

**PHIL WEISER**  
Attorney General

**NATALIE HANLON LEH**  
Chief Deputy Attorney  
General

**ERIC R. OLSON**  
Solicitor General

**ERIC T. MEYER**  
Chief Operating Officer



**STATE OF COLORADO  
DEPARTMENT OF LAW**

**RALPH L. CARR**  
**COLORADO JUDICIAL  
CENTER**  
1300 Broadway, 10th Floor  
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Natural Resources and  
Environment Section

**AGENDA**

**Colorado Natural Resources Trustees Meeting**

**December 10, 2021**

**12:30 pm to 2:30 pm**

**Location: Zoom Meeting**

**Link to Meeting: <https://us02web.zoom.us/j/85259490746>**

**Meeting ID: 852 5949 0746**

**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 the Agenda – 1 minute
2. Approval of Minutes from October 29, 2021 Meeting – 5 minutes

**Action Item:**

- (1) Review and approve minutes from October 29, 2021 meeting

**Document:**

- (1) Draft Minutes from October 29, 2021 meeting

3. Budgets Update – (Jennifer Talbert) - 5 minutes

**Action Items: None**

**Document:**

- (1) Budget Spreadsheet

4. New Matters: Raylston Creek/Carwash (Melynda May) – 5 minutes

Action Items: None

Documents: None

5. California Gulch (David Kreutzer, Susan Newton, Ed Perkins) – 45 minutes

Action Item:

(1) Consider project proposals

Documents:

(1) Five executive summaries of project proposals

(2) Five draft resolutions

(3) The full project proposals are attached as an appendix to this agenda

6. North Saint Vrain (Jason King, Melynda May) – 5 minutes

Action Items:

(1) None

Documents:

(1) None

7. Rocky Mountain Arsenal – (David Banas) – 5 minutes

Action Items: None

Documents: None

8. Standard Metals (Jennifer Talbert) – 5 minutes

Action Items: None

Documents: None

9. Vail/Mill Creek (David Kreutzer, Jason King) – 5 minutes

Action Items: None

Documents: None

**Executive Session**

10. Colorado Smelter – (Emily Splitek, Jennifer Talbert) – 10 minutes

Action Items: None

Documents: None

11. Bonita Peak Mining District – (Emily Splitek) – 15 minutes

Action Items: None

Documents: None

**Open Session**

12. Report from Executive Session

Action Item: None

ITEM #2

**Colorado Natural Resource Damages Trustees**  
**Meeting Minutes**  
**October 29, 2021**  
**(Approved \_\_\_\_\_)**

**In Attendance:**

**TRUSTEES**

Phil Weiser, Attorney General

Ginny Brannon, Director, Division of Reclamation, Mining & Safety, Colorado Department of Natural Resources (DNR)

Shaun McGrath, 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

Jason King, Senior Assistant Attorney General, NRE

Emily Splitek, Assistant Attorney General, NRE

Doug Jamison, CDPHE

Jennifer Talbert, CDPHE

Susan Newton, CDPHE

Melody Mascarenez, CDPHE

Ed Perkins, Colorado Parks and Wildlife, DNR (CPW)

Robert Harris, CPW

**OTHER STATE STAFF**

Tracie White, CDPHE

Laura Kelly, Paralegal, NRE

Dan Graeve, Administrative Assistant, NRE

**NRE INTERNS**

Adam Estacio

Phalen Kohlruss-Reuman

**PUBLIC**

Sarah Mudge, Lake County Commissioner

## **Open Session**

AG Weiser called the meeting (held via Zoom) to order at approximately 1:05 p.m. on October 29, 2021. 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.

### **Minutes**

AG Weiser presented the minutes from the August 30, 2021 Trustee Meeting. Trustee McGrath moved to approve the minutes. AG Weiser seconded the motion, and the motion was unanimously approved. AG Weiser then presented the minutes from the September 13, 2021 Trustee Meeting. Trustee Brannon moved to approve the minutes. Trustee McGrath seconded the motion, and the motion was unanimously approved.

### **Budget Update**

Jennifer Talbert presented a budget update for all NRD accounts. AG Weiser expressed appreciation for this important work.

### **Vail Resorts Mill Creek Spill**

Jason King provided background on a release of snowmaking water from Vail Resorts' snowmaking system in mid-September. The water contained algaecides and flowed for three days into Mill Creek, a tributary to Gore Creek. Mr. King added that both CPW and the Town of Vail took samples that indicated the impact was considerable, including 120 dead fish. He anticipates having more information at the next Trustee Meeting to in order to determine whether there is a NRD claim.

### **California Gulch**

David Kreutzer reported that Trustee staff had received various Cal Gulch project proposals in early September. After the initial screening process, staff ranked the projects based on criteria in the Solicitation for Project Proposals (SPP) and NRD guidance for project selection. Mr. Kreutzer added that staff toured many of the projects recently and they have requested additional information from some proponents. He stated that good progress has been made and the amount of money requested is similar to the amount available. Commissioner Mudge added that Lake County is confident they can supply more details and they are committed to securing a 50% match of project costs.

