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**STATE OF COLORADO**  
**DEPARTMENT OF LAW**

**Natural Resources and  
Environment Section**

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**AGENDA**

**Colorado Natural Resources Trustees Meeting**  
**November 17, 2014, 3:00pm to 5:00pm**  
**Location: AGO Room 1E**

**Open Session**

1. Approval of Minutes from September 2014 Meeting – 5 minutes
2. Approval of Phase II Guidance – 10 minutes (David Kreutzer)
3. Summitville NRD Project Modification – 15 minutes (Doug Jamison)
4. Suncor NRD Money Allocation – 10 minutes (Kendall Griffin, Susan Newton, Ed Perkins)
5. Idarado Update – 5 minutes (Doug Jamison)
6. West Creek Case Update – 5 minutes (Jennifer Robbins)

**Executive Session**

7. Rocky Flats NRD Allocation – 15 minutes (Dan Miller)
8. Rocky Mountain Arsenal Recovery Fund – NGC Project Resolutions – 30 minutes (Susan Newton, Ed Perkins, David Banas)
  - a. Adams County – South Platte Acquisition
  - b. Aurora – Triple Creek
  - c. Bluff Lake Nature Center – Bluff Lake Dam
  - d. Brighton – Ken Mitchell Open Space

- e. Commerce City – Second Creek
  - f. Denver – Northside Park
  - g. Denver – Westerly Creek
  - h. Environmental Learning for Kids – Montebello
  - i. Groundwork Denver – Platte Farm Open Space
  - j. Sand Creek Regional Greenway – Bird Habitat
9. Discussion Concerning Money Remaining in Rocky Mountain Arsenal Foundation Fund – 10 minutes (Susan Newton, Ed Perkins, David Banas)

### **Open Session**

10. Decision Items Regarding Rocky Flats NRD Allocation – 5 minutes
11. Decision Items Regarding Rocky Mountain Arsenal Recovery Fund – 5 minutes
- a. Adams County – South Platte Acquisition
  - b. Aurora – Triple Creek
  - c. Bluff Lake Nature Center – Bluff Lake Dam
  - d. Brighton – Ken Mitchell Open Space
  - e. Commerce City – Second Creek
  - f. Denver – Northside Park
  - g. Denver - Westerly Creek
  - h. Environmental Learning for Kids – Montebello
  - i. Groundwork Denver – Platte Farm Open Space
  - j. Sand Creek Regional Greenway – Bird Habitat
12. Decision Items Regarding Rocky Mountain Arsenal Foundation Fund – 5 minutes

**Minutes of Meeting  
Colorado Natural Resource Trustees  
September 26, 2014**

In attendance:

**TRUSTEES**

John Suthers, Attorney General

Bob Randall, DNR

Martha Rudolph, CDPHE

**STAFF and OTHERS**

Casey Shpall, DAG, NR

David Banas, AGO, NR

David Kreutzer, AGO, NR

Jennifer Robbins, AGO, NR

Susan Newton, CDPHE

Monica Sheets, CDPHE

Gary Baughman, CDPHE

Alex Davis, DNR

Ed Perkins, DNR

Paul Frohardt, NEGC

Kate Kramer, NEGC

Dr. Susan Bonfield, NEGC

Hillary Merritt, TPL

Justin Spring, TPL

Gordon Robinson, Denver

Stacie Gilmore, ELK

Jolynn Crownover, ELK

Kim Weiss, ELK

Jeff Edson, Bluff Lake

Jeff Lamontague, Bluff Lake

Shannon McDowell, Adams County

Roger Harvey, Adams County

Marc Pedrucci, Adams County

Michael Brown, Commerce City

Jack Denman, ERO

Mary Powell, ERO

Gary Wardle, City of Brighton

Brian Green, City of Aurora

David Oletski, Globevill Civic Assn.

Tangier Barnes, Groundwork Denver

Wendy Hawthorne, Groundwork Denver

John Suthers called the meeting to order at 1:03 p.m., Friday, September 26, 2014. The meeting's purpose was to brief the Trustees on the current status and issues relating to NRD sites and to request direction and/or approval for various actions.

Mr. Suthers requested approval of the February 27, 2014 and June 17, 2014 meeting minutes. Mr. Randall moved to approve the minutes, and Ms. Rudolph seconded the motion. The minutes were unanimously approved.

The purpose of this meeting with the Trustees was for the presentation of proposed projects requesting funding from the Rocky Mountain Arsenal Recovery Fund by ten groups within the Northeast Greenway Corridor Working Group (NCG).

Paul Frohardt and Rex Raymond of the NCG began the presentation by explaining to the Trustees the proposed plan to pay back the Fund and unlock the monies for the ten projects currently being proposed. Mr. Suthers clarified the money from the Fund was originally not to be spent until the interest had paid off the loan, however, because of the economy, this repayment would have taken much longer than originally planned.

Mr. Frohardt explained each entity applying for funding would contribute an amount of money to pay back the loan and therefore free the Fund money for projects. Mr. Suthers asked if the working group had reached consensus regarding each group contributing even though the Trustees may not approve their project. Mr. Frohardt said absolutely – everyone is very committed to having these projects go forward.

### **Sand Creek Regional Greenway – Bird Habitat**

Kate Kramer and Dr. Susan Bonfield presented their request for \$921,475 to restore shortgrass prairie habitat on over one hundred acres in two counties and three cities, benefitting of grassland-dependent bird species and striving to increase avian diversity. Ms. Kramer stated this project is probably cannot begin for about two years, securing the matching funds will take place during this time.

Mr. Suthers asked who owns the properties for the planned restoration and Ms. Kramer responded they were all public properties owned by Denver, Adams County, Aurora and Barr Lake State Park. Mr. Suthers commented more description would be needed before final approval, including what amount of money will be spent on seed mix, plants, how much for labor. Ms. Rudolph voiced concerns about the long-term viability of the project and whether the local governments owning the land would assure maintenance. Mr. Randall also expressed concerns regarding the amount of acreage for the amount of money being requested. He asked if •having the group bring each project back for review and approval. Ms. Kramer said absolutely – they plan on coming back to the Trustees within the next two years after securing the matching funds and governmental agency commitment to maintain the projects.

### **Bluff Lake Aquatic Habitat Improvement and Nature Center**

Jeff Lamontagne presented the Bluff Lake request for \$657,583 to:

- supplement the reinforcement of the dam in order to create conditions for a year-round lake

- develop a reliable and sustainable water supply for Bluff Lake
- reinforce the dam adjacent to the lake and install a liner to slow seepage
- provide a greater depth to surface ratio for better water circulation, water quality and reduction of evaporative loss
- restore native vegetation to adjacent grasslands and create wetland step pools to encourage wildlife diversity

Mr. Suthers asked if the dam were improved would they still need to purchase water. Mr. Lamontagne responded they would still need to purchase some water, but already have an agreement with Denver Water to purchase recycled water. They will be testing it to make sure it is acceptable to introduce to the lake waters.

Ms. Rudolph asked if the project would impact a water right by the prevention of leakage. Mr. Lamontagne stated they had looked at this issue, and were unable to find any water right that would be affected.

#### **Ken Mitchell Open Space/South Platte River Wildlife Habitat Restoration Project, City of Brighton**

Gary Wardle from the City of Brighton explained the City of Brighton's project and request for \$1,842,951 to acquire approximately 16 acres of land and to restore between 11 and 76 acres of land. Matching funds will be granted by the City of Brighton, Adams County and Urban Drainage, all of whom will also be doing some of the restoration work. He also stated Metro Sewer would be restoring the northern half of the site. The gravel company doing the work will also be re-seeding, so it is possible, the project will provide the seed mixture needed.

Mr. Suthers asked about the matching funds and Mr. Wardle responded both Adams County and the City of Brighton would potentially apply matching funds to each phase of the project.

#### **Montbello Open Space and Trailhead to the Refuge**

Stacie Gilmore (ELK) and Justin Spring (TPL) explained their project and request for \$470,181. The project involves the protection and restoration of 4.5 acres of undeveloped land and creation of a shortgrass prairie. In the future they also plan to enhance and improve a stormwater detention pond adjacent to the 4.5 acres to increase the diversity of habitat types and improve groundwater recharge.

Mr. Suthers asked if there was any water on the 4.5 acres and Ms. Gilmore responded there was not. Ms. Gilmore stated the surrounding property was industrial, and included a Denver Health Medical Center as well as the 1-acre stormwater detention pond. They are currently entering into an MOA with the detention pond owner to have all the water drain to RMA.

### **Northside Park Restoration and Conversion Project**

Gordon Robertson of Denver Parks made the case for a request of \$805,000 to expand and enhance Denver Parks Heron Pond Natural Area complex at Northside Park by improving wetlands, upland vegetation, terrestrial habitat, and by increasing a stronger connection to the South Platte River. In addition, the project would create a single large destination natural area with abundant wildlife within an urban area while providing environmental education opportunities.

Mr. Suthers asked if the area was within walking distance of Globeville and was told it was.

Ms. Rudolph asked about the long-term viability and maintenance of the area. Mr. Robertson responded they plan on designating the area as part of the Denver Parks program for the long-term maintenance. Ms. Rudolph asked what measures would be taken to preserve the area as short-grass prairie as opposed to soccer fields, to which Mr. Robertson responded any changes to the area would have to be approved by a citizen ballot initiative.

### **Platte Farm Open Space**

Wendy Hawthorne of Groundwork Denver requested \$600,000 from the Trustees to fund the restoration of 5.59 acres of currently dilapidated vacant property to a short-grass prairie, thereby removing invasive weeds, improving the soil, and contributing to stormwater filtration.

