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**STATE OF COLORADO
DEPARTMENT OF LAW**

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Natural Resources and
Environment Section

AGENDA

Colorado Natural Resources Trustees Meeting

September 24, 2020

10:00 am to 12:00pm

Location: Zoom Meeting

Link to Meeting: <https://zoom.us/j/94199426102>

Meeting ID: 941 9942 6102

**Note: A hyperlink to the meeting will be emailed to Trustees and staff and
will be posted on the Trustee website:**

<https://coag.gov/office-sections/natural-resources-environment/trustees/whats-new/>

Open Session

1. Approval of Minutes from June 18, 2020 Meeting – 5 minutes

Action Items:

- (1) Review and approve minutes from June 18, 2020 meeting

Document:

- (1) Draft Minutes from June 18, 2020 meeting

2. Rocky Mountain Arsenal Updates – (David Banas, Susan Newton, Ed Perkins)
- 10 minutes

Action Items: none

Document:

- (1) Memo from David Banas

3. Idarado (Doug Jamison) – 5 minutes

4. Summitville Updates – (Emily Splitek, Susan Newton, Ed Perkins) - 5 minutes

Action Items: none

Document:

(1) Memo from Emily Splitek

5. California Gulch – (David Kreutzer, Susan Newton, Ed Perkins) - 10 minutes

Action Items: Consider staff recommendations

Document:

(1) Memo from David Kreutzer

6. NRD Funds Discussion – (Jennifer Talbert, Jeff Stalter) – 15 minutes

Action Items: none

Documents:

(1) CDPHE Budget Spreadsheet

7. Small Spills Program: Potential New Claims (Melynda May, David Banas) – 5 minutes

Action Items: none

Documents: none

8. Bonita Peak Mining District (Jason King, Doug Jamison) – 5 minutes

Action Items: none

Documents: none

Executive Session

9. Small Spill Program: Potential New Claims

Action Items: none

Document:

(1) Confidential memo from David Banas

10. Bonita Peak Mining District

Action Items: none

Document:

- (1) Confidential Memo from Jason King

11. California Gulch Public Access Issues

Action Items: none

Documents:

- (1) Confidential Memo from Jennifer Talbert
- (2) Draft Resolution

Open Session

12. Report from Executive Session Regarding Small Spill Program: Potential New Claims

Action Item: Consider staff recommendations

13. Report from Executive Session Regarding Bonita Peak Mining District

Action Item: Consider staff recommendations

14. Report from Executive Session Regarding California Gulch Public Access Issues

Action Item: Consider staff recommendations

ITEM #1

Colorado Natural Resource Damages Trustees
Meeting Minutes
June 18, 2020
(Approved _____, 2020)

In Attendance:

TRUSTEES

Phil Weiser, Attorney General
Dan Gibbs, Executive Director, Colorado Department of Natural Resources (DNR)
John Putnam, Director of Environmental Programs, Colorado Department of Public Health and Environment (CDPHE)

TRUSTEE STAFF

Amy Beatie, Deputy Attorney General, Natural Resources and Environment Section (NRE)
David Kreutzer, First Assistant Attorney General, NRE
David Banas, Senior Assistant Attorney General, NRE
Emily Splitek, Assistant Attorney General, NRE
Jennifer Talbert, CDPHE
Doug Jamison, CDPHE
Susan Newton, CDPHE
Ed Perkins, Colorado Parks and Wildlife, DNR (CPW)
Robert Harris, CPW

OTHER STATE STAFF

Jennifer Opila, CDPHE
Melody Mascarenaz, CDPHE
Mindi May, CPW
Laura Kelly, Paralegal, NRE
Dan Graeve, Administrative Assistant, NRE
Darius Cozart, Department of Law (DOL) Intern
Erin McLaughlin, DOL Intern
Ryan Zehner, DOL Intern
Andrew Stephan, DOL Intern
Virginia Sargent, DOL Intern
Emma Cohen, DOL Intern

GUESTS

Rachel Crouch, Bluff Lake Nature Center

Open Session

AG Weiser called the meeting (held via Zoom) to order at approximately 10:00 a.m. on June 18, 2020. The meeting's purpose was to brief the Trustees on the current status of issues relating to Natural Resource Damages (NRD) projects, and to request direction and/or approval for various actions.

