

SAN JUAN WATER CONSERVANCY DISTRICT)
)
ARCHULETA COUNTY) SS
)
STATE OF COLORADO)

NOTICE OF REGULAR MEETING

NOTICE IS HEREBY GIVEN that a Regular Meeting of the San Juan Water Conservancy District (SJWCD) Board of Directors has been scheduled for Monday, February 15, 2021, at 5:00 p.m. Due to the CDC and CDPHE recommendations regarding COVID – 19, the meeting will be held via Zoom. Participation via Zoom is highly recommended as the Board will be discussing and sharing documents related to the agenda below.

Meeting participation details below:

Join Zoom Meeting:

<https://us02web.zoom.us/j/88591912469?pwd=OXFCY0RjbzBtVVc1Z0NJblZLdCtKUT09>

Dial by location:

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

Meeting ID: 885 9191 2469

Password: 185268

For questions regarding how to participate via Zoom, please contact SJWCD President and Chairman, Al Pfister: 970-985-5764 or apfister.sjwcd@gmail.com.

Proposed Agenda is as follows:

1. Call to Order
2. Revisions to Agenda
3. Disclosure of Conflict of Interest
4. Public Comment
5. Consideration of Report – Study Alternative Uses for West Fork Reservoir and Canal Water Rights – Wilson Water Group
6. Consideration of Attorney Report
7. Consideration of Director Hudson Allegations of Unethical Conduct Against Director Pfister and How to Proceed
8. Consideration of Executive Session Pursuant to C.R.S. § 24-6-402(4)(b) – for the purposes of receiving advice from legal counsel on specific legal questions.
9. Consideration of Treasurer's Report
10. Consideration of Approval of November 16, 2020 Joint Special Meeting, December 10, 2020 Regular Meeting, and January 18, 2021 Special Meeting Minutes
11. Consideration of Resolution 2021 – 01 – Board of Directors Annual Posting for Meetings
12. Consideration of Approval of Strategic Plan
13. Consideration of Professional Consulting Agreement – RGL Consulting, LLC
14. Consideration of Future Uses of Running Iron Ranch Property
15. Consideration of Chamber of Commerce Membership
16. Update Regarding Water Information Program Steering Committee
17. Consideration of Revisions to SJWCD Bylaws

SAN JUAN WATER CONSERVANCY DISTRICT

By /s/ Renee Lewis

For the Board of Directors

DISTRICT SEAL

FINAL

Final Draft Technical Report Memorandum



To: Al Pfister
From: Erin Wilson and Brenna Mefford
Date: 2/9/2021
Re: West Fork Water Rights Alternative Study

Wilson Water Group (WWG) completed a study to investigate alternative uses for the West Fork Reservoir and Canal water rights for the San Juan Water Conservancy District (District). In addition, analyses were completed to estimate water available to the Dry Gulch Reservoir water rights and to a junior storage right. The results of the study, presented in this memo, can be used by the District's Board of Directors to make an informed decision about the approach to filing diligence of the West Fork Reservoir and Canal Water Rights in June 2021.

The diligence process requires that the District meet the requirements of "Can and Will", assuring that water right development is non-speculative ("Can") and that the District has the means to develop the water rights ("Will"). This memo documents the technical analysis performed to show the future development the District's conditional storage rights are non-speculative by identifying potential demands, showing water availability, and showing a need for storage based on the timing of demands versus water availability.

To that end, this memo documents the following specific steps taken by WWG:

1. Reviewed the District's water rights portfolio and previous storage studies to understand opportunities and limitations based the original decrees, previous diligence efforts, and storage locations.
2. Performed a water use and water demand analysis to identify potential future uses for the District's water rights.
3. Determined both physical and legal water available to the District's West Fork and Dry Gulch water rights.
4. Investigated potential reservoir operations.

1.0 San Juan Water Conservancy District's Water Rights

The starting point for any diligence process is to understand the opportunities and limitations associated with the water rights in question. As noted in our proposal to the District, WWG felt it was important to look at the full portfolio of water rights owned by the District, to better understand the options associated with diligence of the West Fork water rights.

WWG worked with the District's attorney, Jeff Kane, to better understand the stipulations associated with the District's water rights and how they could potentially affect future development. Figure 1 shows the physical locations of the District's water rights.

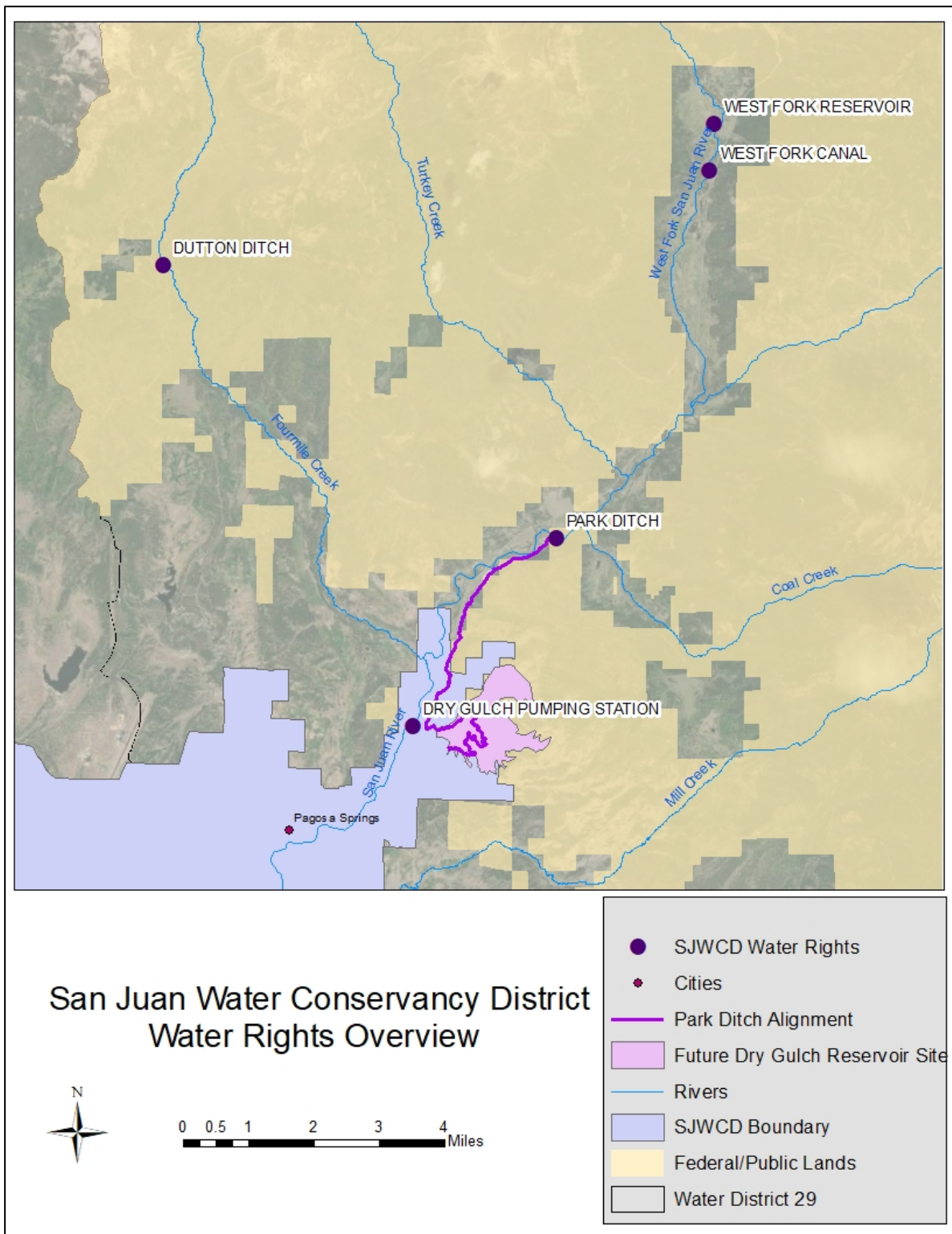


Figure 1. San Juan Water Conservancy District Map of Water Rights Locations

The following bullets summarize the District's water rights and associated limitations. The summary of limitations may not be exhaustive; however, stipulations that could impact future development are noted.

1.1 Direct Flow Water Rights

The following bullets summarize the District's direct flow water rights and associated limitations. The summary of limitations may not be exhaustive; however, stipulations that could impact future development are noted.

West Fork Canal (West Fork of the San Juan River)

- 50 cfs conditional water right with appropriation date of 7/21/1967
- Decreed uses include irrigation, industrial, and municipal.
- The water right is not limited to use within the District's boundary.
- There are no volumetric limits on the amount of water that can be diverted annually or on an average annual basis.
- This right will be abandoned by the Water Court if not used or perfected at the time the Dry Gulch/San Juan River Headwaters Project facilities are constructed (per stipulation in Case No. 04CW85).
- The District must apply to change the point of diversion by June 2021 and subordinate to all water rights upstream of the original or any future points of diversion having adjudication dates prior to December 31, 2013 (per stipulation in Case No. 08CW37).
- The point of diversion must be moved downstream of Snowball Pipeline and if the new point of diversion is on Bootjack Ranch, the District must get approval of plans and ROW and pay compensation (per stipulation in Case No. 08CW37).

The stipulation subordinating the West Fork Canal water rights to upstream water rights senior to a December 31, 2013 is significant; as it essentially changes the water right appropriation date to January 1, 2014. An even more significant constraint on the West Fork Canal direct flow right is that it is not decreed for storage in an off-channel reservoir.

Dutton Ditch Second Enlargement (Stollsteimer Creek, Dutton Creek, and imported Four Mile Creek)

- 20 cfs conditional water right with appropriation date of 7/6/1967
- Decreed uses include irrigation, industrial, municipal, and domestic.
- This right will be abandoned by the Water Court if not used or perfected at the time the Dry Gulch/San Juan River Headwaters Project facilities are constructed (per stipulation in Case No. 04CW85).

A significant limitation to development of the Dutton Ditch Second Enlargement water right is the location; there is not reliable water available on these smaller tributaries except during the runoff period primarily in May and June.

Dry Gulch Pumping Station (San Juan River)

- 50 cfs conditional water right with an appropriation date of 12/20/2004
- Decreed uses include municipal, irrigation, exchange, augmentation, and storage in Dry Gulch and other reservoirs owned by the District and/or Pagosa Area Water and Sanitation District (PAWSD).
- This right cannot be diverted if the San Juan River at Pagosa Springs streamflow gage shows flow less than 100 cfs from March 1 to August 31st or less than 60 cfs from September 1 to February 29 (per stipulation in Case No. 04CW85). Note that these flows are identified further in this report as the “stipulated environmental flows”.
- The District may not place a call against junior water rights located upstream from the San Juan River at Pagosa Springs streamflow gage to meet the stipulated environmental flows and may not divert flows curtailed from upstream junior rights to satisfy downstream calls (per stipulation in Case No. 04CW85).

Besides the potential cost versus benefit imbalance of pumping water for potential storage at this location, the water available in many years can be significantly limited by the stipulated flow requirements at the San Juan River at Pagosa Springs streamflow gage.

Park Ditch (San Juan River)

- 1.1 cfs absolute water right with various appropriate dates from 1886 to 1956
- The District’s Park Ditch water rights are decreed for irrigation.
- Case No. 04CW85 sets the Park Ditch as a location to divert water to store in Dry Gulch Reservoir.
- The District must enter an Operating and Maintenance (O&M) agreement with the Park Ditch, and possibly consult with Park Ditch on re-design standards (per stipulation in Case No. 04CW85).
- The District will have to obtain a special use permit to use Park Ditch to convey water that is not for irrigation if using the current alignment of Park Ditch to convey the water (per stipulation in Case No. 04CW85).
- Water diverted at Park Ditch for storage in Dry Gulch reservoir has the following additional stipulations as stated in Case No. 04CW85:
 - Diversion cannot occur if the San Juan River at Pagosa Springs stream gage shows flow less than 100 cfs from March 1 to August 31st or less than 60 cfs from September 1 to February 29.
 - Diversion may not place a call against junior water rights located upstream from the San Juan River at Pagosa Springs gage and may not divert flows curtailed from upstream junior rights to satisfy downstream call.

Water available in many years can be significantly limited by the stipulated flow requirements at the San Juan River at Pagosa Springs streamflow gage.

1.2 Storage Water Rights

The following bullets summarize the District's storage water rights and associated limitations. The summary of limitations may not be exhaustive; however, stipulations that could impact future development are noted.

West Fork Reservoir (West Fork of the San Juan River)

- 24,000 acre-feet conditional water right with an appropriation date 8/23/1967
- Decreed uses include industrial, municipal, domestic, recreation, piscatorial, and irrigation.
- This right will be abandoned by the Water Court if not used or perfected when the Dry Gulch/San Juan River Headwaters Project facilities are constructed (per stipulation in Case No. 04CW85).
- The District must apply to change the point of diversion and place of storage by June 2021. (per stipulation in Case No. 11CW17)
- The storage right must subordinate to those water rights upstream of the original or any future points of diversion or storage having adjudication dates prior to December 31, 2013 (per stipulation in Case No. 11CW17).
- The storage right must be changed to a location downstream of Bootjack Ranch (per stipulation in Case No. 11CW17).
- None of the decrees concerning the West Fork Reservoir rights require the water stored in the reservoir be used within the District boundary.
- None of the decrees concerning the West Fork Reservoir rights put a limitation on filling rate or a volumetric limitation beyond the decreed amount.

The stipulation subordinating the West Fork Reservoir storage rights to upstream water rights senior to a December 31, 2013 is significant; as it essentially changes the water right appropriation date to January 1, 2014. The requirement to move the water right downstream of Bootjack Ranch to a likely off-channel reservoir site is not as limiting, because permitting an on-channel reservoir at any location on the San Juan River would be a significant challenge. The uses under the storage right may be limiting, as it does not include the ability to release water to the San Juan River to meeting environmental or recreational needs.

Dry Gulch Reservoir (1967 Right, San Juan River, and native flow))

- 6,300 acre-feet conditional storage right with appropriation date 7/22/1967
- Decreed uses include industrial, domestic, municipal, recreation, and piscatorial.
- The storage right can be filled using native Dry Gulch runoff and/or Park Ditch, with no diversion rate limitation (Case No. 73-308D).

The only limitation to the 1967 Dry Gulch Reservoir storage right is it does not include the ability to release water to the San Juan River to meet in-channel environmental or recreational needs.

Dry Gulch Reservoir (2004 Right, San Juan River)

- 4,700 acre-feet (first fill) and 11,000 acre-feet (refill) conditional storage right with appropriation date of 12/20/2004
- Decreed uses include municipal, irrigation, exchange, and augmentation.
- Fill and refill of the reservoir is limited to a combined diversion rate of 50 cfs from Park Ditch, Dry Gulch Pump Station, and native flows under this storage right and when used in combination with the 1967 storage water right (per stipulation in Case No. 04CW85).
- The District cannot store more than 11,000 acre-feet in any water year in conjunction with the 1967 Dry Gulch right from the San Juan River and native inflow combined and cannot store more than 93,000 acre-feet over any ten consecutive years (per stipulation in Case No. 04CW85).

The uses under the storage right are limiting, as uses do not include the ability to release water to the San Juan River to meeting environmental or recreational needs. The annual storage limit of 11,000 acre-feet per year and the ten-year volumetric limitation of 93,000 acre-feet are only restrictive if annual demands average greater than 9,300 acre-feet per year (93,000 acre-feet over ten years).

1.3 Previous Investigations of Storage Rights

As part of the review of the Districts water rights and previous diligence efforts, WWG reviewed the following reports that investigated water rights and storage in the basin:

- Water Rights Report on Dry Gulch Reservoir, West Fork Reservoir, East Fork Reservoir, West Fork Canal, San Juan River Canal for Southwestern Water Conservation District (May 1988) by Harris Water Engineering
- Appraisal Report to Evaluate Future Raw Water Demands and Water Supply Alternative Plans as of March 2003 by Harris Water Engineering
- The Draft San Juan Water Conservancy District Strategic Plan (2020)
- Pagosa Area Water and Sanitation District Water Conservation Plan (October 2008)
- Pagosa Area Water and Sanitation District Drought Management Plan (2018)

WWG concurs with the conclusion reached in these reports that the Dry Gulch Reservoir site is the most advantageous reservoir site in the upper San Juan basin because the location of the reservoir provides the best water supply compared to other sites located on smaller tributaries, the location does not constrict the size of the reservoir compared to the storage rights, and the District already owns the land. Therefore, the water availability analyses performed were based on development of water rights at the Dry Gulch reservoir site.

2.0 Water Use and Water Demand Analysis

Proving diligence on a water right requires showing there is a current or future demand for the water use. WWG investigated existing and future demands and shortages, for agricultural, municipal, industrial, and environmental uses of water in the District and connected portions of

the San Juan River basin. The following describes the approach that was used to determine water demands and shortages for each sector and the results of the analysis.

2.1 Agricultural

Future demands for agricultural water in the San Juan basin will depend on an increase in irrigated acreage. The State of Colorado's irrigated acreage assessments, updated on an approximate 5-year basis, shows that irrigated acreage has decreased by 6 percent over the past 25 years in the San Juan basin. The recent Technical Update to Colorado's Water Plan also showed no increase in irrigated acreage in future 2050 demands. However, late season water supply limitations for current irrigated acreage could be met from water stored during the runoff period.

WWG used the Colorado Decision Support System (CDSS) consumptive use model to estimate the potential crop demand of current irrigated acreage and actual crop consumptive used based on irrigation diversions recorded by the Division of Water Resources over the past 30 years. Even though most irrigation shortages are due to physical and legal water limitations, some shortages may be due to irrigation practices, such as limiting irrigation to allow for grazing. For this analysis, it was assumed that irrigation shortages were due to water supply limitations. Figure 2 shows annual irrigation shortages in the District for the last 30 years.

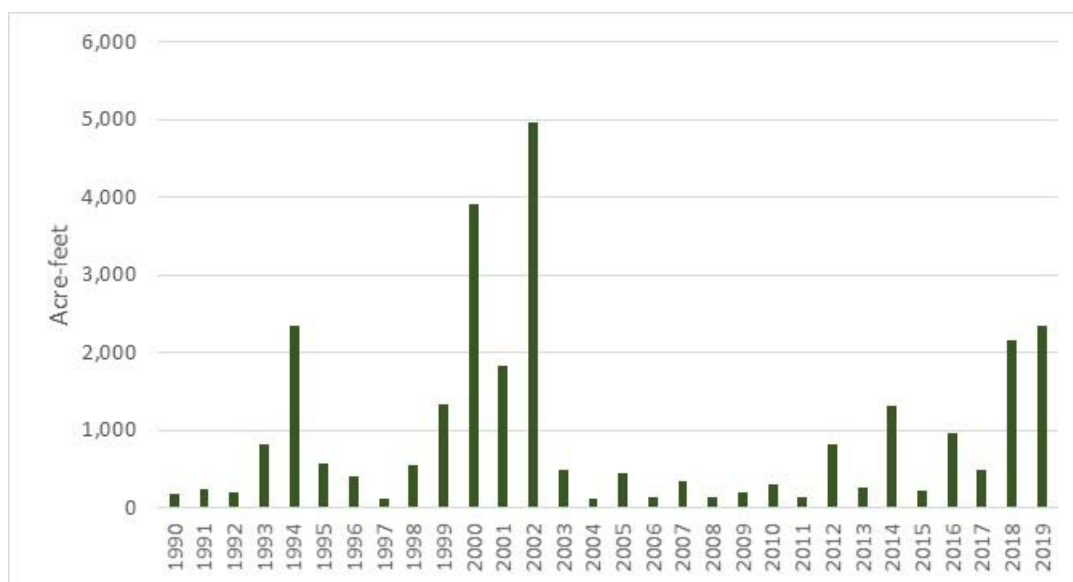


Figure 2. Annual Irrigation Shortages from 1990 to 2019 in the San Juan Basin

As shown in Figure 2, annual irrigation shortages ranged from 125 to 4,950 acre-feet over the last thirty years, with an annual average shortage of 950 acre-feet. As expected, higher shortages occur in dry years such as 2002, 2018, and 2019. Access to storage could help agricultural producers in the District reduce irrigation shortages during drought years. The estimated shortages were used as a potential demand on future District storage. Note that the irrigation rights are senior to conditional water rights in the basin; therefore, the development of conditional water rights will not increase potential agricultural demand of District storage.

2.2 Municipal

To determine current and future municipal demand, WWG considered available data from the Pagosa Area Water and Sanitation District (PAWSD), the Growing Water Smart Work Group, and the Colorado Water Plan Technical Update. PAWSD is the only municipal water provider in the San Juan basin and serves the town of Pagosa Springs and the surrounding area. Most of the District's service area overlaps with PAWSD's service area as shown in Figure 4.

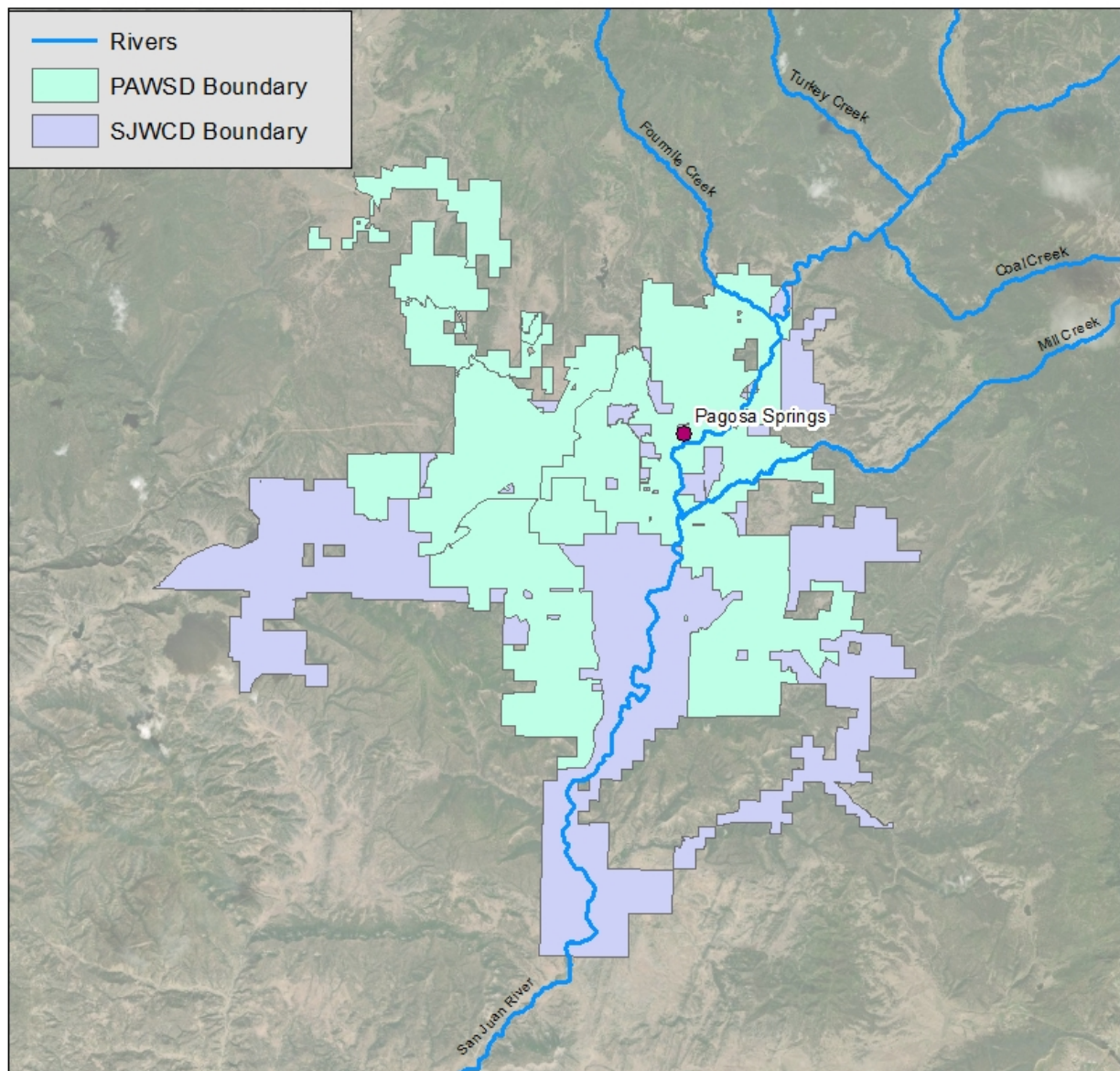


Figure 4. San Juan Water Conservancy District and Pagosa Area Water and Sanitation District boundaries

PAWSD staff indicated they typically see two percent growth each year and, for planning purposes, estimate that growth rate will continue. PAWSD's recently completed the 2018 Drought Management Plan that reported average raw and potable water produced from 2008

to 2017 to be 2,246 acre-feet. WWG believes that 2050 is a reasonable horizon to consider and justify for diligence of the West Fork water rights. Based on a two percent annual growth rate, the average annual municipal demand in 2050 would be 4,150 acre-feet.

Population growth estimates for Archuleta County have been developed by the Growing Water Smart Work Group. Due to the large number of vacation homes in and near Pagosa Springs the Growing Water Smart Work Group looked at recent trends in population, housing units, sanitation flows, and jobs to estimate growth projections. The group estimated that population growth would most likely follow one of three scenarios:

- Low-end scenario: 1.1 to 1.3 percent average annual growth
- Likely scenario: 1.6 to 1.9 percent average annual growth
- High-end scenario: up to 2.6 percent average annual growth

PAWSD’s 2018 Drought Management Plan estimates that 75 percent of the population of Archuleta County lives within the PAWSD service area. Current average gallons used per person per day (gallons per capita day, GPCD) for PAWSD was estimated using 2019 population data from the State Demographer’s Office and PAWSD’s reported average annual water produced. The 2019 population data was multiplied by 0.75 to estimate the GPCD only for PAWSD service area. This resulted in a current average annual GPCD of 191; this value was used to forecast future municipal demands under low growth, likely growth, and high growth scenarios. PAWSD’s current and 2050 population projections and municipal demands are shown in Table 1.

Table 1. PAWSD current and projected population and demands

	Current (2019)	2050 – Low Growth	2050 - Average Growth	2050 - High Growth
Population	12,401	18,589	20,786	24,741
GPCD	191	191	191	191
Demand (ac-ft/year)	2,246	2,982	3,334	3,969

The Colorado Water Plan Technical Update contains estimates for current (2015) and projected municipal use (2050). The municipal results for the Technical Update are provided on a county wide basis. WWG obtained the population and GPCD for Archuleta county from the Technical update. The population data was multiplied by 75 percent to estimate the population in the PAWSD service area. The Technical Update Scenario A “business as usual” demand for 2050 was considered appropriate to compare with the PAWSD and Growing Water Smart Group estimates. Table 4 shows the estimated current projected demands for PAWSD based on population and GPCD data from the Colorado Water Plan Technical Update.