Mr. Suthers asked how far this area is from the Rocky Mountain Arsenal. Ms. Hawthorne responded it was four to seven miles from the Arsenal, but Denver had agreed to take this area into their network of parks and will acquire all the Xcel interests in the property.

Mr. Suthers asked what surrounded this area and what assurances did we have Denver would actually take this into their park system. Ms. Hawthorne responded the area is surrounded by housing and South Argo Park and is separated from this by railroad tracks.

### **Second Creek Restoration – Commerce City**

Mike Brown of Commerce City Parks presented the proposal for the restoration of the Second Creek Channel and creation of a water quality pond. Commerce City proposes to create the necessary infrastructure to restore the flows of Second Creek past the O'Brian and Burlington Canals and toward South Platte River. The restoration will result in a high quality riparian habitat, increased groundwater recharging and improved overall water quality. The project will also create a water quality pond to provide wetland habitat.

Mr. Suthers asked if this project would take water from Barr Lake and the response was some would come to Barr Lake and some would go to Second Creek and some water adjudication might be necessary.

Ms. Rudolph asked what exactly the NRD monies would be used for and the response was the

monies would be used to restore the flow of Second Creek, restore natural vegetation, perform earthwork to restructure the channel and create a water retention pond. Ms. Rudolph then asked who owned the property on either side of Second Creek. Mr. Brown responded it is future residential property. Ms. Rudolph asked why this would be considered restoration as opposed to an urban drainage project. The response was it may be partly urban drainage, but it will create a natural habitat.

### **South Platte River Acquisition**

Marc Pedrucci of Adams County presented the proposal to acquire the 10365 Partners and Willow Bay properties in order to preserve two key areas of riparian, wetland, and upland habitats along the South Platte River. The plan would compensate for injured natural resources ensuring protection through conservation easements, and by implementing management and stewardship practices for the long term.

Mr. Suthers asked if Adams County would be contributing and was told, yes Adams County was raising \$1.25 million with a new sales tax for this project.

Mr. Randall asked about oil and gas leases on the property and Mr. Perrucci said the Willow property had no surface rights and a no use agreement had already been signed. They hope to extinguish the other rights in the near future.

Ms. Rudolph asked about the pond on the property and whether it would be used for agriculture and was told there is pasture and meadow land on the property which is under lease. The County would probably continue to lease it as agricultural land, but with restrictions.

### **Triple Creek Greenway Corridor**

Brian Green of the City of Aurora presented a proposal to acquire two to four properties totaling up to 532 acres along the Triple Creek corridor to protect wildlife habitat.

Mr. Suthers requested a clarification on the amount of acreage to be purchased and Mr. Green confirmed they were looking at 532 acres and hope to leverage more money from the NRD monies in order to meet their goal. Conservation easements would be placed on all the properties.

Ms. Rudolph asked about the proposed trails and was informed they would all be soft trails.

### **Westerly Creek North ark and Prairie Upland Park**

Gordon Robertson and Kate Kramer presented a proposal to restore and enhance wetland, riparian and grassland habitat at the confluence of Westerly Creek and Sand Creek in the Stapleton neighborhood. This project would add value to the Sand and Westerly Creeks riparian corridors by restoring native habitats, improving water quality and enhancing native plants and wildlife.

There were no questions regarding this project from the Trustees.

### **Executive Session**

John Suthers noted the next agenda items were subject to attorney-client privilege, and therefore called for an executive session pursuant to C.R.S. § 24-6-402(3)(a)(II). At 2:32 p.m. Mr. Randall moved, and Ms. Rudolph seconded a motion to begin executive session, and the vote was unanimously approved to allow the Trustees to discuss privileged topics concerning the Rocky Mountain Arsenal's Recovery Fund and Foundation Fund as well as reconsideration for an additional project. Such discussion, being attorney-client privileged, is authorized under C.R.S. section 24-6-402(3)(a)(II) and C.R.S. section 24-6-402(d.5)(1)(B). The executive session was digitally recorded. No other business was conducted, no minutes were taken.

At 3:23 p.m. the executive session was unanimously ended by motion from Ms. Rudolph and seconded by Mr. Randall whereupon executive session was ended. Ms. Shpall noted for the record the Trustees discussed legal issues concerning the Northeast Greenway Corridor Working Group Rocky Mountain Arsenal Recovery Fund Proposals.

Following the Executive Session, Mr. Suthers stated the Trustees were conditionally approving all proposals subject to strict conditions to be added to the resolutions by the Trustee staff and if the conditions are not met, the project will receive no NRD money. He also stated the properties in the proposals would be subject to conservation easements or the legal equivalent thereof. Mr. Suthers also commented the Trustees thought they needed some universal conditions and specific conditions on some of the project so the Trustees can be sure they are in compliance with all laws and regulations.

Ms. Rudolph commenting on concerns the Trustees had about the size of the projects and whether they were viable, but chose to move forward and support the proposals on a demo or pilot project basis. She also made it clear the Trustees would need an accounting and ongoing reports to show the proposals were working.

Mr. Randall moved to approve the proposals by the NGC subject to the conditions stated by Trustees and this was seconded by Mr. Randall. This motion was unanimously adopted by the Trustees.

Mr. Randall thanked everyone for all their hard work and asked David Banas to relay the five conditions of the NGC project approval. Mr. Banas stated, the conditions are:

1. The approval was good for five years;
2. Conditional on sufficient matching fund;
3. Pay back of the interest in the Recovery Fund;
4. Any land purchased with NRD money must be placed under conservation easement
5. Subject to all laws and regulations.

Whereupon, a motion was made by Mr. Randall to end the Trustee meeting and was seconded by Ms. Rudolph. The meeting concluded at 3:32 p.m.



## **GUIDANCE**

# **COLORADO NATURAL RESOURCE DAMAGES RESTORATION PROJECT SELECTION PROCESS AND ADMINISTRATION OF THE COLORADO NATURAL RESOURCE DAMAGE RECOVERY FUND**

Approved by the Colorado Natural Resources Trustees on [date].

### **I. Introduction**

Colorado may recover monetary compensation for injuries to its natural resources through legal claims brought under CERCLA<sup>1</sup> and OPA<sup>2</sup>. This compensation is known as Natural Resource Damages, or NRDs. CERCLA and OPA require the NRD recoveries be used to restore, replace, or acquire the equivalent of the injured natural resources. This guidance is intended to assist state employees in selecting NRD Restoration Projects for recommendation to the Trustees and to administer the funds recovered for natural resource damages. This guidance is also intended to inform interested citizens about the process.

This guidance sets forth a general procedure, which may vary depending upon site-specific factors. The policies and procedures herein are not intended to and cannot create rights, substantive or procedural, enforceable by any person or party for any purpose. The Trustees and their representatives and staff reserve the right to vary from this policy. The Trustees also reserve the right to change this policy at any time.

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<sup>1</sup> In 1980, Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C.A. §§ 1601 - 9675 (CERCLA §§ 101 – 405)), otherwise known as CERCLA or Superfund. While it is best known for providing for clean-up of hazardous substances following an unauthorized release, CERCLA also gives state governments the authority to seek compensation for resulting injuries to state natural resources.

<sup>2</sup> The Federal Water Pollution Prevention and Control Act, commonly known as the Clean Water Act (CWA), included compensable reimbursement for costs and expenses incurred by the State for the restoration or replacement of natural resources injured or destroyed as a result of a discharge of oil or a hazardous substance. In 2006, the Oil Pollution Act (OPA, 33 U.S.C.A. §§ 2701 – 2762), amended the CWA to provide compensation for injuries to state natural resources resulting from the release of oil or petroleum into state waters.

## **II. Key Players**

### **a. Trustees.**

Under CERCLA and OPA, Colorado may bring claims for Natural Resource Damages through its governor-designated trustees.<sup>3</sup> In 1990, Governor Roy Romer designated the following officers as NRD Trustees (Trustees) for actions under CERCLA<sup>4</sup>:

1. Attorney General of the State of Colorado
2. Executive Director of the Colorado Department of Public Health and Environment
3. Executive Director of the Colorado Department of Natural Resources

In 2006, Governor Bill Owens designated the same officers to serve as trustees under OPA.<sup>5</sup>

The Trustees establish policy and direction for the NRD program. The Trustees are responsible for making final decisions related to funding from the NRD Recovery Fund (“Fund”) including the approval or disapproval of Restoration Projects submitted in response to a Solicitation for Project Proposals (SPP). The Trustees remain the final authority on site actions, such as approval of Fund expenditures and restoration decisions. The Trustees may delegate their responsibilities.

### **b. Trustee Representatives.**

Each Colorado NRD trustee agency will designate one point of contact for its Trustee, who will coordinate NRDs efforts within the agency. These contacts are designated the Trustee’s Representatives. These Trustee Representatives meet periodically to review the overall NRDs Program. In addition, the three Trustee Representatives will collectively decide which potential NRDs claims to seek the Trustees’ approval to pursue. The Trustee’s Representatives assign a Project Manager to specific NRDs claims.

### **c. Project Managers.**

Project Managers are agency employees assigned by their agency’s Trustee Representative, responsible for the day-to-day management of each case. Project Managers have two main responsibilities. First, to represent the Trustees during the solicitation for project proposals and, in coordination with the Trustee Representatives, make recommendations to the Trustees regarding the eligible project proposals for the Trustees to approve. Second, to provide project management and act as the point of contact throughout the NRD process.<sup>6</sup>

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<sup>3</sup> 42 U.S.C.A. 9607(f)(2)(B), 33 U.S.C.A. 2706(b)(3).