Deputy AG Beatie welcomed the DOL Interns in attendance who introduced themselves. AG Weiser expressed appreciation for the DOL interns and provided some context about the NRD program and the role of the Trustees.

Minutes

AG Weiser presented the minutes from the April 9, 2020 Trustee Meeting. Director Gibbs moved to approve the minutes. Director Putnam seconded the motion, and the motion was unanimously approved. Following approval of the minutes, Trustee staff and other State staff, as well as Ms. Crouch, introduced themselves.

Rocky Mountain Arsenal

David Banas updated the Trustees about two Rocky Mountain Arsenal projects. First, in 2014, the Trustees allocated approximately \$3 million to Commerce City's Second Creek Project, contingent on the submission and approval of a final project proposal. Commerce City's draft project proposal was deemed not approvable by Trustee staff. Commerce City did not submit a final project proposal and the initial approval expired in November 2019. In February 2020, Commerce City submitted a new request for funding with a revised project proposal, but Trustee staff questioned the environmental benefits of the project. In April 2020, Commerce City submitted a new draft of their February 2020 proposal, but Trustee staff determined that the project did not meet NRD criteria because the project's primary value was to provide urban drainage and infrastructure, and not to restore, replace or acquire natural resources. In a May 21, 2020 letter, Trustee staff suggested that Commerce City either submit additional information to better identify benefits to natural resources or develop a different project more aligned with NRD goals. The Trustees suggested reaching out to the Adams County Commissioners to keep the project moving forward. Director Putnam further suggested a coordinated approach because CDPHE was already in touch with Adams County regarding environmental justice strategies. He noted that Jennifer Opila and Alex Helling are the appropriate contacts at CDPHE. AG Weiser volunteered to coordinate this outreach effort on behalf of the NRD Trustees.

Second, in 2014, the Trustees allocated approximately \$600,000 to Bluff Lake Nature Center to reinforce the Bluff Lake dam, line Bluff Lake, and to purchase recycled water from Denver Water. Mr. Banas stated that Bluff Lake Nature Center submitted a project proposal in May 2020 to use the remaining funds, approximately \$300,000, to continue its effort to purchase recycled water. Trustee staff is reviewing the proposal and anticipates making a recommendation to the Trustees at the September 2020 Trustee Meeting. Mr. Banas introduced Rachel Crouch, the Executive Director of Bluff Lake Nature Center, who explained their scope of work has not changed, but they have requested an extension of time to use the remaining funds.

Summitville

Emily Splitek reported that the solicitation for project proposals was published and sent to stakeholders in early May 2020, and proposals are due by the end of July. Trustee staff will review and evaluate those proposals in order to present recommendations for the Trustees at the December 2020 Trustee Meeting. Ms. Splitek re-stated that the in-person stakeholder meeting previously scheduled in Alamosa was postponed due to Covid-19, but Trustee staff hopes to re-schedule it at some point in the future. AG Weiser expressed interest in attending such a meeting if and when it becomes safe and appropriate. Jennifer Talbert added that CDPHE has received three notices of project proposals and Susan Newton briefly described those entities which are expected to submit proposals.

California Gulch

David Kreutzer reported that the federal and state Trustees reached a final agreement on an updated Memorandum of Understanding (MOU) which incorporates the Trustees' preference that they, rather than staff, approve individual projects as they do in other NRD matters. Mr. Kreutzer noted that the MOU will expire in 15 years. Trustee staff recommended that the Trustees sign the MOU. Director Putnam moved to approve and sign the MOU with the U.S. Department of the Interior and the U.S. Forest Service relating to the restoration of the California Gulch Superfund site. Director Gibbs seconded the motion, and the motion was unanimously approved. Laura Kelly will coordinate signatures on the final MOU.