Table 4. Estimated PAWSD current and projected population and demands from the Colorado Water Plan Technical Update

	Current (2015)	2050 - Business as Usual
Population	9,313	19,928
GPCD	220	197
Demand (ac-ft/year)	2,295	4,398

The Technical update estimated larger GPCD for Archuleta County, which resulted in a slightly higher demand than the estimates based on the data provided in PAWSD’s 2018 Drought Management plan. The three estimates are within 10 percent:

- PAWSD (2% Growth) = 4,150 acre-feet
- Growing Water Smart (high growth) = 3,969 acre-feet
- Technical Update = 4,398 acre-feet

The slightly higher Technical Update demand results in an increase in demand through 2050 of approximately 2,150 acre-feet. Figure 5 shows the current and 2050 projected demand using a typical municipal monthly distribution. The hatched area indicates potential demand on future District storage.

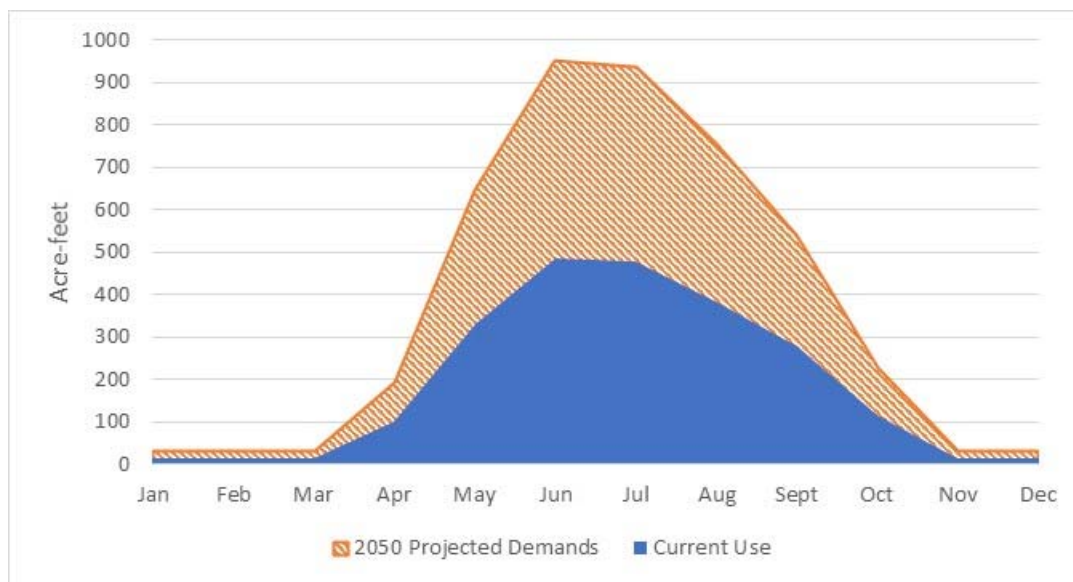


Figure 5. Monthly Current and 2050 Projected Municipal Demands

The estimates shown above were not confirmed by PAWSD and are provided only for the Districts use in understanding potential future municipal demand. Based on the 2018 Drought Management Plan and conversations with PAWSD staff, PAWSD estimates their existing supplies can meet current demands through a 2-year drought without use restrictions. PAWSD currently plans to meet future demand by using planned upgrades to water treatment plants,

continuing to fix leaks in its system, and constructing additional pump stations/pipelines that could help increase water production. In addition, per agreement with the Colorado Water Conservation Board (CWCB) Dry Gulch Reservoir is also a part of PAWSD's plan to meet future demands.

2.3 Industrial

The Colorado Water Plan Technical Update shows no current or projected future industrial use in Water District 29 (the Upper San Juan River basin). A review of other planning efforts in the basin, including the Southwest Basin Implementation Plan, and discussions with PAWSD staff and the local water commissioner, WWG concluded there is no potential future industrial use in the District or elsewhere in the San Juan basin that could be included as a demand for diligence of the West Fork water rights.

2.4 Environmental and Recreational

As shown, limited irrigation and municipal demands were identified that could be met from the West Fork water rights. Therefore, increased environmental and recreational demands will likely be required to show the need for additional storage in the San Juan basin. To identify these demands, WWG reviewed available documents from the San Juan Watershed Enhancement partnership, determined how often the mainstem instream flow is met, looked for background information on the Dry Gulch environmental flow bypass stipulations, and reviewed the current work being done as part of the San Juan Stream Management Plan. The results of the Upper San Juan Integrated Water Management Plan were not yet available; therefore, environmental and recreational needs were based on the existing CWCB instream flow right and the flows stipulated in Dry Gulch Reservoir Case No. 04CW85.

The CWCB instream flow reach on the mainstem of the San Juan River begins at the confluence of the East and West Forks of the San Juan River and extends to the town of Pagosa Springs. The instream flow water right is 50 cfs from March 1 to August 31 and 30 cfs from September 1 to February 29. The San Juan at Pagosa Springs streamflow gage (USGS ID 09342500) was used to determine how often the mainstem instream flow rights is satisfied. Figure 5 shows the annual instream flow shortages over the last 30 years. The CWCB instream flow right is a very junior water right in the basin, with a 1980 appropriation date. Unlike the shortages to senior agricultural uses, as shown in Figure 5, the need for District storage to meet the environmental demands would increase if upstream conditional water rights were developed.

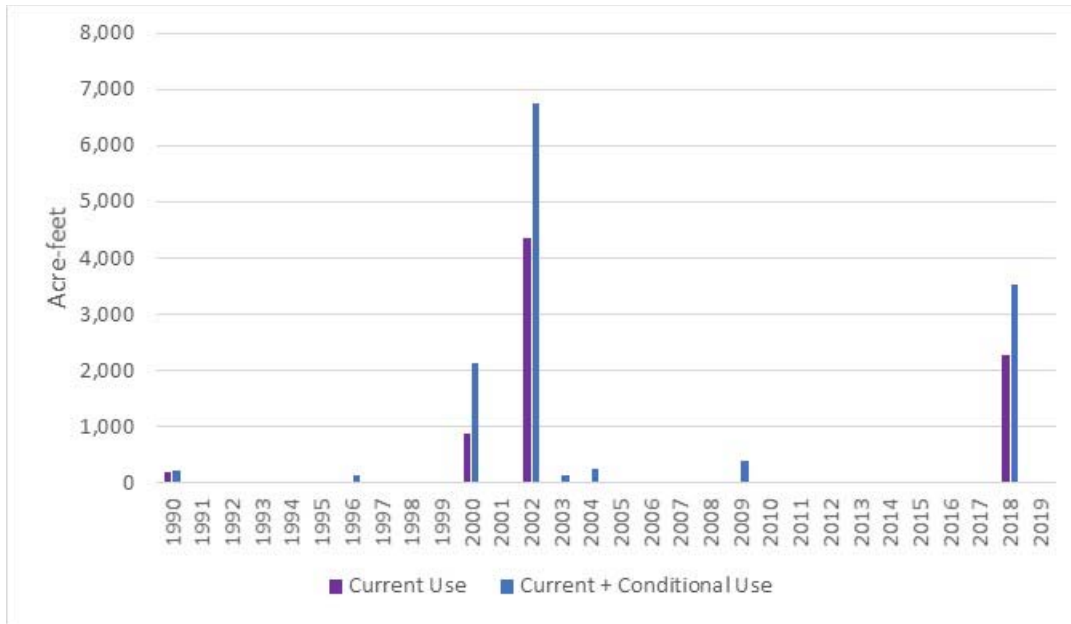


Figure 5. Annual San Juan River Instream Flow Shortages

As shown, in most years the current instream flow right is satisfied. Instream flow shortages generally occur in July and August only in dryer years with limited late season precipitation. This coincides with the period that municipal and agricultural demands are greatest and the typical high season for tourists in Pagosa Springs that like to enjoy recreation on the San Juan River.

Environmental flow bypass stipulations were added as a requirement for development of the Dry Gulch water rights during the 2004 diligence proceedings. These stipulated flows are double the current instream flow right on the mainstem of the San Juan River (100 cfs from March 1 to August 31 and 60 cfs from September 1 to February 29). Backup documentation on the basis for these flows could not be found, however these stipulated flows may be justified and necessary to meet environmental needs. Colorado Parks and Wildlife (CPW) and CWCB would need to perform an analysis to determine if they are necessary. Figure 6 shows the annual shortages on the mainstem San Juan River if the stipulated flow rates were justified. As shown, the need for District storage to meet these flow shortages would increase if upstream conditional water rights were developed.

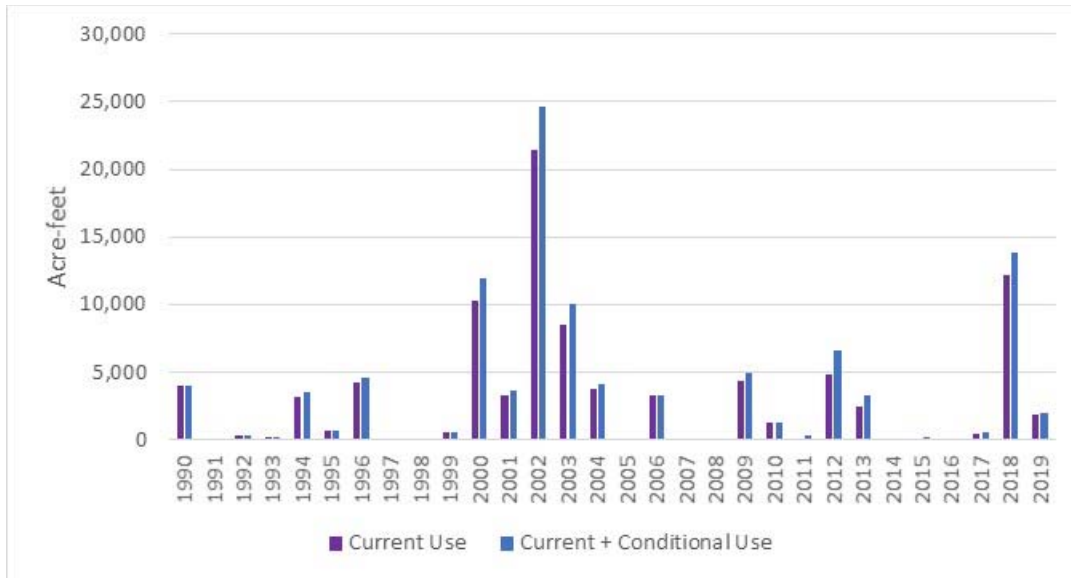


Figure 5. Annual San Juan River Environmental Stipulated Flow Shortages

The environmental stipulated flows result in an increase in shortages in late summer and winter months in both hydrologically dry and average years. As noted, at the time of writing this report, the results of the Upper San Juan Integrated Water Management Plan were not yet available. The results of the Water Management Plan may help to better understand the environmental and recreational flow needs of the mainstem San Juan.

2.5 Water Use and Water Demand Summary

The water use and water demand analysis indicate that the most significant need for future District storage is to satisfy late season environmental flows on the mainstem San Juan River. Figure 6 shows the estimated 2050 annual demands and how they could fluctuate based on historical climate and streamflow conditions. The environmental demands shown in Figure 6 are the estimated stipulated environmental flow shortages.

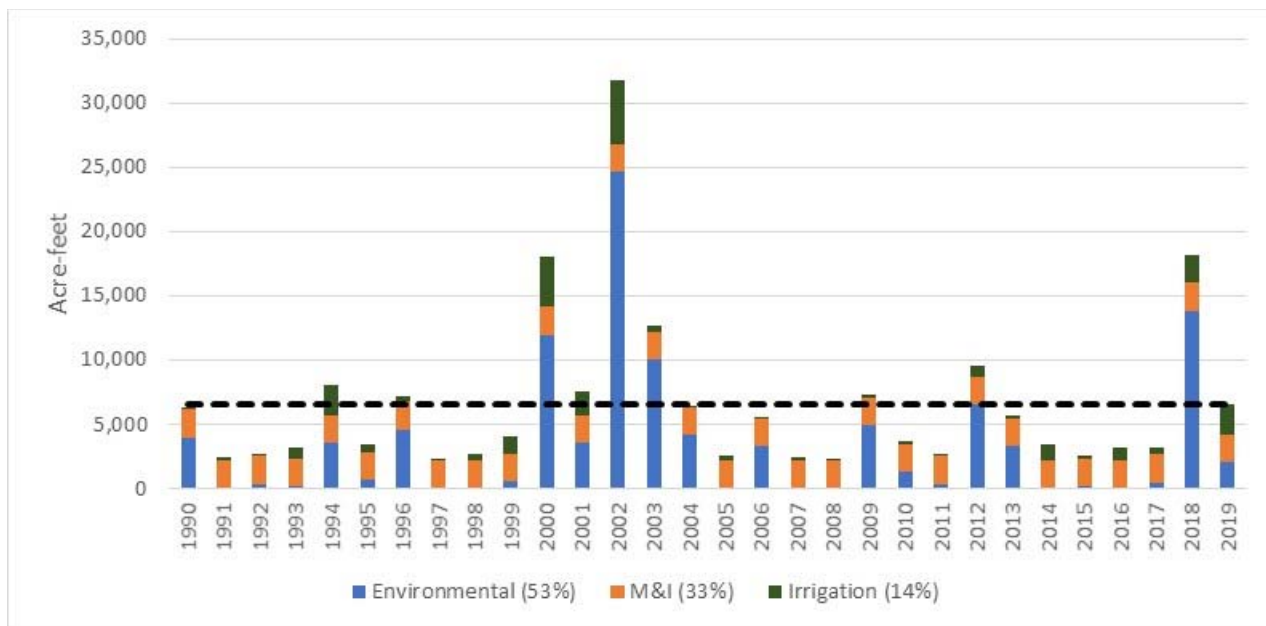


Figure 6. Maximum Annual 2050 Projected Demands

The average annual future demand ranges from around 3,000 to over 30,000 acre-feet, with an average future demand of 6,600 acre-feet.

3.0 Water Availability Analysis

Proving diligence on a water right requires showing there is water (physical supply) that is in priority (legal supply) to meet the future demand for the water use. WWG developed a daily point-flow model to determine water physically and legally available to the District's water rights. The point-flow model starts with historical streamflow, adds diversions for current uses that are junior to the District's water rights under the various stipulation scenarios identified, and subtracts estimates of future development under conditional water rights that are senior to the District's rights.

WWG investigated water available to the West Fork Water right if it was moved downstream to the San Juan Headwaters Project (Dry Gulch Reservoir) site. As discussed, previous engineering studies have shown that the Dry Gulch Reservoir site is the best reservoir site in the upper San Juan Basin. The current water shortages and future water demands did not result in future demands that could reasonable justify more than one new reservoir under the District's water rights. Therefore, the water availability analyses also investigated water available to store at the site under the Dry Gulch water rights and under a new junior storage right. Finally, the analyses specifically quantified water available with and without the limitations imposed on the District's water rights during previous diligence filings to provide a complete understanding and basis for moving forward with diligence.

The initial water availability analysis was performed without placing a demand on the reservoirs, assumed that each year the reservoir could divert physically and legally available water up to the maximum storage capacity or up to the annual volumetric limit. Then project

demands were superimposed on reservoir supply to understand how the reservoir would perform under varying hydrology and demands.

3.1 Water Available to West Fork Canal and Storage Rights

As identified in Section 1.1, the West Fork Canal water right is decreed for irrigation, municipal, and industrial use and is not decreed to fill an off-channel reservoir. The water use and demand analysis concluded that increased irrigated acreage in the basin is unlikely, and that late-season shortages to existing irrigated acreage and projected municipal use could only be reliably met from water stored during the runoff period. Therefore, the water availability analysis did not consider the use of the West Fork Canal direct flow right and instead concentrated on analysis of the West Fork Reservoir right.

If the West Fork Reservoir right is moved to the Dry Gulch Reservoir site and filled from the San Juan River mainstem, the new filling location would be an “alternate point” to the original location to maintain the existing water right priority. This means that water needs to be physically and legally available at both the original reservoir location on the West Fork San Juan River, and at the filling location on the mainstem San Juan River. Four separate water availability scenarios were analyzed to consider water availability at both locations, to understand limitations that are currently placed on the West Fork Reservoir storage right, and to investigate water availability if other potential stipulations were placed on the West Fork Reservoir storage right during the 2021 diligence filing.

- *Scenario 1:* Water available at the original reservoir location on the West Fork of the San Juan River, subordinated to upstream absolute and conditional water rights senior to 2013. Although the original location anticipated an on-channel reservoir, a reasonable maximum rate of diversion to storage of 50 cfs was also applied.
- *Scenario 2:* Water available at the Dry Gulch Reservoir site, assuming water is diverted via Park Ditch, subordinated to upstream rights on West Fork, East Fork and the mainstem San Juan River. A maximum diversion rate of 50 cfs was applied, assuming this stipulation imposed on filling the Dry Gulch Reservoir would likely be imposed on filling with the West Fork Reservoir storage right.
- *Scenario 3:* Scenario 2 plus the assumption that CWCB would impose stipulations that the filling right subordinates to the junior San Juan River instream flow right (1980 appropriation date).
 - *Scenario 4:* Scenario 3 plus the assumption that the stipulated environmental flows imposed on Dry Gulch Reservoir would also be imposed on the relocated West Fork storage right by potential opposers in the case.

Note that while it was assumed that water would be diverted to Dry Gulch via Park Ditch, water availability at the Dry Gulch Pump Station location is essentially the same. Figure 7 shows the annual water available to the West Fork Storage rights for the four scenarios.

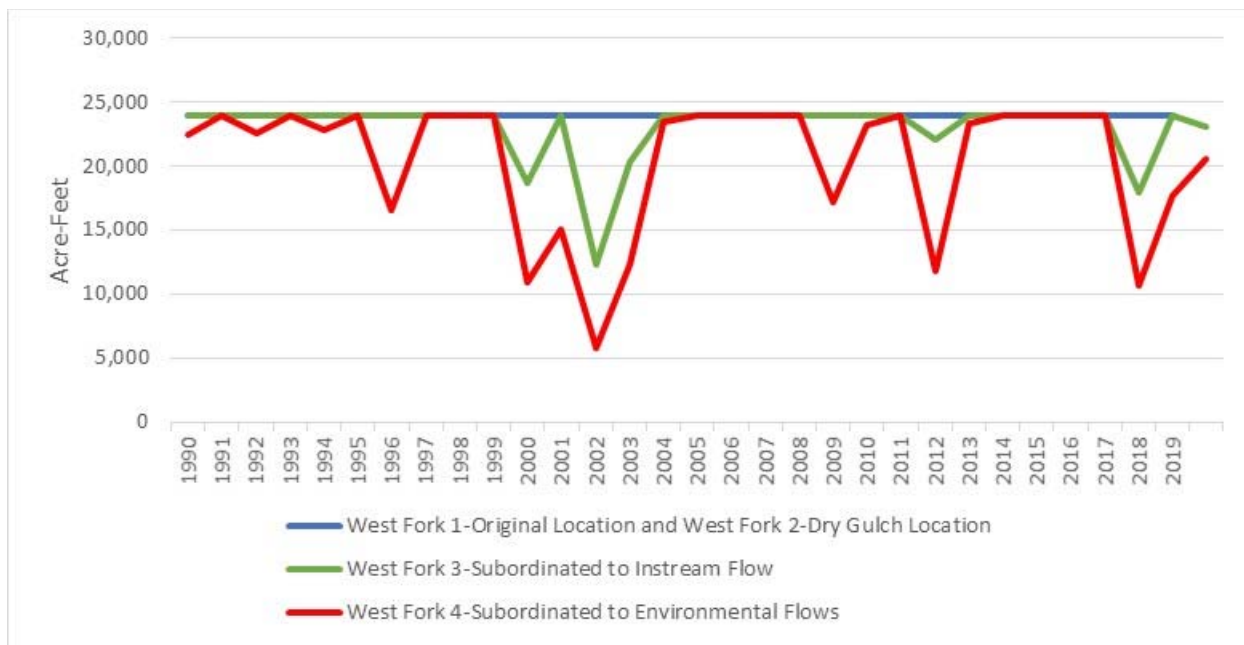


Figure 7. Annual Water Supply Available to the West Fork Storage Rights.

In all four scenarios, water is available for storage during the peak runoff period - primarily in April, May, and June. Scenario 1 (at the original reservoir location) and Scenario 2 (moved to fill from the Park Ditch) are never limited by supply, while Scenario 3 (subordinated to CWCB instream flow right) is only limited during dry years, like 2002 and 2018, when even senior agricultural water rights were unable to get a full supply. The largest impact on water availability would occur if the environmental flow stipulations imposed on the Dry Gulch water rights were applied to the West Fork rights at the Dry Gulch site (Scenario 4). As noted above, scenarios 3 and 4 are important to consider, as it is likely that at least some of the stipulations imposed on the Dry Gulch storage rights would also be imposed when changing the location of the West Fork Storage right. Also, it is important to note is that the reservoir storage right and capacity considered in the point-flow model (24,000 acre-feet) is significantly more than the average annual future demand identified in Section 2.5.

3.2 Water Available to Dry Gulch Storage Rights

Water available to the Dry Gulch Storage rights was estimated by considering the stipulations that have been imposed in previous diligence efforts which include the following:

- 50 cfs maximum rate for diversion to storage from all combined sources
- Maximum total annual storage limit of 11,000 acre-feet and maximum total storage over 10 years is limited to 93,000 acre-feet
- Junior water rights cannot be called out to meet the stipulated environmental flows and continue to allow diversions to storage
- Stipulated environmental flows (60 cfs from September through February, and 100 cfs from March to August) must be met at the San Juan River at Pagosa Springs streamflow gage before diversions can occur to storage
- Storage limited to the current Dry Gulch Reservoir rights (11,000 acre-feet)

Figure 8 shows the annual supply available to the Dry Gulch storage rights with consideration for the current water rights' stipulations.

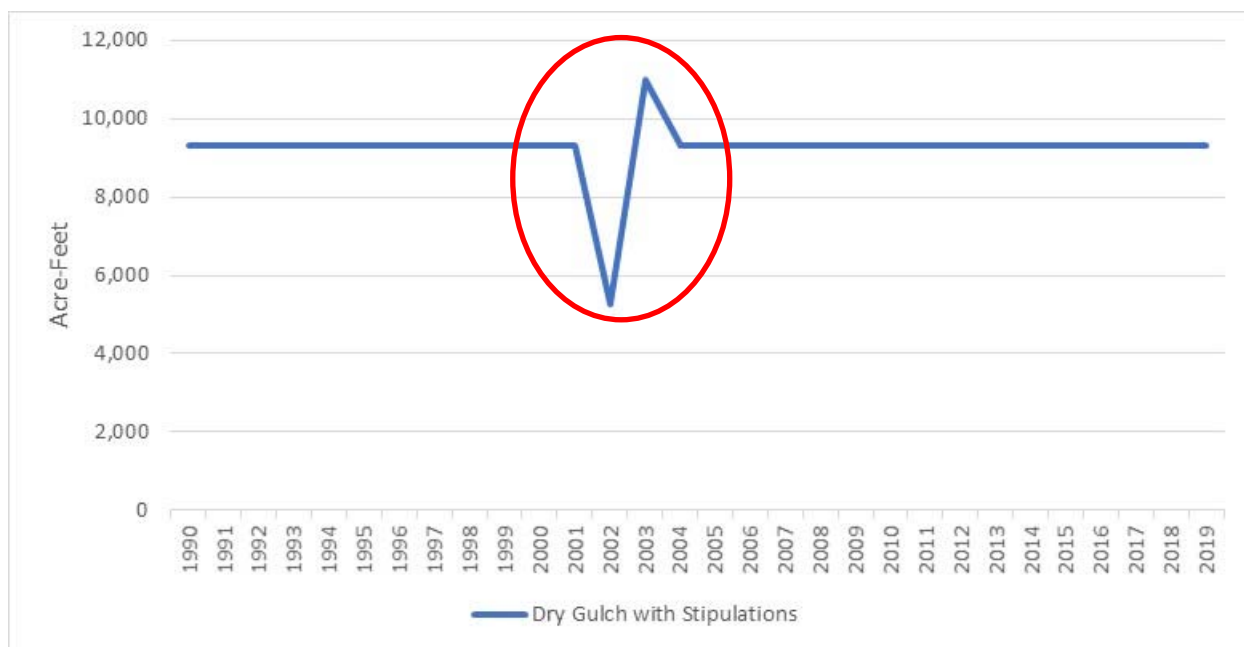


Figure 8. Annual Water Supply Available to the Dry Gulch Storage Rights.

Due to the stipulations that limit the amount of water that can be diverted on an annual or ten-year basis, only 9,300 acre-feet per year can be stored under the water right (assuming the reservoir is filled and emptied every year). Water was available to store 9,300 acre-feet every year except 2002. In 2002, there was less than 6,000 acre-feet available to store, therefore the ten-year volumetric limit was not a constraint and more than 9,300 acre-feet could be stored in 2003.

3.3 Water Available to a New Junior Storage Right

To provide the District with multiple options, WWG also estimated water available to a new junior storage right at the Dry Gulch reservoir site. A new junior storage water right could be advantageous because it does not need to be applied for until the District is closer to constructing storage; therefore, eliminating the cost of maintaining diligence on the right. In addition, the District could file a water rights application that includes “all-uses” on the right including in-channel environmental and recreational uses. As noted above, neither the West Fork nor Dry Gulch storage rights are decreed for in-channel uses. For this analysis two different scenarios were considered:

Scenario 1: Water is diverted for storage through the Park Ditch, with a maximum flow rate of 50 cfs and the reservoir size is assumed to be 11,000 acre-feet.

Scenario 2: Scenario 1 plus represent the same stipulated environmental flows imposed on Dry Gulch Reservoir on the junior storage right.

Figure 9 shows annual water supply available to the junior storage right under the two scenarios.

