

**RIO GRANDE WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS QUARTERLY MEETING
July 20, 2021 at 9:00 A.M.
RIO GRANDE WATER CONSERVATION DISTRICT CONFERENCE ROOM
AND BY ZOOM TELECONFERENCE**

Present: Greg Higel, President; Armando Valdez, Vice-President; Dwight Martin, Secretary/Treasurer; Peggy Godfrey, Director; Zeke Ward, Director; Mike Kruse, Director; and Bill McClure, Director.

Absent: Cory Off, Director; and, Steve Keller, Director.

Staff and Consultants: David Robbins, Pete Ampe, Hill & Robbins P.C.; Cleave Simpson, General Manager; Clinton Phillips, District Engineer; Amber Pacheco, Program Manager; Marisa Fricke, Program Manager; Chris Ivers, Program Manager; Wylie Keller, Water Resource Specialist; Rose Vanderpool, Program Assistant; Linda Ramirez, Program Assistant; Cheryl Anderson, Office Manager; Michael Carson, Database Administrator; and April Mondragon, Administrative Assistant.

Guests: Becky Brooks, Eric Hinton, Ted Heersink, Jan Waye, John Gerstle, Peter Clark, Clay Mitchell, David Frees, Judy Lopez, Allen Law, Steve Vandiver, Antonio Huerta, Cloe Dickerson, Emma Reesor, David Hofmann, Chris Outcault, Daryl Kohut, Sheldon Rockey, George Whitten, Heather Dutton, Rio de la Vista, Craig Cotton, Sarah Parmar, Sally Weir, Chayito Espinoza, Suzanne Beauchaine, Erin Minks, Virgil Valdez, Jamie Hart, and Karla Shriver.

CALL TO ORDER

President Greg Higel called the meeting to order at 9:16 a.m. The Pledge of Allegiance was recited. There was a quorum present for the meeting. President Higel reported on Steve Keller's condition and asked everyone to keep him in their thoughts.

INTRODUCTION OF STAFF AND GUESTS

President Greg Higel welcomed all those present and asked for introductions.

APPROVE AGENDA

President Higel asked for any changes or additions to the agenda. A motion was made by Dwight Martin to approve the agenda as presented. The motion was seconded by Peggy Godfrey and unanimously approved.

APPROVE THE CONSENT AGENDA ITEMS

President Higel asked for a motion to approve the consent agenda items:

- March 18, 2021-Budget Hearing Minutes
- April 15, 2021-Special Meeting Minutes
- April 20, 2021-Quarterly Meeting Minutes
- April 20, 2021-Executive Session Minutes
- June 2, 2021-Special Meeting Minutes

A motion was made by Dwight Martin to approve the consent agenda. The motion was seconded by Mike Kruse and unanimously approved.

PUBLIC COMMENT

President Higel asked for public comment. Peggy Godfrey commented on the MOU that went before the Subdistricts in early spring regarding paying a prorated share of the depletions owed by the Russell Lakes to the river. Rio de la Vista highlighted the Water minor being launched at Adams State University.

REVIEW AND POSSIBLE ACTION

President Higel asked for review and possible action on the financial report. Cleave Simpson presented the financial statements including checking accounts, operating certificate of deposits, study accounts and money market accounts. Mr. Simpson highlighted that the Profit and Loss statement was tracking normal as well as the accounts receivable. He also presented and highlighted the District's balance sheet and each of the Subdistricts Balance Sheets.

A motion was made by Bill McClure to approve the financial report as presented. The motion was seconded by Armando Valdez and unanimously approved.

MANAGER'S REPORTS

President Higel asked for the Manager's reports.

- *HB21-1233:*
Cleave Simpson and Sarah Parmar presented and highlighted a signed Act from legislation, House Bill 21-1233. They highlighted the intent of the Bill was to incentivize additional participation in conservation programs and reported on the value in the state income tax credits and the ability to sell the credits. Director Kruse voiced his concerns and asked that the Board be kept informed as it goes along. David Robbins reported conservation easements could to be used by the District as another tool.
- *June 2021 Resume & Letter to Attorney General Weiser*
Cleave Simpson reported David Robbins would include the June 2021 resume/BLM trans basin Treasure Pass Diversion Ditch and the Letter to Attorney General Weiser/compact case update in his report.

DISTRICT LEGAL COUNCEL'S REPORT

President Higel asked for the district's attorney report. David Robbins updated the Board on the Texas vs. New Mexico case and issues he has been working on with Cleave regarding the Closed Basin Project. Mr. Robbins reported Pete Ampe has kept very busy working with the Subdistricts and with staff. He also provided an update on the BLM purchase of Treasure Pass Diversion Ditch and the water right applications filed in Water Court. Mr. Robbins reported working closely with Navajo development and reported Matt Montgomery is working on Waters of the US.

A motion was made by Armando Valdez to file a statement of opposition in support of the BLM resume request. The motion was seconded by Peggy Godfrey and unanimously approved.

President Higel thanked Mr. Robbins for his report

DISTRICT ENGINEER'S REPORT

President Higel asked for the district engineer's report. Clinton Phillips presented the change in the unconfined aquifer storage between July 2020 and 2021, the current aquifer level, current five (5) year average, and the acre feet needed to get to the -400,000 level. Mr. Phillips also presented the change in the confined and the unconfined storage.

President Higel thanked Mr. Phillips for his report.

DIVISION (3) ENGINEER'S REPORT-CRAIG COTTON

President Higel asked for the Division Engineers report. Craig Cotton provided an update on the compact and the forecast. He also reported on the good compliance in regards to the groundwater rules being in effect. Mr. Cotton highlighted his office had officially opened and are operating at half-staff. Director Kruse asked Mr. Cotton about setting the curtailment, discussion was held. Mr. Cotton explained debt carry over and evaporation loss on overpayment.

President Higel thanked Mr. Cotton for his report.

KOGOVSEK & ASSOCIATES-CHRISTINE ARBOGAST

President Higel asked for Kogovsek & Associates report. Cleave Simpson read Christine Arbogast's report into record. A copy is attached.

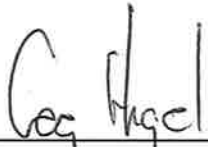
STEALEY II-BECKY BROOKS

President Higel asked for Stealey II report. Becky Brooks updated the Board on the past legislative session. She highlighted the lack of water legislation this year as well as the issues with the Waters of the US that arose. Ms. Brooks reported on the money to be utilized for farmers and the additional funding being secured for local issues within the Valley. Erin Minks from Senator Bennet's office provided a quick infrastructure update. Antonio Huerta from Senator Hickenlooper's office reported he looks forward to meeting everyone at the next meeting.

ADJOURN

The meeting was adjourned at 11:15 p.m.

The next scheduled quarterly meeting will be held on October 19, 2021 at 10:00 a.m.



President



Secretary/Treasurer

<p>DISTRICT COURT, WATER DIVISION NO. 3 DISTRICT COURT, WATER DIVISION NO. 3 COLORADO</p> <p>Alamosa County Courthouse 8955 Independence Way Alamosa, CO 81101 (719) 589-9107</p>	
<p>CONCERNING THE APPLICATION OF THE UNITED STATES OF AMERICA IN MINERAL, ARCHULETA, RIO GRANDE, CONEJOS AND ALAMOSA COUNTIES</p>	<p>▲ COURT USE ONLY ▲</p>
<p>David W. Robbins, # 6112 Peter J. Ampe, # 23452 Matthew A. Montgomery, #44039 Hill & Robbins, P.C. 1660 Lincoln St., Suite 2720 Denver, CO 80264 Phone: (303) 296-8100 Fax: (303) 296-2388 E-mail: davidrobbins@hillandrobbins.com peterampe@hillandrobbins.com matthewmontgomery@hillandrobbins.com</p>	<p>Case Number: 21CW3014</p> <p>Ctrm/Div: _____</p>
<p align="center">STATEMENT OF OPPOSITION IN SUPPORT</p>	

1. Name, mailing address, and telephone number of Objector:

Rio Grande Water Conservation District
8805 Independence Way
Alamosa, Colorado 81101
Telephone: 719-589-6301

2. State facts as to why the application (“application”) should not be granted or why it should be granted only in part or on certain conditions:

a. The Objector, Rio Grande Water Conservation District (“District”), was established pursuant to C.R.S. § 37-48-101, *et. seq.*, for the express purpose of safeguarding the waters of the Rio Grande, and its tributaries, to which Colorado is equitably entitled by the Rio Grande Compact, C.R.S. § 37-66-101, *et. seq.*

- b. The District is charged with, among other things, the conservation and management of the waters of the Rio Grande and its tributaries.
- c. The Rio Grande Compact defines the Rio Grande Basin to include the unconfined aquifer of the Closed Basin. In addition, the water in the confined aquifer is considered to be tributary to the Rio Grande and its tributaries. *American Water Development, Inc. v. City of Alamosa*, 874 P.2d 352, 389 (Colo. 1994); *Simpson v. Cotton Creek Circles, LLC*, 181 P.3d 252, 260 n.13 (Colo. 2008).
- d. At this time, the District generally supports the Application.
- e. The District reserves the right to state additional, more specific grounds for objection as more information becomes available.
- f. This Statement of Opposition is continuing in nature, until withdrawn, and shall apply equally to any other amended applications that may be filed herein, so that the filing of separate statements of opposition by the District to any such amended applications will be unnecessary.
- g. The District states affirmatively that it has directed its attorney to file this statement of opposition in order to do so within the statutory period.