Idarado

Doug Jamison updated the Trustees about three Idarado projects previously approved by the Trustees which are in various stages of implementation. First, a contract has been executed for the Silver Mountain acquisition project south of Ouray along the Uncompahgre River which involves 14 mining claims and 104 acres. The project is moving along as planned. Second, the Governor's Basin restoration project along a tributary of the Uncompahgre River is scheduled to begin this summer. Third, the Society Turn river restoration project downstream of Telluride is moving forward in conjunction with a remediation project being conducted as part of the Idarado CERLCA settlement and is scheduled to be completed in October 2020. Mr. Jamison noted that, after completion, these projects will expend the remaining Idarado NRD funds.

NRD Funds Discussion

Jennifer Talbert reported that Trustee staff has been working with accounting at CDPHE under the direction of Jeff Stalter, and they are re-building NRD accounts due to a transfer in accounting systems. She noted that the financial data has been produced and she is creating a document to share with the Trustees and the public to assure complete transparency and accountability moving forward. She assured the Trustees that the document will be available at the September 2020 Trustee Meeting and added that Mr. Stalter will attend to present the status of NRD accounts.

Update on House Bill 18-1198

David Banas provided some background about HB 18-1198 which requires many state boards and commissions to adopt bylaws and policies concerning a variety of best practices and procedures. He added that, while HB 18-1198 arguably does not apply to the NRD Trustees, the Trustees have recognized they could benefit from adopting many of the best practices and

procedures outlined in the law. Mr. Banas informed the Trustees that staff will present bylaws and policies at the September 2020 Trustee Meeting for Trustee review and approval. Ms. Talbert noted that CDPHE has developed a number of documents for its boards and commissions that meet the requirements of HB 18-1198. Director Putnam suggested that Trustee staff reach out to Trisha Oeth, Commission Administrator at CDPHE, for insight beyond the documents themselves.

Executive Session

David Banas explained that, for NRD meetings via Zoom, members of the public and interns not assigned to work on NRD matters will be moved into a virtual waiting room during executive session and will then be invited back into the meeting when the executive session is concluded. Deputy AG Beatie recommended the Trustees make a motion to go into executive session to consider Agenda Item #8 as identified on the Trustee Meeting agenda. She stated the executive session is authorized pursuant to section 24-6-402(3)(a)(II), C.R.S. and other laws that allow the Trustees to enter executive session for specific purposes. At approximately 10:45 a.m., Director Putnam moved to begin an executive session to discuss Agenda Item #8 relating to the Bonita Peak Mining District. Director Gibbs seconded the motion, and the motion was unanimously approved. The executive session was digitally recorded.

At approximately, 11:10 a.m., Director Putnam moved to end the executive session. Director Gibbs seconded the motion, and the motion was unanimously approved, whereupon executive session was ended.

Open Session

Deputy AG Beatie confirmed the executive session discussion was limited to the Bonita Peak Mining District, no other business was conducted, and no decisions were made.

The Trustees set future meetings for September 24, 2020 at 10:00 a.m. and December 10, 2020 at 10:00 a.m. At approximately 11:24 a.m., Director Gibbs moved to adjourn the meeting. Director Putnam seconded the motion, and the motion was unanimously approved.

ITEM #2

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Office of the Attorney General

September 24, 2020

M E M O R A N D U M

TO: Colorado Natural Resources Trustees
FROM: David Banas
RE: Rocky Mountain Arsenal Updates

BACKGROUND

Over the past 8 years, the Trustees have allocated approximately \$27 million from the two Rocky Mountain Arsenal funds: the Rocky Mountain Arsenal Recovery Fund, managed by CDPHE, and the Rocky Mountain Arsenal Foundation Fund, managed by DNR.

UPDATE

This memo provides updates on recent developments with two recipients of Arsenal funds: Commerce City and the Bluff Lake Nature Center.