<sup>4</sup> January 19, 1990 letter from Governor Roy Romer to Robert F. Stewart, U.S. Department of Interior.

<sup>5</sup> January 31, 2006 letter from Governor Bill Owens to Jan Lane, United States Coast Guard.

<sup>6</sup> At some sites, a federal or tribal trustee may also have made a claim and recovered damages for injuries to its natural resources, possibly in a joint effort with Colorado. The Trustees should determine whether

i. *Project Managers Responsibilities Related to the Work Group.*

Project Managers are responsible for establishing a Work Group (defined below), providing notice to local government(s) and other interested parties of the existence of the Work Group, its purpose, and requesting a designated contact person or office, steering the Work Group through drafting a SPP, publishing the SPP, and holding public meetings.

ii. *Project Manager Responsibilities Related to the Project Proposals.*

In conjunction with the Work Group, Project Managers are responsible for defining restoration goals for the site; coordinating with contracts administration staff to ensure the solicitation and procurement process is consistent with Colorado Department of Public Health and Environment (“CDPHE”) policy and procedures, shaping and facilitating the project selection process including the development of the project’s scoring matrix; providing a description of the injuries; and advertising for restoration projects. After the proposal submission deadline, the Project Managers determine the procedure for evaluating the proposals in accordance with this guidance. Techniques vary but usually include project presentations from the applicants, site visits, evaluation of written project descriptions/qualifications and oral presentations using a screening/selection matrix, interviews of applicants, review of public comment. Ultimately, the Project Managers are responsible for shaping the application and selection process.

iii. *Project Manager Responsibilities to the Trustees.*

Through Trustee Representatives, the Project Managers keep the Trustees apprised of the NRD selection process. Trustee Representatives are responsible for making a recommendation of eligible and appropriate NRD Restoration Projects based on the Project Managers’ evaluation.

d. *The Work Group.*

The role of the Work Group is to assist the Project Managers regarding the selection of appropriate restoration projects. The Work Group is usually comprised of representatives of local interests, including members of local governments, citizen groups that have been involved with the original Superfund site and cleanup, etc., or other interested parties. The Work Group may seek assistance from other agencies with an interest in the site, or persons with useful expertise. Members of the Work Group typically act as a liaison to their communities: keeping them apprised of progress and bringing any community concerns to the Project Managers.

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joining with a non-Colorado trustee group, usually called the “site council” in federal cases, will serve Colorado’s interests.

Once established, the Work Group assists the Project Managers by providing input about environmental restoration needs within the community, helping define the nature of the project(s) to be solicited, discussing needs for the SPP, helping to draft the SPP document, assisting with the distribution of the SPP in the community, and attending public meetings. Work Group members also are involved in the project evaluation process, attend presentations from the project proponents, attend site visits, and provide feedback to the Project Managers regarding community needs and preferences for project selection.

The Work Group assists the Project Managers in evaluating the project proposals and ultimately assists the Project Managers in formulating a recommendation for the Trustees when the evaluation process is complete.

e. Project Proponent.

Project Proponents are the recipients of the NRD Fund disbursements. Project Proponents respond to the SPP and bid for and implement selected NRD Restoration Projects.

Typically, the Work Group considers proposals from governmental entities or not-for-profit Internal Revenue Code 501(c)(3) corporations. Project design, engineering and planning costs are not eligible for funding from the NRD Funds, so whether the Project Proponent is a non-governmental organization or a government entity, Proponents must have access to other funding sources to cover these costs. Projects proposed by parties responsible for the injury to natural resources at the site are generally not eligible to serve as Project Proponents, but if they do submit a project, it may receive extra scrutiny to ensure there is no conflict of interest. Project Proponents must have the financial and technical capability to successfully complete a restoration project, and must have experience with project management and contracting.

### **III. Work Group Duties**

a. Restoration Project Identification.

Under the leadership and auspices of the Project Managers, the Work Group defines the type of project that should be considered for application of the NRD settlement (in accordance with Trustee policy, any settlement agreement or court order, and within the scope of what is defined and allowable by CERCLA and OPA). The Work Group's participation and input is important for the Project Managers because local interests often have a clearer perspective about environmental restoration needs in the affected community.

While shaping a vision for the project(s), the Work Group should take into account the eligibility requirements (listed below) established by CERCLA, OPA, and the Trustees.

Eligibility criteria for NRD projects are:

1. project must restore, replace or acquire the equivalent of the natural resources injured;
2. be located in the vicinity of the injured resources or demonstrate a geographical or ecological nexus to the injured natural resources;
3. comply with all applicable Federal, State, and local laws, including local ordinances and zoning;
4. not pose a threat to the health and safety of the public;
5. not interfere with ongoing response actions at the site, including ongoing environmental monitoring;
6. include alternate funding sources for operation and maintenance of the completed project<sup>7</sup>;
7. meet any site-specific requirements established by the Work Group or the Trustees; and
8. projects involving acquisition of property for open space should include a commitment to grant a conservation easement or other mechanism that will allow the Trustees to ensure that the project provides continued natural resource restoration. If a grant of conservation easement is proposed, the proponent must include a draft of the conservation easement with the proponent's application.

The Trustee's Representatives should make the final decision regarding any significant deviations from the above criteria. A sample Solicitation for Project Proposals ("SPP") is included as an Appendix to this document.

b. Solicitation for Project Proposals

Once the Work Group, led by the Project Managers, has established a general vision for the project(s), the Project Managers draft the SPP to identify the desired projects in the community that need funding. Drafting the SPP should be coordinated with the State Contracts Officer and also with the State Public Affairs Coordinator. In addition to the eligibility requirements listed above, the following elements should be included in the SPP:

1. description of the site;
2. description of injured natural resources;
3. explanation of litigation or settlement and amount of money available;
4. restoration goals;
5. scope and criteria for evaluating proposals (as detailed in Part III, above);
6. requirements for project proposals, including:
  - i. location of project;
  - ii. description of injured natural resources that will benefit from the proposed project;

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<sup>7</sup> NRD funding is not available for operation and maintenance costs.

- iii. description of any other natural resources that will benefit from the proposed project;
- iv. criteria for judging the project's effectiveness;
- v. a description of any long-term maintenance or operation the project will require and identification of a funding source;
- vi. a description of proponent's ability to successfully implement the proposal;
- vii. budget, which includes an itemization of the amount of funds needed to complete the proposed project and the amount of money being requested from the Fund;
- viii. an explanation of matching funds being sought; and
- ix. the time-frame for the project to begin and be completed;
- 7. proposal process and schedule, including dates for:
  - i. release of SPP;
  - ii. public information meeting;
  - iii. proposal submission, possibly preceded by screening level proposal;
  - iv. public comment period;
  - v. final proposal submission; and
  - vi. anticipated Trustee decision date

The Project Managers publish the SPP. Typically, this is done by the CDPHE Project Manager through CDPHE's public affairs coordinator. Project Managers and the public affairs coordinator should notify press representatives for their respective agencies of the publication of the SPP. The Work Group members will also notify local and other community groups, as appropriate, that have indicated an interest in the SPP's release and will often hold a public meeting to describe the nature of the funding source and the projects desired, describe the process for selection of projects, and give the public an opportunity for early input. A mailing list for the project may be developed from the public meeting attendees.

c. Scoring Matrix.

In addition to identifying a vision for the project, and drafting and publishing the SPP, the Work Group and/or the Project Managers may develop a site-specific project scoring matrix for ranking all project proposals that are determined to have met the eligibility requirements, using both the eligibility requirements listed above, any additional elements, and some or all of the following:

- 1. applicant's ability to obtain matching funds from other funding sources;
- 2. technical feasibility and procedural viability of the project, based on the applicant's technical and management abilities;
- 3. the likelihood that the project can be successfully completed in an acceptable period of time;
- 4. project benefits versus the expected costs;
- 5. long-term project benefits versus any short-term injuries to the environment caused by implementing the project;

6. feasibility of the project's long-term operation, maintenance, and sustainability plan;
7. consistency of the project with existing state, regional and local resource management and development plans;
8. the likelihood the project will benefit more than one resource or service;
9. the likelihood the project can be reasonably monitored and have benefits that can be measured and verified;
10. whether the project provides actual resource improvements rather than only conservation of open space, unless development threats are imminent or the conservation opportunity is of an advantageous scale or timing;
11. the cost-effectiveness of the project relative to other projects that would benefit the same natural resource(s);
12. the degree to which project utilizes multiple approaches (restoration, replacement and acquisition);
13. the degree to which the project involves multiple partners and is collaborative; and
14. the likelihood of the project being funded through other mechanisms, or whether implementation of the project would free funding sources to finance other restoration projects.

In some cases, the Project Managers may decide to seek approval of the project matrix from the Trustees prior to issuing a Solicitation for Project Proposals.

d. Matching Funds

Project proponents should provide at least a 50% match for projects considered for NRD funding. For example, if a proponent asks for \$1,000,000.00 for a project, they could provide a match of \$500,000.00. The match must be described in the proponent's proposal. At least half of the match should be for NRD-related work and any non-NRD related matching funds must not undermine the NRD component of the project.

The match may be a combination of in-kind services and actual dollar costs for activities related to the project. The procurement of design and engineering work not covered by NRD funding but secured by another source of funding may be included as the non-NRD component of match dollars. Likewise, improvements to the site that cannot be funded by NRD dollars may be included as part of the non-NRD portion of the match.

Proposals should have a match breakout separating NRD-related match money from non-NRD-related match money. When in-kind services serve as a portion of the match, the proposal should specifically state how the value of the in-kind services was derived using either a calculation based on Federal Emergency Management Agency labor cost index or by stating which part of the project budget will be performed via in-kind services.