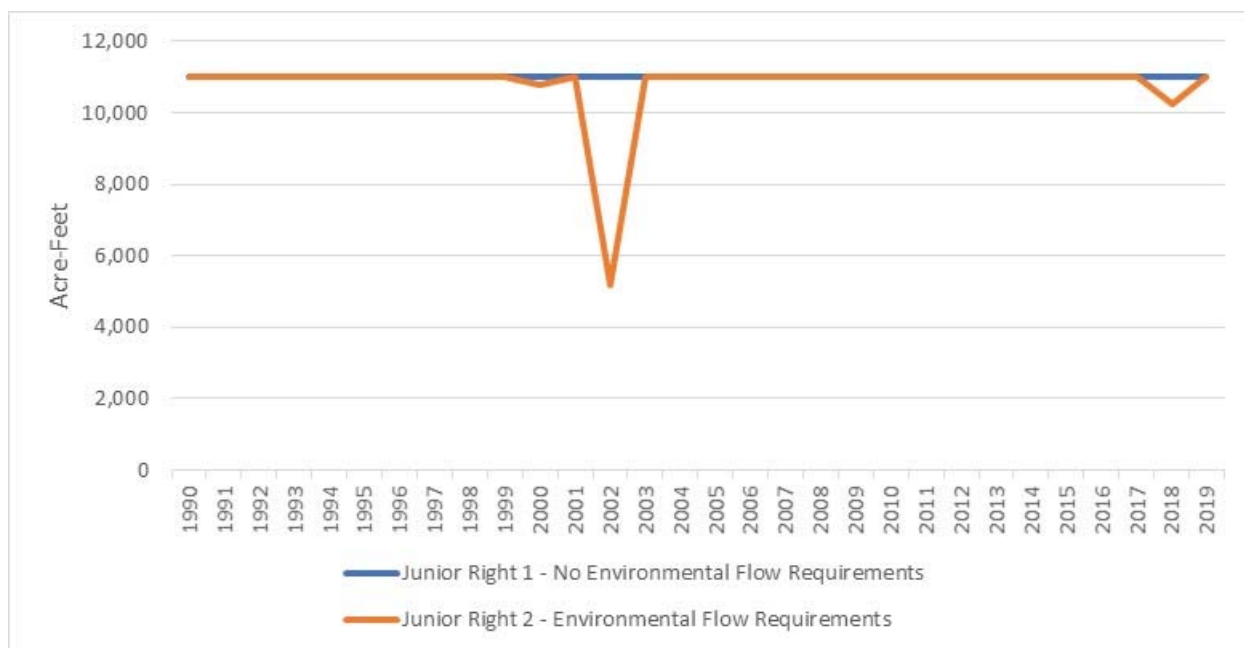


Figure 9. Annual water supply available to a junior storage right at the Dry Gulch Reservoir Site.

Without the stipulated environmental flows, water is available to meet the full 11,000 acre-feet storage right each year (Scenario 1). Even with the stipulated environmental flows the junior right can fill the reservoir every year except during the driest years (2002 and 2018). Current absolute and conditional water rights that have appropriation dates between the West Fork and Dry Gulch water rights and a new junior right do not impact the ability to store. Reservoir storage under the rights investigated will occur during the peak runoff months, primarily April through June. Except in the driest years, water is available to fully meet the storage needs during those months.

3.4 Storage Right Comparisons

The point-flow model was used to investigate water available to an 11,000 acre-feet capacity reservoir filled using the West Fork storage right to compare available water to the other water rights considered. The Dry Gulch storage rights stipulated environmental flow requirements were placed on both the West Fork storage right and the junior storage right; however, the 10-year volumetric limit was assumed to only apply to the Dry Gulch water rights. Figure 10 shows that a Junior right with the stipulated environmental flows and the West Fork Rights with the stipulated environmental flows have similar amounts of water available to them. If the annual and 10-year diversion limitations were applied to the West Fork or Dry Gulch rights, the water available under the three water rights would be essentially the same.

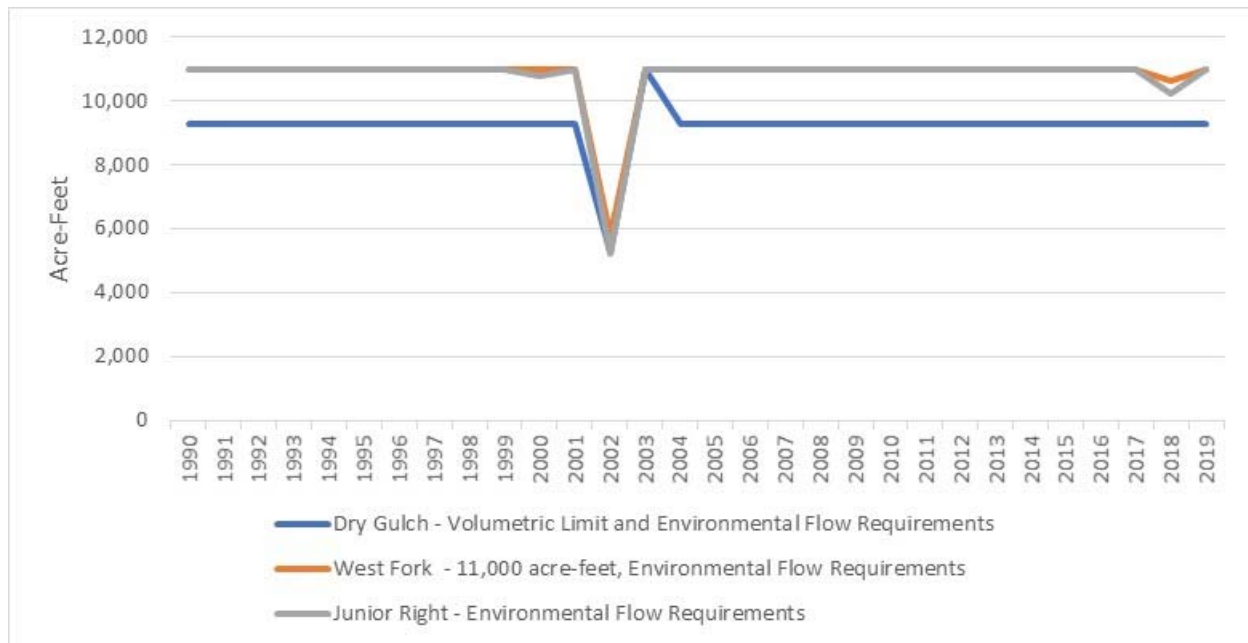


Figure 10. Comparison of Annual Supply Available to the Storage Rights.

4.0 Potential Reservoir Operations

WWG modeled reservoir operations superimposing the future projected daily demands on the reservoir water availability analysis developed in the point-flow model. Water was released to meet future demands in the following order: municipal demands, agricultural demands, then environmental flow demands. As the Dry Gulch Reservoir site was previously identified as the best reservoir site, all analyses assumed storage occurred at the Dry Gulch Reservoir site. Note that studies have shown that the Dry Gulch Reservoir site could support a reservoir as large as 35,000 acre-feet; however, the reservoir modeling assumed a 24,000 acre-feet capacity reservoir when storing under the West Fork storage right, and an 11,000 acre-feet reservoir when storing under the Dry Gulch Storage rights or a junior storage right.

Figure 11 shows average monthly reservoir content using the West Fork, the Dry Gulch, and a junior water right with the stipulated environmental flows. Note that the reservoir contents based on operations and storage under the Dry Gulch water rights and the junior water right are the same; the two lines are on top of each other.

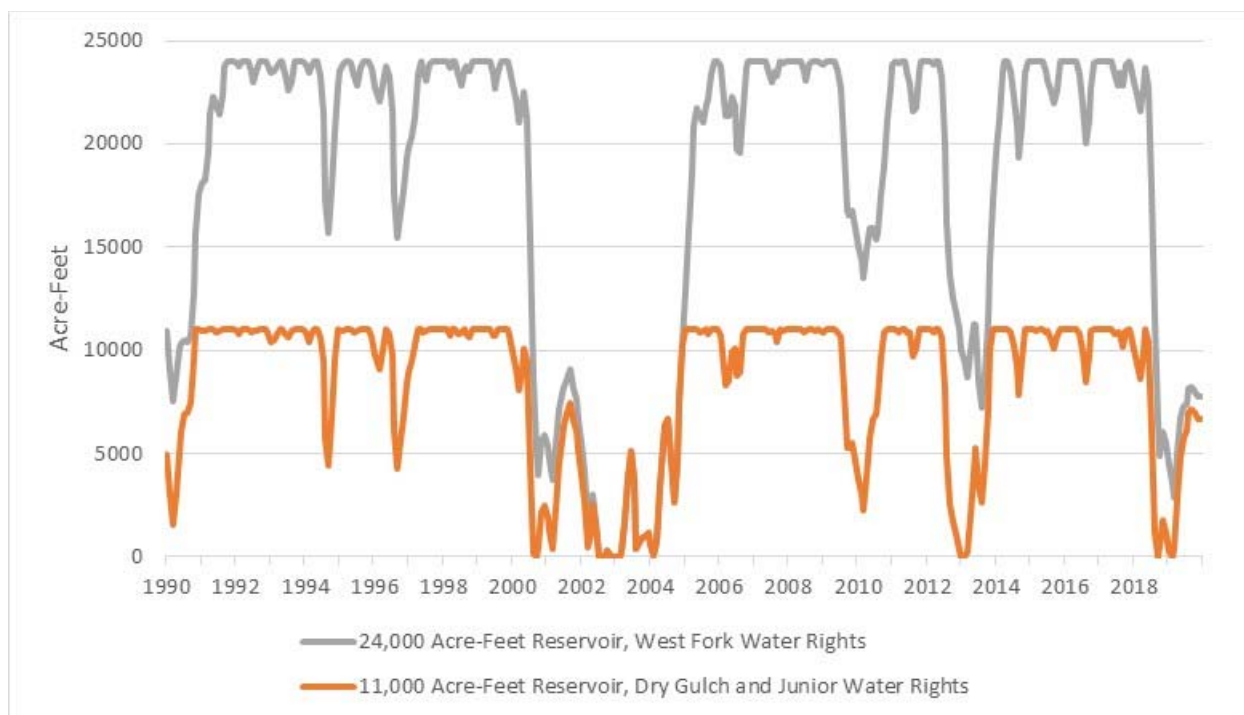


Figure 11. Average Monthly Reservoir Contents with the Stipulated Environmental Flows

Both the 11,000 acre-feet and 24,000 acre-feet reservoir stay full most months; however, the combination of increased demands and decreased flows during early 2000 drought draws down both modeled reservoirs. As shown in Figure 11, the 11,000 acre-feet reservoir can fully meet demands in 24 of the 30 years modeled (all years except 2000 through 2004, 2012, and 2018). The larger 24,000 acre-feet reservoir can meet demands in all but 3 years, from 2002 through 2004. Evaporation losses for the reservoir are estimated to be almost double between the two modeled reservoir capacities, as can be clearly seen in the monthly fluctuations.

A 24,000 acre-feet reservoir instead of a 11,000 acre-feet reservoir is only warranted in the driest years. The option to operate a 11,000 acre-feet reservoir to meet the stipulated environmental flow demands only in wet and average years was simulated as an alternative operation scenario. In dry years, water was simulated to be release only to meet the current instream flow demands. Figure 12 compares the monthly reservoir contents from a reservoir that always releases to meet the stipulated environmental flows and a reservoir that in dry years only releases to meet the current instream flow demands. As highlighted in Figure 11, the storage and releases are essentially the same regardless of whether the West Fork, the Dry Gulch, or a junior water right is used to fill the reservoir.

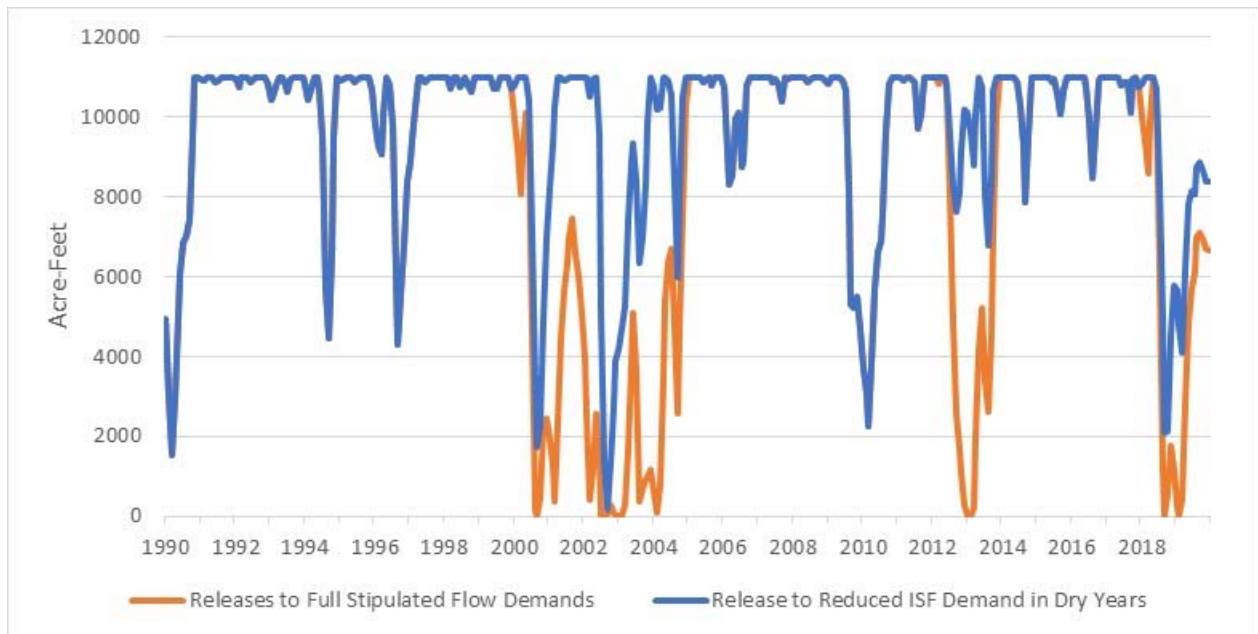


Figure 12. Average Monthly Reservoir Contents with releases to meet the full stipulated flow requirements in all years compared to releases to meet only the current instream flow demands in dry years.

As shown in Figure 12, the 11,000 acre-feet capacity reservoir is more reliable if the reservoir does not release to the stipulated environmental flows during dry years. Note that even though streamflow demands on the reservoir are relaxed, storage still cannot occur unless the stipulated environmental flows are met.

5.0 Analysis Summary

The following summarizes observations from the demand and water availability analyses as they apply to diligence of the West Fork water rights.

- The West Fork Canal direct flow water right is decreed for irrigation, municipal, and industrial uses only; therefore, cannot be used to divert water to storage. There is no projected demand for the West Fork Canal direct flow water right, therefore opposers may make a speculation claim during diligent proceedings.
- The stipulations attached to the West Fork storage right is not as limiting as the stipulations attached the Dry Gulch storage rights. However, the terms and conditions that may be imposed during diligence and change of location proceedings are unknown. It is likely that the same entities will oppose the diligence proceedings, and it is possible they will push for the same stipulations placed on the Dry Gulch storage rights.
- If the location of the West Fork storage right is moved to the Dry Gulch Reservoir site as an alternate point of storage, the District may be required to measure water available at the original West Fork reservoir location. This could involve funding and maintaining a streamflow gage or a diversion and return structure.

- The West Fork Storage rights priority stipulated to upstream junior rights provides limited benefit compared to the Dry Gulch storage right priorities (1967/2004) or to a new Junior storage right priority.
 - Current Dry Gulch water rights may be sufficient to cover future demands; however, they are not decreed to release for in-channel environmental and recreational demands.
- Current information indicates projected demands for municipal, environmental, recreational, and irrigation uses through 2050 could be met most years with an 11,000 acre-feet reservoir at the Dry Gulch reservoir site.
 - Current Dry Gulch water rights may be sufficient to cover future demands; however, they are not decreed to release for in-channel environmental and recreational demands.
- Environmental flow stipulations for Dry Gulch water rights affect the ability to fill the reservoir in dryer years; however, releasing to meet those increased environmental demands may be needed to justify the reservoir without the question of speculation.
- The existing environmental flow stipulations are somewhat arbitrary (double the instream flow); there may be an opportunity for the District to work with stakeholders to develop improved environmental or recreation flows that benefit both the river and improve project operations for municipal use.
- Applying for a new junior water right for the Dry Gulch reservoir location would not impact legal water availability compared to the current District's storage rights, and a new filing could include in-channel environmental flows as a decreed use.
- Filing for a new junior water right in the future would provide the District time to work with CPW and CWCB to determine if increased environmental flows are justified and to develop agreements for reservoir use. Without the need to release for increased environmental flows, even an 11,000 acre-feet reservoir may be difficult to justify.



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MEMORANDUM

To: Board of Directors, San Juan Water Conservancy District
From: Jeffrey Kane
Date: February 12, 2021
Re: Director Hudson's allegation of unethical conduct against Director Pfister

At its meeting on January 18, 2021, Director Bill Hudson raised allegations of unethical action by Director Al Pfister, including, as reported in the *Pagosa Sun*, a concern about wanting to know "which directors are padding their pockets when they're making motions in front of this board." A copy of the article reporting on that discussion is attached to this memorandum.

On January 21, 2021, Director Hudson emailed the Water Programs Research Associate at MSI stating that

There was some confusion among the Board members, at our recent Board meeting, as to why I had contacted MSI about financial records.

I have been concerned that our Board President, Al Pfister, was being compensated by MSI for assistance provided to the WEP program — and was inadvertently violating Colorado conflict of interest laws and ethics recommendations by discussing, and voting on, Board donations made to MSI.

A copy of that email exchange with MSI, which also indicates that Director Hudson first requested financial documents from MSI in December, is attached.

Director Hudson's assertions and conduct raise important legal, financial, and prudential interests for the District, as well as for Mr. Hudson and Mr. Pfister as individuals. Allegations of unethical behavior and self-dealing against a director are serious, potentially implicate criminal liability, and should be carefully addressed by the Board both procedurally and substantively. Mr. Pfister has been placed in a position of having to defend his actions without the basis for Mr. Hudson's allegations having been formally presented to him or the Board. That Director Hudson raised them without prior notice to the other directors at the January 18 Board meeting complicates the District's ability to address them. That he raised his concerns with third parties prior to sharing them with other directors also implicates his fiduciary duties to the Board, as

recently addressed in District Resolution 2020-02. And beyond his legal duties to the District, the Board should consider whether Director Hudson's actions and comments concerning his allegations, even if true, were made in the best interest of the District, its constituents, and the Board's ability to govern the District.

Because of the important interests involved, the Directors should discuss how to address Director Hudson's allegations at its February 18 meeting. I will be prepared to advise the Board on the law governing financial conflicts of interest, its liability to defend and indemnify directors for their official acts, and director fiduciary duties, as well as potential approaches for the Board to adjudicate the allegations. If advice and legal conclusions regarding the particular allegations are requested, it may be appropriate for the Board to enter executive session. The Board should also consider the extent to which Director Hudson and Director Pfister should participate in the discussion of the allegations and the Board's options, given that this matter concerns matters and liability related to both their official actions as directors and as individuals and each has an interest as an individual in the outcome of the discussion. Accordingly, I would recommend that the District's Vice President or Secretary present this agenda item and lead the discussion of it.

Water conservancy district board debates ethics with letter of support

By Chris Mannara
Staff Writer

At a Monday meeting of the San Juan Water Conservancy District (SJWCD), concerns were raised about a letter of support confirming an amount committed to the Upper San Juan Watershed Enhancement Partnership (WEP).

According to an email from SJWCD board consultant Renee Lewis, the WEP is a project of the Mountain Studies Institute.

During the meeting on Monday, the SJWCD board discussed whether to submit a letter of support to the Colorado Water Conservation Board (CWCB) and the Southwest Basin Roundtable that confirms the \$2,000 amount committed for 2021 within the district's 2021 budget.

According to the SJWCD draft strategic plan, the WEP is an effort within Archuleta County to implement one aspect of the state's water plan, which is to develop a stream management plan (SMP).

"Envisioned as a three-phase process, the ultimate purpose of the WEP is to initiate, organize, and implement the Integrated Watershed Management Plan (IWMP) to seek opportunities to conserve the Upper San Juan Basin streams and their uses with wide-ranging community support and decisions based on current, relevant science and assessments," the draft strategic plan reads. "To this end, WEP is being led by a steering committee that is comprised of local agricultural, municipal, domestic, envi-

ronmental, and recreational water users. The steering committee is working within the community using the IWMP process to identify representative stakeholders that will assist in implementation of the projects described in the SMP to address the identified needs and issues."

According to the draft strategic plan, phase one of the WEP IWMP was finished in April of 2020 and funding for the WEP IWMP was approved by CWCB in May of 2020.

"Development and implementation of the WEP IWMP and ultimately the SMP are supported by the CWCB. The District is participating as a stakeholder and financial contributor to the WEP IWMP process and SMP development. Continued participation in the development and implementation of such efforts on common water resource issues will be mutually beneficial as it allows the District to continue to represent its constituents while efficiently utilizing resources," the plan reads.

Lewis noted that the letter of support would support phase three of the San Juan Basin Integrated Management Plan.

Additionally, Lewis noted that the SJWCD board heard an overview of the Mountain Studies Institute's work at a meeting on Dec. 10, 2020.

Board discussion

In introducing the topic to the board at the meeting on Monday, SJWCD Chair Al Pfister explained

that he had sent the letter of support to the WEP.

However, before discussion took place, Pfister noted that he is working for the Mountain Studies Institute and explained that someone else on the board might have to sign the approved letter of support.

SJWCD board member Bill Hudson responded by suggesting that Pfister recuse himself from further discussion on the topic, to which Pfister then recused himself from further discussion.

"All it is is we're confirming that we're going to provide \$2,000 for the next phase of the WEP, so I don't see why there would be any controversy over it," SJWCD board member John Porco said.

Following more discussion among the board, some of which included Pfister notifying the board that they had a copy of the letter of support in their emails, Hudson raised further concerns about Pfister's participation in the discussion.

"Al Pfister has said that he recused and then he continues to be part of the conversation. I'm pretty confused about what that means that he's recused himself. The government meetings that I've attended, when somebody recuses themselves, they stop participating in the conversation and normally they leave the room for the conversation," Hudson said.

Hudson later clarified that the conflict of interest is that Pfister is "one of the contractors for this study that we are proposing to possibly fund."

Additionally, Porco noted that the funding was already approved as part of the district's 2021 budget and that all the letter of support is doing is confirming to the CWCB that the SJWCD is going to partially fund the WEP.

"My interpretation of a conflict of interest is if a member of the board is getting a financial gain from the action of the board, they recuse themselves from the conversation, they don't participate in the action of the board, they don't participate in the discussions of the board, and that's my understanding of proper board member behavior when that board member will benefit financially from the board's decision," Hudson added.

SJWCD legal counsel Jeff Kane explained that he did not interpret this discussion as the board making

a decision on funding.

"It states pretty clearly that we are committed to supporting phase three of this project and I don't remember the board committing to support phase three of this project," Hudson said, adding that he does not remember the board hearing a report for phase two of the project.

Hudson later added that he has had "trouble getting financial information from the WEP," adding that he had "requested some financial information at the beginning of the month," but explained he had not heard back from the WEP.

"I have problems with us making commitments to fund something just because it's in the budget when the board has not had a thorough conversation about how well this project is going. Are we still in support of where this project is headed?" Hudson said. "I know that some members of the board are willing to give the money without any kind of research, but I'm not willing to do that."

SJWCD board member Doug Secrist added that he did not recall an update being given specifically on phase three of the project, rather it was an update on "what was happening up to that point."

"Bill's question about getting a report and getting a little bit more information as to what exactly phase three is going to be can still happen. But, I think the letter itself is still valid because it's basically just saying we have committed that money in our budget, and that's exactly what we've done," Secrist said.

The motion to have SJWCD Vice Chair Susan Nossaman sign the letter of support passed via a 4-1 vote with Hudson voting against.

"There are obvious times where Al's interest in that foundation would create a conflict of interest if he participates in discussion and decision," Kane said. "There may be other times in discussions of the project where it would be appropriate for Al to recuse himself."

Following the vote, Pfister rejoined the discussion and mentioned that he had been notified by the Mountain Studies Institute of Hudson's request of its financial information and that Hudson had done so using his SJWCD email.

"I guess I interpret that as something. If you're going to use the board, you should have the board's

■ See Ethics A7

Letters

■ Continued from A4

immunity through our vaccination events and ongoing infection prevention efforts.

As a reminder, residents over 70 are currently eligible to receive the vaccine and can do so by making a reservation for a vaccination appointment at psmedicalcenter.org. Residents under 70 and other designated groups will be eligible for vaccination in the coming months, please check PSMC's website for updates.

Rhonda P. Webb, MD
CEO, Pagosa Springs Medical
Center

Right and wrong

Presidential candidates; excused and supported hundreds of destructive riots which harmed their fellow Americans; and suppressed and dismissed both the evidence and the nearly one-thousand first-hand accounts of election fraud they'd committed?

Though none of these actions can be defended as 'right,' they were all done by the Left. Which, sadly, is now the Democrat Party.

Patriots, know your rights, stand on your rights, and stand up for your rights. And whatever you do stay out of the realm of darkness, where the godless Left rules and reigns.

Charles Wenzel

Ethics

■ Continued from A5

concurrency before you go asking those types of questions," Pfister said.

Kane later explained that the board would like its directors to be forthright before reaching out to third parties on behalf of the board.

"You're now treasurer, so that expands your duties some, but I'm not aware of directors reaching out for budgetary information from third-party private entities without a discussion of the board for a reason before doing it first," Kane said. "When you reach out to a third-party private business and ask for budget information on behalf of the district, and none of the other directors know about it, it raises questions about what you're doing and whether it's on behalf of the district or on behalf of Bill Hudson."

According to Hudson, the request was due to his "right to know as a board member who's in charge of a budget" and where the money is going.

"We've made a donation for two years to a corporation that is

doing work that we are supporting, and I think as a board member, I have a right to look at their budget. If the rest of the board is not interested in that, that's fine to me," he said. "I think I have every right to ask them for financial information since I'm part of a board that's spending money on their work."

Another risk is that the third-party organizations are not obligated to give the information and that financial information is "generally very sensitive for a nonprofit organization or any business," Kane added.

The issue is whether or not that request was within Hudson's duties as a board member and treasurer and whether or not that request made other board members uncomfortable, Kane added.

"Of course it makes other directors uncomfortable. I'm uncomfortable when other directors are making motions to pad their own pockets. I'm very uncomfortable about that and I want to know which directors are padding their own pockets when they're making

motions in front of this board," Hudson said. "I have every responsibility to know if my fellow directors are acting unethically."

Hudson explained that Pfister sent out the letter of support and made a motion to add it to the board's agenda when it wasn't on the agenda originally.

"My view of it, Bill, is this was adding a minuscule task that confirms an action the board already took," Kane said. "I think it's a very major leap to accuse a director of financial conflict of interest from proposing that letter. And then he did recuse himself from moving forward with it and signing it."

chris@pagosasun.com

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The Pagosa Springs SUN
264-2100

Subject: Fwd: Upper San Juan Watershed Enhancement Partnership Budget Info Request
Date: Friday, January 22, 2021 at 11:56:01 AM Mountain Standard Time
From: Allan Pfister <apfister.sjwcd@gmail.com>
To: Jeffrey Kane <jkane@swpropertylaw.com>
Attachments: image001.png

an additional fyi on this issue

----- Forwarded message -----

From: **Mandy Eskelson** <mandy@mountainstudies.org>
Date: Fri, 22 Jan 2021 at 11:35
Subject: RE: Upper San Juan Watershed Enhancement Partnership Budget Info Request
To: Bill Hudson <bhudson.sjwcd@gmail.com>, Aaron Kimple <akimple@mountainstudies.org>
Cc: Allan Pfister <apfister.sjwcd@gmail.com>, Renee Lewis <reneelewis7@gmail.com>

Hi Bill,

Thank you very much for the update and explanation. I apologize there was a delay in us compiling that information in our attempt to be thorough and up-to-date, per your request on subcontractor payments. We've been playing a lot of catch up after the holiday break, but MSI is happy to provide further details if the SJWCD board so desires.