(1) Commerce City

In 2014, the Trustees allocated \$3,086,942 from the Recovery Fund to fund Commerce City's Second Creek Project. The approval was contingent on staff approval of a final project proposal. Commerce City did not submit a final proposal and the approval expired in November 2019.

Staff has been working with Commerce City to find a suitable project. In August 2020, Commerce City notified us that they are close to finalizing a proposal to acquire and restore a parcel of riparian land. We will continue to work with Commerce City this fall with the goal of having a project to present to the Trustees for approval at either the December or March Trustee meeting.

It is worth noting that pursuant to the agreement that lead to the 2014 allocation of \$17.4 million from the Recovery Fund on a unified set of projects, the Northeast Greenway Corridor group must also approve any project proposed by Commerce City.

(2) Bluff Lake Nature Center

In 2014, the Trustees allocated the Bluff Lake Nature Center \$605,946 from the Recovery Fund (which Bluff Lake combined with a \$501,481 allocation from the Lowry Landfill settlement) to reinforce the Bluff Lake Dam, line Bluff Lake to retain year-round storm water, and to purchase reclaimed water from Denver Water. After reinforcing the Dam, Bluff Lake determined it would not be necessary to line the lake. As discussed at previous Trustee meetings, Bluff Lake has been unable to finalize a deal with Denver Water.

Bluff Lake has proposed to use the remaining funds – approximately \$318,000 – to pursue two alternative plans: (1) continue to work to purchase recycled water, and, failing that (2) to develop an augmentation plan allowing them retain water in their lake year round.

In August, 2020, Bluff Lake indicated they intend to abandon the plan to purchase recycled water and to focus on developing an augmentation plan. Bluff Lake plans to have a new proposal to present to the Trustees at the December meeting.

It is worth noting that, as discussed above concerning Commerce City, any proposal by Bluff Lake must be approved by the Northeast Greenway Corridor group in addition to the Trustees.

RECOMMENDATION FOR ACTIONS

None.

ATTACHMENTS

None.

ITEM #3



COLORADO

**Hazardous Materials
& Waste Management Division**

Department of Public Health & Environment

Memorandum

To: David Banas
From: Doug Jamison
CC: Jennifer Talbert\Ross Davis
RE: Idarado\Uravan Update for September 2020 Trustee Meeting
Date: September 11, 2020

Uravan NRD Update

Background

The Uravan NRD settlement established a fund of \$2,021,000. In February of 2004, the Colorado Natural Resource Trustees approved four restoration projects to restore natural resources impacted by operation of the Uravan Mill near Naturita Colorado. One of the projects approved by the Trustees was the Uravan Mine Restoration project, intended to restore abandoned uranium mines in the Club Mesa, Eagle Basin, and Longs Peak areas in proximity to the Uravan Mill. CDPHE contracted with the Division of Reclamation and Mining Safety (DRMS) who completed the work in three phases prior to the end of 2011.

Centennial and Prayer 9 Mine

In 2015, the Trustees approved use of remaining Uravan NRD funds to conduct additional restoration of abandoned mines within the San Miguel and Dolores basins. CDPHE has again contracted with DRMS through an interagency agreement and DRMS has identified the Centennial and Prayer 9 mines where restoration work will be implemented. Work at the Centennial mine has progressed through the planning stage and is scheduled to begin in November of 2020. Work at the Prayer 9 site is undergoing planning and design and construction is anticipated to begin in the summer of 2021.

Idarado NRD Update

BACKGROUND

A 1992 consent decree between CDPHE and the Idarado Mining Company established a \$1,000,000 fund to restore natural resource within areas of the Uncompahgre and San Miguel watersheds impacted by Idarado's legacy operations. Since that time, the Trustees have approved multiple projects in both drainages. A list of current projects approved by the Trustees is included below.



Silver Mountain Mine Land Acquisition - Ouray County

In an October 2018 resolution, the Trustees approved \$92,000 to assist the Trust for Land Restoration (TLR) to acquire 104 acres of patented claims associated with the Silver Mountain Mine in Ouray County. CDPHE had entered into a contract with TLR to provide the approved funding when the real estate transaction closes. TLR continues to negotiate for the purchase of the property. Once TLR acquires the property, the land will be protected through a conservation easement. The CDPHE\TLR contract expires in 2025.