Dated: July __, 2021.

Respectfully submitted,

signed original on file at Hill & Robbins, P.C.

s/ Peter J. Ampe

Peter J. Ampe

**VERIFICATION AND ACKNOWLEDGMENT OF APPLICANT OR OTHER PERSON
HAVING KNOWLEDGE OF THE FACTS STATED IN THIS APPLICATION**

VERIFICATION

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the 26th day of July 2021, at Alamosa, Colorado
(city or other location, and state OR country)

Cleave Simpson
Printed Name



Signature

The person signing this verification is: General Manager, Rio Grande Water Conservation District.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the ___ day of July, 2021, service of the foregoing **STATEMENT OF OPPOSITION IN SUPPORT** was made by CCE on all parties.

signed original on file at Hill & Robbins, P.C.

/s Peter J. Ampe

Peter J. Ampe

DISTRICT COURT, WATER DIVISION NO. 7 STATE OF COLORADO 1060 E. 2 nd Ave., Room 106 Durango, CO 81301 970-385-6181	
CONCERNING THE APPLICATION OF THE UNITED STATES OF AMERICA IN MINERAL, ARCHULETA, RIO GRANDE, CONEJOS AND ALAMOSA COUNTIES	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
David W. Robbins, # 6112 Peter J. Ampe, # 23452 Matthew A. Montgomery, #44039 Hill & Robbins, P.C. 1660 Lincoln St., Suite 2720 Denver, CO 80264 Phone: (303) 296-8100 Fax: (303) 296-2388 E-mail: davidrobbins@hillandrobbins.com peterampe@hillandrobbins.com matthewmontgomery@hillandrobbins.com	Case Number: 21CW3029 Ctrm/Div: _____
STATEMENT OF OPPOSITION IN SUPPORT	

1. Name, mailing address, and telephone number of Objector:

Rio Grande Water Conservation District
 8805 Independence Way
 Alamosa, Colorado 81101
 Telephone: 719-589-6301

2. State facts as to why the application (“application”) should not be granted or why it should be granted only in part or on certain conditions:

- a. The Objector, Rio Grande Water Conservation District (“District”), was established pursuant to C.R.S. § 37-48-101, *et. seq.*, for the express purpose of safeguarding the waters of the Rio Grande, and its tributaries, to which Colorado is equitably entitled by the Rio Grande Compact, C.R.S. § 37-66-101, *et. seq.*

- b. The District is charged with, among other things, the conservation and management of the waters of the Rio Grande and its tributaries.
- c. The Rio Grande Compact defines the Rio Grande Basin to include the unconfined aquifer of the Closed Basin. In addition, the water in the confined aquifer is considered to be tributary to the Rio Grande and its tributaries. *American Water Development, Inc. v. City of Alamosa*, 874 P.2d 352, 389 (Colo. 1994); *Simpson v. Cotton Creek Circles, LLC*, 181 P.3d 252, 260 n.13 (Colo. 2008).
- d. At this time, the District generally supports the Application.
- e. The District reserves the right to state additional, more specific grounds for objection as more information becomes available.
- f. This Statement of Opposition is continuing in nature, until withdrawn, and shall apply equally to any other amended applications that may be filed herein, so that the filing of separate statements of opposition by the District to any such amended applications will be unnecessary.
- g. The District states affirmatively that it has directed its attorney to file this statement of opposition in order to do so within the statutory period.

Dated: July __, 2021.

Respectfully submitted,

signed original on file at Hill & Robbins, P.C.

s/ Peter J. Ampe

Peter J. Ampe

**VERIFICATION AND ACKNOWLEDGMENT OF APPLICANT OR OTHER PERSON
HAVING KNOWLEDGE OF THE FACTS STATED IN THIS APPLICATION**

VERIFICATION

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the 26th day of July 2021, at Alamosa, Colorado
(city or other location, and state OR country)

Cleave Simpson
Printed Name



Signature

The person signing this verification is: General Manager, Rio Grande Water Conservation District.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the ___ day of July, 2021, service of the foregoing **STATEMENT OF OPPOSITION IN SUPPORT** was made CCE on all parties.

signed original on file at Hill & Robbins, P.C.

/s Peter Ampe
Peter Ampe

Cleave Simpson

From: Christine Arbogast <christinekanda@aol.com> on behalf of Christine Arbogast
Sent: Monday, July 19, 2021 9:01 AM
To: Cleave Simpson
Subject: update to Board

As Congress approaches its late summer break, the rush is on to advance the infrastructure initiative. The Senate Energy and Natural Resources last week passed with bipartisan support a bill for agencies under its jurisdiction.

While heavily energy, the bill includes \$8.3 billion in spending authority for the Bureau of Reclamation. Included in that amount is \$1 billion for the rural water projects under construction. Completing them sooner with this investment will leave more room in the Bureau's budget for other projects. Also included is significant investment in storage and conveyance projects; recycle/reuse project; Water SMART; desalinization; drought contingency planning for the Colorado River.

The tentative plan is to roll the Committee bill into the broader infrastructure package and make the spending mandatory and not subject to annual appropriation. It is far from a done deal, but there is real enthusiasm in the West based on the significant proposed investment in Western water infrastructure.

In addition, the House Energy and Water Appropriations Subcommittee has marked up its bill for FY '22. It is \$417 million over the Administration's budget request for Reclamation, putting the agency at \$1.9 billion for the fiscal year after a decade of being stuck at just about \$1 billion. The House expects to move this bill to the floor before the August break, and the Senate is expected to begin action in September.

I have been working with legal counsel and your general manager on a plan to visit with the Upper Colorado River Basin BoR regional director about the Closed Basin Project, funding patterns, etc.

This Thursday, I will be participating in a drought roundtable with the Secretary of the Interior in Denver.

Please feel free to contact me with any questions you might have.

Christine Arbogast
Kogovsek & Associates, Inc.
720-373-3655

Sent from my iPad

An Act

HOUSE BILL 21-1233

BY REPRESENTATIVE(S) Roberts and Will, Bernett, Bird, Bockenfeld, Esgar, Exum, Hooton, Jodeh, McCormick, Michaelson Jenet, Pelton, Ricks, Snyder, Valdez D.;
also SENATOR(S) Donovan and Winter, Priola.

CONCERNING MODIFICATIONS TO THE REQUIREMENTS FOR CLAIMING AN INCOME TAX CREDIT FOR THE DONATION OF A PERPETUAL CONSERVATION EASEMENT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 12-15-102, **add** (3) as follows:

12-15-102. Division of conservation - creation - director. (3) TO AID IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE 15, THE DIVISION HAS THE AUTHORITY TO ACCEPT GRANTS FOR AND ACT AS A HOLDER OF CONSERVATION EASEMENTS IN GROSS.

SECTION 2. In Colorado Revised Statutes, 38-30.5-104, **amend** (2) as follows:

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

38-30.5-104. Creation of conservation easements in gross. (2) A conservation easement in gross may only be created through a grant to or a reservation by a governmental entity, INCLUDING THE DIVISION OF CONSERVATION CREATED IN SECTION 12-15-102, or a grant to or a reservation by a charitable organization exempt under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, which organization was created at least two years prior to receipt of the conservation easement.

SECTION 3. In Colorado Revised Statutes, 39-21-113, **add** (30) as follows:

39-21-113. Reports and returns - rule. (30) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION:

(a) THE EXECUTIVE DIRECTOR MAY PROVIDE SUCH DETAILED TAXPAYER INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX CREDIT FOR THE DONATION OF A PERPETUAL CONSERVATION EASEMENT IN GROSS PURSUANT TO SECTION 39-22-522 TO TAXPAYERS, INCLUDING OWNERS AND TRANSFEREES, WITH CASES INVOLVING COMMON OR RELATED ISSUES OF FACT OR LAW. WITH THE EXCEPTION OF TAXPAYER CONTACT INFORMATION, ANY INFORMATION PROVIDED PURSUANT TO THIS SUBSECTION (30) MUST REMAIN CONFIDENTIAL, AND ALL PERSONS ARE SUBJECT TO THE LIMITATIONS SPECIFIED IN SUBSECTION (4) OF THIS SECTION AND THE PENALTIES SPECIFIED IN SUBSECTION (6) OF THIS SECTION.

(b) THE EXECUTIVE DIRECTOR MAY REQUIRE THAT SUCH DETAILED TAXPAYER INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX CREDIT FOR THE DONATION OF A PERPETUAL CONSERVATION EASEMENT PURSUANT TO SECTION 39-22-522 AND ANY DOCUMENTATION IN SUPPORT OF THE CREDIT CLAIMED BE GIVEN TO THE DIVISION OF CONSERVATION AS THE EXECUTIVE DIRECTOR DETERMINES IS NECESSARY IN THE PERFORMANCE OF THE DEPARTMENT'S FUNCTIONS RELATING TO THE CREDIT. IN RESOLVING DISPUTES REGARDING THE CREDIT, THE EXECUTIVE DIRECTOR MAY DISCLOSE SUCH DETAILED TAXPAYER INFORMATION AND CONSULT WITH THE DIVISION OF CONSERVATION. NOTWITHSTANDING PART 2 OF ARTICLE 72 OF TITLE 24, IN ORDER TO PROTECT THE CONFIDENTIAL FINANCIAL INFORMATION OF A TAXPAYER, THE EXECUTIVE DIRECTOR SHALL DENY THE RIGHT TO INSPECT ANY INFORMATION OR DOCUMENTATION REQUIRED IN ACCORDANCE WITH

THIS SUBSECTION (30).