In regards to the request for a Letter of Matching Funds, I put in this request under short notice—I called in this request on Friday 1/15, I believe—due to one of our grant applications for Phase III through the Southwestern Water Conservation District requested we include any new letters of committed funding by Tuesday Jan. 19. I had perhaps mistakenly hoped our letter would not be an usual request because I was informed the SJWCD board approved our \$2,000 request from their 2021 budget in the December meeting I attended. I take the blame for this short notice and sincerely apologize for this surprise agenda item AI added for me. I never intended to create a disturbance or conflict.

I cannot speak to AI's participation or recusal during matters regarding the WEP at SJWCD board meetings. However, if it helps ensure there are no conflicts of interest and maintains SJWCD and the WEP's trustworthy reputations, I am very happy moving forward to make formal requests each time to the board's president and vice president whenever the WEP wishes to make a presentation or any kind of request to the board. We can always send in other project managers, like Aaron Kimple or Mely Whiting, as well if you all get tired of seeing my face at meetings 😊. My main point being, we believe AI is an outstanding partner of the WEP's efforts and has no unseemly intentions, so whatever we can do to ensure all parties involved abide by rules/by-laws, ensure transparency, and maintain credible reputations, MSI and the WEP are happy to accommodate to keep this valuable collaboration moving forward.

I also passed along our Phase III grant materials to the board, and mentioned I'd be happy to discuss this again, in more detail, at a future SJWCD board meeting. In the meantime, anyone can review our Phase III grant application documents available online at the Southwest Basin Roundtable's website [here](#). This is all public information and I want the board to be sure they're comfortable and have opportunities to provide feedback throughout the process.

Regards,

Mandy Eskelson

Water Programs Research Associate

Mountain Studies Institute

mandy@mountainstudies.org

679 East 2nd Ave, Suite 8, Durango, CO 81301

970-387-5161

www.mountainstudies.org



From: Bill Hudson <bhudson.sjwcd@gmail.com>

Sent: Thursday, January 21, 2021 10:15 AM

To: Mandy Eskelson <mandy@mountainstudies.org>; Aaron Kimple <akimple@mountainstudies.org>

Cc: Allan Pfister <apfister.sjwcd@gmail.com>; Renee Lewis <reneelewis7@gmail.com>

Subject: Re: Upper San Juan Watershed Enhancement Partnership Budget Info Request

Hi Mandy

Thanks so much for the update, and for sharing the files with the Board leadership.

There was some confusion among the Board members, at our recent Board meeting, as to why I had contacted MSI about financial records.

I have been concerned that our Board President, Al Pfister, was being compensated by MSI for assistance provided to the WEP program — and was inadvertently violating Colorado conflict of interest laws and ethics recommendations by discussing, and voting on, Board donations made to MSI. My experience with local government suggested that, if Al is receiving money from MSI, he should recuse himself from Board discussions that concern MSI funding.

I imagine MSI is well aware of the Colorado regulations concerning conflicts of interest, and also aware of the recommendation from the Colorado Independent Ethics Commission recommending that government officials “avoid

conduct that is in violation of their public trust or that creates a justifiable impression among members of the public that such trust is being violated”.

I wrote to Al about this on December 15.

On Tue, 15 Dec 2020 at 10:03, Bill Hudson <bhudson.sjwcd@gmail.com> wrote:

Hi Al

It appears that some of the WEP funding may have accrued to Western Wildscapes. Can you share the financial documents that indicate who has received payments out of the various WEP income resources?

In the interests of transparency...

Thanks!

Bill

Al responded to me on December 18.

From: Allan Pfister <apfister.sjwcd@gmail.com>

Subject: Re: Western Wildscapes

Date: December 18, 2020 at 10:22:00 AM MST

To: Bill Hudson <bhudson.sjwcd@gmail.com>

Bill - Western Wildscapes (me), acting as a subcontractor to MSI, has received income from Mountain Studies Institute acting as the fiscal sponsor for the Watershed Enhancement Partnership (as has been discussed in previous meetings). I do not have any documents that indicate who has received payments out of the various WEP income resources. Such information would need to come from MSI's finance department.

Al

The San Juan Water Conservancy District has received negative press, in the past, as a result of officers ignoring the appearance of conflict. Since the current Board is committed to improving the District's reputation in the community, I feel it's imperative that Board members carefully observe and respect the regulations around conflict of interest.

Thanks so much for your attention to this matter.

Bill Hudson
Board Member, San Juan Water Conservancy District
970-903-2673
bhudson.sjwcd@gmail.com

On Jan 20, 2021, at 2:04 PM, Mandy Eskelson <mandy@mountainstudies.org> wrote:

Dear Bill and San Juan Water Conservancy District Board Members,

Mountain Studies Institute (MSI) recently received an inquiry from Bill Hudson to share budget information of Phases I (completed) and II (in progress) for the Upper San Juan Watershed Enhancement Partnership (WEP). As fiscal sponsor of this group, MSI staff are happy to provide project funders/partners like your board and its members this important information. The San Juan Water Conservancy District has provided critical local support of the WEP's efforts since its inception. MSI and the WEP are happy to accommodate this request and appreciate your patience while we compiled this information. We desire to be fully transparent and accountable throughout this Stream Management Plan/Integrated Water Management Plan process the WEP is leading.

I have shared progress and finals reports we provide to the Colorado Water Conservation Board and funders as well as the Phase II budget spreadsheet from our CWCB grant application directly to Bill already, but have included it here to share with the entire board. We were also asked to share subcontractor payments made in Phase II (2020) so far, which is attached for your review as well.

Please let us know if you should any further information or details.

We look forward to presenting at future board meetings of the WEP's progress and will be sure to notify board members when the next public meeting date is set to share Phase II watershed assessment results. At the moment, we are aiming to present at the end of March, after school districts' spring breaks, and we will be sure to keep you posted.

Regards,

Mandy Eskelson

Water Programs Research Associate

Mountain Studies Institute

mandy@mountainstudies.org

679 East 2nd Ave, Suite 8, Durango, CO 81301

970-387-5161

www.mountainstudies.org

<image001.png>

<WEP_Phase I_CWCB Final Report 20200430.pdf><WEP_Phase II_CWCB_Progress_Report_2020.pdf>
<WEP_Phase II_Budget.xlsx><WEP Phase 2 2020 Payments.xlsx>

SAN JUAN WATER CONSERVANCY DISTRICT
RESOLUTION NO. 2020 – 02
FIDUCIARY DUTIES OF DIRECTORS

WHEREAS, San Juan Water Conservancy District (“SJWCD” or “District”) is a quasi-municipal corporation of the State of Colorado organized under §37-45-101 et seq. (“Act”) which provides that it is to be governed by a Board of Directors appointed by the Archuleta County District Court; and

WHEREAS, each Director of the District has received advice from the District’s legal counsel concerning Director fiduciary duties and related concepts as well as conflicts under Colorado law, including by a memorandum dated August 20, 2018, a copy of which is appended to this Resolution; and

WHEREAS, to achieve its statutory purposes, objectives, and mission to be an active leader in all issues affecting the water resources of the Upper San Juan River Basin and to work in the best interests of its constituents the District must cooperatively engage and partner with many individuals and private and governmental entities of differing perspectives and interests concerning water and land conservation and use policy; and

WHEREAS, the Board members are volunteers, and may carry on professions outside of their duties as district Directors, and in such roles, may express opinions that are not held by certain other Board members; and

WHEREAS, certain Directors have recently expressed concerns about facts and opinions, concerning official District business and water policies in general, shared by one particular Director who publishes a daily news magazine; and

WHEREAS, the Board wishes to encourage Directors in expanding their knowledge and understanding of water issues, in general and particularly when those issues may have a bearing on local water and District policies and District and government spending;

NOW THEREFORE, be it resolved by the SJWCD Board of Directors:

1. That each director of the District must faithfully abide by his or her fiduciary duties to the District.
2. That when a director is participating in an event in an official District capacity, and also plans to write about the event, that the director will inform the participants of such intentions.
3. That a Director shall not make or publish a statement represented as an official Board position on District business without having first consulted with the Board.

4. To the maximum extent feasible and meeting fiduciary duties, a Director who is writing or speaking on topics that could reflect on the District, clarify that he or she is not speaking on behalf of the Board and that his or her views do not necessarily represent those of the Board or its other Directors.

ADOPTED this ____ day of _____, 2020.

SAN JUAN WATER CONSERVANCY DISTRICT

President

ATTEST:

Secretary

RECORD OF PROCEEDINGS
SAN JUAN WATER CONSERVANCY DISTRICT
OCTOBER 5, 2020 REGULAR MEETING

Attendance

All Board Members and attendees present participated via the District's Zoom account in accordance with the CDC and CDPHE recommendations regarding COVID – 19.

The following Directors were present: Al Pfister, Susan Nossaman, John Porco, Candice Kelly, Bill Hudson, Doug Secrist, Merlin Wheeler, and Joe Tedder.

Also present were: Dana Hayward, Justin Ramsey, Jeff Kane, Renee Lewis, and Chris Mannara.

Call to Order

The Regular Meeting for the San Juan Water Conservancy District (SJWCD) was called to order by Chairman Al Pfister at 5:02 p.m.

Revisions to Agenda

Chairman Pfister requested Consideration of Draft Strategic Plan Comments be moved up on the agenda ahead of Consideration of Attorney Report. Director Kelly requested Consideration of Director Kelly's Board Seat be added to the end of the agenda. Director Hudson requested Consideration of Agenda Item Reports be added to the end of the agenda. The Board agreed to all requests.

Declaration of Conflicts of Interest

The Board considered Declarations of Conflicts of Interest. No conflicts were declared; however, Director Hudson disclosed that he might write an article for public dissemination regarding the meeting.

Public Comment

Chairman Pfister opened the meeting to public comment. No comments were offered.

Consideration of San Juan Headwaters Forest Health Partnership Presentation

The Board considered San Juan Headwaters Forest Health Partnership Presentation. Dana Hayward, Mountain Studies Institute, presented Consideration of San Juan Headwaters Forest Health Partnership (SJHFHP) Presentation, stating an overview of the program and recent accomplishments. Ms. Hayward also presented on the impacts of forest health on water quantity and quality and SJHFHP current efforts on this issue.

Director Secrist requested SJWCD increase its annual 2021 contribution to SJHFHP of \$1500.00 to \$2500.00 in an effort to further assist the group in its work on water quantity and quality related issues. The Board thanked Ms. Hayward for the presentation.

Consideration of Draft Strategic Plan Comments

The Board considered Draft Strategic Plan Comments (copy attached). Chairman Pfister presented Consideration of Draft Strategic Plan Comments, stating he proposes the Board discuss the comments submitted, both from the public and Directors Tedder and Wheeler, and have Renee Lewis incorporate what was agreed upon into the plan. Following a lengthy discussion regarding how best address the comments, the Board agreed some of the comments could be incorporated now and the remaining would need to be addressed after the completion of the study by Wilson Water Group on Alternative Uses for West Fork Reservoir and Canal Water Rights. The Board directed Renee Lewis and Directors Wheeler and Tedder to work on those comments that can be incorporated now and present for consideration by the Board at the November meeting. The Board also agreed a letter of acknowledgment noting this direction should be sent to each of the comment providers.

Consideration of Attorney Report

The Board considered Attorney Report. Jeff Kane presented Consideration of Attorney Report, stating an overview of recent work completed on behalf of the District including assisting in review of the contract with Wilson Water Group to Study Alternative Uses for West Fork Reservoir and Canal Water Rights, updating SJWCD water rights tabulation, and compiling and reviewing water rights decrees in preparation for working with Wilson Water Group on the above-mentioned study.

Consideration of Resolution 2020 – 02

The Board considered Resolution 2020 – 02 (copy attached). Director Hudson presented Consideration of Resolution 2020 – 02, stating he approved of the resolution as presented in the meeting materials. Chairman Pfister stated he would like to delete “and District water” from the last sentence of the last recital on page 1. The Board agreed to this revision. Chairman Pfister also proposed #4 of the resolution to read “To the maximum extent feasible and meeting fiduciary duties, a Director who is writing or speaking on topics that could reflect on the District, clarify that he or she is not speaking on behalf of the Board and that his or her views do not necessarily represent those of the Board or its other Directors.” Following a lengthy discussion, the Board agreed to this revision. A motion was made by Chairman Pfister and seconded by Director Hudson to adopt Resolution 2020 – 02 as revised above. The motion passed unanimously.

Update Regarding Contract to Study Alternative Uses for West Fork Reservoir and Canal Water Rights – Wilson Water Group

The Board considered Update Regarding Contract to Study Alternative Uses for West Fork Reservoir and Canal Water Rights – Wilson Water Group. Chairman Pfister presented Update Regarding Contract to Study Alternative Uses for West Fork Reservoir and Canal Water Rights – Wilson Water Group, stating he had executed the contract with Wilson Water Group for the above-stated work including Tasks #1 – 3 and most aspects of Task #4 of the original proposal for the agreed upon amount of \$19,050.00. Chairman Pfister also stated he would send the fully executed copy to the Board as soon as possible.

Approval of August 17, 2020 Regular Meeting and September 21, 2020 Special Meeting Minutes

The Board considered Approval of August 17, 2020 Regular Meeting and September 21, 2020 Special Meeting Minutes (copy attached). Chairman Pfister presented Approval of August 17, 2020 Regular Meeting and September 21, 2020 Special Meeting Minutes, stating he had reviewed the minutes and did not have any revisions. A motion was made by Director Hudson and seconded by Director Porco to approve the August 17, 2020 Regular Meeting and September 21, 2020 Special Meeting Minutes as presented. The motion passed unanimously.

Consideration of Draft 2021 Budget

The Board considered Draft 2021 Budget (copy attached). Director Kelly presented Consideration of Draft 2021 Budget, stating she had provided as part of the Draft 2021 Budget presentation the 2020 Income and Expenses as of 10/4/20, the 2020 Anticipated Income and Expenses, and the Draft 2021 Budget as discussed with the Board during the August and September meetings. The Board agreed to change the anticipated expense for Wilson Water Group from \$16,000.00 to the now agreed upon amount of \$19,050.00. The Board also agreed to increase the annual 2021 contribution to SJHFHP from \$1,500.00 to \$2,500.00. Lastly, the Board directed Jeff Kane to research the District's ability to amend its budget in preparation for the November meeting. A motion was made by Chairman Pfister and seconded by Director Kelly to approve the Draft 2021 Budget as revised above and make it available for public dissemination by the statutory deadline of October 15th. The motion passed unanimously.

Consideration of SW Basin Implementation Plan Update – Identified Projects and Processes List

The Board considered SW Basin Implementation Plan Update – Identified Projects and Processes List (copy attached). Chairman Pfister presented Consideration of SW Basin Implementation Plan Update – Identified Projects and Processes List, stating an overview of the plan update thus far, future scheduling, and suggested the Board quickly consider projects it may want to propose for the Identified Projects and Processes List. Director Hudson proposed the additional gauging stations in the Pagosa Springs area project that is currently in the District's Draft Strategic Plan.

Chairman Pfister stated Pagosa Area Water and Sanitation District (PAWSD) may want to partner with SJWCD on this project and offered to contact PAWSD. Director Tedder also offered to assist in this effort. The Board agreed. The Board also agreed the San Juan River Headwaters Project, which is currently on the Identified Projects and Processes List, should be reviewed and possibly updated. Director Porco offered to review and possibly update this project description and the Board agreed.

Update Regarding Future Use of Running Iron Ranch

The Board considered Update Regarding Future Use of Running Iron Ranch. Chairman Pfister presented Update Regarding Future Use of Running Iron Ranch, stating an overview of the meeting he, Director Secrist, and PAWSD representatives had with the current leaseholders on the Running Iron Ranch. Following a question and answer session between the parties, it was agreed the current leaseholders have until November 2, 2020 to provide an offer for the two District's consideration regarding future leases on the property. The Board also agreed to suspend discussion with other interested parties until the current leaseholder's offer was considered.

Consideration of Director Kelly's Board Seat

The Board considered Director Kelly's Board Seat. Director Kelly presented Consideration of Director Kelly's Board Seat, stating she was planning to move out of state in the near future and would no longer be eligible to serve on the Board. The Board discussed filling her position as Treasurer and training that person as soon as possible. No decisions were made.

Consideration of Agenda Item Reports

The Board considered Agenda Item Reports. Director Hudson presented Consideration of Agenda Item Reports, stating he thought a small report or description for each agenda item included with the meeting materials would be helpful for the Board and presenters. The Board agreed and requested Renee Lewis provide a sample of said report in the November meeting materials for consideration.

There being no further business to come before the Board, the meeting was adjourned at 7:45 p.m.

Respectfully submitted,

Renee Lewis
Recording Secretary
For the Board of Directors



AGENDA BRIEF

MEETING: February 15, 2021

FROM: Bill Hudson

SUBJECT: Treasurer's Report

ACTION: Information and Possible Action

PURPOSE/BACKGROUND:

Financial information

Total property taxes accruing to SJWCD during 2020: \$79,746.08

1. Our landlord, Bean & Tirico LLC has increased the office rent effective in March. The new monthly amount is \$386, which — according to the Landlord — is less per square foot than other tenants are paying in the same building.

This will put our 2021 rent higher than our budgeted amount.

The Board may wish to initiate a search for a more reasonable rental situation. The office has not been used for public meetings for the past year, although it's possible public meetings will be conducted in the future. We could possibly get by with half the space we are currently paying for, if the office complex had a shared meeting space.

2. We have canceled the "No-Fault Water Intrusion" coverage that we had previously been paying for. Vicki Sullivan from SDA confirmed that this insurance was optional and does not cover liability situations. This lowered our annual insurance premium from \$1487 to \$1413. But we paid the full insurance amount, and SDA will refund us the \$74 once they process the cancellation form.

We renewed our membership in SDA as well.

3. The Treasurer would like an affirmative decision by the Board on the District's ongoing membership in the Pagosa Springs Chamber of Commerce.

San Juan Water Conservancy District
Profit & Loss YTD Comparison
January 1 through February 11, 2021

	<u>Jan 1 - Feb 11, 21</u>	<u>Jan 1 - Feb 11, 21</u>
Income		
1003300 · Revenue		
1003381 · General Property Taxes	3,844.58	3,844.58
1003382 · Specific Ownership	727.26	727.26
1003384 · Delinquent Tax Interest	16.04	16.04
1003385 · Delinquent Tax	<u>21.93</u>	<u>21.93</u>
Total 1003300 · Revenue	<u>4,609.81</u>	<u>4,609.81</u>
 Total Income	 <u>4,609.81</u>	 <u>4,609.81</u>
 Gross Profit	 4,609.81	 4,609.81
 Expense		
1031000 · Capital Expenditures		
1031003 · Studies/Eng./Surveys	11,797.50	11,797.50
1031006 · Water Rights Defense	2,012.00	2,012.00
1031009 · Water Rights Applications	<u>12.00</u>	<u>12.00</u>
Total 1031000 · Capital Expenditures	<u>13,821.50</u>	<u>13,821.50</u>
 1090000 · Expenditures		
1090160 · Office Supplies	16.02	16.02
1090161 · Office Lease	367.50	367.50
1090162 · Legal-District Gen	3,301.50	3,301.50
1090190 · Publications/Website	32.00	32.00
1090231 · Support Services (Acct used to be called "Administration")	4,051.00	4,051.00
1090232 · Telephone/Internet	60.13	60.13
1090410 · Dues	711.87	711.87
1090460 · Treasurer's Fees	94.65	94.65
1090461 · Abatements	<u>4.48</u>	<u>4.48</u>
Total 1090000 · Expenditures	<u>8,639.15</u>	<u>8,639.15</u>
 Total Expense	 <u>22,460.65</u>	 <u>22,460.65</u>
 Net Income	 <u><u>-17,850.84</u></u>	 <u><u>-17,850.84</u></u>

RECORD OF PROCEEDINGS
SAN JUAN WATER CONSERVANCY DISTRICT
NOVEMBER 16, 2020 JOINT SPECIAL MEETING

Attendance

The following San Juan Water Conservancy District Directors were present: Al Pfister, Susan Nossaman, John Porco, Candice Kelly, Bill Hudson, Doug Secrist, Joe Tedder, and Merlin Wheeler.

The following Pagosa Area Water and Sanitation District Directors were present: Jim Smith, Glenn Walsh, Paul Hansen, Blake Brueckner, and Gordon McIver.

In attendance from Pagosa Area Water and Sanitation District staff: Justin Ramsey, Aaron Burns, and Marissa Perdee.

Also present were: Marcus Lock and Jeff Kane.

Call to Order

The Joint Special Meeting for the San Juan Water Conservancy District (SJWCD) and Pagosa Area Water and Sanitation District (PAWSD) was called to order by PAWSD Chairman Jim Smith at 4:05p.m.

Consideration of entering into Executive Session for the purposes of discussing the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest pursuant to C.R.S. § 24-6-402(4)(a), and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators pursuant to C.R.S. § 24-6-402(4)(e). This potential Executive Session is being considered for the purposes of discussing certain lease agreements and/or offers between (1) SJWCD and PAWSD and (2) certain members of the Weber family, certain Weber family trusts, and Running Iron Ranch, LLC.

The SJWCD and PAWSD Boards considered Entering into Executive Session for the purposes of discussing the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest pursuant to C.R.S. § 24-6-402(4)(a), and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators pursuant to C.R.S. § 24-6-402(4)(e). This potential Executive Session is being considered for the purposes of discussing certain lease agreements and/or offers between (1) SJWCD and PAWSD and (2) certain members of the Weber family, certain Weber family trusts, and Running Iron Ranch, LLC. A motion was made by Chairman Smith and seconded by Director Brueckner to enter Executive Session on behalf of the PAWSD Board. The motion passed unanimously. A motion was made by Director Pfister and seconded by Director

47 Secrist to enter into Executive Session on behalf of the SJWCD Board. The motion
48 passed unanimously. The Boards entered Executive Session at 4:09 p.m.
49

50 The Boards returned to Open Session at 5:01 p.m.
51

52 **Public Comment**
53

54 Chairman Smith opened the meeting to public comment. No comments were offered.
55

56 There being no further business to come before the Boards, the meeting was adjourned
57 at 5:03 p.m.
58

59 Respectfully submitted,
60

61
62 Renee Lewis
63 Recording Secretary
64 For the Board of Directors
65
66

RECORD OF PROCEEDINGS
SAN JUAN WATER CONSERVANCY DISTRICT
DECEMBER 10, 2020 REGULAR MEETING

Attendance

All Board Members and attendees present participated via the District's Zoom account in accordance with the CDC and CDPHE recommendations regarding COVID – 19.

The following Directors were present: Al Pfister, Susan Nossaman, John Porco, Bill Hudson, Doug Secrist, Merlin Wheeler, and Joe Tedder.

Also present were: Mandy Eskelson, Renee Lewis, and Chris Mannara.

Call to Order

The Regular Meeting for the San Juan Water Conservancy District (SJWCD) was called to order by Chairman Al Pfister at 9:03 a.m.

Revisions to Agenda

Director Hudson requested Consideration of Agenda Item Reports be added to the end of the agenda. The Board agreed to the request.

Declaration of Conflicts of Interest

The Board considered Declarations of Conflicts of Interest. No conflicts were declared.

Public Comment

Chairman Pfister opened the meeting to public comment. No comments were offered.

Approval of October 5, 2020 Regular Meeting and November 16, 2020 Special Meeting Minutes

The Board considered Approval of October 5, 2020 Regular Meeting and November 16, 2020 Special Meeting Minutes (copy attached). Chairman Pfister presented Approval of October 5, 2020 Regular Meeting and November 16, 2020 Special Meeting Minutes, stating he had reviewed the minutes and provided Renee Lewis with suggested revisions. A motion was made by Director Hudson and seconded by Director Porco to approve the October 5, 2020 Regular Meeting and November 16, 2020 Special Meeting Minutes as presented. The motion passed unanimously.

Consideration of Upper San Juan Watershed Enhancement Partnership 2021 Budget Allocation

The Board considered Upper San Juan Watershed Enhancement Partnership 2021 Budget Allocation (copy attached). Mandy Eskelson, Mountain Studies Institute, presented Consideration of Upper San Juan Watershed Enhancement Partnership 2021 Budget Allocation, stating an overview of the group's work to date and future plans for the project. The Board thanked Ms. Eskelson for the presentation and asked she provide updates more often. Ms. Eskelson agreed.

Consideration of Treasurer's Report

The Board considered Treasurer's Report (copy attached). Director Hudson presented Consideration of Treasurer's Report, stating an overview of the materials previously presented by the former Treasurer versus the materials he presented for this meeting. He requested feedback from the Board regarding what materials it would like presented moving forward. The Board agreed the Treasurer's month end bank report and Profit & Loss Budget vs. Actual statement were helpful, but the individual monthly bank statements were not necessary. Director Hudson agreed to provide materials as stated above on a trial basis.

Consideration of Certification of Mill Levy

The Board considered Certification of Mill Levy (copy attached). The Board agreed to move this agenda item ahead of Consideration of SJWCD 2021 Draft Budget as the determination and approval of the revenue from general property tax needed to occur prior to consideration of the 2021 Draft Budget. Renee Lewis presented Consideration of Certification of Mill Levy, stating the mill levy remains the same at 0.316 mills yielding \$81,999 in revenue from general property tax. A motion was made by Chairman Pfister and seconded by Director Secrist to approve the Certification of Mill Levy as presented to Archuleta County. The motion passed unanimously.

Consideration of SJWCD 2021 Draft Budget

The Board considered SJWCD 2021 Draft Budget (copy attached). Renee Lewis presented SJWCD 2021 Draft Budget, stating the documents presented for this meeting required some revisions, but that all of the statutory budget process requirements have been met. Ms. Lewis provided the necessary revisions to reflect a change in the general property tax revenue from \$83,000 to 81,999 with an ending balance of \$179,933. A motion was made by Director Hudson and seconded by Director Secrist to adopt the 2021 Draft Budget and related materials as amended above and authorize the execution of said materials by the appropriate officers. The motion passed unanimously.