Governor Basin - Ouray County

In a June 24, 2019 resolution, the Trustees approved a proposal submitted by the Uncompahgre Watershed Partnership requesting \$76,200 to restore alpine and aquatic habitat in Governor Creek, Sneffels Creek, and Canyon Creek. Project implementation has been delayed due to COVID restrictions.

Society Turn - San Miguel County

In 2019, Telluride requested \$118,000 of NRD funding to restore aquatic and riparian habitat along two segments of the San Miguel River near Telluride. The Trustees approved Telluride's request in a June 24, 2019 resolution.

The restoration project is being implemented concurrently with reclamation of the Society Turn Tailings. Project construction began in June 2020 and is expected to be completed in the late fall of 2020. Should the Trustees decide to embark on a field review of NRD projects, I suggest this site be included on the itinerary.



ITEM #4

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Office of the Attorney General

September 11, 2020

M E M O R A N D U M

TO: Colorado Natural Resources Trustees
FROM: Emily Splitek
Assistant Attorney General
RE: Summitville NRD

BACKGROUND

In 2000, the State of Colorado and the United States Natural Resource Trustees recovered \$5,000,000 in settlement funds to be used to restore, replace, or acquire the equivalent of natural resources in the Alamosa River watershed which were damaged by a release of hazardous substances from the Summitville Mine. Approximately \$500,000 remains. The Solicitation for Project Proposals (SPP) was released in May. The SPP requested that project proposals be submitted by July 31, 2020.

UPDATE

We received three project proposals from the following proponents:

- Wenck, Inc. for bank stabilization and riparian habitat restoration of approximately 4,000 feet of channel
- Rio Grande Headwaters Land Trust (RiGHT) for improving fencing and reestablishing woody riparian vegetation through planting along 2.5 miles of stream
- Trout Unlimited for the acquisition of water rights to restore in-stream flow

Staff met in August to review the project proposals and determine whether they met the eligibility criteria in the NRD Project Selection Guidance. Staff determined that all three projects are eligible for NRD funds. Project proponents made presentations to stakeholders via a Zoom conference in August. The conference was well-attended.

Staff will meet again in October to more thoroughly evaluate the project proposals with the goal of making recommendations to the Trustees by the December 2020 Trustee meeting.

ITEM #5

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STATE OF COLORADO
DEPARTMENT OF LAW

Office of the Attorney General

September 10, 2020

M E M O R A N D U M

TO: Natural Resources Trustees
FROM: David Kreutzer, 1stAAG
RE: California Gulch Solicitation of Project Proposals

BACKGROUND

The California Gulch superfund site near Leadville is one of the suits filed by the Attorney General's Office on behalf of Colorado's Natural Resources Trustees in 1983. In 2008, the Colorado Trustees entered into a Memorandum of Understanding with the Federal Natural Resources Trustees, led by the United States Fish and Wildlife Service (USFWS), to coordinate selecting projects to fund with the approximately \$10 million recovered from ASARCO and other parties for natural resource damages occurring at the site. The MOU was updated in early 2020.

Since 2008, the Colorado and Federal Trustees' staff have funded many successful projects restoring habitat and waterways in and around the upper Arkansas River.

UPDATE

Trustee staff has determined that a balance of \$4,810,819.90 remains unspent in the settlement account and is thus available to fund additional restoration projects. Because the original restoration plan is outdated, Trustee staff recommends that the Trustees make this money available for environmental restoration through a new Solicitation for Project Proposals (SPP). Pursuant to the updated MOU with federal agencies, the Trustees will approve or disapprove each new project.

Trustee staff hopes to have a draft SPP for internal review by September 18, 2020.

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Trustee staff is discussing whether to use some remaining funds in a contract with Colorado Parks & Wildlife for monitoring completed restoration projects.