In scoring the projects, the Work Group will typically give preferential consideration to those projects with better match conditions.

e. Evaluation and Selection of NRD Restoration Project Proposals.

Once the deadline published in the SPP has been reached and the projects submitted to the Project Managers, the Work Group turns its attention to evaluating the received proposals. Typically, at this stage, the Project Managers and the Work Group schedule presentations with Project Proponents whose projects meet the eligibility requirements and do not present a conflict of interest. Project Managers will schedule site visits if feasible, and encourage the Work Group members to participate. Project presentations and pre-selection site visits are encouraged because they often provide a great deal of information and perspective that is not always ascertainable from a proposal. If there are too many proposals, it may be necessary to screen projects in advance to develop a 'short list'.

The Project Managers should present proposals for public comment. This is often accomplished by placing copies on CDPHE's website for 30 days and notifying interested parties.

Once the Work Group or the Project Managers have completed all presentations, site visits, and all public comments have been received, the Project Managers and the Work Group, if available, evaluate the proposals using the site-specific project matrix established for the site if any and either select a project(s) or prepare a preferred list of proposals for presentation to the Trustees. At that time, the Project Managers, may request more information from proponents of a project to complete the evaluation.

If a member of the Work Group also represents the interests of an entity that has submitted a project proposal, or the Work Group member submits a proposal, that Work Group member may participate on the Work Group in the evaluation of the project proposals, unless the Project Managers collectively determine such participation would substantially adversely affect the evaluation process.

The Project Managers may need to contact the site's Responsible Parties under the Consent Decree or Court Order to evaluate any effect the project proposals may have on cleanup activities. In all cases, the Project Managers, together with the Work Group must determine if a proposal has a proponent who can satisfactorily complete the project. Ultimately, the project may be selected from the scoring matrix results if any and other relevant factors, as directed by the Project Managers in coordination with the Trustee Representative.

Project Proponents who are not selected should be notified by telephone and letter or email.

**IV. Approval of the Restoration Project(s)**

The Project Managers (usually the Project Manager representing the AGO) will prepare a Project Recommendation Memorandum for the Trustees. Depending on the amount of funds available for a site, the memorandum will either recommend certain projects, or



present restoration alternatives that employ a collection of projects.<sup>8</sup> Generally, the Project selected for recommended approval will be presented by the Project Proponent to the Trustees at a NRD Trustee's Meeting. It is advisable for the Work Group members to be present as well, to answer questions and provide feedback to the Trustees.

The Trustees will review the Project Recommendation Memorandum as well as any other information presented at a publically noticed Trustee meeting and by a majority vote, approve or disapprove a restoration project. Approval of a selected NRD restoration project will be memorialized through a written resolution of the Trustees.

## **V. Funding and Performance**

### **a. Funding from the Natural Resource Damage Recovery Fund.**

Funding for NRD projects can only be disbursed through a contract between the Project Proponent (Proponent) and the State. All NRD projects are paid through a cost reimbursement model, which means contractor invoices are paid on a regular basis after submittal<sup>9</sup>. Because the Hazardous Materials and Waste Division ("HMWMD") of CDPHE manages the Fund, contracts must be established through the CDPHE contracting office. Once the Trustees approve the NRD Restoration Project, the CDPHE Project Manager, along with oversight from the AGO and DNR Project Managers, if necessary, is responsible for the contracting process.

The following steps ensure that money is available to implement the approved NRD projects as directed by the Trustees.

1. HMWMD Remediation Program Manager (the Trustee Representative for CDPHE) must have already obtained the necessary legislative spending authority, as part of the CDPHE's annual legislative budget process. This should be done prior to commencing the Work Group effort.
2. The CDPHE Project Manager provides the Contracts Officer a Contracts Authorization Request Form (CAR Form) and initiates the contracting process by contacting HMWMD's contracts officer. The Remediation Program Fiscal Manager must confirm funding availability by identifying a grant budget line (GBL) and signing the CAR.
3. HMWMD Contracts Officer establishes contracts with the party receiving the money for the restoration project according to State and CDPHE contracting requirements and processes.
4. The CDPHE Project Manager oversees the projects, receives the invoices, reviews, approves each expenditure, and ranks the contractor through the State's Contract Monitoring System (CMS).

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<sup>8</sup> The Trustee Staff may publish the memorandum for public review before approving a restoration plan.

<sup>9</sup> The exception to this is a land purchase, in which case, the funds are wired at closing.

5. Remediation Program Fiscal Manager monitors the balance of the NRD recovery funds by site.

b. Background Information Regarding Annual Appropriations Process

The State Legislature annually appropriates the amount of money State agencies can spend, including the amount from specific funds such as the Natural Resources Damage Recovery Fund. HMWMD operates under a strict timeline to ensure money from the Fund is available, or appropriated, for NRD projects. NRD appropriations are typically considered “capital construction expenditures,” which means the authorization to spend the funds is valid for three years.<sup>10</sup>

In late June or early July, CDPHE requests authority from the legislature to spend the amount needed from the Fund for each site in the following fiscal year. HMWMD’s request is first considered by the Capital Development Committee, which will make its recommendation to the Joint Budget Committee (JBC) for its consideration in February. If the JBC approves, it will recommend the appropriation to the full legislature. Upon legislative approval, the request will be included in the budget submitted to the governor in May. Assuming the governor approves the budget, the money will then be available in July, which is a year after HMWMD makes its request.

To successfully manage the Fund within this system, HMWMD fiscal managers request legislative appropriation for new sites as soon as a settlement or litigation is complete. HMWMD may, or may not request spending authority for all the money in the Fund for a particular site during that budget cycle.

c. Project Implementation and Fund Disbursement

i. *Before Work Begins.*

The agency administering the NRD Fund (typically CDPHE) will be responsible for monitoring work, approving invoices, and assuring completion of each project. A staff member of that implementing agency will typically be the Project Manager and the point of contact for the assigned project.

All contracts must follow CDPHE procurement, contracting, contract monitoring system (CMS), and disbursement processes, as identified by the State Controller. It is

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<sup>10</sup> It is possible, in extraordinary situations, to make a supplemental budget request, such as when there is an emergency, a technical error in a previous appropriation having a substantial effect on the program, or new information that results in substantial changes in funding needs. Staff should never rely on this possibility, because CDPHE is reluctant to use this mechanism and it is unlikely the JBC would approve the expenditure. That said, supplemental requests are usually made in October or November and affect current year appropriations.

recommended the Project Manager receive training on procurement, contract management and the CMS. Contracts are initiated through a CAR (Contractual Agreement Request Form) available on HMWMD's intranet. The Trustee Resolution approving the expenditure needed for the project is provided to the Contracts Officer as an attachment to the CAR.

The Trustee's Representative or Project Manager will coordinate with the CDPHE contracts officer prior to the solicitation phase. The contract solicitation and delivery mechanisms are variable and must be tailored to the site-specific needs of each project, typically requiring several meetings between the CDPHE contracts office and the Project Manager.

*ii. After Work Begins.*

Proponents will implement their projects in accordance with the budgets and schedules submitted in their proposals. Significant changes to projects must be approved by the Trustees, and must still meet the criteria for project selection. In addition, significant changes approved by the Trustees may require amendment of the contract. Consultation with the CDPHE contracts officer will be necessary to determine if a contract amendment is required.

As projects are implemented, the Project Manager will ensure the project is completed according to the proposal and the contract, approve contractor invoices, and document activities for the project.

*iii. Fund Disbursement.*

Before payment, the CDPHE Project Manager must approve all invoices submitted for reimbursement of the cost of a project using the Invoice Checklist Form, available on the CDPHE Intranet. This may be through periodic approval of reimbursements, such as for sub-contractors, throughout implementation of a project, or one reimbursement after a project is completed, as defined in the CAR. The CDPHE Project Manager is responsible for tracking invoices and monitoring the budget. In the case of land acquisition, the contracts officer can arrange for funds to be available at closing. Except for land acquisition, all payments to a Proponent will be after it has incurred costs for the project.

To be reimbursed, a Proponent must submit invoices according to the process outlined in its contract for reimbursement.

*iv. Project Completion.*

The Trustee's Representative or Project Manager will determine when a project is complete. Projects are considered complete when the project Proponent has completed all activities described in the proposal and met all the requirements of the contract. The Project Manager should not approve final payment under the contract until the Proponent

has fulfilled all contract requirements, including submission of any required Completion Reports and/or As-built drawings.

v. *Project Files.*

The CDPHE Trustee Representative or Project Manager is responsible for maintaining a site NRD file. The file should include copies of proposals approved for funding, Trustee Resolution, contract documents, invoices and other project-related documentation/correspondence. The file, either project or contract, should include all the procurement documentation (e.g., notices, SPP, project matrix, proposals received, scoring documentation, notice of award, etc.).

vi. *Monitoring.*

Trustee Representatives will require a project monitoring component where appropriate. Monitoring may include interim and final restoration goal evaluation based on performance standards determined by Trustee's Representatives. If monitoring is required, the Project Manager is responsible for ensuring the monitoring takes place and that the Proponent submits any required reports or data. Such reports and data should be placed in the site file and copies should be provided to the other Trustee Representatives. If monitoring data indicates a project has failed or is in need of maintenance, the Project Manager should inform the other Trustee Representatives and should contact the Project Proponent for resolution of any identified problems.