Consideration of Voting Designee for COLOTRUST

The Board considered Voting Designee for COLOTRUST. Chairman Pfister presented Consideration of Voting Designee for COLOTRUST, stating that with Director Kelly's resignation it has come to his attention a new Voting Designee for COLOTRUST must

93 be approved. A motion was made by Chairman Pfister and seconded by Director
94 Secrist to nominate Director Hudson as he is the current Treasurer and that
95 appointment seemed most efficient in terms of process. The motion passed
96 unanimously.

97
98 **Consideration of Response to Draft Strategic Plan Comments**
99

100 The Board considered Response to Draft Strategic Plan Comments (copy attached).
101 Renee Lewis presented Consideration of Response to Draft Strategic Plan Comments,
102 stating that she recommended the Board determine an appropriate response to each of
103 the Strategic Plan comment submissions. The Board agreed the response should be
104 somewhat individualized to each of the submissions and include a statement that each
105 of the comments would be considered in the current version of the plan. The Board
106 also agreed Director Porco, the District's Secretary, would be best to draft the
107 responses with final approval by the Executive Committee.
108

109 **Consideration of Board Meeting Agenda and Materials Submission Deadlines**
110

111 The Board considered Board Meeting Agenda and Materials Submission Deadlines
112 (copy attached). Renee Lewis presented Consideration of Board Meeting Agenda and
113 Materials Submission Deadlines, stating that in the interest of improving meeting
114 noticing and preparation she recommended considering deadlines for submitting
115 agenda items and materials for consideration by the Executive Committee. A motion
116 was made by Chairman Pfister and seconded by Director Secrist to establish a deadline
117 for agenda items and materials submission of 10 days prior to a meeting with the
118 exception being for emergency items that will be considered by the Executive
119 Committee on an individual basis. The motion passed unanimously.
120

121 **Consideration of Posting Board Meeting Materials to SJWCD Website**
122

123 The Board considered Posting Board Meeting Materials to SJWCD Website (copy
124 attached). Renee Lewis presented Consideration of Posting Board Meeting Materials to
125 SJWCD Website, stating that in the interest of assisting the public in preparation for the
126 District's meetings she recommends posting approved meeting materials to the
127 District's website 72 hours in advance of any meeting. A motion was made by
128 Chairman Pfister and seconded by Director Secrist to post approved meeting materials
129 to the District's website 72 hours in advance of any meeting. The motion passed
130 unanimously.
131

132 **Consideration of Professional Consulting Agreement – RGL Consulting, LLC**
133

134 The Board considered Professional Consulting Agreement – RGL Consulting, LLC
135 (copy attached). Chairman Pfister presented Consideration of Professional Consulting
136 Agreement – RGL Consulting, LLC, stating he recommended extending the agreement
137 with Renee Lewis, RGL Consulting, LLC for Support Services for 30 days to allow for
138 negotiation of a new contract as the existing agreement expires on December 31, 2020.

Following a lengthy discussion, a motion was made to extend the existing Professional Consulting Agreement – RGL Consulting, LLC until February 28, 2021 to allow for negotiation of a potential new contract with Renee Lewis, RGL Consulting, LLC. The motion passed unanimously. The Board appointed a subcommittee of Chairman Pfister and Director Hudson to work with Jeff Kane on negotiations.

Consideration of Director Wheeler Term Expiration

The Board considered Director Wheeler Term Expiration (copy attached). Chairman Pfister presented Consideration of Director Wheeler Term Expiration, stating that Director Wheeler's term on the Board expires on January 6, 2021. Director Wheeler indicated he plans to apply for reappointment as stated in the letter provided in the meeting materials. A motion was made by Director Hudson and seconded by Chairman Pfister to direct Jeff Kane to file the necessary paperwork in support of Director Wheeler's reappointment and request the new term expiration be consistent with the other March term expiration dates of March 21st. The motion passed unanimously.

Consideration of Scheduling January Special Meeting

The Board considered Scheduling January Special Meeting. Renee Lewis presented Consideration of Scheduling January Special Meeting, stating a special meeting needs to be scheduled to discuss the Draft Strategic Plan and Wilson Water Group report as there is no regularly scheduled meeting for that month. The Board agreed to schedule a special meeting to be held via Zoom for January 18, 2021 at 4:00 p.m.

Consideration of Agenda Item Reports

The Board considered Agenda Item Reports. Director Hudson presented Consideration of Agenda Item Reports, stating he would like to remind the Board to complete the Agenda Item Report for each of their respective agenda item presentations. The Board agreed and directed Renee Lewis to again disseminate the Agenda Item Report template.

Other Business

Director Tedder requested clarification of a recent email regarding the Growing Water Smart Workshop in May 2021. Chairman Pfister agreed to contact James Dickoff, Town of Pagosa Springs, to inquire about any attendance limitations and present any findings from this contact at the January 18, 2021 meeting ahead of the registration deadline of February 15, 2021. Chairman Pfister provided an update regarding the SW Basin Implementation Plan – Identified Projects and Processes List, stating he is still working on the submissions and will copy the Board once complete.

There being no further business to come before the Board, the meeting was adjourned at 11:12 a.m.

185 Respectfully submitted,
186
187
188 Renee Lewis
189 Recording Secretary
190 For the Board of Directors
191

DRAFT

RECORD OF PROCEEDINGS
SAN JUAN WATER CONSERVANCY DISTRICT
JANUARY 18, 2021 SPECIAL MEETING

Attendance

All Board Members and attendees present participated via the District's Zoom account in accordance with the CDC and CDPHE recommendations regarding COVID – 19.

The following Directors were present: Al Pfister, Susan Nossaman, John Porco, Bill Hudson, Doug Secrist, and Joe Tedder.

Also present were: Erin Wilson, Brenna Mefford, Jeff Kane, Joe Crabb, Renee Lewis, and Chris Mannara.

Call to Order

The Special Meeting for the San Juan Water Conservancy District (SJWCD) was called to order by Chairman Al Pfister at 4:02 p.m.

Revisions to Agenda

The Board considered Revisions to the Agenda. Chairman Pfister requested Consideration of Letter of Support – Matching Funds for San Juan Basin Integrated Water Management Plan, Phase III and Consideration of Running Iron Ranch/Weber Lease Update be added to the agenda. Director Hudson requested additional time to review the materials associated with the Letter of Support – Matching Funds for San Juan Basin Integrated Water Management Plan, Phase III agenda item. Following some discussion, a motion was made by Chairman Pfister and seconded by Director Secrist to add said items to the end of the agenda. The motion passed 5 – 1 with Director Hudson opposed.

Declaration of Conflicts of Interest

The Board considered Declarations of Conflicts of Interest. Chairman Pfister stated he would recuse himself from the Consideration of Letter of Support – Matching Funds for San Juan Basin Integrated Water Management Plan, Phase III agenda item as he has a potential conflict of interest.

Public Comment

Chairman Pfister opened the meeting to public comment. No comments were offered.

Consideration of Report – Study Alternative Uses for West Fork Reservoir and Canal Water Rights – Wilson Water Group

The Board considered Report – Study Alternative Uses for West Fork Reservoir and Canal Water Rights – Wilson Water Group (copy attached). Erin Wilson and Brenna Mefford presented Consideration of Report – Study Alternative Uses for West Fork Reservoir and Canal Water Rights – Wilson Water Group, stating a comprehensive overview of their work thus far and soliciting feedback from the Board for the final report. The Board provided feedback and directed Ms. Wilson and Ms. Mefford to provide the final report by February 8, 2021 for presentation on February 15, 2021.

Consideration of Treasurer's Report

The Board considered the Treasurer's Report (copy attached). Director Hudson presented the Treasurer's Report, stating the highlights of the deposits, expenses, and ending balances. Director Hudson also stated that in reviewing the District's Property and Liability Insurance Policy, it was brought to his attention the District may not need the No Fault Water Intrusion portion of the policy. Following some discussion, a motion was made by Director Secrist and seconded by Chairman Pfister to cancel the No Fault Water Intrusion portion of the District's Property and Liability Insurance Policy while maintaining the remaining portions of the policy, so long as the water intrusion portion does not apply to the Running Iron Ranch property in any way and can be reinstated in the future. The motion passed unanimously.

Consideration of Draft Strategic Plan

The Board considered Draft Strategic Plan (copy attached). Renee Lewis presented Consideration of Draft Strategic Plan, stating she had incorporated all of the revisions as directed by the Board during the December 3, 2020 work session with the exception of moving some of the introductory and background information regarding the District ahead of the Strategic Objectives. Director Secrist asked if the original Appendices would also be in the final version of the Strategic Plan, and the Board agreed they would all remain. Director Hudson stated he would like to replace the word "led" with "participated" in the sentence "Beginning in 1996, SJWCD led a multi-agency public/private effort to improve and restore the streambed habitat in the lower Blanco." The Board also agreed to replace "SJWCD community" with "constituents" where appropriate. A motion was made by Chairman Pfister and seconded by Director Secrist to approve the Draft Strategic Plan as amended above and present again for final approval at the February 15, 2021 meeting. The motion passed unanimously.

Consideration of 2021 Colorado Water Congress Membership

The Board considered 2021 Colorado Water Congress Membership (copy attached). Director Hudson presented Consideration of 2021 Colorado Water Congress Membership, stating the Board may want to consider allowing this membership to lapse for 2021 as one of the primary benefits, the annual Colorado Water Congress Convention, would only be available virtually this year due to the COVID – 19 pandemic. While acknowledging the impacts of the COVID – 19 pandemic on the networking ability

of the District and its Board Members, a majority of the Board noted other benefits of the membership and agreed payment of the annual dues should be remitted as soon as possible.

Consideration of Executive Session Pursuant to C.R.S. § 24-6-402(4)(b) and (e) – for the purposes of receiving advice from legal counsel on specific legal questions and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators related to Wilson Water Group – Study Alternative Uses for West Fork Reservoir and Canal Water Rights

The Board did not consider this item as an Executive Session was not necessary.

Consideration of Letter of Support – Matching Funds for San Juan Basin Integrated Water Management Plan, Phase III

The Board considered Letter of Support – Matching Funds for San Juan Basin Integrated Water Management Plan, Phase III (copy attached). Chairman Pfister presented Consideration of Letter of Support – Matching Funds for San Juan Basin Integrated Water Management Plan, Phase III, stating that Mountain Studies Institute/Upper San Juan Watershed Enhancement Partnership has requested the District provide said letter documenting financial support of the project. Chairman Pfister then recused himself stating he has a potential conflict of interest in this matter. Following some discussion regarding the procedural aspects of potentially executing the letter, Director Hudson stated he would still like more time to review the materials for this item and was uncomfortable with Chairman Pfister continuing to participate in the discussion as he had recused himself. A motion was made by Director Porco and seconded by Director Tedder to accept the Letter of Support – Matching Funds for San Juan Basin Integrated Water Management Plan, Phase III as presented, format on District letterhead, and execute by Director Nossaman as Vice-President. The motion passed 5 – 1 with Director Hudson opposed.

Consideration of Running Iron Ranch/Weber Leases Update

The Board considered Running Iron Ranch/Weber Leases Update. Chairman Pfister presented Consideration of Running Iron Ranch/Weber Leases Update, stating the Webers rejected the counter offer from Pagosa Area Water and Sanitation District (PAWSD) and SJWCD regarding renewal of the leases; as such, they will all expire January 3, 2023. The Board directed Chairman Pfister to continue working with PAWSD as the liaison in this matter.

Other Business

Jeff Kane provided an update regarding the motion he is drafting to request the reappointment of Director Wheeler. Mr. Kane also reminded the Board that Directors Porco and Secrist's terms now expire in 2024, and this should be corrected on the

SJWCD website. Director Tedder inquired about attending the upcoming Water Law in a Nutshell virtual class. Director Secrist stated he was attending and highly recommended the class. A motion was made by Director Hudson and seconded by Chairman Pfister to have the District reimburse the Water Law in a Nutshell registration fees for Directors Tedder and Secrist. The motion passed unanimously.

There being no further business to come before the Board, the meeting was adjourned 6:56 p.m.

Respectfully submitted,

Renee Lewis
Recording Secretary
For the Board of Directors

SAN JUAN WATER CONSERVANCY DISTRICT

RESOLUTION NO. 2021 – 01

BOARD OF DIRECTORS ANNUAL POSTING FOR MEETINGS

WHEREAS, San Juan Water Conservancy District (“SJWCD” or “District”) is a quasi-municipal corporation of the State of Colorado organized under §37-45-101 *et seq* and is required by Section 24-6-402(2)(c)(I), C.R.S., to designate annually at its first regular meeting of each calendar year the public place or places for posting of notice to the public of all meetings; and

WHEREAS, on and after July 1, 2019, a local public body shall be deemed to have given full and timely notice of a public meeting if the local public body posts the notice, with specific agenda information if available, no less than 24 hours prior to the holding of the meeting on a public website of the local public body, pursuant to Section 24-6-402(2)(c)(III), C.R.S.

NOW THEREFORE, be it resolved by the SJWCD Board of Directors:

1. That the Board of Directors of the San Juan Water Conservancy District shall hold regular meetings on the third Monday of each even month at 5:00 p.m. at the District’s administrative office 46 Eaton Dr., Ste.#5 Pagosa Springs, CO 81147 or via Zoom for the duration of the COVID – 19 Pandemic. Special meetings of the Board of Directors shall be called in accordance with District’s Bylaws, and shall be held at such times and places as are designed. All notices will be posted on the District’s website: www.sjwcd.org within 24 hours of the meeting.
2. In the event posting of notices online is unavailable due to exigent or emergency circumstances such as power outage or an interruption in internet service such notices of all regular and special meetings shall be posted at the following location: 46 Eaton Dr, Ste #5 Pagosa Springs, CO 81147.

ADOPTED this 15th day of February, 2021.

SAN JUAN WATER CONSERVANCY DISTRICT

President

ATTEST:

Secretary



Strategic Plan 2021

San Juan Water Conservancy District

San Juan Water Conservancy District

46 Eaton Drive Ste. #5

Pagosa Springs, CO 81147

sanjwcd@gmail.com

Table of Contents

Introduction.....	1
Mission Statement.....	2
Value Statements.....	2
Executive Summary.....	4
Description and Operating Environment.....	6
Strategic Objectives.....	11
Major Projects.....	18
District Administration.....	24
Appendices.....	30

Strategic Plan 2021



I. Introduction

The purpose of this Strategic Plan (the Plan) is to identify water resource issues in the Upper San Juan River Basin within the San Juan Water Conservancy District's (SJWCD or District) geographical scope, evaluate the District's options for addressing those issues, and outline the options selected for action. All agricultural, municipal, environmental, and recreational water needs are considered. Other objectives in undertaking this planning process are to assist the Board of Directors in developing long-term direction for the District, relay that direction to the public, and identify measures the District can implement in the future to further that direction.

The Plan is intended to be a dynamic document the Board reviews annually and updates as necessary to reflect changing conditions in the District and its water environment. In addition to providing guidance for the District in executing Board policies, the Plan is intended to serve as an accessible informational tool for interested parties regarding the activities of the District's Board and staff. Public comments on the Plan are encouraged, particularly during the budget process conducted by the Board in September, October, and November of each year.

Strategic Objectives have been developed by the Board based on the District's statutory authority, Mission Statement, and Values Statements. They are intended to define the District's course of action in meeting the identified water issues. This

edition of the plan has been organized to reflect the correlation of the District's activities with those specific objectives. The Plan, including the Strategic Objectives, will be reviewed for possible revision annually by the Board as part of its budget process and serves as the basis for the Board's expenditure of District revenues.

II. Mission Statement

**To be an active leader in all issues affecting the water resources of the
Upper San Juan River Basin**

III. Value Statements

The following Values Statements are listed in a collective fashion such that the order of the statements does not indicate a priority or relative value to any of the statements. The Board considers these statements as our principal guiding values that will enable us to accomplish our mission.

- The Board is committed to ensuring the current and future agricultural, municipal, industrial, environmental and recreational water supply needs are met through the various conservation and water management strategies and methodologies available. The Board strongly supports the agricultural, municipal, environmental, and recreation values derived from our water resources because of their importance to the economic, cultural, and social aspects of the community.
- The Board opposes any new transfers of water from the Upper San Juan River and its tributaries upstream of Navajo Reservoir to basins outside of the Upper San Juan River Basin. We believe such transfers would interfere with existing beneficial uses of water, damage economic stability, and reduce environmental quality within the District and as such form the basis for our opposition.
- The Board is committed to effectively managing the water rights it holds on the San Juan River and other streams/ditches and the property it jointly owns

with the Pagosa Area Water and Sanitation District as valuable assets of the District's constituents.

- The Board supports implementation of wise land use policies and planning processes by local, County, State, and Federal governments to conserve and protect the water resources of the San Juan River Basin.
- The Board regards irrigation, flood control, municipal and industrial uses, ecological needs, recreational opportunities, and aesthetic values to be important matters for the District and the public it serves, and it advocates achieving a balance among competing uses of water within the District to minimize conflict among them, in accordance with Colorado water law.
- The Board is committed to managing and funding, within approved budgets, effective monitoring, protection, and restoration programs in order to maintain high water quality standards as a necessary part of a healthy economy and environment in the District.
- The Board acknowledges scientific evidence of recurring moderate to severe drought cycles in the American Southwest indicating a trend towards a general warming and possibly more arid conditions in the foreseeable future. This warming trend has negatively impacted precipitation, evaporative water losses, natural stream flows, ground moisture content, and associated ecosystems. We believe the District must be proactive in its planning to ensure availability of current and future water resources in light of these changing conditions.
- The Board believes that the District must participate in statewide planning processes, such as the Colorado Water Plan, to address challenges like climate change, drought, population pressure, water shortages, and projects and programs to address those challenges. In those statewide processes, the District must be a strong and consistent voice guarding against inequitable and unmitigated damage to Western Slope interests.
- The Board is aware of the close relationship between the many water issues, including but not limited to agricultural, municipal, environmental, and recreational matters. Through this awareness the Board acknowledges a responsibility to treat them in policy-making decisions and action steps as

interrelated, but also in accordance with Colorado water law. The Board recognizes the need for collaborative efforts with partners to develop positions regarding legislation that has a nexus with water.

- The Board recognizes that effective water management requires attention to the health and viability of the entire watershed and the groundwater moving through the land and interacting with the surface waters. As such, collaborative efforts with local and governmental entities and non-profits should be maintained based on District priorities.
- The Board recognizes the need to inform and educate the public about water matters.

IV. Executive Summary

The San Juan Water Conservancy District was formed on October 22, 1987, as a duly organized water conservancy district pursuant to the Water Conservancy Act following approval by Archuleta County voters. The District is charged with providing water issues and conservation education, water resource planning, stream improvement, water rights protection, and development services within its service area, which is located wholly within Archuleta County along the headwaters of the Upper San Juan River. The District, which encompasses approximately 10% of Archuleta County's land area, includes nearly all of the developed residential and commercial areas in the county, but almost none of the larger ranches, national forest, or Southern Ute Indian Tribe land. The District is governed by a Board of three to nine Directors who are appointed by the District Court Judge.

The District's primary focus since its inception in 1987 has been ensuring water availability through water storage solutions. Following the historic drought of 2001 – 2002 and based on anticipated population growth in Archuleta County, the District initiated a project in 2003 to construct a reservoir on the Upper San Juan River. In 2007, the Running Iron Ranch property was purchased through a partnership between the SJWCD, Colorado Water Conservation Board, and the Pagosa Area Water and Sewer District (PAWSD). That partnership has since been restructured with PAWSD retaining the primary financial obligation for the land purchase, and the District now responsible for developing partnerships for the

future construction, maintenance, and operation of any reservoir deemed necessary to meet the District's water needs. This project, originally known as the Dry Gulch Reservoir Project, is now referred to as the San Juan River Headwaters Project.

This Plan outlines the Strategic Objectives for the District and highlights the actions required to accomplish these objectives. The Plan is intended to be a dynamic document that is reviewed annually and updated as needed based on changes in water needs and availability that result in changes to the District priorities.

The Strategic Objectives of the District focus on:

- 1) Determining the water needs (agricultural, municipal, environmental, and recreational) of the District, and how the San Juan River Headwaters Project and other projects might meet those needs.
- 2) Education of the community at large regarding critical water issues that face the District, the Southwest Basin of Colorado, and the Colorado River Basin and its tributaries.
- 3) Conservation of our limited water resources through continued existing programs and initiation of new programs.
- 4) Ensuring the financial health and viability of the District through cost-effective asset management including, but not limited to the District's water rights and collaboration with existing and new partners.
- 5) Establish a reputation of operational excellence through communication both internally and externally with partners and the public.

The SJWCD Board of Directors invites the community at large to provide feedback on the Strategic Objectives outlined in this Plan and to participate as much as possible in the accomplishment of the actions highlighted herein. The regular board meetings are open to the public and opportunities for public comment are available during each meeting. Additional information regarding the activities of SJWCD are

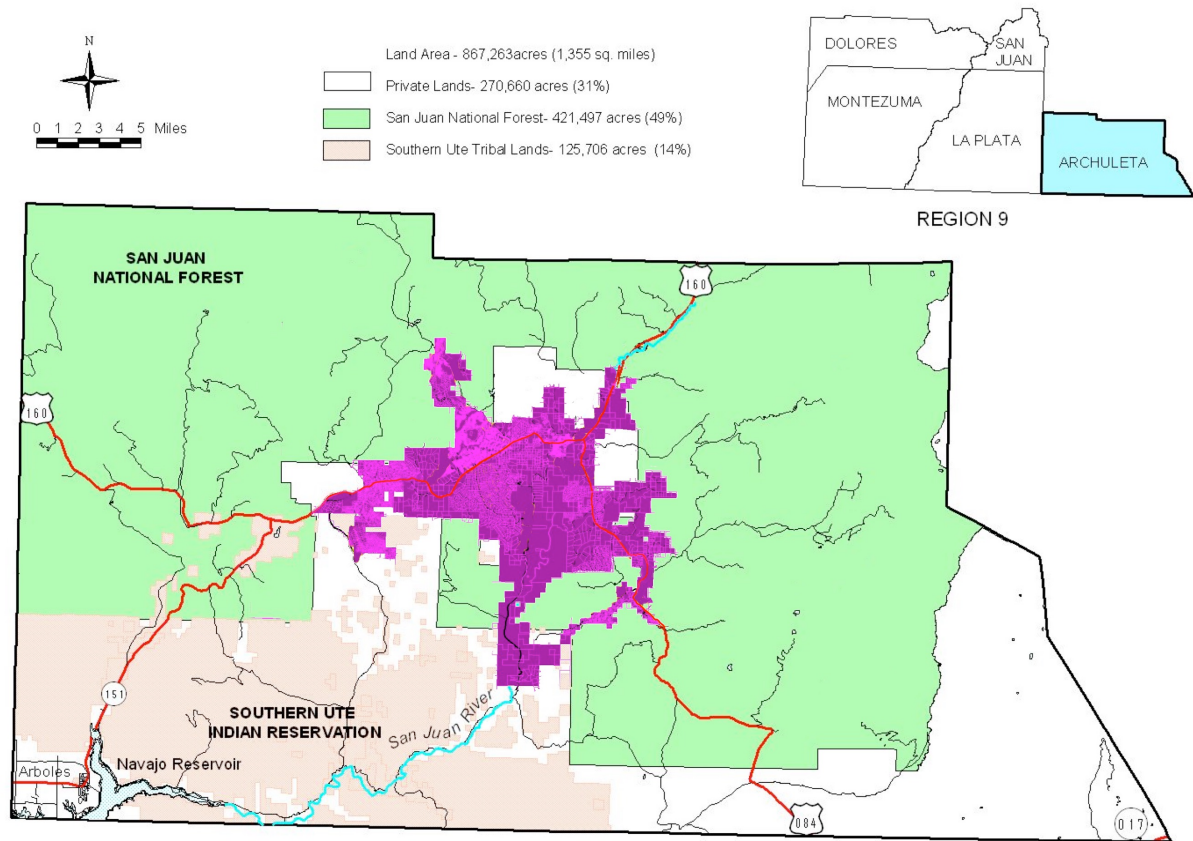
available on the District's website at <https://sjwcd.org>, and specific questions can be addressed to the Board by sending an email to the Board President/Chairman at the address provided on the website.

V. Description and Operating Environment

ORGANIZATION

SJWCD was formed on October 22, 1987 by decree entered in Case No. 1987CV100 by the District Court of Archuleta County following a majority vote of approval by its electors. It is a political subdivision of the State of Colorado and a duly organized water conservancy district pursuant to the Water Conservancy Act, §37-45-101 *et seq.*, C.R.S. The charge of the District is to provide water issues and conservation education, water resources planning, stream improvement, water rights protection, and development services within the District's boundaries. SJWCD is also charged with ensuring the property and residents within the District, the water resources of the San Juan River, and its tributaries will be benefited by these activities. See Region 9 Economic Development District of SW Colorado below, and the District's boundaries map courtesy of Archuleta County attached as Appendix G.

The District is funded through a mill levy of 0.316 on all property within its boundaries. When SJWCD was first formed the mill levy was approved at 1.0 mill; however, the implications of TABOR over the intervening years have reduced the levy to what it is today. Attempts to increase the mill levy have been made over the years, but have not been successful.



District Boundaries – Denoted in Purple¹

GEOGRAPHY

SJWCD is located wholly within Archuleta County, Colorado along the headwaters of the Upper San Juan River, near the southwestern corner of Colorado. To the north and east, the county includes portions of the San Juan Range of the Rocky Mountains, descending into rolling hills and meadows in the central portion of the county, and high desert terrain along the southern areas.