Monitoring completed projects allows staff to assess restoration project success and inform future spending priorities.

RECOMMENDATION FOR ACTIONS

Staff requests informal approval to move forward with an SPP so as to spend the remaining settlement funds on a refreshed set of restoration projects.

ATTACHMENTS

None.

ITEM #6

Natural Resource Damages Accounts*

NRD Matter	Cal Gulch	Fountain Creek	IDARADO	Lowry	Rocky Flats
Total Settlement amount	\$10,250,000.00	\$345,000.00	\$1,000,000.00	\$1,606,930.00	\$10,000,000.00
Total NRD dollars spent	\$7,023,601.00	\$0.00	\$1,444,106.00	\$1,257,894.52	\$10,000,000.00
Account Balance as of 7/1/20	\$7,159,395.14	\$353,667.13	\$249,117.77	\$402,344.45	\$3,747.00
Most recent Trustee Resolution Date	2/23/2010	4/23/2019	6/24/2019	7/11/2013	10/9/2018
Current Remaining Trustee awarded amount	\$2,348,575.24	\$353,667.13	\$249,117.77	\$355,497.93	\$10,000.00
Pending Contracts	\$0.00	\$0.00	\$0.00	\$0.00	\$10,000.00
Current Contract Encumbrances	\$2,247,567.95	\$0.00	\$249,117.77	\$116,013.44	\$0.00
Remaining available funds	\$4,810,819.90	\$353,667.13	\$0.00	\$46,846.52	-\$6,253.00
Settlement Restrictions	YES	NO	NO	YES	NO
Type of Restriction	Funds must be used in accordance with Restoration Plans developed by the State and USFWS	None	None	Lowry has 2 settlements - (1) revolving loan fund with 200K remaining and (2) groundwater nexus.	National Defense Authorization Act
Interest bearing restrictions	NO	YES	NO	NO	NO
Explanation	Funds must be segregated. Interest is not earmarked for site.	Interest goes to CPW to include in Chilcott Diversion Project	None	None	\$7,500 being returned from City of Boulder.

* NOTE: This spreadsheet does not account for NRD funds held by other agencies (e.g. DNR, USFWS)

Natural Resource Damages Accounts*

NRD Matter	RMA	SHATTUCK	Standard Metals	SUMMITVILLE	Suncor	URAVAN
Total Settlement amount	\$17,400,000.00	\$1,250,000.00	\$415,368.00	\$5,000,000.00	\$1,230,000.00	\$1,000,000.00
Total NRD dollars spent	\$10,010,159.40	\$1,250,000.00	\$0.00	\$4,297,979.00	\$0.00	\$1,000,000.00
Account Balance as of 7/1/20	\$8,773,150.27	\$79,862.54	\$457,766.18	\$1,060,087.03	\$1,255,074.62	\$363,253.05
Most recent Trustee Resolution Date	10/10/2019	10/10/2019	NONE	12/18/2017	10/9/2018	4/2/2015
Current Remaining Trustee awarded amount	\$5,707,087.93	\$79,862.54	\$0.00	\$514,130.45	\$1,230,000.00	\$363,253.05
Pending Contracts	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Current Contract Encumbrances	\$1,299,204.85	\$57,400.00	\$0.00	\$514,130.45	\$1,230,000.00	\$363,253.05
Remaining available funds	\$3,066,062.34	\$0.00	\$457,766.18	\$545,956.58	\$25,074.62	\$0.00
Settlement Restrictions	NO	NO	NO	YES	NO	NO
Type of Restriction	None	None	Money received through settlement with insurance company - no NRD requirements	All money must be spent in the Alamosa River Watershed	None	None
Interest bearing restrictions	NO	NO	NO	YES	NO	NO
Explanation	None	None	None	Interest must be used in the Alamosa River Watershed	None	None

* NOTE: This spreadsheet does not account for NRD funds held by other agencies (e.g. DNR, USFWS)

ITEM #7

NO DOCUMENTS

ITEM #8

NO DOCUMENTS