# Memorandum

**To:** Colorado Natural Resource Trustees  
**From:** Doug Jamison, CDPHE  
**Date:** 11/10/2014  
**Re:** Request for Trustee authorization for the Alamosa River  
Watershed Restoration Project

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The purpose of this memo is to provide information to support a request for the Colorado Natural Resource Trustee (the Trustees) to authorize an additional \$660,000 from the Summitville NRD Fund to implement the Alamosa River Watershed Restoration Project.

In 2006, the Summitville Trustee Council recommended that the Trustees approve funding for three projects identified in the Alamosa River Watershed Master Restoration Plan. The projects recommended by the Trustee Council included the Alamosa In-stream Flow Project, the Public Land Alamosa River Watershed Restoration Project, and the Alamosa River Watershed Restoration Project, which is the subject of this memo. The Trustee Council includes representatives from CDPHE and the AGO. DNR was formerly represented on the council by Ron Cattany. Federal Trustees are represented by staff from the BLM/U.S. Fish and Wildlife Service and the U.S. Forest Service.

In 2007, the State and Federal Trustees authorized \$2,354,325 of Summitville NRD funds to implement these restoration projects. The 2007 resolution allocated \$500,000 for the Alamosa River Watershed Restoration Project (the Project). The 2007 resolution also anticipated that the project sponsor would provide approximately \$620,000 of matching funds. The matching funds were anticipated to be provided by CDPHE's Non-Point Source (NPS or 319) Program and other local matching funds. The project approved by the Trustees has been described as Phase III of the Alamosa River Watershed Restoration Project.

Implementation of the project was significantly delayed by several events, most notably the dissolution of the original project proponent. As a result of delays and deadlines for spending the NPS funds, Phase III of the restoration project was broken into two separate projects. NPS funds were used to complete work from County Roads 8 to County Road 9, between 2011 and 2013. CDPHE now proposes to use NRD funds to complete river restoration between County Roads 9 and 10.

In 2012, after lengthy negotiations with a new project sponsor, CDPHE entered into a contract with the Alamosa River Watershed Restoration Foundation (ARWRF) to implement the NRD portion of the project. Under this contract, ARWRF procured the services of Lidstone Associates to prepare the project design. The contract also tasked ARWRF with overall project management including obtaining access from the numerous private property owners affected by the project.

Lidstone completed the project design, including construction documents, in June of 2014 and the project was advertised for bid in August. Project costs for engineering and project management have totaled \$215,000, leaving \$285,000 of the original \$500,000 allocation available for project construction.

Project bids were received and opened on August 26, 2014. Robbins Construction Company submitted the low bid in the amount of \$671,890. This bid includes a \$10,000 allowance for delayed project implementation.

Other construction related costs include a 12.5 percent construction contingency, construction oversight by the project engineer, and project management by ARWRF. A summary of these costs is provided below.

**Alamosa River Watershed Restoration Project – Projected Construction Costs**

**Robbins Construction Co. - Low Bid = \$671,890.00**

**Lidstone and Assoc. Construction oversight = \$150,837.10**

**ARWRF Project Management = \$20,000.00**

**Contingency = \$102,272.90**

**Total Project Costs = \$ 945,000**

**Less remaining balance of \$285,000 from 2007 Trustee Resolution (\$500,000) =  
\$ 660,000**

As seen in the cost summary, an additional \$660,000 is necessary to fully implement the remaining portion of the Project. Therefore, CDPHE is requesting that the Trustees authorize \$660,000 of additional funds from the Summitville NRD Fund. If this request is approved by the Trustees, the total project cost would increase from the \$1,124,300 approved in the 2007 Trustee Resolution to \$1,784,300, with NRD expenditures for the project totaling \$1,160,000. Although the majority of this cost increase can be attributed to inflation (the original project estimate was prepared in 2006), some portion of the cost increase is attributed to factors that were unlikely to have been considered in the initial proposal. These factors include completing a detailed project design and providing significant construction oversight to ensure long-term project stability as well as the need to consider several diversion structures in the design and construction.

CDPHE and the other members of the Trustee Council believe the request for additional funds is justified for the following reasons. First, potential NRD projects were identified and ranked in

the *2005 Alamosa River Watershed Restoration Plan and Environmental Assessment*, which identified the Project as one of the highest priorities in the watershed. Furthermore, when project proposals were solicited in 2006, the Project was one of only three project proposals submitted. Therefore, providing additional funds for this project will not impact other projects. Finally, sufficient funds are available in the Summitville NRD Fund, which contained a balance of \$2.32 million at the end of FY 14.

Two other issues associated with this request relate to providing match on the new funding and the Federal cost share. The matching funds anticipated by the 2007 resolution were provided by implementation of the NPS Project. However, there are no plans to provide match of the new funding being requested of the Trustees. The project sponsor does not have the financial ability to provide cash match, nor have they been able to identify other sources of liquid funds. Therefore, the Trustee Council recommends that the additional \$660,000 be approved without a match requirement.

The remaining issue involves cost sharing between the State and Federal Trustees. Typically, both the State and Federal Trustees each supply 50% of NRD project costs from their respective funds. However, because the Federal Trustees have already transferred all of the funds available in the Federal Summitville Restoration Fund to the State Summitville NRD Fund, it is not necessary for the Federal Trustees to approve a resolution authorizing additional federal funds for this project.

Please contact Doug Jamison at 303-692-3404 ([doug.jamison@state.co.us](mailto:doug.jamison@state.co.us)) if you have questions or require additional information.

# **COLORADO NATURAL RESOURCE TRUSTEE RESOLUTION**

## **NOVEMBER 17, 2014 CONCERNING SUMMITVILLE**

### **NATURAL RESOURCE DAMAGES**

WHEREAS, by RESOLUTION 2012-01, effective *nunc pro tunc* to December 31, 2011, the United States and Colorado Natural Resource Trustees (Trustees) extended a 2002 Memorandum of Understanding (MOU) between the Trustees for an additional five year period that will expire December 31, 2016 (Exhibit A);

WHEREAS, the MOU continues the cooperation, oversight, and project recommendation, selection, and implementation activities that are occurring among the Trustees, the Trustees' Council and the local community;

WHEREAS, sections IX and X of said MOU provide for the expenditure of funds for specific projects to restore, replace, or acquire the equivalent of natural resources damaged by hazardous substance releases from the Summitville Mine;

WHEREAS, in accordance with the MOU, the Trustees, in 2007, authorized use of \$2,354,325 from the Joint Federal/State Summitville Natural Resource Damage (NRD) fund (split equally) to implement three restoration projects, including an allocation of \$500,000 for "The Alamosa River Watershed Restoration Project" (the Project);

WHEREAS, the Project is generally described in Appendix A of the Resolution of the Summitville Natural Resource Trustees, signed by the Trustees in January and February 2007 (Exhibit B);

WHEREAS, the Project proposes to remedy historical adverse impacts to the Alamosa River by continuing work begun in 1999 to restore the river channel; confining the river between stable banks; and allowing for more natural river meanders. The Project provides riffle-pool-glide sequences that will restore fish habitat, and includes revegetation in selected areas to help restore the riparian corridor. As the river water begins to move in more historically natural ways, cottonwoods, willows, alders and other plants will have the conditions needed to replenish. As the riparian corridor returns to a healthy system, aquatic species can be returned to the river. The work scheduled for this Project includes approximately 2.6 miles of river corridor, located between County Road 8 (just north of the Post Office in the Town of Capulin) and County Road 10 to the east;

WHEREAS, the Project's estimated total costs presented for the Trustees' 2007 approval was \$1,124,300, and the Trustees approved \$500,000 from the NRD Trust Fund, with an expectation that there would be \$624,300 in matching money;

WHEREAS, the matching money described in the 2007 Resolution has been expended on an earlier phase of this Project;



WHEREAS, the implementation of the project was significantly delayed by several events, most notably by the dissolution of the original project proponent;

WHEREAS, in 2012, after significant negotiations with a new project sponsor, CDPHE entered into a contract with the Alamosa River Watershed Restoration Foundation (ARWRF);

WHEREAS, under this contract, ARWRF procured Project design services, and ARWRF was tasked with overall project management including obtaining access from the numerous private property owners affected by the project;

WHEREAS, the Project design was completed in June 2014, and Project costs for engineering and project management have totaled \$215,000, leaving \$285,000 of the original \$500,000 allocation available for project construction;

WHEREAS, the Project was advertised for bid in July 2014, and Project bids were received and opened on August 26, 2014;

WHEREAS, the low bid for construction of the Project was \$671,890 and with other construction related costs including a construction contingency; construction oversight by the project engineer; and project management by ARWRF; the total anticipated Project construction costs are \$945,000;

WHEREAS, there is a need for Colorado Trustees approval to expend additional funds beyond the \$500,000 authorized by the 2007 Resolution in order to complete the Project;

WHEREAS, the sponsor has not obtained any additional matching funds;

WHEREAS, the United States Trustees have previously transferred all remaining federal Summitville NRD funds from the Federal Summitville Restoration Fund account into the State Summitville NRD Trust Fund account such that all Summitville funds are housed within the State account; and

WHEREAS, there currently exists adequate funds in the State Summitville Natural Resource Damage (NRD) Fund account (approximately \$2,032,000 at the end of 2014) to timely and fully fund implementation of the Project.

NOW THEREFORE,

BE IT RESOLVED that the Colorado Trustees authorize an additional \$660,000.00 from the State Summitville NRD Fund for The Alamosa River Watershed Restoration Project,

and

BE IT FURTHER RESOLVED that this \$660,000.00 shall supplement the Trustees' 2007 authorization of \$500,000.00 for the Project such that the combined amount 1,1650,000.00 shall be the total authorization for the Project,

and

BE IT FURTHER RESOLVED, there shall be no additional matching funds requirement for the \$660,000 authorized by this resolution.