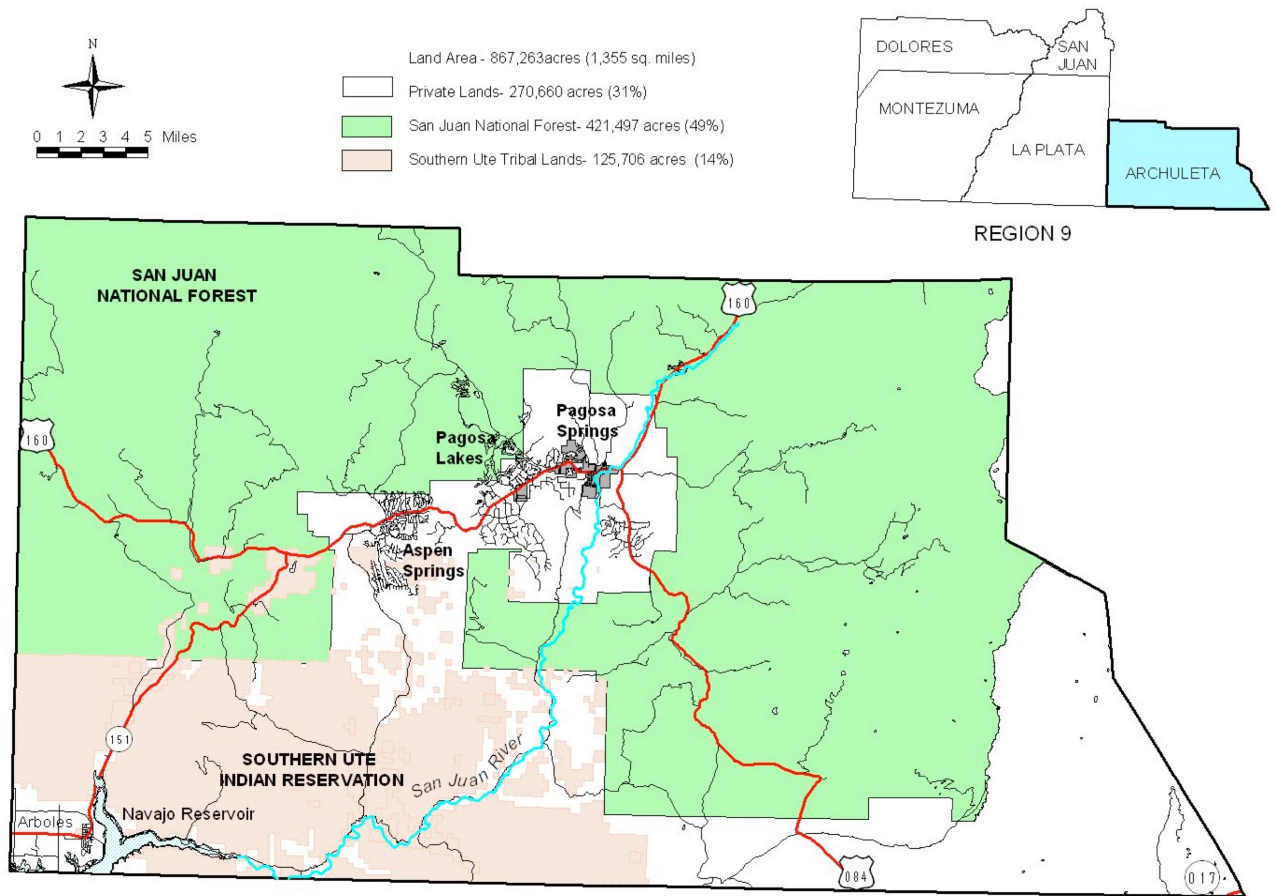
The San Juan River — running roughly north to south through the center of the county — is largely fed by runoff from the winter snowpack in the San Juan Mountains. The San Juan River is a tributary of the Colorado River, eventually

¹ Region 9 Economic Development District Map of SW Colorado Map.

flowing 383 miles to Lake Powell in Utah. Tributaries that feed into the main stem of the San Juan originate in both Mineral and Archuleta Counties. Another significant river — the Piedra — courses through the western part of the county. The San Juan, and its tributaries the Piedra, Rio Blanco, and Navajo Rivers, feed into Navajo Reservoir in the southwest corner of the county.

Archuleta County is comprised of 867,263 acres (1,355 sq. miles). Most of the northern and eastern portions of the county (49%) are within the San Juan National Forest and are under the management of the U.S. Forest Service. Another 14% of the land within Archuleta County is comprised of Tribal lands administered by the Southern Ute Indian Tribe. See Region 9 Economic Development District of SW Colorado Map below.²

² Region 9 Economic Development District of SW Colorado, *Southwest Colorado's Comprehensive Economic Development Strategy, Fourth Edition 2011 – 2012*, (2011), https://www.scan.org/uploads/2011_CEDS_archuleta.pdf.



Pagosa Springs Area Map³

About 31% of lands in Archuleta County are in private ownership, but only a small portion of the private lands have been developed in urban or suburban residential patterns. The remaining private lands consist mainly of rural cattle ranches.

Approximately 10% of Archuleta County's land area is included in the San Juan Water Conservancy District. The District includes nearly all of the developed residential and commercial areas in the county, but almost none of the ranches, National Forest, or Southern Ute Indian Tribe land. See District boundaries map courtesy of Archuleta County as Appendix G.

³ id.

POPULATION

The population of Archuleta County over the first century of its existence remained at approximately 3,000 residents, but around the time voters created the District in 1987 the county's population was experiencing a dramatic increase. The population in 1970 was around 2,700; by 1990, the population had doubled to approximately 5,300; and, by 2010, the population had again doubled to around 12,000. Following the Great Recession of 2008 - 2009, however, the county's population has remained fairly static. The population was estimated at 14,000 in 2019. Of these 14,000 residents, it is estimated that 90% lived within the SJWCD boundaries.⁴

The residential and commercial areas served by the District include the Town of Pagosa Springs, the various Pagosa Lakes subdivisions, the Alpha subdivision, the Aspen Springs subdivisions, the Lower Blanco subdivision, residential properties along Trujillo Road, and numerous other small subdivisions located within 10-15 miles from the central core of town.

Archuleta County has attracted a large population of retirees and second-home owners. While the average age in Colorado in 2017 was 37, the average age in Archuleta County for the same year was around 50 years old.⁵ About 27 percent of the county population is age 65 or older and about 11 percent of the residents live below the federal poverty line.⁶

The Growing Water Smart Work Group, a collaboration of several Archuleta County agencies, published a population study in 2019 suggesting that Archuleta County might grow at an annual rate of between 1 and 2 percent over the next 30 years. Such a growth rate would suggest a population, in 2050, of between 18,000 and 24,000 residents.⁷ Based on the current population growth patterns, it can be reasonably assumed the majority of this increase will be within the District's current boundaries.

⁴ See U.S. Census Bureau, *Quick Facts – Archuleta County, CO*, (2019), <https://www.census.gov/quickfacts/fact/table/archuletacountycolorado/PST045219>.

⁵ See Colorado Department of Local Affairs – State Demography Office, *Age and Gender Population Data* (2020), <https://demography.dola.colorado.gov/population/age-gender-population-data/>.

⁶ See U.S. Census Bureau, *Quick Facts – Archuleta County, CO*, (2019), <https://www.census.gov/quickfacts/fact/table/archuletacountycolorado/PST045219>.

⁷ RPI Consulting, LLC, *Growth Trends and Projections: Archuleta County Growing Water Smart* (2019).

ECONOMY

Since the decline of the timber and other extraction industries in the late 1970s, the economy of Archuleta County has relied more heavily on tourism and recreation largely due to the area's natural resources and outdoor recreation opportunities. The Pagosa Springs Area Tourism Board noted in materials presented to the Town Council in March 2020 that tax revenues from municipal and county Lodgers Taxes have increased from about \$477,000 in 2010 to a projected \$890,000 for 2019.

The growth of the tourism sector has encouraged a similar growth in vacation rentals, which are mostly private homes converted to short-term rentals. Some estimates put the number of vacation rentals at around 600, which is approximately equivalent to the number of motel rooms in the county.⁸ The retirement and second home industry is also experiencing growth as a result of increasing tourism. A report published in 2016 estimated that in 2006 approximately 38 percent of the homes in the county were second homes. The same report estimates the percentage of second homes in 2015 was about 41 percent, illustrating the stability of the second home market in the area.⁹

Employment in the tourism industry also corresponds with the growth and now accounts for approximately 32 percent of the jobs in Archuleta County.¹⁰ While the average annual wage in the county is \$34,990, this is only about 60 percent of the average annual wage for the state at \$58,942, and housing costs are second only to Durango as the most expensive in southwest Colorado. Recognizing the need for a skilled and reliable work force, the Town of Pagosa Springs, Archuleta County Housing Authority, and the non-profit Pagosa Housing Partners have been spearheading efforts to address affordable housing issues as the lack of work force housing can stymie economic growth and diversity.

Diversification of the economic base has been a much-discussed goal in Archuleta County since the decline of the extraction industries. While much of the current diversification is focused on tourism, the retirement and second home community, and the corresponding service industries, efforts have also included attracting other professional services such as medical. The largest increase in jobs since 2007 has

⁸ id.

⁹ Donna K. Graves, Information Services, *Archuleta County Housing Report 2016* (2016).

¹⁰ id.

been in the health services and governmental sectors.¹¹

In January 2008, Pagosa Springs Medical Center opened to offer comprehensive hospital services, EMS, diagnostic testing, and wellness programs. The hospital's federal designation as a Critical Access Hospital allows for higher reimbursements for Medicare and access to grants only available to communities with this designation. Pagosa Springs Medical Center also operates a family practice clinic.¹² The new facility has been a significant factor in attracting medical professionals to the area and currently employs a staff of approximately 280.¹³

VI. Strategic Objectives

Community Focused Objectives

Strategic Objective 1: Meet the agricultural, municipal, environmental and recreational water needs of the SJWCD community.

Goal 1a: Determine how the San Juan River Headwaters Project (SJRHP) can meet the SJWCD community's water needs.

Actions:

- Collect and analyze data on the agricultural, municipal, environmental, and recreational water needs of the SJWCD community and assess the impact on available water resources.
- Assess the impact of climate change and drought on water availability.
- Identify and prioritize options for Running Iron Ranch property.

¹¹ RPI Consulting, LLC, *Growth Trends and Projections: Archuleta County Growing Water Smart* (2019).

¹² See Region 9 Economic Development District of SW Colorado, *Southwest Colorado's Comprehensive Economic Development Strategy, Fourth Edition 2011 – 2012*, (2011), https://www.scan.org/uploads/2011_CEDS_archuleta.pdf.

¹³ See Region 9 Economic Development District of SW Colorado, *Region 9 Economic Snapshot 2020*, (2020), https://www.scan.org/uploads/Final_Report_Economic_Snapshot_2020.pdf.

- Gather SJWCD community and partner feedback on support for SJRHP.
- Identify potential financial partners in SJRHP and determine interest in proceeding.

Goal 1b: Determine most cost-effective development of the West Fork Reservoir and West Fork Canal water rights by June 2021.

Actions:

- Contract with Wilson Water Group to study water needs and availability and to identify options for West Fork Reservoir and West Fork Canal water rights.
- Assess conclusions of Wilson Water Group study and define course of action.

Goal 1c: Identify alternatives to meet SJWCD community water needs through 2050 by December 2023 (see also Strategic Objective 3).

Actions:

- Research “water banking” opportunities.
- Support Upper San Juan Watershed Enhancement Partnership (WEP) progress on Phases 2 and 3.
- Support Forest Headwaters Restoration programs of the San Juan Headwater Forest Health Partnership.

Goal 1d: Increase monitoring capabilities for water supply and demand within SJWCD community.

Actions:

- Establish a subcommittee to drive stream monitoring program.
- Research desired locations for additional streamgages.

- Research installation and operating costs for streamgages.
- Gather feedback from community at large on increased stream monitoring.
- Identify potential financial partners for installation of additional streamgages.

Strategic Objective 2: Educate community on water issues facing SJWCD.

Goal 2a: Provide resources for the development and distribution of educational materials.

Actions:

- Appropriate funding, when available, for the development of educational materials.
- Work with teachers to define educational needs (e.g., materials and programs).
- Provide small grants to develop and sustain local water education programs.
- Participate in Chamber of Commerce “Business Bites” session that focuses on educational programs.

Goal 2b: Communicate SJWCD plans, actions, and results to community (see also Goal 5b).

Actions:

- Create a presentation template that can be updated for communicating with local organizations, partners, and the community at large.
- Host a Chamber of Commerce “Business After Hours” session on water issues.
- Submit articles to local media on water issues.

- Participate in annual Chamber of Commerce sponsored KWUF radio interview.
- Participate in local Earth Day celebrations and July 4th parade to generate public awareness of SJWCD activities.

Goal 2c: Publicize SJWCD plans/status/results metrics.

Actions:

- Create SJWCD “Balanced Scorecard.”
- Maintain and promote SJWCD website.
- Define appropriate and most impactful ways to share Balanced Scorecard with community at large.

Strategic Objective 3: Reduce water demand through conservation.

Goal 3a: Support water conservation programs within the SJWCD community.

Actions:

- Establish subcommittee or Board representative to work with PAWSD and other partners to define water conservation programs in the SJWCD community.
- Establish subcommittee or Board representative to work with agricultural community and partners to reduce agricultural water consumption.
- Establish subcommittee to work with WEP, agricultural community, Natural Resources Conservation Service, San Juan Conservation District, and other partners to support water conservation programs in the SJWCD community.

Financial Objectives

Strategic Objective 4: Ensure financial health and viability of the District.

Goal 4a: Maintain a cost-effective organization.

Actions:

- Develop annual budget that supports basic operations, protects existing water right investments and contractual obligations, and sustains progress on strategic objectives.
- Continue to maintain operations within existing budget limitations.
- Assess conclusions of Wilson Water Group study regarding cost-effective development of the West Fork Reservoir and West Fork Canal water rights.
- Determine future management of Running Iron Ranch in collaborations with PAWSD.

Goal 4b: Build and maintain collaborative relationships with entities that share water resource interests in the San Juan River Basin.

Actions:

- Continue to foster mutually beneficial partnerships to enhance water resource opportunities within the SJWCD service area.
- Continue to engage with local organizations and stakeholder groups to promote greater awareness of important water issues regarding water resources and demand.
- Establish subcommittee or Board representative to collaborate with the Town of Pagosa Springs, Archuleta County, and the Chamber of Commerce to identify water issues and define solution courses of action.

Goal 4c: Access Board sources of project funding.

Actions:

- Establish a supplemental funding subcommittee or Board representative to research funding opportunities.

- Identify strategic projects requiring supplemental funding.
- Identify potential financial partners for specific strategic projects.
- Create business cases to encourage participation of financial partners in specific strategic projects.
- Prepare a calendar for funding opportunity deadlines.

Internal Process Objectives

Strategic Objective 5: Establish a reputation for operational excellence.

Goal 5a: Create and maintain a project tracking system.

Actions:

- Establish a subcommittee or Board representative to build the project tracking system.
- Gather feedback from the SJWCD community and partners regarding desired information on status of projects.
- Research software available to facilitate project tracking and status communication.

Goal 5b: Create communication system to share information on SJWCD projects and issues.

Actions:

- Establish a subcommittee or Board representative to build communication system.
- Gather feedback from the community at large and partners regarding desired information from SJWCD.
- Continue maintaining SJWCD website as backbone of communication system.

- Build “Balanced Scorecard” to facilitate project status and metrics communication.

Goal 5c: Consistently monitor progress and execution on Strategic Objectives.

Actions:

- Ensure that all Strategic Objectives are “SMART” (i.e., Specific, Measurable, Achievable, Reasonable, and Timely).
- Assign individual ownership of actions with deadlines for accomplishment.
- Include Strategic Objective actions in “Balanced Scorecard” for ease of reporting.
- Hire Four Corners Water Center at Fort Lewis College intern to assist with strategic SJWCD programs.

Organizational Development Objectives

Strategic Objective 6: Ensure SJWCD remains a community-focused organization addressing water issues.

Goal 6a: Gather and utilize community and partner feedback on SJWCD projects.

Actions:

- Consistently utilize SJWCD communication system.
- Identify opportunities to communicate with small groups within the SJWCD community, partners, and community at large.
- Identify ways to best elicit feedback on SJWCD projects from the SJWCD community, partners, and community at large as applicable.

- Assess and incorporate feedback on SJWCD processes and projects as appropriate and communicate changes in feedback loop.

Goal 6b: Build sustainable relationships and collaborations.

Actions:

- Identify key partners within the SJWCD community.
- Establish effective communication/feedback loop with key partners.

VII. Major Projects

A. Current Projects

San Juan River Headwaters Project

The District's primary focus since its inception in 1987 has been water storage. To this end, the main project has been what was formerly referred to as the Dry Gulch Reservoir Project and is now called the San Juan River Headwaters Project (SJRHP or the Project). This effort followed the historic drought years of 2001 - 2002 coupled with relatively rapid growth in Archuleta County from 1990 to 2010.

The proposed site for the Project was selected based on studies completed in 1989 and 2003 of potential reservoir sites in Archuleta County, of which, the 2003 study concluded the Dry Gulch site was the most favorable.¹⁴ The SJRHP site is located approximately three miles northeast of downtown Pagosa Springs just east of U.S. Highway 160. See map of Dry Gulch/San Juan Headwaters Project site courtesy of Archuleta County attached as Appendix H. It includes approximately 660 acres of ranch property, but additional land would be needed to complete the Project. As planned to date, the SJRHP includes an 11,000 acre-feet storage facility that would be filled and refilled by siphon from the San Juan River. This method reduces the construction and operational costs of the Project. The proposed reservoir site is an "off channel" site in that it does not require the source water, the San Juan River, to be dammed. For reference to size, 11,000 acre-feet is approximately 10% of the capacity of Vallecito Lake and 1% of the capacity of Navajo Lake.

¹⁴ See Harris Engineering, Inc., *Appraisal Report to Evaluate Future Raw Water Demands and Water Supply Alternative Plans as of March 2003* (2003).

The conditional water rights intended for Dry Gulch Reservoir were originally decreed in 1968 for 6,300 acre-feet of storage. In 2004, the District and PAWSD applied for a junior water right for a larger reservoir in Dry Gulch, a refill right, and specific filling sources and rates for it. Trout Unlimited opposed those claims, leading to protracted litigation and new standards from the Colorado Supreme Court for evaluating conditional water rights owned by municipal providers. The District, PAWSD, and Trout Unlimited eventually stipulated to a decree providing for a maximum storage capacity of 11,000 acre-feet for Dry Gulch Reservoir and other limitations on its use.

The District proposed a ballot issue in 2004 to increase the mill levy to fund the Project, but the voters rejected the proposed increase. SJWCD formally partnered with PAWSD on the SJRHP in 2006 through a Memorandum of Understanding (MOU). The MOU addressed the acquisition, permitting, design, and construction. Funding for the Project was initially provided through tax revenues collected by the District and Capital Investment Fees collected by PAWSD.

In 2007, SJWCD received a \$1 million grant from the Colorado Water Conservation Board (CWCB) to use towards the purchase of the property for the Project, the Running Iron Ranch. PAWSD was authorized a loan of approximately \$11 million from CWCB to provide the remaining funds necessary for the purchase of the property. PAWSD ultimately borrowed \$9,219,363 against the loan authorization as no other property purchases were made and secured the loan with its revenues.

In addition to the Running Iron Ranch property, the proposed 11,000 acre-foot reservoir would require a small amount of additional land currently owned by the U.S. Forest Service (USFS) and the Lavery Family, adjacent landowners to the proposed project property. The District contracted with the Western Land Group, land conservation specialists, to identify potential properties that might be acceptable to the USFS for a land exchange. A proposal for a land exchange was submitted to the USFS in August 2013. In addition, negotiations with the Lavery Family were initiated. The District also contracted in 2017 with Rhea Environmental Consulting for an environmental baseline study and with La Plata Archeological Consultants for a cultural resources survey of the 11,000 acre-foot reservoir pool basin.

Following the purchase of the property described above, the PAWSD Board decided to suspend the Project due to community concerns regarding need and cost. Through a restructuring effort in 2016 titled Agreement to Restructure Colorado Water Conservation Board Dry Gulch Reservoir Loan Contract Number C150261,

the recognized lead entity for the Project changed from PAWSD to SJWCD. PAWSD restructured its loan into two parts – Loan A and Loan B. Loan A is for \$4,290,930.32 at 1.75% for 20 years. Loan B is for \$4,565,000 at 3.5% and payments against the loan are deferred for 20 years. This restructuring allowed for a 20-year planning period with an option for an additional 20 years, which provides the entities with greater opportunity for additional partners to join the Project. There are several options for PAWSD and SJWCD regarding how to utilize the property during the planning period, but at this time PAWSD is making the annual payments on Loan A, both entities are financially supporting the water rights associated with the Project, and SJWCD is actively seeking additional partners.

In March 2017, the District submitted a loan application to the CWCB for an additional \$2,000,000 loan. This funding would allow for acquisition of the additional property necessary for the 11,000 acre-feet reservoir, as well as a road easement, fencing, additional environmental studies, and preliminary engineering. The loan was approved in May 2017. Included in the application was a detailed narrative description and cost estimate for the project, including the dam, river diversion, Park Ditch Inflow Siphon, and a pipeline drain back to the river. The estimated construction cost was \$60,600,000, including contingencies. These construction cost estimates were based on the cost of the Long Hollow Dam, which was substantially completed in La Plata County, Colorado in 2014. Although Long Hollow is smaller, the dam and embankment are similar to those required to construct the Project.

Amortization of a new CWCB loan would require an increase in the mill levy of the District. Therefore, another ballot initiative was attempted in 2017 to raise the mill levy to 1.0 mills as was originally approved by the voters when the District was formed. However, this ballot initiative was also not successful as the voters again rejected the proposed increase by a 3-to-1 margin. The actual execution of the CWCB loan was on hold while the District continued to pursue various partners for the Project, but was ultimately deactivated in November 2020 at the request of CWCB due to lack of execution.

Upper San Juan Watershed Enhancement Partnership

SJWCD has provided financial support to the Upper San Juan Watershed Enhancement Partnership (WEP). WEP is an effort within Archuleta County to implement one aspect of the Colorado State Water Plan – development of a Stream Management Plan (SMP). SMPs are intended to identify, through a community driven process, the issues and needs present in a given watershed. Upon

identification of the issues and needs, a scientifically based SMP will be developed and possibly implemented.

Envisioned as a three-phase process, the ultimate purpose of the WEP is to initiate, organize, and implement the Integrated Watershed Management Plan (IWMP) to seek opportunities to conserve the Upper San Juan Basin streams and their uses with wide-ranging community support and decisions based on current, relevant science and assessments. To this end, WEP is being led by a steering committee that is comprised of local agricultural, municipal, domestic, environmental, and recreational water users. The steering committee is working within the community using the IWMP process to identify representative stakeholders that will assist in implementation of the projects described in the SMP to address the identified needs and issues. Phase I of the WEP IWMP was finalized in April 2020.

Funding for Phase II of the WEP IWMP was approved by the CWCB in May of 2020. Phase II will directly address the identified information gap for water needs identified in the SW Basin Implementation Plan by tackling the next critical step in the process: identification of opportunities for multiple-use water projects from a combination of stakeholder input as well as technical expertise, analysis, and modeling.¹⁵ Phase II is anticipated to last 12 months.

Development and implementation of the WEP IWMP and ultimately the SMP are supported by the CWCB. The District is participating as a stakeholder and financial contributor to the WEP IWMP process and SMP development. Continued participation in the development and implementation of such efforts on common water resource issues will be mutually beneficial as it allows the District to continue to represent its constituents while efficiently utilizing resources.

Snowpack Enhancement

The District has financially participated for a number of years in cloud seeding activities managed by the Southwestern Water Conservation District, and now by the Dolores Water Conservancy District. Cloud seeding is considered by some to enhance the amount of snowfall in the area being seeded by 5 percent with estimated results ranging from 3 – 15 percent in affected areas. A report was recently prepared by the Desert Research Institute for the Southwest Basin

¹⁵ See Ann Oliver and Carrie Lile, Harris Engineering Inc., *Basin Implementation Plan: Southwest Basin Roundtable* (2015).

Roundtable that describes the effectiveness of such efforts in southwest Colorado.¹⁶

Water Education

The District has been an active participant in and financial contributor to the Water Information Program (WIP) that is managed by the Southwestern Water Conservation District. WIP provides and/or contributes to a wide variety of educational programs in southwest Colorado. These include, the annual Children's Water Festival, the Forests to Faucets program for teachers, and the annual Water 101 - 201 – Water Education Seminars, which focus on water law.¹⁷

Coordination with other Organizations

The District is a participant in several organizations with an interest in water in the Pagosa Springs area. One of the most active groups in this area is the San Juan River Headwaters Forest Health Partnership, which is a public/private body concerned with the health of our forests and fire management that is managed by the Mountain Studies Institute.¹⁸ Forest health has a direct bearing on water quality and quantity. The District also recently joined with the Town of Pagosa Springs, Archuleta County, the Pagosa Lakes Property Owners Association, the Pagosa Fire Protection District, and several private entities to support the Growing Water Smart Working Group. The intent of the working group was to develop a community consensus on population projections for the future growth of our county.¹⁹

B. Accomplished Projects

Colorado Water Plan

¹⁶ McDonough, F. and J.F. Mejia, *Department of Atmospheric Sciences Desert Research Institute Division of Atmospheric Sciences, High-resolution WRF Simulations for Six Storms that Produced Seedable Clouds and Precipitation Over the Western San Juan Mountains – Project Report* (2018).

¹⁷ See Water Information Program website: <https://waterinfo.org/about-wip/overview/>.

¹⁸ See Mountain Studies Institute website: <http://www.mountainstudies.org/forest-health>.

¹⁹ See RPI Consulting, LLC, *Growth Trends and Projections: Archuleta County Growing Water Smart* (2019).

The District was pleased to participate in the development of the Colorado Water Plan, which was completed in 2015.²⁰ This was the culmination of strategy crafted over a decade that allowed for more grassroots participation in water development and conservation. Efforts preceding the Colorado Water Plan established regional basin roundtables and expanded financial opportunities to fund water infrastructure and policy planning across the state. The District has participated actively in the Southwest Basin Roundtable and continues to be represented. The San Juan River Headwaters Project is included in the Identified Important Projects and Process list developed by the Southwest Basin Roundtable. The SW Basin Implementation Plan portion of the larger Colorado Water Plan is currently in the process of being reviewed and revised.

Lower Blanco River Restoration

Since 1971, the U.S Bureau of Reclamation's San Juan/Chama Project has annually diverted over 80,000 acre feet of water from the Rio Blanco, 70% of the historical flows of the river, into the Rio Grande River basin via a transmountain diversion. The diversion point is about six miles upstream from the U.S. 84 bridge across the Rio Blanco. This diversion caused poor water quality conditions and reduced fish habitat in the river below the diversion because the original channel was too large for too little flow after the diversion. Beginning in 1996, SJWCD participated in a multi-agency public/private effort to improve and restore the streambed habitat in the lower Blanco. The District was gratified to obtain the services of Dave Rosgen, an internationally known river restoration expert, in the design of the project. The first phase of the project was completed in 1999, extending from near the U.S. 84 bridge downstream about one mile. Based on the success of the first phase, a second phase was initiated in 2003, extending the project another 2.4 miles downstream. The second phase was completed in 2004.

The project had a number of objectives:

- Improve the natural stability of the lower Rio Blanco channel.
- Improve fish habitat to utilize the regulated low flow from the upstream diversion.

²⁰ State of Colorado, *Colorado Water Plan* (2015), <https://www.colorado.gov/cowaterplan>.

- Improve the visual values of the river.
- Maintain channel capacity during flood events.
- Improve the sediment transport capacity of the river channel.
- Raise water level elevation in shallow groundwater bodies hydraulically connected to surface water.

After more than 15 years, the restoration features remain in place and have withstood several major floods. The project is just one example of the District's proactive role in managing water resources for the benefit of its constituents.