SECTION 4. In Colorado Revised Statutes, 39-22-522, **amend** (1), (2.7), (3.5)(b), (3.6), (4)(a)(II.5), (4)(b), (5)(b)(III), (6), (7) introductory portion, (7)(i), and (7)(j); **repeal** (7)(d), (10), and (11); and **add** (4)(a)(II.7) and (7.5) as follows:

39-22-522. Credit against tax - conservation easements - definition. (1) For purposes of this section:

(a) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2021, "taxpayer" means a resident individual or a domestic or foreign corporation subject to the provisions of part 3 of this article, a partnership, S corporation, or other similar pass-through entity, estate, or trust that donates a conservation easement as an entity, and a partner, member, and subchapter S shareholder of such pass-through entity.

(b) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2021, "TAXPAYER" MEANS ANY PERSON OR ENTITY FILING A STATE INCOME TAX RETURN OR A DOMESTIC OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS ARTICLE 22, A PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR PASS-THROUGH ENTITY, ESTATE, TRUST, NONPROFIT ENTITY, OR AN ENTITY THAT HAS AUTHORITY TO CONDUCT WATER ACTIVITIES, AS DEFINED BY SECTION 37-45.1-102 (3) AND CREATED PURSUANT TO ARTICLE 41, 45, 46, 47, 48, OR 50 OF TITLE 37, OR ARTICLE 42 OF TITLE 7, THAT CONVEYS A CONSERVATION EASEMENT IN GROSS PURSUANT TO SECTION 38-30.5-104. A DITCH OR RESERVOIR COMPANY FORMED PURSUANT TO ARTICLE 42 OF TITLE 7, OR OTHERWISE, IS ENTITLED TO ACT ON ITS OWN BEHALF IN GRANTING A CONSERVATION EASEMENT AND EARNING AND TRANSFERRING TAX CREDITS UNDER THIS SECTION, WHETHER OR NOT ANY OF ITS SHAREHOLDERS OR MEMBERS ARE GOVERNMENTAL ENTITIES.

(2.7) Notwithstanding any other provision, for income tax years commencing on or after January 1, 2014, no claim for a credit shall be allowed unless a tax credit certificate is issued by the division of real estate prior to May 30, 2018, or by the division of conservation on or after May 30, 2018, in accordance with sections 12-15-105 and 12-15-106 and, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, BUT PRIOR TO JANUARY 1, 2022, the taxpayer files the tax credit certificate with the income tax return filed with the department of revenue.

(3.5) (b) (I) For conservation easements donated on or after January 1, 2014, and subject to the restrictions of section 12-15-106 (4), the executive director shall have the authority, pursuant to subsection (8) of this section, to require additional information from the taxpayer or transferee regarding the amount of ~~the~~ A credit TRANSFERRED PRIOR TO JANUARY 1, 2021, and the validity of the credit. In resolving disputes regarding the validity or the amount of a credit allowed pursuant to subsection (2) of this section, the executive director shall have the authority, for good cause shown, to review and accept or reject, in whole or in part, the amount of the credit and the validity of the credit based upon the internal revenue code and federal regulations in effect at the time of the donation, except those requirements for which authority is granted to the division of conservation, the director of the division of conservation, or the conservation easement oversight commission pursuant to section 12-15-106.

(II) FOR TAX CREDIT CERTIFICATES ISSUED BY THE DIVISION FOR USE ON OR AFTER JANUARY 1, 2021, THE TRANSFEROR AND TRANSFEREE OF THE TAX CREDIT SHALL JOINTLY FILE A COPY OF THE WRITTEN TRANSFER AGREEMENT WITH THE DIVISION OF CONSERVATION WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3.5)(b)(II) OR THE DATE OF THE TRANSFER, WHICHEVER IS LATER. IF THE CREDIT BEING TRANSFERRED WAS ISSUED FOR A YEAR OTHER THAN THE YEAR IN WHICH IT IS TRANSFERRED, THE TRANSFEROR SHALL FURTHER SUBMIT A COPY OF THE TRANSFEROR'S DR1305 FORM FOR EACH YEAR FROM THE YEAR FOR WHICH THE CREDIT WAS ISSUED THROUGH THE MOST RECENT YEAR FOR WHICH TAXES WERE DUE. THE DIVISION SHALL ISSUE A CERTIFICATE TO THE TRANSFEREE IN THE AMOUNT OF THE TAX CREDIT TRANSFERRED AND, IF ANY AMOUNT IS RETAINED BY THE TRANSFEROR, ISSUE A CERTIFICATE TO THE TRANSFEROR IN THE AMOUNT RETAINED. IN NO EVENT SHALL A TRANSFEREE BE ALLOWED TO CLAIM AN AMOUNT GREATER THAN THE AMOUNT SPECIFIED IN THE CERTIFICATE ISSUED TO THE TRANSFEREE. THE DIVISION SHALL DEVELOP A SYSTEM TO TRACK THE TRANSFERS OF TAX CREDITS AND TO CERTIFY THE OWNERSHIP OF TAX CREDITS. A CERTIFICATION ISSUED FOR USE ON OR AFTER JANUARY 1, 2021, BY THE DIVISION OF THE OWNERSHIP AND AMOUNT OF TAX CREDITS SHALL BE RELIED UPON BY THE DEPARTMENT OF REVENUE AND THE TRANSFEREE AS BEING ACCURATE, AND NEITHER THE DIVISION NOR THE DEPARTMENT OF REVENUE SHALL ADJUST THE AMOUNT OF TAX CREDITS CERTIFIED BY THE DIVISION AS TO THE TRANSFEREE; EXCEPT THAT THE DIVISION AND DEPARTMENT RETAIN ANY REMEDIES IT MAY HAVE AGAINST THE LANDOWNER. THE DIVISION MAY PROMULGATE RULES TO

PERMIT VERIFICATION OF THE OWNERSHIP AND AMOUNT OF THE TAX CREDITS; EXCEPT THAT ANY RULES PROMULGATED SHALL NOT UNDULY RESTRICT OR HINDER THE TRANSFER OF THE TAX CREDITS.

(3.6) (a) For conservation easements donated on or after January 1, 2014, in order for any taxpayer to ~~qualify for~~ CLAIM the credit provided for in subsection (2) of this section, the taxpayer must submit the following in a form, approved by the executive director, to the department of revenue at the same time as the taxpayer files a return for the taxable year in which the credit is claimed:

~~(a)~~ (I) A tax credit certificate issued under section 12-15-106; and

(II) The information required in ~~subsections (3)(a), (3)(b), (3)(d), and (3)(f)(H)~~ SUBSECTIONS (3)(a) AND (3)(b) of this section.

(b) Notwithstanding any other provisions of law, the executive director retains the authority to administer all issues related to the claim or use of a tax credit for the donation of a conservation easement that are not granted to the director of the division of conservation or the conservation easement oversight commission under section 12-15-106.

~~(c) The information required in paragraph (f) of subsection (3) of this section will no longer be required from the holder of the conservation easement.~~

(4) (a) (II.5) For a conservation easement in gross created in accordance with article 30.5 of title 38 that is donated on or after January 1, 2015, BUT PRIOR TO JANUARY 1, 2021, to a governmental entity or a charitable organization described in section 38-30.5-104 (2), the credit provided for in subsection (2) of this section shall be an amount equal to seventy-five percent of the first one hundred thousand dollars of the fair market value of the donated portion of such conservation easement in gross when created, and fifty percent of all amounts of the donation in excess of one hundred thousand dollars; except that in no case shall the credit exceed five million dollars per donation. Credits shall be issued in increments of no more than one million five hundred thousand dollars per year. Credits for easements donated in a prior year shall be eligible for tax credit certificates in subsequent years in order of application and before new applications and those credit applications, if any, on the wait list.

(II.7) FOR A CONSERVATION EASEMENT IN GROSS CREATED IN ACCORDANCE WITH ARTICLE 30.5 OF TITLE 38 THAT IS DONATED ON OR AFTER JANUARY 1, 2021, TO A GOVERNMENTAL ENTITY OR A CHARITABLE ORGANIZATION DESCRIBED IN SECTION 38-30.5-104 (2), THE CREDIT PROVIDED FOR IN SUBSECTION (2) OF THIS SECTION IS AN AMOUNT EQUAL TO NINETY PERCENT OF THE FAIR MARKET VALUE OF THE DONATED PORTION OF SUCH CONSERVATION EASEMENT IN GROSS WHEN CREATED; EXCEPT THAT IN NO CASE SHALL THE CREDIT EXCEED FIVE MILLION DOLLARS PER DONATION. CREDITS SHALL BE ISSUED IN INCREMENTS OF NO MORE THAN ONE MILLION FIVE HUNDRED THOUSAND DOLLARS PER YEAR. CREDITS FOR EASEMENTS DONATED IN A PRIOR YEAR ARE ELIGIBLE FOR TAX CREDIT CERTIFICATES IN SUBSEQUENT YEARS IN ORDER OF APPLICATION AND BEFORE NEW APPLICATIONS AND THOSE CREDIT APPLICATIONS, IF ANY, ON THE WAIT LIST.