## FOR THE STATE OF COLORADO TRUSTEES

\_\_\_\_\_  
John Suthers  
Attorney General  
State of Colorado

Date: \_\_\_\_\_

\_\_\_\_\_  
Martha Rudolf  
Director of Environmental Programs  
Colorado Department of Public Health  
& Environment

Date: \_\_\_\_\_

\_\_\_\_\_  
Robert Randall  
Deputy Director  
Colorado Department of Natural Resources

Date: \_\_\_\_\_

## **RESOLUTION OF THE SUMMITVILLE NATURAL RESOURCES TRUSTEES**

WHEREAS, a Memorandum of Understanding (MOU) between the Federal and State Natural Resources Trustees (Trustees) was duly signed, executed, and became effective June 19, 2002; and

WHEREAS, the MOU by its terms, specifically paragraph XII.G, expires on December 31, 2006, but may be extended an additional five years by written agreement of all Trustees; and

WHEREAS, the Trustees desire to extend the MOU an additional five years to continue the cooperation, oversight, and project recommendation, selection, and implementation activities that are occurring among the Trustees, the Trustees' Council and the local community; and

WHEREAS, sections IX and X of said MOU provide for the expenditure of funds from the Federal Summitville Restoration Account, which resides with the Restoration Fund Manager, Department of the Interior, and the State Summitville NRD Trust Fund, for the funding of specific projects to restore, replace, or acquire the equivalent of natural resources damaged by hazardous substance releases from the Summitville Mine;

WHEREAS, the Alamosa River Watershed Master Restoration Plan (Master Plan) has been developed under the supervision of and in cooperation with the Trustees' Council and has been approved by the undersigned Trustees in accordance with paragraph VIII(A) of the MOU;

WHEREAS, the Master Plan has identified three "tiers" of restoration projects;

WHEREAS, the Trustees' Council has diligently developed the Solicitation for Proposals for Phase I of the project implementation contemplated in the Master Plan and has received and evaluated three such proposals within the last year; and

WHEREAS, the Trustees' Council and the "Working Group" established by the Council to evaluate proposals for Phase I to implement restoration projects selected in the Master Plan, have unanimously recommended that the Trustees approve funding for three Phase I projects identified in Tiers 1 and 2 of the Master Plan, for an amount totaling \$2,354,325; and

WHEREAS, the three projects identified above are captioned as the "Alamosa River In Stream Flow" project, the "Alamosa River Watershed Restoration" project, and the "Public Land Alamosa River Watershed Restoration" project, and as they are more particularly described in Appendix A attached hereto; and

WHEREAS, the three projects identified above and recommended by the Trustees' Council meet the criteria established by the Trustees for natural resources restoration in the Alamosa River Watershed;

NOW THEREFORE,

BE IT RESOLVED that the MOU is hereby extended for five years to be terminated on December 31, 2011, unless further extended by the Trustees by written agreement; and

BE IT FURTHER RESOLVED that a total of \$2,354,325 from the respective Federal and State NRD's funds described above is authorized in equal amounts from each fund (\$1,177,162.50 from each fund) for the three Phase I projects described above and in attached Appendix A, and that these funds be allocated among the three projects in the amounts set forth in Appendix A; and

BE IT FURTHER RESOLVED that negotiations be conducted by the Council and its representatives within in the Colorado Department of Public Health & Environment (CDPHE) with the three project proponents described above and in the manner set forth in Appendix A in the sections within each described project identified as "Comments" and "Contingency;" and

BE IT FURTHER RESOLVED by the State Trustees that CDPHE, as the contracting agency for these three projects, request a waiver of the State's Fiscal Rule 2-2 governing the use of advance payments in compliance with the requirements of C.R.S. 24-30-202(1), (3) for the reasons identified in Appendix A for the Alamosa River In Stream Flow Project and the Alamosa River Restoration Project.

FOR THE UNITED STATES TRUSTEES

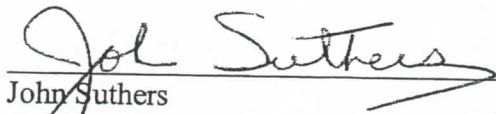
*[Signature]*  
for Sally Wisely  
State Director, Bureau of Land Management,  
United States Department of the Interior

Date: 2-8-07

*[Signature]*  
Rick Cables  
Regional Forester, Rocky Mountain Region,  
United States Forest Service  
United States Department of Agriculture

Date: 2/12/07

FOR THE STATE OF COLORADO TRUSTEES



John Suthers  
Attorney General  
State of Colorado

Date:

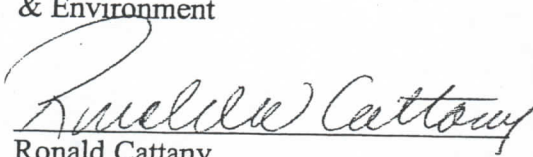
Jan 3, 2007  
*effective as of expiration of  
MOU on 12/31/06*



Dennis Ellis  
Executive Director  
Colorado Department of Public Health  
& Environment

Date:

Jan 3, 2007



Ronald Cattany  
Director, Division of Reclamation, Mining, and Safety,  
Colorado Department of Natural Resources

Date:

January 3, 2007



## APPENDIX A

### Summary of Proposals Alamosa River Natural Resource Damage Recovery Fund Trustee Review

#### ALAMOSA RIVER WATERSHED RESTORATION MASTER PLAN

In preparation for issuing the Solicitation for Project Proposals, the Federal and State cooperative Trustee Council contracted with MWH Americas, Inc. to write the '*Alamosa River Watershed Restoration Master Plan*' (Master Plan) dated July 2005. The Trustee Council, authorized under the Comprehensive Environmental Response, Compensation, and Liability Act (December 1980), is seeking to restore natural resources harmed in connection with impacts from the Summitville Mine, using natural resource damages (NRD) obtained in settlement from a responsible party. The Master Plan summarized current environmental conditions, and developed restoration solutions to the identified problems in the Alamosa River basin, which will lead to a healthier watershed. The scope of the Master Plan includes the entire watershed, with the exception of the Summitville Mine Superfund Site. The focus of the Master Plan included:

- River and watershed health
- Protection of Resources
- Restoration of impacted natural resources
- Bio-Diversity
- Resource services to the public

Specific projects were identified and ranked and then combined into a watershed restoration strategy, with the purpose of implementing the best combination of projects to obtain the watershed restoration vision.

The Trustee Council determined that it would allocate in 2 phases the total of \$5 million in damages, in order to ensure the success of restoration projects in addressing the Council's goals, the effectiveness in using the available funds, and to maximize access to matching funds. Phase 1 would allocate up to \$2.5 million, one half of which (\$1.25 million) would come from the State account and one half (\$1.25 million) from the Federal account.

#### WORK GROUP

A work group for the Alamosa River NRD was organized in August 2006, subordinate to the Trustee Council, consistent with the Solicitation for Project Proposals. The work group members consisted of the following nine individuals:

Cindy Medina, Alamosa River Foundation  
Alan Miller, Alamosa River Watershed Restoration Foundation  
Ray Lara, Community Representative  
Tressesa Martinez, Conejos County Government  
Paul Meyer, U. S. Department of the Interior, Bureau of Land Management

Laura Archuleta, U.S. Department of the Interior, Fish and Wildlife Service  
 Dan Scheppers, Colorado Department of Public Health and Environment  
 David Bird, Colorado Division of Reclamation, Mining and Safety  
 Steve Brown, Colorado Attorney General Office

The process for procuring projects to accomplish the trustees' restoration goals by using the Alamosa River Natural Resource Damages is described in the Solicitation for Project Proposals (SFPP) dated December 2005. The work group met periodically to discuss the submittals. The review was conducted in conformance with the criteria set forth in the SFPP. Work group members who submitted proposals were recused from evaluating their own proposals. Each member evaluated each proposal, unless recused, in accordance with the ranking criteria discussed in the '*Alamosa River Watershed Natural Resource Damages, Solicitation for Project Proposals 06-HAZ0001*' and completed the evaluation sheet included with the Solicitation for Project Proposals.

A prospective offerors site visit was conducted on April 26, 2006. Meetings with the prospective offerors and the community were held on August 2 and September 20, 2006. Initial proposals were submitted on September 6, 2006 and final revised proposals were submitted on October 30, 2006. The work group met on September 27, 2006 and November 2, 2006. Three respondents submitted proposals, all of which met the minimum criteria. These were later reviewed and found to be eligible for NRD funding. A summary of the funding request is as follows:

Alamosa River In Stream Flow Project

	Total	NRD Fund	Match Fund
Phase I	\$4,520,500	\$1,774,000	\$2,746,500
Phase II	\$2,569,000	\$660,000	\$1,909,000

Note: Phase II funds will not be authorized at this time. Budget and funding request for Phase II is a projected estimate. Numbers will be refined after Phase I is completed. A separate proposal will be submitted for Phase II and when the Solicitation of Project Proposals for the second funding cycle is available.

Alamosa River Watershed Restoration

Total	NRD Fund	Match Fund
\$1,083,800	\$500,000	\$624,300

Public Land Alamosa River Watershed Restoration

Total	NRD Fund	Match Fund
\$160,650	\$80,325	\$80,325

TOTAL	NRD FUND	MATCH FUND
\$5,831,750	\$2,354,325	\$3,451,125



Note: The total requested budget for this first round of the SFPP does not include the Alamosa River In Stream Flow Project Phase II fund request.

