foot. Evidence of construction was received on September 29, 2020 indicating the well was constructed on August 28, 2020 at a point with UTM coordinates of 300894 Easting and 4372923 Northing. Evidence of pump installation was received on August 20, 2021 indicating the pump was installed on July 6, 2021 and that the well produced 15 gallons per minute with a permanent pump. The permit is valid per C.R.S. § 37-90-137(3)(a)(I)(A).
10. Berger Well No. 1: Permit No. 114753 was issued on June 19, 1980 pursuant to C.R.S. § 37-92-602(3)(b)(II), to construct a new well. The permitted location of the well is in the NW ¼ of the NW ¼ of Section 10, Township 7 South Range 89 West, Sixth PM at a point 50 feet from the North section line and 340 feet from the West section line of said Section 10. The use of groundwater from this well is limited to household use only, for one single family dwelling and not to be used for irrigation. The maximum pumping rate of this well shall not exceed 15 GPM. Evidence of construction was received on October 5, 1982 indicating the well was constructed on June 18, 1982. Evidence of pump installation has not been received. The permit is valid per C.R.S. § 37-92-602(3)(d)(II).
11. Berger Well No. 2: Permit No. 316524 was issued on February 7, 2020 pursuant to C.R.S. § 37-92-602(3)(b)(II), to construct a new well. The permitted location of the well is in the NW ¼ of the NW ¼ of Section 10, Township 7 South Range 89 West, Sixth PM on a 5.84 acre parcel described as a portion of the NE 1/4 of the NE 1/4 of Section 9 and the NW 1/4 of the NW 1/4 of Section 10, Township 7 South, Range 89 West, Sixth P.M. The use of ground water from this well is limited to ordinary household purposes inside one single family dwelling. The ground water



shall not be used for irrigation or other purposes. The pumping rate of this well shall not exceed 15 GPM. Evidence of construction was received on January 10, 2022 indicating the well was constructed on December 22, 2021 at a point with UTM coordinates of 300069 Easting and 4370978 Northing. Evidence of pump installation has not been received. The permit is valid per C.R.S. § 37-92-602(3)(d)(II).

12. As proposed, the subject wells are to be operated in accordance with an augmentation plan decreed by this court in case no. 94CW344 (as amended by case no. 02CW225, 05CW148 and 17CW3130) and the proposed amendment to that augmentation plan pending before this court in this case. Additional information needs to be provided in accordance with the consultation recommendations made by the Division Engineer, to ensure this plan will replace all out of priority depletions in time, place and amount.

Based on the above findings, I find that the construction and use of the subject wells will injuriously affect the owner of, or persons entitled to use, water under a vested water right, or a decreed conditional water right, unless the wells are included in, and operated in accordance with, a plan for augmentation that adequately replaces out of priority depletions in time, place, and amount.

Per C.R.S. § 37-90-137(2), no permit shall be issued unless the location of the well will be at a distance of more than 600 feet from an existing well unless the State Engineer has found after a hearing that the circumstances in a particular instance so warrant, or if a court decree is entered for the well location after notice has been given as provided in C.R.S. § 37-90-137(2)(b)(II)(B).

CONCERNS

I cannot recommend approval of this application until the following concerns are addressed:

1. Any Ruling entered in this case should reference that 150 cfs of the 200 cfs originally decreed to the Four Mile Canal and Siphon water right was canceled by order of the Court dated July 11, 2012.
2. Applicant has not complied with the provisions in C.R.S. § 37-92-302 through 305 for changes of water rights. Specifically, Applicant must demonstrate the proposed change will not injure other water rights.
 - a. Applicant must provide a contemplated draft analysis to establish the historical draft of the Four Mile Canal and Siphon. This analysis should include the points of diversion, place of use, type of use and any volumetric limitations associated with the use or contemplated use of the water right.
 - b. Applicant must provide evidence that demonstrates that the diversion of the Four Mile Canal and Siphon at the proposed alternate points of diversion does not alter the timing, location, and amount of impact to the stream compared to the contemplated draft of Four Mile Canal and Siphon water right as originally decreed.
 - c. Any ruling entered in this case should include a term and condition that limits diversion at the proposed alternate points to the amount of water physically and legally available at the originally decreed point of diversion.
3. Any Ruling entered in this case must identify a specific location for each structure to be included in the plan for augmentation that includes a PLSS description comprised of Quarter-Quarter, Quarter, Section, Township, Range, P.M. and either distances from section lines or UTM coordinates.
4. Applicant must provide additional information for Trulove Pond #1, Trulove Pond #2, and Purshell Pond. Specifically, Applicant should identify if the above-referenced ponds are ponds exposing groundwater that would be administered as wells and require well permits or if they are ponds that store surface water. For the ponds that store surface water, Applicant should identify whether the ponds are on or off-channel and if off-channel, identify the source(s) of the ponds.
5. Applicant must substantiate how the Annual Diversion, Annual Depletion, Max Diversion Rate and Max Depletion Rate identified in the Structures to Added to 94CW344 – WDWCD Fourmile Plan for Augmentation table included with the application were determined for each structure to be added to the plan for augmentation. It should be noted that any structure operating pursuant to the plan for augmentation, as amended, will be limited to diverting at a rate equal to the Max Diversion Rate identified in the table.



6. Any Ruling entered in this case should include a complete list of all of the contracts and structures covered by the plan for augmentation, as amended, including their respective depletion location, annual diversion, annual depletion, EQRs to be augmented, max diversion rate, and max depletion rate.
7. Any Ruling entered in this case should include a term and condition that all terms and conditions decreed in Case Nos. 94CW0344, 02CW0225, 05CW0148, and 17CW3130 will remain unchanged other than the amendment requested in this application.
8. The map included as Figure 1 to the application should be revised to include Four Mile Creek and be included in any Ruling entered in this case.
9. In addition to a revised Figure 1 as identified in the above-referenced concern, any Ruling entered in this case should include a map that depicts all structures covered by the plan for augmentation, as amended.
10. A well permit issued pursuant to C.R.S. § 37-90-137(2) and the plan for augmentation, as amended, must be obtained prior to construction and/or operation of any well pursuant to the plan for augmentation, as amended.

RECOMMENDATIONS

Based on the above concerns, the State and Division Engineers ask that the issues discussed in this consultation be addressed prior to granting any change of water right or amendment to plan for augmentation.

Information requested in this consultation should be submitted to the Division 5 Water Court.

Date: February 22, 2023

SIGNED: _____


James R. Heath, P.E., Division Engineer

Staff Assigned: Caleb Foy

CERTIFICATE OF MAILING

I hereby certify that on this 26th day of February 2023, a true and correct copy of the foregoing Summary of Consultation of the Division Engineer was served to the individuals listed below, either electronically through Colorado Courts E-Filing System or by first-class U.S. mail, as indicated:

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