(b) (I) For income tax years commencing on or after January 1, 2000, in the case of a joint tenancy, tenancy in common, partnership, S corporation, or other similar entity or ownership group that donates a conservation easement as an entity or group, the amount of the credit allowed pursuant to subsection (2) of this section ~~shall~~ MUST be allocated to the entity's owners, partners, members, or shareholders in proportion to the owners', partners', members', or shareholders' distributive shares of income or ownership percentage from such entity or group.

(II) (A) For income tax years commencing on or after January 1, 2000, but prior to January 1, 2003, the total aggregate amount of the credit allocated to such owners, partners, members, and shareholders shall not exceed one hundred thousand dollars, and, if any refund is claimed pursuant to ~~subparagraph (f) of paragraph (b) of subsection (5)~~ SUBSECTION (5)(b)(I) of this section, the aggregate amount of the refund and the credit claimed by such partners, members, and shareholders shall not exceed twenty thousand dollars for that income tax year.

(B) For income tax years commencing on or after January 1, 2003, but prior to January 1, 2007, the total aggregate amount of the credit allocated to such owners, partners, members, and shareholders shall not exceed two hundred sixty thousand dollars, and, if any refund is claimed pursuant to ~~subparagraph (f) of paragraph (b) of subsection (5)~~ SUBSECTION (5)(b)(I) of this section, the aggregate amount of the refund and the credit claimed by such owners, partners, members, and shareholders shall not exceed fifty thousand dollars for that income tax year.

(C) For income tax years commencing on or after January 1, 2007, AND PRIOR TO JANUARY 1, 2015, the total aggregate amount of the credit allocated to such owners, partners, members, and shareholders shall not exceed three hundred seventy-five thousand dollars, and, if any refund is claimed pursuant to ~~subparagraph (I) of paragraph (b) of subsection (5)~~ SUBSECTION (5)(b)(I) of this section, the aggregate amount of the refund and the credit claimed by such owners, partners, members, and shareholders shall not exceed fifty thousand dollars for that income tax year.

(D) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2015, THE TOTAL AGGREGATE AMOUNT OF THE CREDIT ALLOCATED TO SUCH OWNERS, PARTNERS, MEMBERS, AND SHAREHOLDERS SHALL NOT EXCEED FIVE MILLION DOLLARS, AND, IF ANY REFUND IS CLAIMED PURSUANT TO SUBSECTION (5)(b)(I) OF THIS SECTION, THE AGGREGATE AMOUNT OF THE REFUND AND THE CREDIT CLAIMED BY SUCH OWNERS, PARTNERS, MEMBERS, AND SHAREHOLDERS SHALL NOT EXCEED FIFTY THOUSAND DOLLARS FOR THAT INCOME TAX YEAR.

(5) (b) (III) If any refund is claimed pursuant to ~~subparagraph (I) of this paragraph (b)~~ SUBSECTION (5)(b)(I) OF THIS SECTION, then the aggregate amount of the refund and amount of the credit used as an offset against income taxes, EXCLUDING AMOUNTS TRANSFERRED TO OR USED BY A TRANSFEREE, for that income tax year shall not exceed fifty thousand dollars for that income tax year. In the case of a partnership, S corporation, or other similar pass-through entity that donates a conservation easement as an entity, if any refund is claimed pursuant to ~~subparagraph (I) of this paragraph (b)~~ SUBSECTION (5)(b)(I) OF THIS SECTION, the aggregate amount of the refund and the credit claimed by the partners, members, or shareholders of the entity shall not exceed the dollar limitation set forth in this ~~subparagraph (III)~~ SUBSECTION (5)(b)(III) for that income tax year. Nothing in this ~~subparagraph (III)~~ SUBSECTION (5)(b)(III) shall limit a taxpayer's ability to claim a credit against taxes due in excess of fifty thousand dollars in accordance with subsection (4) of this section.

(6) (a) For conservation easements donated prior to January 1, 2014, a taxpayer may claim only one tax credit under this section per income tax year; except that a transferee of a tax credit under subsection (7) of this section may claim an unlimited number of credits. A taxpayer who has carried forward or elected to receive a refund of part of the tax credit in accordance with subsection (5) of this section shall not claim an additional

tax credit under this section for any income tax year COMMENCING PRIOR TO JANUARY 1, 2014, in which the taxpayer applies the amount carried forward against income tax due or receives a refund. A ~~taxpayer~~ TRANSFEROR who has transferred a credit to a transferee pursuant to subsection (7) of this section shall not claim an additional tax credit under this section for any income tax year COMMENCING PRIOR TO JANUARY 1, 2014, in which the transferee uses such transferred credit. COMMENCING JANUARY 1, 2014, A TAXPAYER MAY CLAIM ONE TAX CREDIT PER YEAR REGARDLESS OF WHETHER THE TAXPAYER HAS CREDITS REMAINING FROM ANY PRIOR CONSERVATION EASEMENT DONATION.

(b) For conservation easements donated on or after ~~January 1, 2014~~ JANUARY 1, 2000, a taxpayer may claim only one tax credit under this section per income tax year; except that a transferee of a tax credit under subsection (7) of this section may claim an unlimited number of credits.

(7) For income tax years commencing on or after January 1, 2000, a taxpayer may transfer all or a portion of a tax credit granted pursuant to subsection (2) of this section to ~~another taxpayer~~ A TRANSFEREE for such ~~other taxpayer, as~~ transferee to apply as a credit against the taxes imposed by this ~~article~~ ARTICLE 22 subject to the following limitations:

~~(d) For any tax year in which a tax credit is transferred pursuant to this subsection (7), both the taxpayer and the transferee shall file written statements with their income tax returns specifying the amount of the tax credit that has been transferred. A transferee may not claim a credit transferred pursuant to this subsection (7) unless the taxpayer's written statement verifies the amount of the tax credit claimed by the transferee.~~

(i) FOR A DONATION MADE PRIOR TO JANUARY 1, 2021, the donor of an easement for which a tax credit is claimed or the transferor of a tax credit CLAIMED FOR THE DONATION OF THE EASEMENT transferred pursuant to this subsection (7) ~~shall be~~ IS the tax matters representative in all matters with respect to the credit. The tax matters representative ~~shall be~~ IS responsible for representing and binding the transferees with respect to all issues affecting the credit, including, but not limited to, the charitable contribution deduction, the appraisal, notifications and correspondence from and with the department of revenue, audit examinations, assessments or refunds, settlement agreements, and the statute of limitations. The transferee ~~shall be~~ IS subject to the same statute of limitations with respect to the credit as the

transferor of the credit.

(j) FOR A TAX CREDIT CLAIMED FOR THE DONATION OF AN EASEMENT MADE PRIOR TO JANUARY 1, 2021, final resolution of disputes regarding the tax credit between the department of revenue and the tax matters representative, including final determinations, compromises, payment of additional taxes or refunds due, and administrative and judicial decisions, ~~shall be~~ IS binding on transferees.

(7.5) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2021, IN LIEU OF A CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE 22, THERE IS ALLOWED A TRANSFERABLE EXPENSE AMOUNT TO EACH QUALIFIED ENTITY THAT DONATES DURING THE TAXABLE YEAR ALL OR PART OF THE VALUE OF A PERPETUAL CONSERVATION EASEMENT IN GROSS CREATED PURSUANT TO ARTICLE 30.5 OF TITLE 38 UPON REAL PROPERTY THE QUALIFIED ENTITY OWNS TO A GOVERNMENTAL ENTITY OR A CHARITABLE ORGANIZATION DESCRIBED IN SECTION 38-30.5-104 (2). A TRANSFERABLE EXPENSE AMOUNT SHALL BE TREATED IN ALL MANNERS AS A TAX CREDIT FOR PURPOSES OF THIS SECTION, INCLUDING PROVISIONS GOVERNING THE AMOUNT, VALUATION, AND TRANSFER OF A TAX CREDIT; EXCEPT THAT THE TRANSFERABLE EXPENSE AMOUNT MAY ONLY BE TRANSFERRED TO A TRANSFEREE TO BE CLAIMED BY THE TRANSFEREE AS A CREDIT PURSUANT TO THIS SECTION. A QUALIFIED ENTITY MAY TRANSFER A TRANSFERABLE EXPENSE AMOUNT TO BE CLAIMED AS A CREDIT BY A TRANSFEREE PURSUANT TO THIS SECTION REGARDLESS OF WHETHER THE QUALIFIED ENTITY RECEIVES VALUE IN EXCHANGE FOR THE TRANSFER.

(b) AS USED IN THIS SUBSECTION (7.5), "QUALIFIED ENTITY" MEANS A GOVERNMENTAL ENTITY THAT MEETS THE DEFINITION OF "TAXPAYER" AS SET FORTH IN SUBSECTION (1)(b) OF THIS SECTION BUT IS OTHERWISE EXEMPT FROM THE INCOME TAXES IMPOSED BY THIS ARTICLE 22.