VIII. District Administration

COMPOSITION OF THE BOARD OF DIRECTORS

SJWCD is governed by a Board of three to nine Directors who are appointed by the District Court Judge. A Director must reside and own real property within the District. All powers, privileges, and duties vested in, or imposed upon, the District by law shall be exercised and performed by and through the Board, whether set forth specifically or impliedly in the District Bylaws. The term of each Director shall be four years, or less if appointed to fulfill an unexpired term, and each Director shall execute an Oath of Office.

The Board of Directors elects from its membership a Chair and President, Vice-President, Secretary, and Treasurer and may also elect Assistant Secretaries and/or Assistant Treasurers who shall be the officers of the Board of Directors and of the District. The Vice-President has all powers of the offices of President and Chair in the absence of the President. The officers shall be elected by a majority of the Directors voting at the election. The Board may appoint an acting officer in the absence of any individual officer. The election of the officers shall be conducted biennially at the first regular meeting of the Board held in even numbered years. Each officer so elected shall serve for a term of two years, or as otherwise directed by the Board.

The Board regularly meets on the third Monday of even numbered months. Specific times may vary. Special meetings and work sessions may be scheduled at any time. All meetings are held at the District's office – 46 Eaton Drive, Suite #5, Pagosa

Springs, Colorado, unless otherwise notified. Board meeting notices are posted on the District's website www.sjwcd.org no less than 24 hours prior to the meeting.

THE BUDGET PROCESS

The fiscal year of the District shall commence on January 1st of each year and end on December 31st. Based upon the requirements of the Local Government Budget Law and procedures recommended by the Colorado Department of Local Affairs, the Board has adopted the following budget schedule and procedure:

June board meeting:

- Board appoints a budget officer and reviews current year's goals and activities.

August board meeting:

- Board reviews current year's goals and activities; preliminary discussion of next year's goals and activities with initial draft budget prepared/presented.
- County Assessor to certify to all taxing entities and the Division of Local Government the total assessed valuation and real property values of all taxable property within the District by August 25th.

September board meeting (optional):

- Budget officer presents an initial proposed budget if not done at August meeting, including goals and activities for the next year, to the Board for discussion, prioritizing, and preliminary approval. The statutory deadline for the proposed budget is October 15th.
- Budget officer advises the Board of the Assessors' estimates of assessed and actual values.

Special October board meeting (optional):

- Initial/revised proposed budget presented to the Board by budget officer, based on August/September discussion. Board discusses initial/revised proposed budget and directs budget officer to make any agreed-upon changes.
- Budget officer advises the Board of the Assessors' estimates of assessed and actual values if not done at a September meeting.

October board meeting:

- Review of the revised proposed budget, including any September/October changes, and draft budget message (optional). Proposed revisions must be based upon the budget officer's drafts, as reviewed at the August/September/October meeting.
- Board adopts proposed budget to be available to the public by October 15th.
- From this proposed budget, the Notice of Budget is prepared and published, and the public hearing on the budget noticed for the November board meeting.

November board meeting:

- Board conducts public hearing on the proposed budget approved at the October board meeting. Following the public hearing, the Board may revise the proposed budget. Board directs budget officer to prepare final budget and budget message (optional), subject to final assessed valuations.

December board meeting:

- Board adopts the budget and sets the mill levy for the next year based upon receipt of final assessed valuations from the County Assessor, received by the statutory deadline of December 10th.
- Certification of mill levies to the Board of County Commissioners is due by December 15th.

DISTRICT ASSETS

- Financial

SJWCD receives funds through a mill levy approved by the voters. The mill levy as of the 2019 certification is currently at a rate of 0.316 mils. This results in an annual income of \$70,000, on average.

- West Fork Reservoir and Canal Water Rights

SJWCD owns conditional water rights for the West Fork Reservoir and West Fork Canal, originally decreed in 1968 for 39,356 acre-feet and 70 cfs, respectively. Although at one time this was considered a viable reservoir location, PAWSD and SJWCD ultimately chose Running Iron Ranch as the property for the Dry Gulch Reservoir Project – now referred to as the San Juan River Headwaters Project. For

many reasons, this is no longer a viable reservoir location, and the viability and the use of the water rights in a different location need to be analyzed.

Due to several stipulations resulting from other water rights cases, the current West Fork Reservoir water right is for 24,000 acre-feet and the West Fork Canal water right for 50 cfs. Should SJWCD decide to pursue building a reservoir on the Running Iron Ranch, the West Fork water rights will have to be used or perfected prior to reservoir construction or abandoned. The point of diversion and the storage location must also be changed from the current location.

SJWCD has invested in this asset in legal fees through diligence applications. It will need to be determined by the Board if it is worthwhile to pursue moving the point of diversion and storage site. This will need to be determined prior to the next diligence deadline in June of 2021.

- Property owned in association with PAWSD

The District, working in cooperation with PAWSD, initiated the purchase of the Running Iron Ranch property northeast of Pagosa Springs for the purpose of developing a water storage reservoir. The property currently consists of three parcels that straddle U.S. Highway 160, which combined amount to approximately 660 acres. Presently, there are three leases in place: Occupancy, Agricultural, and Sand and Gravel. These leases all expire on January 3, 2023. The options available for the future management of the property, including leases, are currently being discussed with PAWSD. See map of Dry Gulch/San Juan Headwaters Project site courtesy of Archuleta County attached as Appendix H.

- Relationships and Collaboration with Organizations and Stakeholder Groups
Sharing Common Water Resource Interests

The District recognizes the importance of establishing and maintaining collaborative relationships with local and regional organizations and stakeholder groups that share mutual water resource interests in the Upper San Juan River Basin. These organizations include, but are not limited to:

- Member of the Southwest Water Conservancy District (SWCD)
- Participating member of the SWCD Water Information Program

- Supporter of the San Juan Watershed Enhancement Program
- Participating member and supporter of the San Juan Headwaters Forest Health Partnership
- Participating member of Southwest Basin Roundtable
- Member of Colorado Water Congress

WATER RESOURCES

SJWCD concerns itself with all water uses that affect District taxpayers, with a focus on the conservation and use of surface waters that flow into the San Juan River. Nearly all surface water in Archuleta County ultimately flows into the San Juan River. Because the vast majority of water users within the District are urban and suburban residential or commercial users, as opposed to agricultural users, the District needs to assess the domestic water supplies currently available to those users as well as potential water supplies that might be obtained or developed in the future.

PAWSD reservoir storage fluctuates from year to year depending on annual snowpack. PAWSD has a total of five storage reservoirs, rights to two additional non-constructed reservoirs, two diversion ponds, three diversions, and three water treatment plants.²¹

Diversions:

Water Rights			
Four Mile Diversion	12.8	Cfs	Absolute
San Juan Diversion	8.0	Cfs	Absolute
	16.0	Cfs	Conditional
West Fork Diversion	5.0	Cfs	Absolute
TOTAL	62.7	Cfs	

²¹ Email interview with Justin Ramsey, PAWSD District Manager (October 9, 2019).

The Four Mile Diversion, diverts water into the Dutton Pipeline. The first several hundred yards of the Dutton Pipeline is shared by PAWSD with the Dutton Creek Ranch and Anthony Trujillo/Alice Seavy. Both of these entities have a higher priority (i.e., earlier date of appropriation) than PAWSD and both take a varying percentage of the available diverted flows.

Storage²²:

Reservoir Name	Volume (acre-feet)	
	Spill way	Usable
Hatcher Lake	1735	880
Stevens Reservoir	1775	1730
Lake Pagosa	1276	920
Village Lake	700	228
Lake Forest	465	300
West Fork Diversion Pond	14	12
*Pinon	198	162
San Juan Diversion Pond	24	NA
**Martinez	760	
**Dry Gulch/San Juan River Headwaters Project	11,000	
TOTAL:		4,070*

Note: *PAWSD does not use water from Pinon. The golf course and several condominium villages in the area use the raw water from Pinon for landscape irrigation; thus, Pinon's usable acre-feet are not included in the total above.

**Both Martinez and Dry Gulch are not constructed.

PAWSD raw water storage either is held within the lakes outlined above or snowpack. During typical spring runoff PAWSD is able to fill the reservoirs from the melting snow. The lakes fill until around June 1st. As the snowmelt slows the

²² id.

lake levels will drop as PAWSD withdraws and treats more water than enters the lake system.

Lake Hatcher is primarily fed from the diversion on Four Mile Creek. Although the Four Mile Creek water right is about 13 cfs, it is a junior right and typically out of priority between June and November. Hatcher is the highest lake in the system and there is currently no method to move water from Stevens Reservoir or any other lake into Lake Hatcher.

Stevens Reservoir receives native flow from Dutton Creek and diversion water from the PAWSD Four Mile Diversion. PAWSD has the ability to divert water from the Dutton Pipeline into the Dutton Ditch, which flows into Stevens Reservoir. PAWSD will typically divert water into the Stevens Reservoir after Hatcher is full or nearly full. Water from Stevens can be released into Lake Pagosa through the Linn and Clark Ditch. Water from Lake Pagosa can be released into Village Lake.

Water in Village Lake is used by the golf course, multiple condominium communities, and the Pagosa Lakes Property Owners Association for raw water irrigation. The golf course also pumps raw water from Village Lake into Pinon Lake where it is used by the golf course and multiple condominium communities for irrigation water. Water from Village Lake can also be released into Lake Forest.

Water in Lake Forest can be pumped to the San Juan Water Treatment Plant. If water spills from Lake Forest, it enters Stevens Draw, which is a tributary to Stollsteimer Creek and eventually flows to the Piedra River.

Because precipitation from year to year is highly variable, the ability to store water becomes very important. Even with the storage PAWSD has available, there still exist some limitations in system flexibility that could become very evident in persistent drought years. The District's capacity to educate the SJWCD community on conservation and efficient water use, especially larger water users, will become vital. Working with PAWSD to improve its system flexibility and dynamics will also allow the Pagosa Springs area community to persevere through persistent drought years. Utilizing the District's current assets, especially water rights, in the most efficient and effective manner will be of the utmost importance.

IX. Appendices

A. Definition of Terms

Water Right - A private property right in the State of Colorado that establishes in what priority a water user may use water for a beneficial purpose. The priority in which someone can divert water to put it to a beneficial use is granted by the water courts in the State of Colorado. A water right allows diversion of a certain amount of water, in a specified order among other water users, from a certain point along a body of water and for a specified purpose. The older, or more senior, the water right, the fewer other water users whose needs must be satisfied before the user is allowed to divert water. The younger, or more junior, the water right, the greater number of senior water rights that must be satisfied before a junior right can divert water.

Prior Appropriation System - The priority system was established when Colorado was still a territory to solve disputes over ownership and use of water. The system prioritizes use of water based upon who used water first. Those who put water to beneficial use first retain the senior right to continue using that water before newer users. When there is not enough water to satisfy all of the water users, the junior, or most recent user, must curtail or forego use until senior rights are fulfilled.

Appropriation Date - An appropriation date is the earliest date approved by the water court demonstrating that a water rights holder intends to put water to beneficial use. The appropriation date places a water right in chronological order among other water rights, with those older being senior to it and those younger characterized as junior. In times of shortage, the oldest rights have first priority, with remaining water allocated in chronological order until there is no more water available for use. The older a water right's appropriation date, the greater its value due to the likelihood it will have water in times of short supply.

Perfected Water Right - Water right that is granted permanent status when water has been physically diverted or controlled and put to beneficial use. A water right is granted for a specific amount of water to be put to a beneficial use from a specific point of diversion or control, for a certain purpose and for some rights a specified period of use.

Diligence - The effort accomplished by a conditional water right holder to physically use water for a beneficial purpose, thereby perfecting that water right and making it absolute. Diligence must be proved to the water court every six years for the conditional right to remain on the books and hold its place in line. When diligence is not satisfactorily proved to the water court, it can be declared abandoned and its conditional decree date lost.

Conditional Water Right - A legal right that holds a place in line for a planned water project that is not yet complete. Conditional rights are granted to provide the time to get a water diversion or storage project planned and constructed without losing the priority date of when the project was originally conceived. Evidence that plans to develop the project are still moving forward must be proven to a water court judge every six years in an act called “diligence” to keep the conditional water right on the books and preserve its place in line among other water appropriators.

Diversion - The removal of water from its natural course or location by means of ditches, headgates, reservoirs, pipeline, conduit, well, pump or other structure, or device.

Exchange - An agreement between parties where water can be diverted or stored at one point, in exchange for an equivalent amount of water being released or bypassed at another point on a river system. In an exchange, the diversion or storage of water and the release or bypass of water from another point must occur simultaneously to prevent injury to other water users. Exchanges must be approved by the State Engineer’s Office, who will ensure the exchange functions properly.

Over-appropriation - A stream or river is over-appropriated when it does not have enough water to meet the needs of all the water rights holders. Many rivers and streams in Colorado are over-appropriated, especially in dry years, in which case the water rights system determines which water users have a right to use water.

Transbasin/ Transmountain Diversion - A transbasin diversion is the removal of water from one river basin to another river basin. A transmountain diversion is the removal and transport of water across the Continental Divide. These diversions of water are 100% consumptive since no water from the diversion will return to the basin of origin’s waters as return flow. Colorado water law (Coffin v. Left Hand Ditch) provides for transmountain diversions by allowing the diversion of water

from where it naturally flows to where it is needed within the state, regardless of distance.

Acre-feet / acre-foot – An acre-foot is the standard unit of measurement for standing or stored water. It is the amount of water required to cover one acre of land (43,560 square feet) one foot deep. An acre-foot is equal to 325,851 gallons.

B. Acronyms and Abbreviations

SJWCD - San Juan Water Conservancy District

PAWSD - Pagosa Area Water and Sewer District

SJRHP – San Juan River Headwaters Project

CWCB - Colorado Water Conservation Board

USFS - United States Forest Service

WEP - Watershed Enhancement Partnership

SMP - Stream Management Plan

IWMP - Integrated Watershed Management Plan

WIP - Water Information Program

BOR - Bureau of Reclamation

C. Colorado Water Law

In Colorado, water is a public resource. As such, water law in Colorado is the evolution of over 150 years of customs and values of the people to promote orderly development and use of their water resources. As the population has grown and evolved, some water rights that have historically provided irrigation for agriculture have been changed to providing municipal water supplies and water for recreation and piscatorial protection.

Despite evolution with population growth, water remains a scarcity in Colorado. Some areas of the state receive less than 12 inches of precipitation per year, while

the more mountainous areas can see over 40 inches. In light of water's scarcity and value in this arid region, Colorado water law must guarantee security, assure reliability, and create flexibility in the development and protection of water resources.²³

- **Security** resides in the law's ability to identify and protect water rights;
- **Reliability** is assured by the system's capacity to administer and enforce water rights over time; and
- **Flexibility** allows water rights to be leased, changed, transferred, sold, or exchanged as the economy or values evolved.

The Colorado Constitution defines the water doctrine known as "prior appropriation"—first in use, first in right—which has stood the test of time as Colorado developed from a frontier western state and into the late 20th century. "Prior appropriation" confers priority to use water from natural streams based upon when water rights were acquired and appropriated. Holders of senior rights have the first claim to withdraw water over holders who have filed later claims and own what are called "junior water rights." In times of shortage, water is provided in full to the most senior rights, with junior rights being cut off.

Water rights are awarded for bona fide "beneficial uses" such as irrigation, livestock uses, drinking water and general municipal uses, industrial uses, and habitat preservation. In issuing rights, water users may only appropriate the amount of water that can be beneficially used. Any water diverted, but not beneficially used must be returned to the stream to be available for use by others. Rights generally allow for a diversion of a certain quantity of water, or for the storage of a certain

²³ Colorado Foundation for Water Education, *Citizen's Guide to Colorado Water Law*, 3rd Edition (2009), https://www.courts.state.co.us/userfiles/file/Court_Probation/Water_Courts/cfwe%20Water%20Law%20Guide%20Third%20Edition%20Final%20June%2016%202009.pdf.

quantity of water. The rights require the water to be used for a specific purpose (i.e., beneficial use), as defined by the court decree.²⁴

D. Colorado River Compact of 1922

The Colorado River Compact of 1922 is a governing agreement established after long negotiations between the seven states within the Colorado River Basin to apportion water in the river among them. See C.R.S. § 37-61-101 the Colorado statute enacting the Compact. Although the Colorado Compact formed the basis for the “Law of the River,” much debate and deliberation followed the historic 1922 treaty. The State of Wyoming consistently challenged Colorado’s right to divert headwaters flows from the west to east slope of Colorado. After the U.S. Supreme Court ruled the waters of the Colorado River would be governed according to the Doctrine of Prior Appropriation, the Upper Basin States (Utah, New Mexico, Wyoming, and Colorado) became concerned the Lower Basin States (Arizona, Nevada, and California) would be at an unfair advantage due to their more rapid development of water resources. As a result of complex negotiations between the states in a forum called the Colorado River Commission, the elements of the Colorado River Compact were forged between the seven states that utilize Colorado River water. The various compacts and projections of river flows resulted in approximately 3 million acre-feet of depletions being available to the people of Colorado annually under the “Law of the River.”

In 1944, a treaty was signed with Mexico providing our neighbor to the south with 1.5 million acre-feet annually from the Colorado River system. In 1948, the Upper Basin States agreed to a percentage appropriation of the waters of the Colorado River system. Colorado’s share of the 7.5 million acre-feet Upper Basin States’ allotment was set at about 51%. Subsequent negotiations among the seven Upper and Lower Basin States and court decrees have quantified Colorado’s share of the Colorado River system, which is still estimated to be approximately 3.1 million acre-feet of water per year.

The Bureau of Reclamation (BOR) was created in 1902 as an agency of the federal government. Over the past 100 or so years, the BOR has been coordinating the planning, construction, and implementation of numerous water diversion and

²⁴ Id.

storage projects in the western United States. Many irrigation projects throughout the west are based on contracts between the water users and the BOR.

Recent drought conditions have resulted in a Drought Contingency Plan between the seven Upper and Lower Basin States party to the Colorado River Compact to consider ways to prevent Lake Mead and Lake Powell from dropping below the levels required for hydroelectricity generation and to maintain compliance with the Compact. Each state has come up with its own plan to help mitigate possible shortages as part of this contingency plan.

Several transbasin diversions are present in the Upper San Juan River Basin that have direct and indirect effects on water availability within Archuleta County. For example, the Treasure Pass diversion near Wolf Creek Pass diverts water into the Rio Grande drainage. The San Juan-Chama Project diverts water out of the Navajo River into the Rio Grande watershed supplying water to Albuquerque and other areas in New Mexico. A diversion out of the West Fork of the San Juan River ultimately feeds back into the Piedra River. All this demonstrating the complex “plumbing” system affecting water availability in Archuleta County.

E. Potential Sources of Project Funding

- Southwest Basin Roundtable
- Southwestern Water Conservation District
- Colorado Water Conservation Board
- Water Supply Reserve Fund
- Water Smart – BOR
 - Water and Energy Efficiency Grants – <https://www.usbr.gov/watersmart/weeg/index.html>
 - Small-Scale Water Efficiency Grants – small scale water efficiency projects funded with these grants include installation of flow measurement devices and automation technology, canal lining or piping to address seepage, municipal meter upgrades, and other

projects to conserve water –

<https://www.usbr.gov/watersmart/weeg/ssweg.html>

- Water Marketing Strategy Grants –
<https://www.usbr.gov/watersmart/weeg/watermarketing.html>
- Cooperative Watershed Management Program – provides funding to watershed groups to encourage diverse stakeholders to form local solutions to address their water management needs. Funding is provided on a competitive basis for:
 - **Watershed Group Development and Watershed Restoration Planning:** In 2012, the BOR began providing funding for watershed group development, watershed restoration planning, and watershed management project design (Phase I). A watershed group is a self-sustaining, non-regulatory, consensus-based group that is composed of a diverse array of stakeholders, which may include, but is not limited to, private property owners, non-profit organizations, Federal, State, or local agencies, and Tribes. As part of Phase I activities, applicants may use funding to develop bylaws, a mission statement, complete stakeholder outreach, develop a watershed restoration plan, and watershed management project design. In March 2020, BOR awarded \$2.8 million for 29 watershed group development and watershed restoration projects in 12 states with no non-Federal cost-share required. Approximately \$463,000 was awarded to entities in Colorado.
 - **Implementation of Watershed Management Projects:** In 2017, the BOR started providing cost-shared financial assistance to watershed groups to implement watershed management projects (Phase II). These on-the-ground projects, collaboratively developed by members of a watershed group, address critical water supply needs and water quality concerns, helping water users meet competing demands and avoid conflicts over water. BOR will award up to \$100,000 per project

over a two-year period. For Phase II projects, applicants must contribute at least 50% of the total project costs.

- Partner with Natural Resources Conservation Service – enhance riparian condition, whether through restoration efforts, enhancement of diversion structures; Environmental Quality Incentives Program; Regional Conservation Partnership Program.
- Establishment of a Water Fund – Water Funds provide support for conservation and restoration activities that will protect their water supply, water quality, and recreational opportunities, creating a steady revenue stream for a healthy water future. Water Funds are voluntary and locally controlled efforts that can be tailored to address the unique needs and priorities of different communities and partners. For example, the Yampa River Fund (the Fund), which is facilitated by The Nature Conservancy, will invest in conservation and restoration activities that positively impact Yampa River flows. These efforts support natural resource-based livelihoods, including agriculture and recreation, throughout the river basin. The Fund ensures that a healthy, flowing Yampa River remains the thriving center of communities for generations to come.
- Partner with San Juan Forest Health Partnership on projects that enhance the Upper San Juan River watershed (e.g., projects that enhance the water table, riparian condition, and fire mitigation).
- Each year in January, Colorado Water Trust and the Colorado Water Conservation Board launch the annual Request for Water Process. This process offers a streamlined approach to water transactions to benefit the environment on streams throughout the state.

F. Existing Streamgages On the San Juan River in Archuleta County

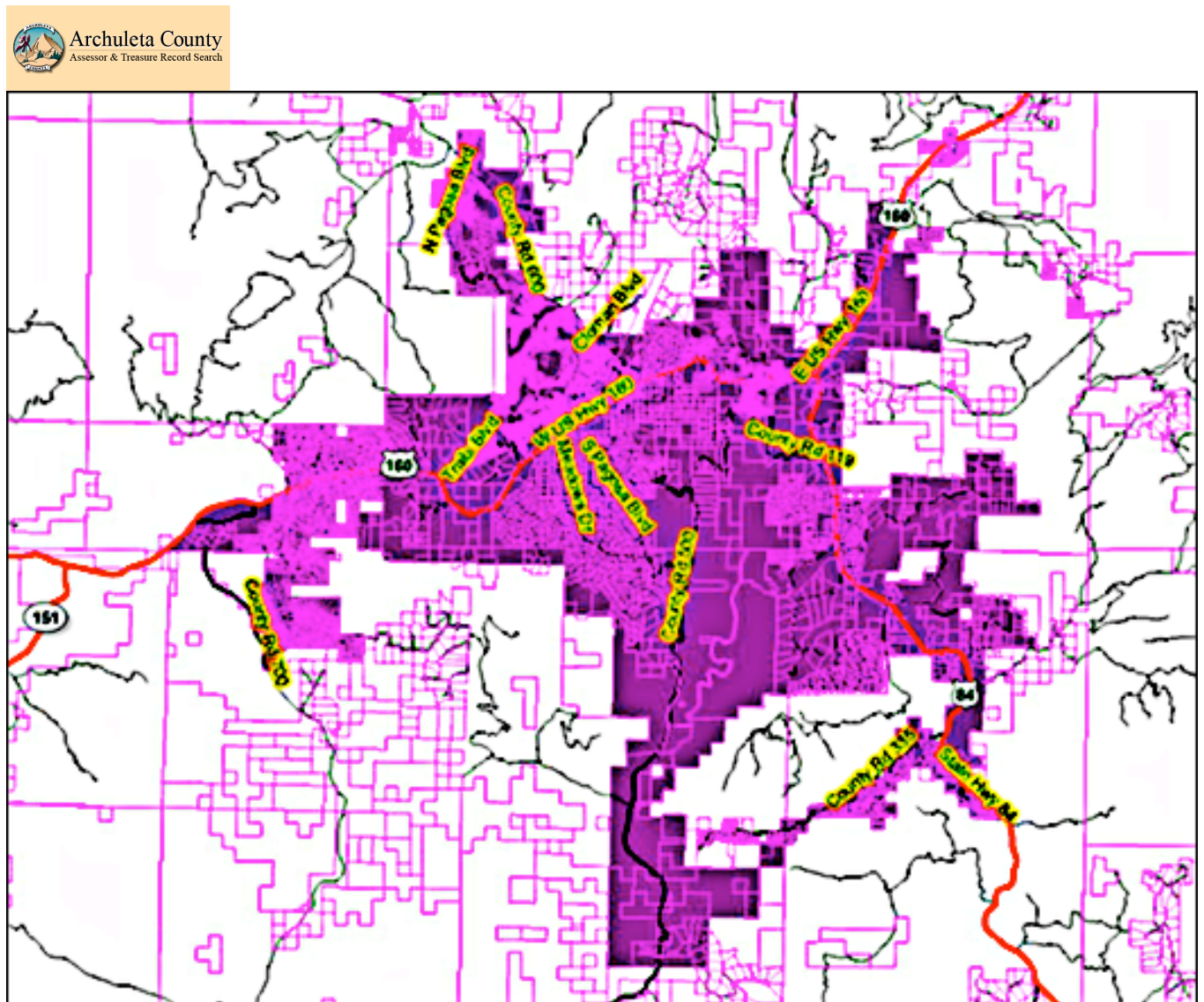
There are currently three gages located in Archuleta County that are automatically updated to provide stream data:

- #09342500- located on the San Juan River in Pagosa Springs, CO
- #09346400- located on the San Juan River near Carracas, CO

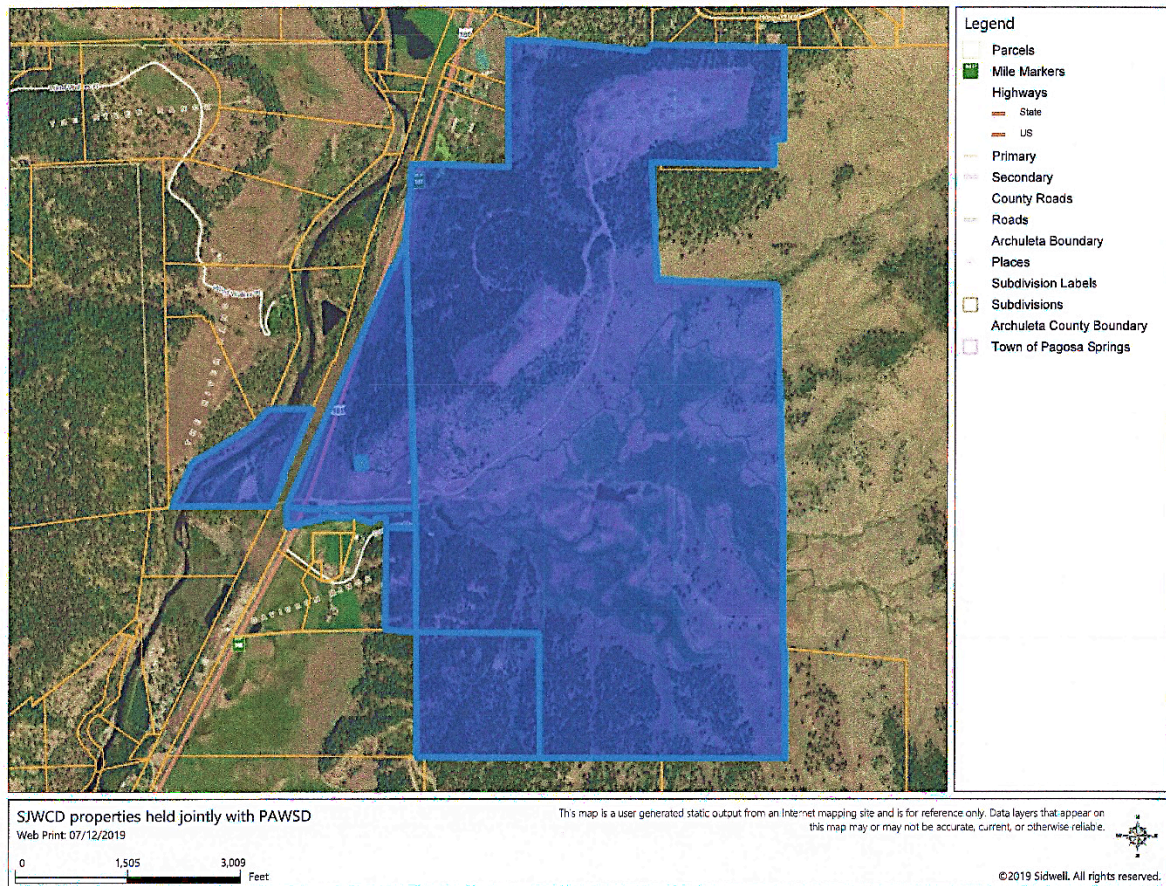
- #09349800- located on the Piedra River near Arboles, CO

The locations of historical gages in Archuleta County, especially in the Upper San Juan Drainage, have been identified on a map provided by Mountain Studies Institute.