Total funds made available to Round 1 of the '*Alamosa River Watershed Natural Resource Damages, Solicitation for Project Proposals 06-HAZ0001*' is \$2,500,000. Thus, the requested NRD funds are available to fund the projects in full.

## **ALAMOSA RIVER NATURAL RESOURCE DAMAGE PROJECT SUMMARY**

The following provides a project summary and description. The work group recommends approval for funding of the projects presented with consideration of contingencies.

### Alamosa River In Stream Flow Project

The proposal by the Alamosa River Keepers is for a project valued at \$7,089,000 that is, divided into Phase Phase II and I. Phase 1, valued at \$4,520,500, requests \$1,774,500 in NRDA funds and includes \$2,746,500 in matching funds. Phase II, valued at \$2,569,000, requests \$660,000 in NRDA funds and includes \$1,909,000 in matching funds. Because of the costs, complexity, and time requirements of this project, the project proponents were asked to provide a comprehensive plan including both funding phases.

The Alamosa River In Stream Flow (ISF) Project combines two of the key projects identified in the Alamosa River Watershed Restoration Master Plan and Environmental Assessment to accomplish one of the main objectives of the Master Plan: improve the sustainability of flows in the Alamosa River downstream of Terrace Reservoir and upgrades the Terrace Reservoir spillway channel. The Project involves:

- Acquiring senior irrigation water rights on the Alamosa River
- Improving the Terrace Reservoir spillway to remove the State-imposed storage restriction
- Transferring the irrigation water rights to the Colorado Water Conservation Board (CWCB) for storage in Terrace Reservoir and in-stream flows in the downstream Alamosa River
- Operating Terrace Reservoir to store and release the newly acquired CWCB flows in accordance with an in-stream flow program

The Alamosa River ISF Project is proposed as a two-phase project. Phase I includes purchasing one or more senior irrigation water rights, transferring the water rights to the CWCB in-stream flow program through water court, and designing Terrace Reservoir spillway improvements. Phase II entails renovating the reservoir spillway, storing the in-stream flow water rights in Terrace Reservoir, and releasing the water rights to restore healthy flows in the Alamosa River. Completion of the entire project will improve the magnitude and duration of stream flows in the Alamosa River below Terrace Reservoir, improving environmental, water resource and recreation values and thereby restoring



and replacing resources damaged in the Alamosa River watershed by the Summitville Mine project.

#### *Contingency*

1. *The described project will require an advance payment from the State to the submitting agency. The Trustees recommend that the State agency request a waiver of the State's Fiscal rule governing the use of advance payments in compliance with the requirements of C.R.S. 25-0203.*
2. *An evaluation process will be developed such that funding is allocated according to a process approved by the Trustee Council. That is, the In-stream Flow group has suggested dividing Phase I into Part A and Part B. They will present and report to the Trustee Council at the completion of Part A, and the Trustee Council will then evaluate progress and authorize expenditures for Part B.*
3. *It is the intention of the Trustee Council that the State's contract with the proponent will not be signed and initiated until the non-NRD matches are guaranteed by the funding entities. Matching funds for Part A must be approved before NRD funds will be made available for Part A. Matching funds for Part B must be approved before NRD funds will be made available for Part B.*

#### Alamosa River Watershed Restoration

The proposal by the San Luis Valley Resource Conservation & Development Council is for a project valued at \$1,083,800, which requests \$500,000 in NRDA funds and includes \$624,300 in matching funds.

The Alamosa River Watershed Restoration Foundation is a volunteer group of nine local landowners that formed in 1995 in response to serious problems on the Alamosa River.

These problems include:

- Channel straightening in the 1970s by the Army Corps of Engineers;
- Over-appropriation of water rights;
- Metal and acid spills from the Summitville Mine Site, located in the San Juan Mountains upstream on the Alamosa River, which occurred in the late 1980s and early 1990s, affecting downstream ecological features of the Alamosa River; and
- And recently, severe drought conditions in 2002 and 2005.

The following conditions have caused severe degradation of the river, and have impacted those who depend on it for their livelihood:

- The local groundwater table dropped as a result of the channel straightening, affecting wells, wetlands, and plants; the river became unstable and eroded adjacent riparian and agricultural landscapes;
- The riparian corridor was injured, including severe impacts to willows, thin-leaf alders, and cottonwoods, and total decimation of aquatic species historically found in the river;
- Historic water diversions and their structural components were affected by the acid drainage, eating through pipes in one year's time;

- Water levels for irrigation diversions and historic ditches were affected, including the moving and/or severe erosion of ditches;
- Completely decimating a two-mile stretch of cottonwood trees, which are now standing dead, and posing a danger from falling trees and/or lightening strikes;
- Affecting the ability of the river to carry sediment load, forcing the river to braid (divide) in some areas, move too fast in others, and erode banks, and causing sediment loads to aggrade in some areas.

The ARWRF seeks to remedy these impacts by continuing work begun in 1999, when the Foundation began the work of restoring the river channel, confining the river between stable banks, and allowing for more natural river meanders. The project provides riffle-pool-glide sequences that will restore areas for fish habitat, and includes revegetation in selected areas, in order to help restore the riparian corridor. As the river water begins to move in more historically natural ways, cottonwoods, willows, alders and other plants will have the conditions they need to replenish. And as the riparian corridor returns to a healthy system, aquatic species can be returned to the river.

The work scheduled for this section of the project includes approximately 2.6 miles of river corridor, located between County Road 8 (just north of the Post Office in the Town of Capulin) and County Road 10 to the east.

#### Comments

1. *River bed gravel must be removed to implement the project. Therefore there are issues with mining of the material, disposition and value, which would likely fall under the purview of the DRMS. There may be a potential in-kind contribution that the proponent should specify. Further, a permit may be required to remove the material, which the proponent should obtain prior to initiating the project.*
2. *The proponent shall specify how much upfront funding would be required in order to initiate the project, the schedule of payments and the tasks associated with each payment. Month by month cost requirement, which justifies the request for initiating funds, (escrow account - revolving fund) shall be specified.*
3. *There is the potential for the presence of Threatened and Endangered habitat (prior to Summitville). The proponent shall evaluate the baseline condition for the purpose of re-establishing the native habitat.*
4. *A full size set of design drawings shall be prepared and submitted for the contract.*

#### Contingency

1. *The described project will require an advance payment from the State to the submitting agency. The Trustees recommend that the State agency request a waiver of the State's Fiscal rule governing the use of advance payments in compliance with the requirements of C.R.S. 25-0203.*
2. *It is the intention that the contract with the proponent will not be made until the non-NRD match is approved or realized.*



### Public Land Alamosa River Watershed Restoration

The proposal by the U.S. Forest Service (Rio Grande National Forest) is for a project valued at \$160,650, and requests \$80,325 in NRDA funds and includes \$80,325 in matching funds.

The project area is the Alamosa River from a point just above the confluence with Wightman Fork down to the Alamosa River Campground. The project would include five separate reaches on the River. Four areas with actively eroding stream banks would be stabilized, wetlands adjacent to the Alamosa River would be reestablished, aquatic habitat would be restored with the use of rock constructed cross-vanes and j-hooks and the river in one location would be reconstructed from its current braided condition into a single thread channel.

#### *Comments*

- 1. Forest Service will supply rock and in-kind services.*
- 2. CDPHE will contract directly with the construction contractor.*
- 3. USFS match will be procured by the CDPHE for use by CDPHE*
- 4. USFS will prioritize the five projects for funding/construction purposes.*
- 5. There are continued concerns of upstream non-permitted stream activity (Delbert Smith). Funding is contingent upon the assessment and design that eliminates any potential negative affect on the USFS projects.*
- 6. There are continued concerns with management of the bed load. The USFS will determine if the proposed project structures will result in movement of bed load downstream. And further, the USFS will determine if a sediment trap is necessary in the Site #1 project Wightman Fork confluence and if future maintenance is required.*
- 7. Future maintenance may require another project in the next round of Alamosa River NRD Solicitation of Project Proposals.*

#### *Contingency*

- 1. Funding for Reach 1 Project is contingent upon further design and assessment due to bed load above the Reach 1 project which could negatively impact it.*



# Memorandum

**To:** Colorado Natural Resource Trustees

**From:** Doug Jamison, CDPHE

**Date:** 10/29/2014

**Re:** Idarado NRD Update/Request for Guidance

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The purpose of this memo is to provide a history of the allocation and use of the Idarado NRD Fund (the Fund), update the Trustees on recent Idarado NRD activities, and to request guidance for spending the remaining balance of the Fund.

In 1983, Colorado filed suit against the Idarado Mining Company (Idarado) for natural resource damages under CERCLA. In 1993, the State and Idarado entered into a consent decree outlining the remediation plan for the Idarado Site. Under the 1993 consent decree, the State received approximately \$1.1 million for natural resources damages (NRD) restoration activities.

The Idarado NRD work group was formed in the mid-1990s, with the purpose of identifying potential projects to utilize the Fund. Work group members included the Trustee Agencies, Ouray and San Miguel Counties, the Town of Telluride, and the City of Ouray.

In 1998 CDPHE published a solicitation for proposals and several proposals were submitted. In November 1998, the Colorado Natural Resource Trustees (the Trustees) approved the following projects:

Project	Proponent	Cost
Yankee Boy Basin Land Acquisition	Ouray Trails Group	\$ 155,000
San Miguel River Restoration	Town of Telluride	\$ 532,200
Uncompahgre River Restoration	City of Ouray	\$ 456,135

In December 2000, the Trustees approved additional land acquisition and river restoration projects with a total value of \$522,000. All of the projects approved by the Trustees have been completed.