~~(10) On or before July 1, 2008, the department of revenue shall create a report, which shall be made available to the public, on the credits claimed in the previous year in accordance with this section. For each credit claimed for a conservation easement in gross, the report shall summarize by county where the easement is located, the acres under easement, the appraised value of the easement, the donated value of the easement, and the name of any holders of the easement, except that the department shall combine such information for multiple counties where necessary to ensure~~

~~that the information for no fewer than three easements is summarized for any county or combination of counties in the report. The report shall be updated annually to reflect the same information for any additional credits that have been granted since the previous report. This report shall not be required for conservation easements donated on or after January 1, 2014.~~

~~(11) On or before December 31, 2007, the department of revenue shall create a report, which shall be made available to the public, with as much of the information specified in paragraph (c) of subsection (3) of this section as is available to the department, summarized by county, for each tax credit claimed for a conservation easement in gross for tax years commencing on or after January 1, 2000. This report shall not be required for conservation easements donated on or after January 1, 2014.~~

SECTION 5. Appropriation. (1) For the 2021-22 state fiscal year, \$254,372 is appropriated to the department of regulatory agencies. This appropriation is from the conservation cash fund created in section 12-15-107, C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$158,666 for use by the division of conservation for conservation easement program costs, which amount is based on an assumption that the division will require an additional 2.0 FTE; and

(b) \$95,706 for the purchase of legal services.

(2) For the 2021-22 state fiscal year, \$206,998 is appropriated to the department of revenue. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$159,145 for tax administration IT system (GenTax) support; and

(b) \$47,853 for the purchase of legal services.

(3) For the 2021-22 state fiscal year, \$143,559 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (1)(b) and the department of revenue under subsection (2)(b) of this section and is based on an assumption that the department of law will require an additional 0.9

FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of regulatory agencies and the department of revenue.

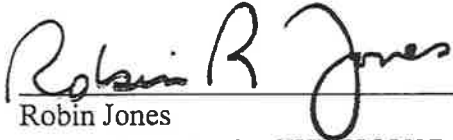
SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Leroy M. Garcia
PRESIDENT OF
THE SENATE

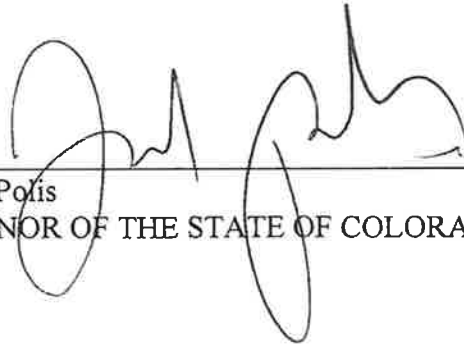


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED June 30, 2021 at 3:15pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

DISTRICT COURT, WATER DIVISION 3, STATE OF COLORADO
TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS FILED IN
WATER DIVISION 3.

Pursuant to C.R.S. 37-92-302(3), you are notified that the following is a resume in Water Division 3, containing notice of applications and certain amendments filed in the office of the Water Clerk during the month of June, 2021 for each county affected.

21CW3014 Application For Change of Surface Water Right and Appropriative Rights of Exchange in Mineral, Archuleta, Rio Grande, Conejos and Alamosa Counties. **1. Name, Address and Telephone Number of Applicant:** United States of America, Department of the Interior. Bureau of Land Management, San Luis Valley Field Office 1313 Highway 160, Monte Vista, CO 81144. **2. Introduction and Background.** The Bureau of Land Management (BLM) acquired the trans-basin Treasure Pass Diversion Ditch (ditch) and its associated water right in April 2019. BLM is simultaneously filing two water right applications to accomplish its management objectives for this ditch. In Water Division 3, BLM is filing an application to change the historic Treasure Pass Diversion Ditch water right to types of use and places of use that will support BLM's resource management objectives along with claiming appropriative rights of exchange. In Water Division 7, BLM is filing an application for a junior water right to be diverted at the ditch along with appropriative rights of exchange. The BLM is pursuing these dual applications because BLM has demands in excess of the historic Treasure Pass Diversion Ditch water right of 7 cubic feet per second (cfs). These demands are partially satisfied by diversions from the ditch under a junior water right. The historical diversion records for the ditch show frequent diversions in the range between 7 cfs and 13 cfs, demonstrating that there is physical capacity in the ditch above 7 cfs, and that diversions above 7 cfs were part of the historical operating practice. This application, which focuses on the change of the historical water right, addresses diversion diversions of up to 7 cfs that were made under the historical water right. The changed historical water right and the new junior water right will support wetlands habitat and wildlife management at BLM's Blanca Wetlands Area (Blanca Wetlands) and South San Luis Lakes Area (SSLA). To deliver the changed water right and new junior water right in the correct timing and amount to support wetland habitat and wildlife management objectives, the applications request water court confirmation of the storage and subsequent release of the changed historical water right and new junior water right for beneficial use. The reservoirs in which changed historical water right and junior water right will be stored include reservoirs owned and managed by Colorado Parks and Wildlife (CPW) and other reservoirs where BLM has agreements for storage space. In addition, the applications request water court confirmation of exchange operations involving the changed historical water right and junior water right. These operations are required to move diverted water into storage and to deliver direct flow and stored water to the place of use at Blanca Wetlands and SSLA. **3. Water Court Jurisdiction and Venues.** The appropriate venue in which to adjudicate a change application for a trans-basin ditch is Water Division No. 3, the basin of use. See *Department of Natural Resources v. Ogburn*, 560 P.2d 4 at 5 (Colo. 1977). Statements of Opposition should be filed in Water Division No. 3. The appropriate venue in which to adjudicate a junior water right for an

existing trans-basin ditch is Water Division No. 7, the basin of diversion. (*See id.*) Statements of Opposition should be filed in Water Division 7. To provide broad inquiry-level notice, the change of water right application and the junior water right application will be noticed in both Water Division 3 and Water Division 7. Both applications also include an attachment showing the application that is filed simultaneously in the other Water Division, so that any inquiring party reviewing the application will be able to see all pending water rights applications concerning Treasure Pass Diversion Ditch. **4. Previous Decree Information for Water Right to be Changed.** **A. Water Rights:** The BLM purchased 100% interest in and to the Treasure Pass Diversion Ditch and its associated water right. **B. Original Decree:** Civil Action 73 and 308, District Court In and For Archuleta County, Colorado. **C. Adjudication Date:** April 19, 1962. **D. Appropriation Date:** August 1, 1922. **E. Priority:** Priority No. 284 in Water District No. 29. **F. Use:** For the irrigation of the said eight hundred (800) acres of land located in Water District No. 20 of Colorado, and as supplemental to and in addition to the decreed rights for the same land in Water District No. 20. **G. Amount:** 7.0 cfs, absolute **H. Source:** Unnamed tributaries to Wolf Creek, which are tributary of the West Fork of the San Juan River. **I. Decreed Points of Diversion:** The said ditch is located on unsurveyed land, but a monument was erected on the top of what is known as Wolfe Creek Pass, in Mineral County, Colorado, consisting of a post 4" in diameter set in the ground surrounded to a height of 2 1/2 feet by a mound of flat rock. The headgate of the North Feeder Lateral is located at a point on the south bank of a tributary to Wolfe Creek, a tributary of the West Fork of the San Juan River, from which it derives its supply of water, whence the monument bears South 50degrees 26' East 2,226.3 feet. The headgate of the South Feeder Lateral is located at a point on the north bank of a tributary to Wolfe Creek, a tributary of the West Fork of the San Juan River, from which it derives its supply of water, whence the aforesaid monument bears North 41degrees 04' East 3,347.8 feet in Mineral County, Colorado. **J. Place of Delivery:** *Description from the CA308 decree:* Claim is made to convey the water by the two feeder laterals mentioned into the main channel of Treasure Pass Diversion Ditch and thence conveyed across Wolf Creek Pass and deliver the water into the West Fork of Pass Creek, and thence to the Rio Grande River to the San Luis Valley, where its equivalent will be diverted into ditches utilized by Claimants for the irrigation of their land by the Rio Grande River. *BLM Description of Facilities Outlined in the CA308 Decree:* The North Feeder Lateral and the South Feeder Lateral are constructed at a grade that carries the water from the diversion points to Wolf Creek Pass. At Wolf Creek Pass, the two feeders join, and the water is carried across the pass in a common ditch and measured by a flume equipped with satellite telemetry. Because this water is trans-basin water, diverted from the San Juan basin into the Rio Grande basin, one hundred percent (100%) of the water delivered to the Rio Grande basin may be consumptively used to extinction. The GPS coordinates for the measurement device on the ditch are NAD 83 Zone 13 340870mE 4149936mN **K. Place of Use:** Approximately eight hundred (800) acres of land owned by Claimants located in Township 40 North, Range 6 East, N.M.P.M. in the County of Rio Grande and the State of Colorado. **5. Change of use.** **A. Summary.** BLM seeks to change the Treasure Pass Diversion Ditch water right described in Paragraph 4 from the original irrigation use to multiple uses, including irrigation, described below. BLM also seeks to change the place of use to the locations described below. **B. Decreed Points of Diversion:** The points of diversion will remain as set forth above in Paragraph 4I. **C. Place of Delivery.** The initial place of delivery will continue, as it has historically, to be the West Fork of Pass Creek, as

described in Paragraph 4J. After diverted water is released to West Fork Pass Creek, it will be delivered to the places of storage and places of use described below. **D. Places of Storage.** BLM requests water court authorization to store the changed water right in any of the following reservoirs, including authorization to carry over stored water in these facilities from one water year to the next. BLM will not store water in any of the reservoirs listed below without the written permission of the reservoir owner. This application does not request an independent water storage right in any of the reservoirs listed below and instead requests authorization to store water pursuant to an agreement between the reservoir owner and BLM.

Table 5D. Reservoir Storage Locations.