G. District Boundaries Map – Courtesy of Archuleta County



H. San Juan River Headwaters Project Property Map – Courtesy of Archuleta County



I. SJWCD Water Rights Tabulation

Name	Source	Appr. Date	Adj. Date	Amount	Uses	Diligence Due
Dutton Ditch Second Enlargement	Stollsteimer Creek, Dutton Creek, and imported from Four Mile Creek	July 6, 1967 (1968-309)	1968 General Adjudication	20 cfs conditional	Irrigation Industrial Municipal Domestic	2026
Remarks <ul style="list-style-type: none"> Original Decree: Case No. 73-308D (Dec. 19, 1968) Total decreed amount is 40 cfs, conditional; PAWSD also owns 20 cfs Diligence Case Nos.: 17CW3030 (entry of decree pending); 09CW17; 01CW29, 94CW39, 88CW50, 84CW60, 80CW104, W-581-76, W-581, and W-193 88CW50, 94CW39, 90CW17 The decree in Case No. 04CW85 for Dry Gulch Reservoir provides that this right will be abandoned if are not used or perfected at the time the Dry Gulch/San Juan River Headwaters Project facilities are constructed. 						
West Fork Reservoir	West Fork of the San Juan River	August 23, 1967 (1968-324)	1968 General Adjudication	24,000 AF conditional	Industrial Municipal Domestic Recreation Piscatorial Irrigation	June 2021
Remarks <ul style="list-style-type: none"> Original Decree: Case No. 73-308-D (Dec. 19, 1968) Diligence Case Nos.: W-195, W583-76, 80CW106, 8466, 8472, 88CW43, 88CW49, 94CW47, 01CW65, and 11CW17 The decree in Case No. 04CW85 for Dry Gulch Reservoir provides that this right will be abandoned if are not used or perfected at the time the Dry Gulch/San Juan River Headwaters Project facilities are constructed. The decree Case No. 11CW17 provides that SJWCD must apply for to change the point of diversion and place of storage by June 21 and subordinates the water right to those located upstream and having an adjudication dates prior to December 31, 2013. 						

West Fork Canal	West Fork of the San Juan River	July 21, 1967 (1968-315)	1968 General Adjudication	50.00 cfs conditional	Irrigation Industrial Municipal	June 2021
Remarks <ul style="list-style-type: none"> Original Decree: Case No. 73-308-D (Dec. 19, 1968) Diligence Case Nos.: 88CW47, 94CW40, 01CW40, and 08CW67 The decree in Case No. 04CW85 for Dry Gulch Reservoir provides that this right will be abandoned if are not used or perfected at the time the Dry Gulch/San Juan River Headwaters Project facilities are constructed. The decree Case No. 08CW37 provides that SJWCD must apply for to change the point of diversion by June 21 and subordinates the water right to those located upstream and having adjudication dates prior to December 31, 2013. 						
Dry Gulch Reservoir (1967)	San Juan River	July 22, 1967 (1968-318)	1968 General Adjudication	6,300 AF conditional	Industrial Domestic Municipal Recreation Piscatorial	October 2022
Remarks <ul style="list-style-type: none"> Original Decree: Case No. 73-308-D (Dec. 19, 1968) Diligence Case Nos.: W-200; 80CW111, 84CW64, 88CW52, 94CW52, 01CW41, 08CW68, 16CW3011 The decree in Case No. 04CW85 places certain conditions on the use of this water right. 						
Dry Gulch Reservoir (2004)	San Juan River	December 20, 2004	December 20, 2004	4,700 AF (first fill); 11,000 AF (refill), conditional	Municipal Irrigation Exchange Augmentation	2026

Remarks <ul style="list-style-type: none"> • Original Decree Case No. 04CW85 (April 23, 2010) • Diligence Case No. 17CW3041 (entry of decree pending) • Remarks: <ul style="list-style-type: none"> ○ The decree in Case No. 04CW85 specifies reservoir and dam dimensions and includes several terms and conditions affecting use of this water right, including volumetric and diversion limitations, reality checks, and subordination limitations ○ Filling sources are Dry Gulch Pumping Station and Park Ditch ○ First fill may be made in conjunction with 1967 storage right 						
Dry Gulch Pumping Station	San Juan River	December 20, 2004	December 20, 2004	50 cfs, conditional	Municipal Irrigation Exchange Augmentation and Storage in Dry Gulch Reservoir and other reservoirs owned by SJWCD and PAWSD	2026
Remarks <ul style="list-style-type: none"> • Original Decree Case No. 04CW85 (April 23, 2010) • Diligence Case No. 17CW3041 (entry of decree pending) • Remarks: <ul style="list-style-type: none"> ○ The decree in Case No. 04CW85 includes several terms and conditions affecting use of this water right, including volumetric and diversion limitations, reality checks, and subordination limitations 						
Park Ditch	San Juan River	1886 to 1956 (varies)	1899 to 1968 (varies)	1.1 cfs, absolute	Irrigation	N/A
Remarks <ul style="list-style-type: none"> • SJWCD owns 6 Class "A" Share in the Park Ditch Company 						

PROFESSIONAL CONSULTING AGREEMENT

This PROFESSIONAL CONSULTING AGREEMENT (hereinafter "Agreement") is made this _____ day of _____, 2021, by and between the SAN JUAN WATER CONSERVANCY DISTRICT, a Colorado political subdivision organized pursuant to C.R.S. § 37-45-101 et seq. having its principal place of business at 46 Eaton Drive, Suite #5, Pagosa Springs, Colorado, (hereinafter "SJWCD" or "District") and RGL CONSULTING, LLC, a Colorado limited liability company, having its principal place of business at 364 E. 3rd Ave., Durango, CO 81301 (hereinafter "Contractor").

RECITALS

- A. SJWCD desires to engage a qualified contractor for consulting services to assist the Board in planning and coordinating SJWCD mission accomplishment, perform the duties of Recording Secretary to its Board of Directors, develop and assist in the implementation of a strategic plan for SJWCD, assist Treasurer in development and administration of budget, and to identify areas of potential improvements in the District's organizational operations.
- B. Contractor has unique qualifications and experience to provide such services as a professional Contractor.
- C. SJWCD and Contractor both desire that Contractor have full access to meet and speak frankly with any member of the District's Board of Directors, its support services agents or staff, its contractors, and its legal counsel, including in executive session, and to be able to hold all information so learned in confidence and subject to the deliberative process privilege, attorney-client privilege, and any other applicable privilege doctrine where permitted by law.

Accordingly, SJWCD and Contractor hereby agree as follows:

I. Scope of Agreement

Contractor shall commence, perform, and complete the following professional services (hereinafter "Services"); assist the District by providing technical assistance and facilitation, including but not limited to the following:

- Assist the Board in planning and coordinating SJWCD mission accomplishment, with the primary emphasis being on development and implementation of a strategic plan;
- Develop and assist in the implementation, to the extent applicable during the term of this Agreement, a strategic plan that includes long-range goals, objectives, plans, and policies in furtherance of the SJWCD's mission subject to approval by the Board and in accordance with the schedule included herein as Attachment A. Schedule in Attachment A is contingent on the Board accomplishing assigned tasks in a timely manner;

- Assist the Board in development of relationships and effective partnerships with appropriate government officials and water organizations in support of implementation of the strategic plan;
- Perform duties of Recording Secretary to the Board in accordance with Attachment A, as defined in the District's Bylaws including, but not limited to drafting of meeting minutes, prepare, compile, and disseminate all documents needed for the board meetings and work sessions, and assemble monthly board books;
- Assist the District Treasurer, as needed, in the development of and adherence to the SJWCD's annual budget.
- Lead or assist special projects as agreed upon by both parties.

II. Term

The term of this agreement shall commence on the ___ day of February 2021. The term shall end on December 31, 2021 unless the parties agree to continue the Agreement and services at which time the Agreement can be extended in writing. Either party may terminate this Agreement by providing written notice to the other party. This Agreement shall terminate upon written notice to the other party that the services contemplated herein have been completed. Termination shall become effective immediately upon receipt of the termination or completion notice by the other party.

III. Independent Contractor Status

It is the expressed intent of the parties that the Contractor is an independent contractor and not the agent, employee or servant of the District, and that:

A. CONTRACTOR SHALL SATISFY ALL TAX AND OTHER GOVERNMENTALLY IMPOSED RESPONSIBILITIES INCLUDING, BUT NOT LIMITED TO, PAYMENT OF STATE AND FEDERAL AND SOCIAL SECURITY TAXES, UNEMPLOYMENT TAXES, WORKERS' COMPENSATION AND SELF-EMPLOYMENT TAXES. NO FEDERAL, STATE OR LOCAL TAXES OF ANY KIND SHALL BE WITHHELD OR PAID BY THE DISTRICT.

B. CONTRACTOR IS NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS OR WORKERS' COMPENSATION BENEFITS UNLESS THE INDEPENDENT CONTRACTOR PROVIDES SUCH COVERAGES.

C. Contractor does not have the authority to act for the District, or to bind the District in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the District.

D. Contractor has and hereby retains control of and supervision over the performance of Contractor's obligations hereunder and control over any persons employed by Contractor for performing the Services hereunder.

E. The District will not provide training or instruction to Contractor or any of its employees regarding the performance of Services hereunder.

F. Neither Contractor, nor its employees, will receive benefits of any type from the District.

G. This contract is not exclusive. Contractor has the right to perform services for others during the term of this Agreement.

H. Contractor may choose how to complete the Services described herein, but the Services shall be conducted to meet the objectives for the Services set by the Board. Contractor shall be responsible for completing all Services identified herein, and said responsibility may not be assigned to a third-party.

IV. Contractor Responsibilities

In addition to all other obligations contained herein, Contractor agrees:

A. to furnish all tools, labor, and supplies in such quantities and of the proper quality to professionally and timely perform the Services; to accept access to District equipment (computer, printer, etc.) and files for the purposes of meeting contractual obligations.

B. to proceed with diligence and promptness and hereby warrants that such Services shall be performed in accordance with the highest professional workmanship and service standards in the field to the satisfaction of the District.

C. to comply, at its own expense, with the provisions of all state, local and federal laws, regulations, ordinances, requirements and codes which are applicable to the performance of the Services hereunder or to Contractor as an employer and obtaining and keeping in force all applicable permits and approvals.

V. Fees and Reimbursement of Certain Expenses

A. Payment

For the satisfactory performance of the Services hereunder, the District shall pay Contractor the fixed or contract rate of \$40/hour; not to exceed a total of \$12,000. Any necessary lodging expenses and necessary travel (@ \$0.54 per mile), as approved by the Board prior to conducting such activities, will also be reimbursed. Within 30 days after receipt of Contractor's invoice, which will be submitted monthly, the District agrees to remit payment for services

provided. The District shall have no obligation to make any payments until the District accepts performance as satisfactory. All payments under this contract will be to the trade or business name of the Contractor. No payments will be personally made to an individual under this contract.

B. Invoices

Contractor shall submit invoices to the District President and Treasurer. Such invoices shall state a description of each specific Service performed.

VI. Mutual Indemnification

SJWCD and Contractor each agrees to indemnify, defend, and hold harmless the other party from and against any loss, cost, or damage of any kind (including reasonable attorneys' fees) that arise out of a breach of this Agreement, that party's negligence or willful misconduct, and any other proceeding or lawsuit filed by a third party against that party. Contractor understands and acknowledges that SJWCD is subject to the protections and limitations of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., but that Contractor is not.

VII. Intellectual Property

SJWCD and the Contractor agree that all intellectual property rights and interests (including copyright) in any ideas or materials created during the performance of the Services shall vest in SJWCD and that the same shall be considered a "Work Made for Hire" within the meaning of the copyright laws of the United States. Contractor agrees to SJWCD's use of such creations.

VIII. Confidentiality of Information

- a. Contractor has received or will receive from SJWCD certain information relating to the mission and operations of SJWCD. Such information is referred to herein as "Confidential Information" and may include but is not limited to corporate books, financial statements, projections, policies, assets, liabilities, processes, procedures, designs, vendor information, constituent lists, legal advice, and other information that may be sensitive. Subject to the terms and limitations of this Agreement and the limitations imposed by applicable law, all Confidential Information is acknowledged to be confidential and protected by SJWCD in the sole discretion of its Board of Directors.
- b. Contractor will use every reasonable effort to keep Confidential Information secret and confidential and not to disclose it to third parties unless disclosure is required by law or authorized by the SJWCD Board of Directors. Confidential Information may be provided to agents and representatives of SJWCD, including SJWCD's attorneys, accountants, and other agents or Contractors, provided that Contractor takes appropriate steps to cause such parties to continue to respect the confidentiality of the Confidential Information and the restrictions imposed by this Agreement.

- c. The Confidential Information shall be used by Contractor only in connection with the performance of the Services.
- d. Notwithstanding the foregoing, any information that meets any of the following criteria shall not be deemed to be Confidential Information:
 - (i) Information that must be disclosed pursuant to Colorado's Open Meetings Law, the Colorado Open Records Act, or any other applicable law.
 - (ii) Information and data that, at the time of disclosure, is already available to the public on an unrestricted basis.
 - (iii) Information and data that, after disclosure, is published or otherwise becomes available to the public through no fault of Contractor.
- e. Contractor agrees that any unauthorized disclosure of Confidential Information could cause immediate and irreparable harm to SJWCD. Contractor therefore agrees that upon the existence of any breach or threatened breach of the terms of this section, SJWCD may immediately obtain a temporary restraining order or other form of equitable relief from a court of competent jurisdiction.
- f. Upon request by SJWCD, Contractor shall return all materials provided to Contractor by or on behalf of SJWCD and any notes, documents, copies, or other materials prepared by Contractor with respect to such Confidential Information.

IX. Amendments

Any change in the scope of Service defined herein or to any other provision of this Agreement may only be authorized by a written amendment agreed to by both SJWCD and Contractor.

X. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute but one and the same original instrument.

XI. Notice

Any notice to be given hereunder by either party, to the other, shall be in writing and shall be deemed given when sent by certified mail.

A. Notices to the District shall be addressed to:

President, SJWCD
46 Eaton Drive, Suite #5,
Pagosa Springs, Colorado 81147

B. Notices to Contractor shall be addressed to:

RGL Consulting, LLC
364 E. 3rd Ave.,

Durango, CO 81301

If either party changes its address during the term herein, it shall so advise the other party in writing as herein provided and any notice thereafter required to be given shall be sent by certified mail to such new address. Courtesy copies of any such notice shall be emailed to sanjwcd@gmail.com and reneelewis7@gmail.com.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to sign this **PROFESSIONAL CONSULTING AGREEMENT** as of the date first stated above.

DISTRICT

CONTRACTOR

(Signature)

(Signature)

(Title)

(Title)

(Date)

(Date)

**Attachment A – Professional Consulting Agreement –
RGL Consulting, LLC – Schedule of Deliverables**

Strategic Plan – Present Final Draft for Approval	February 15, 2021
BOD Meeting Minutes	Within a week of BOD meeting.
Board Books	Ongoing - each month following a BOD meeting.
BOD Meeting Attendance	As directed by the BOD
Special Projects	As directed by BOD

Board Agenda Item Report

	To	Action	Signature, Date		To	Action	Signature, Date
1	Renee Lewis	Review		6			
2	Board	Approve		7			
3				8			
4				9			
5				10			

Name of Action Official Al Pfister	Priority High Medium Low None <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Phone	Presentation Date 2-15-21
Subject Future Uses of Running Iron Ranch			Approval Req Date 2-15-21

Summary:

-With the rejection of the counter offer regarding the continued leasing of the Running Iron Ranch, the Board ought to consider next steps for the future uses of the Running Iron Ranch.

SIGNED

Board Agenda Item Report

	To	Action	Signature, Date		To	Action	Signature, Date
1	Renee Lewis	Review		6			
2	Board	Approve		7			
3				8			
4				9			
5				10			

Name of Action Official Al Pfister	Priority High Medium Low None <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Phone	Presentation Date 2-15-21
Subject Chamber of Commerce Membership			Approval Req Date 2-15-21

Summary:

-The District is currently a member of the Chamber of Commerce. The annual membership costs approximately \$150.00. The benefits of the membership include, but are not limited to participating in the “Business After Hours” and “Business Bites” programs in accordance with Strategic Objective 2 of the Strategic Plan – Educate community on water issues facing SJWCD.

SIGNED

Board Agenda Item Report

	To	Action	Signature, Date		To	Action	Signature, Date
1	Renee Lewis	Review		6			
2	Board	Approve		7			
3				8			
4				9			
5				10			

Name of Action Official John Porco	Priority High Medium Low None <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Phone	Presentation Date 2/15/21
Subject Water Information Program Steering Committee Update			Approval Req Date

Summary:

-I will provide a brief update on the WIP SC meeting of January 21.

SIGNED
JP



AGENDA BRIEF

MEETING: February 15, 2021

FROM: Bill Hudson

SUBJECT: Amendments to Bylaws

ACTION: Information and Possible Action

PURPOSE/BACKGROUND:

The SJWCD Bylaws are written to guide the operations of the Board of Directors. As the composition of the Board has changed over the past few years, the operations have changed in certain respects, without keeping the Bylaws updated to reflect those changes.

Here are some suggested amendments.

1. EXISTING BYLAWS:

Section 4. Board of Directors

b. Geographical Representation. The October 22, 1987 District Court Order organizing the District specified that initial composition of the Board include two (2) Directors who are residents within the incorporated town limits of Pagosa Springs, two (2) other Directors who are residents within the boundaries of the service area of the Pagosa Area Water and Sanitation District, three (3) other Directors whose residence is outside the town limits of Pagosa Springs and outside the service area of the Pagosa Area Water & Sanitation District, and with all other Directors selected at-large. All Directors must be residents within the boundaries of the San Juan Water Conservancy District. After the District was organized, in 1993 the Town of Pagosa Springs service area was wholly incorporated into the Pagosa Area Water & Sanitation District, which may affect the ability to meet the original jurisdictional representation requirement. Therefore, all District recommendations to the District Court for Director appointments shall seek to generally maintain a balanced geographical and jurisdictional representation among the Board members even though strict adherence to the originally prescribed jurisdictional boundaries is no longer possible. Numerous Court appointment orders since the change in jurisdictional boundaries have acknowledged and affirmed this fact.

PROPOSED AMENDMENT:

b. Geographical Representation. All Directors must be residents within the boundaries of the San Juan Water Conservancy District.

2. EXISTING BYLAWS:

Section 6. Meetings

a. Regular Meetings. Regular meetings of the Board shall be conducted on the second Monday of each even month at 7pm and held at the business office, unless other wise noticed and posted.

PROPOSED AMENDMENT:

a. Regular Meetings. Regular meetings of the Board shall be conducted on the third Monday of each even month at 5pm and held at the business office, unless other wise noticed and posted. During a health emergency, the Board President may arrange for meetings to be held via electronic means, while ensuring that the general public is able to participate.

3. EXISTING BYLAWS:

Section 7. Conduct of Business

b. Vote Requirements. Any action of the Board shall require the affirmative vote of a majority of the Directors present and voting. When special or emergency circumstances affecting the affairs of the District and the health and safety of District residents so dictate, then those Directors available at the time may undertake whatever action is considered necessary and may so instruct the District's employees, agents and contractors. Such action shall later be ratified by the Board.

PROPOSED AMENDMENT:

b. Vote Requirements. Any action of the Board shall require the affirmative vote of a majority of the Directors present and voting. (Emergency actions are covered by Section 6, paragraph g.)

4. EXISTING BYLAWS:

Section 7. Conduct of Business

e. Public Conduct at Meetings. Comments by members of the public shall be made only during the “Public Input” portion of the meeting unless additional opportunity is given at the Board’s discretion. Disorderly conduct, harassment, or obstruction of or interference with meetings by physical action, verbal utterance, nuisance or any other means are hereby prohibited and constitute a violation of District rules. Such conduct may result in removal of person(s) responsible for such behavior from the meeting and/or criminal charges files against such person(s). To the extent such occurrences arise and the person(s) responsible refuse to leave the premises, law enforcement authorities will be summoned. Prosecution will be pursued under all applicable laws, including without limitation Sections 18-9-108 CRS (disrupting lawful assembly), 18-9-110 CRS (public buildings — trespass, interference), and/or 18-9-117 CRS (unlawful conduct on public property). Law enforcement may be requested to attend meetings at any time in which the Board believes their presence will be an asset to the keeping of peace and the conducting of public business. 9-1-1 will be called ay any time that the Board or staff feels threatened or endangered during a public meeting.

PROPOSED AMENDMENT:

e. Public Conduct at Meetings. Comments by members of the public shall be welcomed during the “Public Input” portion of the meeting. Additional opportunities for public comment may be granted at the Board President’s discretion, or at the suggestion of any Board member.

5. EXISTING BYLAWS:

Section 7. Conduct of Business

h. Adding new Part h

PROPOSED AMENDMENT:

h. Conflict of Interest. A Director who has a financial interest in a matter coming before the Board shall recuse himself/herself from participation in discussion or voting on the matter, and shall propose no motions or offer comments while the matter is before the Board. Whenever possible, recusal shall include removing himself/herself from the meeting while the matter is under consideration.

6. EXISTING BYLAWS:

Section 7. Conduct of Business

h. Adding new Part j

PROPOSED AMENDMENT:

h. Conferences with Attorney. A Director who wishes to discuss an issue with the District's legal counsel outside of a convened Board meeting will obtain Board approval before engaging with legal counsel on the issue.

7. EXISTING BYLAWS:

Section 8. Directors, Officers and Personnel.

g. Chair and President. The Chair shall preside at all meetings... and voting on all matters. Prior to any absence from any meeting, the Chair shall designate another Director as Chair of such meeting.

h. Vice President. In absence of the Chair, the Vice President shall preside at all meetings...

PROPOSED AMENDMENT:

g. Chair and President. The Chair shall preside at all meetings... and voting on all matters. ~~Prior to any absence from any meeting, the Chair shall designate another Director as Chair of such meeting.~~

h. Vice President. In absence of the Chair, the Vice President shall preside at all meetings...

8. EXISTING BYLAWS:

Section 8. Directors, Officers and Personnel.

i. Secretary/Treasurer. The Secretary/Treasurer shall be responsible for the records of the District; may act as Secretary at meetings of the Board and record all votes; shall be responsible for composing a record of the proceedings of the Board in a visual text format that may be transmitted electronically, which shall be an official record of the Board; shall

be authorized to invest or cause to be invested all surplus funds or other available funds of the District in permitted investments authorized by law or as specified by the Board; shall keep or cause to be kept strict and accurate accounts of all money received by and disbursed for and on behalf of District in permanent records; and shall perform all other duties incident to that office. The Secretary/Treasurer shall be the designated election official of the District, unless otherwise determined by the Board, and the custodian of records and of the seal of District. The Secretary/Treasurer shall have the authority to affix such seal to and attest all contracts and instruments authorized to be executed by the Board. The Secretary/Treasurer shall file with the Clerk of the Court, at the expense of the District, a corporate fidelity bond in an amount determined by the Board of not less than \$5,000, conditioned on the faithful performance of the duties of the Treasurer's office. The Secretary/Treasurer shall be chairman of the Budget Committee and of the Audit Committee. In addition to the duties above described, in the absence of the Chair, the Secretary/Treasurer shall preside at meetings and shall have all authority of the Chair to make management or administrative decisions regarding District matters and to sign contracts, deeds, notes, debentures, warrants, checks, and other instruments on behalf of the District.

PROPOSED AMENDMENT:

- i. Secretary. The Secretary shall be responsible for the records of the District; may act as Secretary at meetings of the Board and record all votes; shall be responsible for composing a record of the proceedings of the Board in a visual text format that may be transmitted electronically, which shall be an official record of the Board; shall be the designated election official of the District, unless otherwise determined by the Board, and the custodian of records and of the seal of District; shall have the authority to affix such seal to and attest all contracts and instruments authorized to be executed by the Board.
- j. Treasurer. The Treasurer shall be authorized to invest or cause to be invested all surplus funds or other available funds of the District in permitted investments authorized by law or as specified by the Board; shall keep or cause to be kept strict and accurate accounts of all money received by and disbursed for and on behalf of District in permanent records; and shall perform all other duties incident to that office. The Treasurer shall file with the Clerk of the Court, at the expense of the District, a corporate fidelity bond in an amount determined by the Board of not less than \$5,000, conditioned on the faithful performance of the duties of the Treasurer's office. The Treasurer shall be chairman of the Budget Committee and of the Audit Committee.

(Following sections will be changed alphabetically...)

POSSIBLE ACTION:

The Board may wish to approval any or all of the suggested amendments.