However, in 2007, Ouray sold the Yankee Boy Basin property that had been acquired with NRD funds to the US Forest Service, and returned \$153,000 to the Idarado NRD fund. According to

the March 19, 2007 Minutes of Meeting for the Colorado Natural Resource Trustees (attached, Pg. 2, ¶ No.2), the Trustees approved a motion to extinguish the Yankee Boy Basin conservation easement, and award \$153,000 plus interest to Ouray for an NRD project, with the stipulation that Ouray use a public process for proposals and present a final recommendation to the Trustees for approval. Ouray has yet to come to the Trustees with a recommendation.

There is approximately \$220,000 remaining in the Idarado NRD Fund. Recently, CDPHE and the AGO received an inquiry from the Ouray Trails Group about the remaining Idarado NRD funds, and a potential proposal for land acquisition near Ouray. Because significant time has elapsed since the last Trustee directive of this project, CDPHE and the AGO seek guidance on the following questions:

1. Is it the preference of the Trustees that a project proposal be submitted by the City as specified in the March 2007 meeting minutes?
2. Would it be acceptable for another party to propose a project if the City is supportive and there is a public process?
3. Should the Idarado Work Group be reconvened to solicit and review additional projects? Would a new project solicitation be required or would a project from one or more of the work group members be acceptable?

**Minutes of Meeting  
Colorado Natural Resource Trustees  
March 19, 2007**

In attendance:

John Suthers, Attorney General  
Jim Martin, Exec. Director, CDPHE  
Ron Cattany, Dvn. Director, DRMS, DNR  
Casey Shpall, Deputy Attorney General, NR  
Dan Miller, First Asst. AG, NR  
Jason King, AGO  
Vicky Peters, AGO  
Wendy Naugle, CDPHE  
Dan Scheppers, CDPHE  
Jeff Deckler, CDPHE  
Camille Price, CDPHE  
Gary Swanstrom, President, Spicer Group  
Frasier Lockhart, DOE  
Doug Robotham, Trust For Public Land  
Susan Mackay Smith, AGO

John Suthers called the meeting to order at 10:06 a.m. on Tuesday, March 19, 2007. The meeting's purpose was to brief the Trustees on project status and to request direction and/or approval for various actions or plans pertaining to Colorado NRD sites.

1. Jason King and Wendy Naugle reported on Eagle Mine/Eagle River NRDs. King provided a brief site background of phase I NRD work, for which the Trustees had awarded \$1.21 million, for a conservation easement and for the Town of Minturn to restore the Minturn reach of the Eagle River. Project solicitation for phase II occurred in March 2006, and the Trustees' Work Group received five proposals, one of which was later withdrawn.

The four proposals are: the Town of Minturn's Phase II for Eagle River restoration; the Edwards reach for Eagle River restoration, proposed by the Eagle River Watershed Council; the Eagle River Preserve, proposed by Vail Valley Foundation; and the Gypsum Ponds (Gypsum State Wildlife Area), proposed by Colorado Mountain College. The Work Group evaluated the four proposals, held public meetings and site tours regarding each project, then scored and ranked the proposals per the Trustees' guidance. The money remaining in the NRD fund is approximately \$2.435 M. Of the phase II proposals, Minturn's and Edwards' Eagle River restoration tied for first in the scoring, with the Eagle River Preserve third and Gypsum Ponds fourth.

Wendy Naugle gave the Work Group's recommendations: that \$932,033 (plus accruing interest) go to the Minturn proposal, with \$1.4 M plus interest to the Edwards proposal. The difference in amount is due to river size at Minturn versus Edwards; the larger river means higher costs for vegetation, bank stabilization and so forth. The WG recommends another \$63,000 plus interest for the Eagle River Preserve, a former gravel pit being restored for an open-space park with wetlands and ponds. The original proposal included pedestrian bridges, which the Work Group disallowed as unsuitable for NRDs money. The recommendation for Gypsum Ponds is \$50,000

(with interest). This project is largely educational, intended for students at Colorado Mountain College, and involves building new wetlands in many pieces and phases as funds are available.

Questions followed by the Trustees concerning possibilities for other funds, including DOW and EPA. Ron Cattany pointed out that DOW funding for the Gypsum Ponds would not be GOCO money but come from the division's general budget, and that he approved of deleting the footbridges from the Eagle River Preserve proposal, in line with previous decisions by the Trustees concerning proper restoration/replacement under the NRD statute.

Suthers called for a motion, which Cattany made and Martin seconded, to approve the phase II disbursement as recommended by the Work Group. The motion was approved unanimously and signed.

2. Dan Scheppers and Camille Price reported on Idarado Mine Site NRDs issues. Scheppers began with background. In 1998, the Trustees approved a plan to buy 64 acres in the Yankee Boy Basin with the NRDs fund, which entailed a conservation easement to protect the parcel. The land was given to the City of Ouray, while the conservation easement is held by the Black Canyon Land Trust. The original purchase/easement contract contained a provision that, if the U.S. Forest Service should ever want to buy the land, to manage along with other Forest Service lands in the area, the easement would be extinguished so the USFS could purchase the property.

Pursuant to the Land and Water Conservation Act of 1965, the USFS does wish to buy the Yankee Boy Basin parcel. The existing conservation easement is more stringent than use restrictions under the USFS. Some recreational development is likely to be allowed under USFS control, but mineral development can occur only pursuant to a special use permit. For the USFS to obtain the parcel, the Trustees must vote to extinguish the easement and allow the sale.

Camille Price detailed the advantages: the land would be managed and controlled as one with the rest of the USFS lands, while the NRDs fund would be replenished by \$153,000 for other projects in the Uncompahgre River Basin (plus the \$37,000 in the fund). Ouray would also realize a profit, which it could use for an ice park to help with wintertime economic development.

Price asked for guidance about whether the real estate transaction needed review by the easement holder alone or whether the Trustees wanted their staffs to review the process and make recommendations to the Trustees for approval. Cattany said the Trustee staff ought to do the review and obtain Trustee approval in the public interest. Martin agreed, as did Suthers.

Price then asked whether the Yankee Boy conservation easement should be extinguished to allow the sale to the USFS. Extinguishment would mean \$150K returned to the NRDs fund; the Black Canyon Land Trust would pay in an additional \$3000, to be added to the \$37,000 remaining in the fund. Should this money be granted to Ouray for another NRDs project, or should the total be available for a new round of general proposals?

Cattany asked if, during the previous NRDs-fund process, Ouray had received promises that the money would go to the town in the event the conservation easement was extinguished. Price stated that the expectation was only that the fund would be used for the Uncompahgre watershed. She recommended that the easement be extinguished and the sale be approved, with the funds going to Ouray in lieu of a wholly new solicitation/review process, in order to save taxpayers

considerable sums in state agency staff time. Staff time for such a process must come out of the agency's yearly budget; the NRDs fund cannot be used for any administrative purposes.

Jim Martin then asked Casey Shpall about the possible consequences of extinguishing the conservation easement, what with USFS use policies, special use permits, and so forth. Shpall responded that the whole region was highly valued for recreation and that the USFS would be careful to manage it for recreational and not other uses, due to popular demand.

Cattany then asked if, during the first round of NRDs disbursement, there had been other proposals that had gone unfunded and should now be considered. Price explained that, previously, there had been two proposals—the Yankee Boy Basin and another project in the Uncompahgre Basin that had already been fully funded. There are no proposed but unfunded projects.

The discussion moved on to where the public interest lies, and whether in the passing years other ideas for projects may have gained currency. Martin requested clarification about what Ms. Price meant by administrative costs in a public process. Price replied that these included a bid for proposals; holding public meetings; reestablishing local work groups; reviewing, analyzing, and costing the proposals; and contracting, all of which are time-intensive.

Cattany then proposed a two-part motion: that the Trustees extinguish the Yankee Boy Basin conservation easement, and that the Trustees award the \$153K plus interest from the Idarado NRDs fund to Ouray for a NRDs project, with the stipulation that Ouray use a public process for proposals and present the final recommendation to the Trustees for approval. Martin seconded the motion, which carried unanimously.

3. Dan Miller gave an update on issues that arose after the decisions taken by the Trustees at their January 2007 meeting concerning Rocky Flats NRDs, which present potential problems. Miller reprised the legislation that granted the Department of Energy \$10 M, by which it, through the Trust for Public Lands, acquired the mineral rights of Parcel C for \$2.5 M. The mineral rights owners of Parcels A1 and A2 were also interested in selling, but no purchase was effected before the legislative deadline expired. Thus, \$7.5 M had been deposited in a DOI account; there was an MOU with DOI and DOE dealing with how the money will be spent, including an approved concept to purchase Parcels A1 and A2.

Since then, the Work Group learned of practicalities and risks surrounding these mineral rights. La Farge Sand and Gravel has an active lease in both parcels, with a current permit from Jefferson County. The permit requires some hydrologic studies before mining may begin, though it is also possible that Jeffco can modify the permit. Part of the land could be mined without any further study or approval right now. The lease expires in November 2007 but can be extended 5 years by letter.

Miller indicated that the lease presented problems, although the surface owner DOE is ready to go ahead with the purchase. Miller suggested that a middle ground might be to offer the Spicer Group, the minerals owner, an irrevocable option to buy at 10 percent of the purchase price as a way to gain time to deal with La Farge. He then introduced Frazer Lockhart of DOE and Doug Robotham of the Trust for Public Land to discuss the issue in more depth. Suthers asked if any representatives of the mineral rights owners or of La Farge were present, and Greg Swanstrom, the Spicer Group president, introduced himself. No one from La Farge attended.