Reservoir Name	WDID	Relevant Decree	Absolute Amount (AF)	Adjud. Date	Approp. Date	Legal Description
Alberta Park Reservoir	2003531	CA2673	597.5	1/27/1960	9/27/1930	Located at a point on the northwesterly end of the dam, whence the NW corner of Sec.19, T39N, R2E, NMPM bears North 26degrees27' West 56,628 feet.
Beaver Park Reservoir	2003532	09/13/1916 CA2673	4,434 334.4	9/13/1916 1/27/1960	4/30/1910 5/10/1946	Located at a point whence the East 1/4 corner of Section 28, T39N, R3E, NMPM bears North 79degrees13' East 2,065.45 feet. Reservoir is located in Sec. 27, 28, 33, and 34, T39N, R3E, and Sec.3, T38N, R3E, NMPM.

Reservoir Name	WDID	Relevant Decree	Absolute Amount (AF)	Adjud. Date	Approp. Date	Legal Description
Big Meadows Reservoir	2003589	CA3982	2,437	4/21/1972	8/27/1959	Located at a point whence Mt. Hope bears North 85degrees50' West, and is a point on the Northwesterly end of the dam at high water line, and whence Heart Mountain bears South 49degrees00' East and is a point on the Southeasterly end of the dam at high water line. Reservoir is situated in Sections 17 and 18, T38N, R2E, NMPM.
Troutvale Reservoir	2003569	9/13/1916	1,020.6	9/13/1916	9/1/1911	Located at a point whence the North 1/4 corner of Section 16, T41N, R3W, NMPM bears North 70degrees54'30" West 915 feet.
Troutvale Reservoir No. 2	2003585	CA3982	435.37	4/21/1972	6/17/1940	Located at a point whence the North 1/4 corner of Section 10, T41N, R3W, NMPM bears North

Reservoir Name	WDID	Relevant Decree	Absolute Amount (AF)	Adjud. Date	Approp. Date	Legal Description
						27degrees08' West 2,175.5' and is a point on the Northwesterly end of the dam at high water line. Reservoir is situated in Section 10, T41N, R3W, NMPM.
La Jara Reservoir	2103582	2/07/1918	14,056.5	2/7/1918	12/13/1904	From said inlet works located in the La Jara Creek, said reservoir runs in a southeasterly direction about four miles to a point in the northeast quarter of section 31, T35N, R6E, NMPM, where the dam used for the impounding of water in said reservoir is now located and constructed and where the outlet works of said reservoir are now located, at a point which bears north 10degrees44'10" west 28,607.8 feet. Reservoir is

Reservoir Name	WDID	Relevant Decree	Absolute Amount (AF)	Adjud. Date	Approp. Date	Legal Description
						situated on parts of Sections 7, 18, 19, 29, 30, 31 and 32, in T35 N, R6E, NMPM, and Sections 13, 24, 25, in T35N, R5E, NMPM.
Rito Hondo Reservoir	2003588	CA3982	561.46	4/21/1972	10/4/1954	Located at a point whence the SE corner of Sec.22, T42N, R3W, NMPM bears South 10degrees41' East 3,546.61 feet and is a point on the westerly end of the dam at high water line. Reservoir is situated in Sec.15 and 22, T42N, R3W, NMPM.
Road Canyon Reservoir	2003555	09/13/1916	1,182.75	9/13/1916	5/17/1908	Situated in Sec.26, 27 and 34, T41N, R3W and Sec.3, T40N, R3W, NMPM
Road Canyon Reservoir No. 2	2003584	CA3982	117.27	4/21/1972	6/26/1922	The initial point of survey of the high water line of said reservoir is located at a point whence the corner common

Reservoir Name	WDID	Relevant Decree	Absolute Amount (AF)	Adjud. Date	Approp. Date	Legal Description
						to Sections 26, 27, 34 and 35, T41N, R3W, NMPM, bears North 27degrees48' East 10,273.69 feet, and is a point on the easterly end of the dam at high water line. Reservoir is situated in the West 1/2 of the SW1/4, Sec.3, and the SE1/4, SE1/4 of Sec.4, T40N, R3W, NMPM.
Trujillo Meadows Reservoir	2203575	W-0047	913.15	12/31/1970	8/31/1954	That the initial point of survey of the high water line is located at a point whence the North quarter corner of Section 5, Township 32 North, Range 5 East NMPM, bears North 67degrees19'35" East 283.21 feet and is a point on the northerly end of the dam at high water line. Said reservoir is situated in Section 5, T32N,

Reservoir Name	WDID	Relevant Decree	Absolute Amount (AF)	Adjud. Date	Approp. Date	Legal Description
						R5E, NMPM and Sec.32, T33N, R5E, NMPM
San Luis Lake	3503531	W-3962	8645	12/31/1978	8/5/1969	A natural lake located in portions of sections 25, 26, 35 and 36, R11E, T40N of the NMPM. The northwest corner of section 19, R12E, T40N, bears north 44 deg. 56'55" east a distance of 10,261.42 feet from the inlet of said lake and north 30 de. 44'18" east a distance of 15,764.45 feet from the outlet.
		95CW40	5752.7	12/31/1987	11/25/1986	
		95CW0040	2,410	12/31/1995	11/01/1994	
Shaw Reservoir	2003559	9/13/1916	510.84	9/13/1916	9/18/1895	A point between Stations 0 and 2 in the Southeast Quarter of the Southeast Quarter of Section 31, T39N R2E, New Mexico P.M.
		9/13/1916	127.71	9/13/1916	9/18/1895	
		CA 2673	42.05	1/27/1960	9/27/1954	
Platoro Reservoir	2203574	W-3253	53,571.0	10/24/1985	6/1/1905	A point whence the Northeast corner of Section 21, T36N R4E, NMPM bears North

Reservoir Name	WDID	Relevant Decree	Absolute Amount (AF)	Adjud. Date	Approp. Date	Legal Description
						14degrees56'08" East a distance of 2,477.8 feet.

E. Places of Use.

Within Blanca Wetlands, as described below:

Township 38 North, Range 11 East N.M.P.M:

Section 1, NW 1/4, NE 1/4, SE 1/4 of Section 2, Section 12, NW 1/4, NE 1/4, SE 1/4, N 1/2 of the SW 1/4, of Section 13, and NE 1/4 of Section 24.

Township 38 North, Range 12 East, N.M.P.M:

W 1/2 of Section 4, Sections 5, 6, 7, 8, 17 W 1/2 Section 9, and N 1/2 of Section 18.

Township 39 North, Range 12 East, N.M.P.M:

SE 1/4 of the SW 1/4 and SW 1/4 of the SE 1/4 of Section 30, E 1/2 of the W 1/2 and the E 1/2 of Section 31, and NW 1/4, SW 1/4, and SE 1/4 of Section 32.

Within the SSLA, as described below:

Township 39 North, Range 12 East N.M.P.M: SE 1/4 Section 18; All of Section 19.

Township 39 North, Range 11 East, N.M.P.M: SE 1/4 Section 24

F. Type of Use. BLM seeks add the following uses to the historically decreed irrigation use: irrigation of wetlands, marshes, meadows, and playas areas; creation and support of fish and wildlife habitat in ponds, diked areas, and natural basins; wildlife watering; recreation; non-potable domestic use; piscatorial and fish propagation; augmentation use; replacement of evaporative losses necessary to effectuate the aforementioned uses; storage in reservoirs listed in Paragraph 5.D. necessary to effectuate the aforementioned uses; and exchanges necessary to effectuate the aforementioned uses. The augmentation use includes, but is not limited to, the following: Use of the changed water right as an augmentation water source for the Blanca Wetlands augmentation plan decreed in case number 2002 CW 38 B. After this case is decreed, BLM will follow the Notice of Use procedure described in Paragraph 13.C.1 of the 2002 CW 38B decree to add the changed water right to the authorized list of augmentation water sources.

Use of the changed water right through a BLM contract with one or more Subdistricts of the Rio Grande Water Conservation District for the purpose of remedying injurious depletions to the Rio Grande and Conejos River caused by groundwater well operations. This use will occur pursuant to a substitute water supply plan approved by Colorado Division of Water Resources or pursuant to an augmentation plan approved by District Court, Water Division 3. Use of the changed water

right as a source of water for the San Luis Valley Water Conservancy District's (District) Augmentation Program for the augmentation of out of priority diversions by Participants located within the District's boundaries, as those boundaries may change from time to time in accordance with the statute. The District operates its Augmentation Program pursuant to the decrees entered in Case Nos. 84CW16, 93CW43, 94CW62, 03CW41, 05CW13, 07CW63, 09CW34 and 14CW3011, all decreed in District Court, Water Division No. 3. Other augmentation uses that are approved pursuant to a substitute water supply plan approved by Colorado Division of Water Resources or pursuant to an augmentation plan approved by District Court, Water Division 3. BLM also seeks water court confirmation that it is authorized to make a fully consumptive first use of the changed water right or to use, reuse, and successively use and dispose of the water to extinction for the purposes described in this application. **6.**

Appropriative Rights of Exchange. **A. Source of Water.** The changed Treasure Pass Diversion Ditch water right described in Paragraphs 4 and 5. **B. Place of Use:** Identical to those set forth in Paragraphs 5E. **C. Type of Use:** Identical to those set forth in Paragraphs 5F. **D. Treasure Pass Diversion Ditch to Beaver Park Reservoir Exchange** 1. Exchange From Point: The confluence of the South Fork of the Rio Grande with Beaver Creek, located in the SW 1/4 SE 1/4, Sec. 17, T39N R3E, NMPM. UTM Coordinates: NAD 83, Zone 13, 351413mE 4165149mN 2. Exchange To Point: Located at a point whence the East 1/4 corner of Section 28, T39N, R3E, NMPM bears North 79degrees13' East 2,065.45 feet. Reservoir is located in Sec. 27, 28, 33, and 34, T39N, R3E, and Sec.3, T38N, R3E, NMPM. 3. Amount Claimed: 7.0 cfs, conditional 4. Date of Appropriation: Date this application is filed with the water court. 5. Date Exchange Made Absolute: Not Applicable. **E. Closed Basin Project Canal Exchange** 1. Exchange From Point: The confluence of the Closed Basin Project Canal with the Rio Grande, located in the SW 1/4 SW 1/4, Sec. 28, T37N R11E, NMPM. UTM Coordinates: NAD 83, Zone 13, 430940mE 4141480mN 2. Exchange To Reach: Any location along the Closed Basin Project Canal that is adjacent to BLM's Blanca Wetlands Area and South San Luis Lakes Area. This reach includes BLM Turnouts CHO3 and CHO4 as follows: Turnout CHO3: NE 1/4 SW 1/4, Section 4, Township 38 North, Range 12 East, N.M.P.M. UTM Coordinates: NAD 83, Zone 13, 440976mE 4157892mN. Turnout CHO4: SW 1/4 SW 1/4, Section 9, Township 38 North, Range 12 East, N.M.P.M. UTM Coordinates: NAD 83, Zone 13, 440447mE 4156005mN. The upper terminus of the Exchange To Reach is as follows: NE 1/4 NW 1/4, Section 6, T39N R12E, N.M.P.M. UTM Coordinates: NAD 83, Zone 13 437990mE 4168640mN. This location is commonly known as the point where the Closed Basin Project Canal crosses under Alamosa County Road 6 North. The lower terminus of the Exchange To Reach is as follows: SW 1/4 SW 1/4, Section 17, T38N R12E, N.M.P.M. UTM Coordinates: NAD 83, Zone 13 438742mE 4154182mN. 3. Amount Claimed: 8 cfs, conditional. 4. Date of Appropriation: Date this application is filed with the water court. 5. Date Exchange to be Made Absolute: Not Applicable 6. Structures Involved In Exchange: To provide a source of water for the exchange, water from the changed water right may be released directly from the Treasure Pass Diversion Ditch or from any of the reservoirs listed in Paragraph 5.D. of this application. Exchange operations may also involve releasing water from the aforementioned facilities to the headgate of the Chicago Ditch, operated by Alamosa National Wildlife Refuge. An equivalent volume of Closed Basin Project mitigation water, otherwise destined for Alamosa National Wildlife Refuge, will be diverted from the Exchange To Reach. The Chicago Ditch (WDID 2000575) is described as follows: Original

Decrees: May 1, 1896 and October 15, 1934. Decreed Point of Diversion: A point on the east bank of the Rio Grande-Del Norte from which it derives its supply of water, whence the one-quarter corner between Sections Eleven (11) and Twelve (12) in Township Thirty-seven (37) North, and in Range Ten (East) of the New Mexico Principal Meridian bears North 01degrees 12' East 1400.3 feet. F. Use of Facilities Owned By Other Parties. BLM will not utilize any of the facilities listed in Paragraph 5.D. of this application without the written permission of the facility owner. This application does not request an independent water right in any facilities listed in Paragraph 5.D. and instead requests authorization to exchange water pursuant to an agreement between the facility owner and BLM. **7. Names and Addresses of Owners, Structures and of Land on which Structures Are Located:** Barry Beal, High Valley Ranch, LLC, 104 S. Pecos St., Midland, TX 79701. United States Department of Agriculture, Rio Grande National Forest, 1803 W. Highway 160, Monte Vista, CO 81144. Attention: Andrew Peterson. State Land Board, Southwest District Office, District Manager, 305 Murphy Drive, Suite A, Alamosa 81101. Attention: Ron Rivale. Rio Grande Water Conservation District, 8805 Independence Way, Alamosa, CO 81101 Attention: Cleave Simpson. United States Department of the Interior, Bureau of Reclamation, Closed Basin Division, San Luis Valley Project, Colorado, 10900 Hwy 160 East, Alamosa, CO 81101. Attention: Russ Plummer. United States Department of Agriculture, Forest Service, Pagosa Ranger District, 180 Pagosa St., Pagosa Springs, CO 81147. Attention: Rebecca Smith.

Colorado Parks and Wildlife, 6060 Broadway, Denver, CO 80216 Attention: Ed Perkins.

The Nature Conservancy, 2424 Spruce St., Boulder, CO 80302 Attention: Heidi Shirk. U.S. Fish and Wildlife Service, 6120 Highway 15, Monte Vista, CO 81144. Attention: Chris Shaffer. Shaw Reservoir Company, 6820 Colorado Highway 17, Alamosa, CO 81101. Attention: Dan Russell. **8. Remarks:** The following report is hereby attached to and made part of this application: *Preliminary Engineering Report to Support a Claim for a Change of Water Right in the Treasure Pass Diversion Ditch, an Appropriation of a Junior Transbasin Water Right, and an Appropriative Right of Exchange* by Martin and Wood Water Consultants, Inc. This report contains maps of the ditch location, historical water use location, BLM's water use location, and locations of exchanges.

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE OR BE FOREVER BARRED.

You are notified that you have until the last day of August 2021, to file with the Water Clerk a verified statement of opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions or a protest to the requested correction. A copy of such a statement of opposition or protest must also be served upon the Applicant or the Applicant's attorney and an affidavit or certificate of such service must be filed with the Water Clerk. The filing fee for the Statement of Opposition is \$192.00. Forms may be obtained from the Water

Clerk's Office or our website at www.courts.state.co.us. Jennifer Pacheco, Water Clerk,
Water Division 3, 8955 Independence Way, Alamosa, CO 81101.

July 14, 2021

Attorney General Phil Weiser
Office of the Attorney General
Colorado Department of Law
Ralph L. Carr Judicial Building
1300 Broadway, 10th Floor
Denver, CO 80203

Re: Original No. 141, State of Texas v. State of New Mexico and State of Colorado

Dear Attorney General Weiser:

This letter is being written to you on behalf of the Rio Grande Water Conservation District, the Conejos Water Conservancy District, and the Rio Grande Water Users Association to express our collective concern about the June 24, 2021, Motion For Leave To File Supplemental Complaint (“Supplemental Complaint”) filed by the State of Texas in Original 141.

The Rio Grande Water Conservation District is a political subdivision of the state of Colorado established in 1967 pursuant to C.R.S. 37-48-101 et seq. It was established and given such powers as needed for the conservation, use, and development of the water resources of the Rio Grande and its tributaries and to safeguard for Colorado all waters to which the state of Colorado is equitably entitled. Its territory included the entire Rio Grande Basin in Colorado except Costilla County. It is the leading water resources conservation, use and development agency in the Rio Grande Basin and works closely with the State Engineer and Division Engineer to protect and preserve water supplies of the Rio Grande Basin available for use in Colorado.

The Conejos Water Conservancy District (“Conejos District”) is also a political subdivision of the state of Colorado created pursuant to the Water Conservancy District Act, C.R.S. § 37-45-101 et seq. The Conejos District includes over 80,000 acres of irrigated land within the Conejos River basin. The Conejos District has the exclusive responsibility for all operation and maintenance functions of Platoro Reservoir located in the headwaters of the Conejos River with a decreed storage capacity of 53,571 acre-feet. Platoro Reservoir is the only large reservoir built in the Rio Grande Basin in Colorado after 1937 (post-compact reservoir) and is therefore subject to operation in accordance with the limitations of Articles

VI, VII and VIII of the Rio Grande Compact. The Conejos District is the principal water resources conservation and development agency in the Conejos River Basin in Colorado.

The Rio Grande Water Users Association (“Water Users”) is a nonprofit corporation whose member includes the major irrigation ditch companies that divert water from the Rio Grande upstream from Alamosa, the San Luis Valley Irrigation District, and the Santa Maria Reservoir Company. The latter two entities own the only three large reservoirs on the Rio Grande, each of which pre-date the Rio Grande Compact. The Water Users members provide irrigation water supplies to some 300,000 acres of land. The Water Uses have been the principal entity representing the irrigation interests on the Rio Grande since its original formation in 1923. Through their legal counsel, the Water Uses were fully engaged with the and assisted the state of Colorado during the negotiations of the Rio Grande Compact. The Water Users continue to be the chief spokesman for irrigation interest on the Rio Grande.

As you know, the current litigation in *Texas v. New Mexico* is a dispute over the allocation and delivery of water from Rio Grande Project Storage and Texas’s claims that groundwater use in New Mexico, among other things, is depriving Texas of water to which it is entitled under the Rio Grande Compact (the “Compact”). The original complaint filed by Texas did not assert any claims against Colorado; Colorado was joined simply because it was a signatory to the Compact. Colorado has asserted no claims in the litigation against any other party and entered into a “standstill agreement” with Texas and New Mexico assuring it did not have to file an answer and would not be prejudiced by the resolution of the claims between Texas, New Mexico and the United States. Thus, under the current complaint Colorado has not needed to play an active role in the litigation. Likewise, because there have been no claims by or against Colorado, our clients have not found it necessary to seek amicus status to monitor and participate in the current litigation. That will entirely change if Texas is granted leave to file the Supplemental Complaint.

The Supplemental Complaint alleges that New Mexico has violated Art. VI of the Compact by not storing in reservoirs constructed after 1929 a quantity of water equal to its accrued debit, and it will violate Arts. VII and VIII in 2022 because it will be unable to deliver to Project Storage from such reservoirs in an amount equal to its accrued debit when demanded by Texas. The Supplemental Complaint fundamentally alters the scope of the litigation; while the original complaint focused solely on water use practices at and below Elephant Butte Reservoir, the Supplemental Complaint challenges longstanding water use practices in the entire Rio Grande Basin upstream from Elephant Butte Reservoir. This is a radical expansion of the litigation that directly threatens water users in both northern New Mexico (above Elephant Butte Reservoir) and in Colorado. Colorado water users are

threatened because Art. VI of the Compact subjects reservoirs constructed in Colorado after 1937 to substantially the same restrictions as reservoirs constructed in New Mexico after 1929, except that Colorado has a much lower accrued debit limit than New Mexico.

It is important to know, Texas's allegations to the contrary notwithstanding, that the interpretation of Art. VI limitations on storage in reservoirs constructed after 1929 in New Mexico and after 1937 in Colorado has been disputed by Texas, New Mexico, and Colorado almost since the inception of the Compact. In 1951 Texas sought leave of the United States Supreme Court to sue New Mexico for its alleged violation of Arts. VI, VII, and VIII due to its manner of operation of post-1929 reservoirs. That suit, Original No. 9, was dismissed for the failure to join indispensable parties. Thereafter, throughout the early 1970s, the 1980s and the 1990s the Compact Commissioner for Texas frequently argued that New Mexico and/or Colorado were in violation of the Compact due to the alleged failure to comply with the requirements of Arts. VI, VII, and VIII for reservoirs constructed after 1929 in New Mexico and after 1937 in Colorado.¹ New Mexico took the same position then as it takes now concerning the interpretation of the requirements of Arts. VI.² Colorado likewise disagrees with Texas's interpretation of Art. VI.

The Supplemental Complaint directly threatens water rights administration in Colorado and the viability of Platoro Reservoir, the only reservoir constructed of the several large capacity reservoirs that the Compact drafters contemplated would be constructed in Colorado after 1937 to better manage stream flows³. Platoro Reservoir can only store 53,571 acre-feet, which is only about half of Colorado's allowed accrued debit of 100,000 acre-feet. The Supplemental Complaint asserts that New Mexico must store water to the extent of its accrued debit in reservoirs constructed after 1929. If that same standard were to apply to Colorado under Art. VI, then because Colorado does not have 100,000 acre-feet of storage constructed after 1937, it would lose nearly half of the debit allocated to Colorado under Art. VI the Compact. That debit is necessary and was intended to allow Colorado to use the water apportioned to it by the Compact, knowing that annual variations in stream flow would not permit annual strict compliance with Colorado's Art. III compact delivery schedules.⁴ While we do not think such an interpretation is supported by the language of Art. VI, the state of Texas appears to claim otherwise. The state of Colorado must resist any interpretation of Art

¹ E.g. Rio Grande Compact Commission 33rd Annual Meeting, April 20 & 21, 1972.

² E.g. Rio Grande Compact Commission 51st Annual Meeting, March 22, 1990.

³ E.g. Colorado Water Conservation Board, San Luis Valley Project report, March 1939.

⁴ Report of Committee of Engineer to the Rio Grande Compact Commissioners, December 27, 1937, at pp. 8, 10.

VI of the Compact that deprives Colorado of its right to accrue debits of up to 100,000 acre-feet.

Texas's interpretation of Arts. VI, VII, and VIII, if successful, would upset the longstanding method of Compact administration in Colorado. The Rio Grande and the Conejos River have separate Compact delivery obligations determined by their respective delivery schedules in Art. III of the Compact.⁵ In 1991 the State Engineer, the Conejos District, and the Water Users reached an agreement on intrastate administration of water rights for Compact purposes, including the allocation of the 10,000 acre-foot annual credit in the Colorado Compact delivery calculation, the intrastate allocation of debits and credits, and the right of the respective river systems to separately incur debits or credits without impacting the rights of the other stream system. This manner of administration is predicated to a material degree on Colorado's interpretation of Art. VI and its right to incur debits of 100,000 acre-feet notwithstanding the fact that it does not have post-1937 reservoirs capable of storing 100,000 acre-feet.

If Texas were to prevail on its claimed interpretation of Arts. VI -VIII, Platoro Reservoir would be rendered effectively useless to the Conejos District because it would be the only reservoir where Colorado could store debit water. Using Platoro Reservoir to store water to secure debits incurred by the Rio Grande (exclusive of the Conejos River) is fundamentally inconsistent with the two separate schedules of deliveries in the Compact and Colorado's required manner of compact administration. The only alternative to using Platoro Reservoir to store debit water for the Rio Grande and Conejos is for Colorado, or at least the Rio Grande exclusive of the Conejos River, to permanently forego its right under the Compact to accrue debits. Such strict Compact administration imposes severe and often unnecessary limitations on diversions by pre-compact water rights in Colorado and means the loss of an important right Colorado secured under the Compact.

We believe that the Supplemental Complaint is untimely, fundamentally inconsistent with the Compact, and poses a substantial threat to Colorado's rights under the Compact. We request that your office vigorously oppose the Supplemental Complaint. Should it be allowed, then we request you fully involve our clients in the defense against the Supplemental Complaint. We plan to seek amicus status for each of our clients from the Special Master should the Supplemental Complaint be filed and will fully assist your office in its efforts to defeat the Supplemental Complaint.

⁵ *Alamosa-La Jara Water Users Protection Assn v. Gould*, 674 P.2d 914 (Colo. 1983)

Attorney General Weiser
July 14, 2021
Page 5

Yours very truly,

David W. Robbins
Peter J. Ampe
Hill & Robbins, P.C.
Attorneys for the Rio Grande Water Conservation District

Richard J. Mehren
Moses, Wittemyer, Harrison & Woodruff, P.C.
Attorneys for the Conejos Water Conservancy District

William A. Paddock
Mason H. Brown
Carlson, Hammond & Paddock, LLC
Attorneys for the Rio Grande Water Users Association

Copy: Kevin Rein, State Engineer
Michael Sullivan, Deputy State Engineer
Chad Wallace, Esq.
Rio Grande Water Conservation District
Conejos Water Conservancy District
Rio Grande Water Users Association



April Mondragon <april@rgwcd.org>

FW: update to Board

1 message

Cleave Simpson <cleave@rgwcd.org>

Mon, Jul 19, 2021 at 9:19 AM

To: Greg Higel <greghigel@gmail.com>, Michael Kruse <MBLMKRUSE@msn.com>, Armando Valdez <valdezLNL@yahoo.com>, "Martin, Dwight" <dwright.martin@gojade.org>, Cory Off <rcoryoff@gmail.com>, Peggy Godfrey <poetpeggy@gmail.com>, elcentrotax@outlook.com, Steve Keller <kellerism81@yahoo.com>, cowboy.zeke.ward@gmail.com, Charles McClure <elcentro13@outlook.com>
Cc: April mondragon <april@rgwcd.org>, Amber Pacheco <amber@rgwcd.org>, Marisa Fricke <marisa@rgwcd.org>, Chris Ivers <chris@rgwcd.org>, "David W. Robbins" <davidrobbins@hillandrobbins.com>, Pete Ampe <peterampe@hillandrobbins.com>

Board,

Christine won't be able to attend our meeting tomorrow so she provided the following update.

I do believe the budget reference in the 4th paragraph should say \$1.9 billion not \$1.9 million.

Cleave

-----Original Message-----

From: Christine Arbogast <christinekanda@aol.com>
Sent: Monday, July 19, 2021 9:01 AM
To: Cleave Simpson <cleave@rgwcd.org>
Subject: update to Board

As Congress approaches its late summer break, the rush is on to advance the infrastructure initiative. The Senate Energy and Natural Resources last week passed with bipartisan support a bill for agencies under its jurisdiction.

While heavily energy, the bill includes \$8.3 billion in spending authority for the Bureau of Reclamation. Included in that amount is \$1 billion for the rural water projects under construction. Completing them sooner with this investment will leave more room in the Bureau's budget for other projects. Also included is significant investment in storage and conveyance projects; recycle/reuse project; Water SMART; desalinization; drought contingency planning for the Colorado River.

The tentative plan is to roll the Committee bill into the broader infrastructure package and make the spending mandatory and not subject to annual appropriation. It is far from a done deal, but there is real enthusiasm in the West based on the significant proposed investment in Western water infrastructure.

In addition, the House Energy and Water Appropriations Subcommittee has marked up its bill for FY '22. It is \$417 million over the Administration's budget request for Reclamation, putting the agency at \$1.9 billion for the fiscal year after a decade of being stuck at just about \$1 billion. The House expects to move this bill to the floor before the August break, and the Senate is expected to begin action in September.

I have been working with legal counsel and your general manager on a plan to visit with the Upper Colorado River Basin BoR regional director about the Closed Basin Project, funding patterns, etc.

7/19/2021

Rio Grande Water Conservation District Mail - FW: update to BCard

This Thursday, I will be participating in a drought roundtable with the Secretary of the Interior in Denver.

Please feel free to contact me with any questions you might have.

Christine Arbogast
Kogovsek & Associates, Inc.
720-373-3655

Sent from my iPad