### **Lowry Landfill**

Jennifer Talbert reported that the original Consent Decree (CD) with the City of Denver and Waste Management required the creation of a revolving loan fund to replace or repair Denver water and sewer lines impacted by exceedances of E. coli. Up until 2018, Trustee staff had been working with the Denver Urban Renewal Authority (DURA) to find projects within this narrow scope (allocating a total of approximately \$500,000), but DURA no longer has the capacity to administer the loan fund. DURA returned approximately \$260,000 of the \$300,000 that had been contracted to the Lowry Landfill NRD Fund. At this time, staff is unable to identify other organizations interested in this narrow scope of projects, so staff requested Trustee approval to pursue amending the CD to expand the boundary and scope of projects. The Trustees approved,

and noted that such an amendment could beneficially lead to NRD funding being allocated in disproportionately impacted communities. They added that staff should try first to find a broader purpose in the original area, and then expand the boundary if needed.

### **North Saint Vrain Spill**

Jason King reported that data is being collected and coordination has begun to engage a contractor to provide a preliminary estimation of injuries and damages resulting from the North Saint Vrain spill. He added that it appears the fish count is down considerably, and another sampling and fish survey is scheduled for September.

### **Rocky Mountain Arsenal**

David Banas explained that the RMA Foundation Fund (held at DNR) could only be used for projects on the Northeast Greenway Corridor (NGC). The Trustees have awarded approximately \$9 million from the Foundation Fund for NGC projects, and he estimated there is approximately \$1 million remaining in the Fund. He further explained that the RMA Recovery Fund has approximately \$7 million remaining in the Fund and does not have the NGC restriction. Trustee staff suggested an amendment to the original CD with Shell to remove the NGC restriction from the Foundation Fund so those funds could be combined with the unrestricted Recovery Fund amount. Mr. Banas added that Shell is amenable and specific language is being drafted. Trustee staff expects to have the amendment ready for Trustee consideration before the end of the year.

### **Standard Metals**

Jason King reminded the Trustees of their decision to allocate Standard Metals settlement funds in a 50/50 split to Silverton and the Upper Gunnison, with a possibility of more funding to the Upper Gunnison if enough worthy projects respond to the SPP. He noted that the SPP is available now on the NRDs webpage, and Trustee staff intends to start advertising through other means in November. An estimated timeline includes a project submittal deadline of April 1 (2022), site visits in July, and recommendations to the Trustees by next fall.

### **Trustee Guidance**

AG Weiser presented the existing guidance document entitled “Colorado Natural Resource Damages Restoration Project Selection Process and Administration of the Colorado Natural Resource Damage Recovery Fund” which was approved by former Trustees 2014. David Banas briefly described the purpose of the document, noting that while it is non-binding guidance, it represents best practices based on many years of experience. For example, Mr. Banas brought attention to the matching funds section on page seven which has been the best practice for encouraging project proponents to bring in outside resources. Trustee staff and Deputy AG Beatie suggested that the Trustees should periodically revisit, and update if necessary, all guidance documents. The Trustees agreed that this guidance document is not antiquated at this time, so they had no immediate feedback. Some discussion ensued about the Trustees’ general desire to incorporate environmental justice into this guidance document at some point.

David Kreutzer discussed the possibility of a separate guidance process concerning how to collect damages from smaller injuries to Colorado’s natural resources. He noted that a full injury assessment can be expensive and that an expedited method to assess these smaller injuries would be more cost-effective (other states have implemented an expedited method). For example, Mr.

Kreutzer described Washington state's robust matrix system which allows for a relatively simple way to characterize injuries and assess damages. Trustee staff requested Trustee approval to work on such a guidance process. While not interested in creating a new statute or new regulations, the Trustees agreed that this is a worthwhile endeavor that staff should pursue.

### **Executive Session**

Deputy AG Beatie recommended the Trustees make a motion to go into Executive Session to consider Agenda Item Nos. 10, 11, and 12 on the Trustee Meeting agenda. She stated the Executive Session is authorized pursuant to section 24-6-402(3)(a)(II) and (III), C.R.S. and other laws that allow the Trustees to enter Executive Session for specific purposes. At approximately 1:55 p.m., Trustee Brannon moved to begin an Executive Session to discuss Agenda Item Nos. 10, 11, and 12. Trustee McGrath seconded the motion, and the motion was unanimously approved. It was confirmed that no members of the public were in attendance. The Executive Session was digitally recorded.

At approximately 2:55 p.m., Trustee McGrath moved to end the Executive Session, Trustee Brannon seconded the motion, and the motion was unanimously approved, whereupon Executive Session was ended.

### **Open Session**

Deputy AG Beatie stated that pursuant to statute, the Trustees went into Executive Session to consider Agenda Item Nos. 10, 11, and 12. The discussion during Executive Session was limited to those items and no formal action was taken.

A brief discussion ensued among the Trustees about potential dates and locations for 2022 Trustee Meetings. At approximately 3:00 p.m., Trustee Brannon moved to adjourn the meeting. Trustee McGrath seconded the motion, and the motion was unanimously approved.



ITEM #3

## Natural Resource Damages Accounts

NRD Matter	California Gulch	Fountain Creek	Idarado	Lowry	Rocky Flats
Total Settlement amount	\$10,000,000.00	\$345,000.00	\$1,000,000.00	\$1,606,930.00	\$10,000,000.00
Total NRD dollars spent	\$8,045,160.99	\$0.00	\$1,561,412.98	\$1,257,894.52	\$10,000,000.00
Account Balance as of 9/30/21	CDPHE   DOI \$6,228,386.94   \$1,200,000	\$356,077.67	\$198,200.85	\$668,421.65	\$11,299.18
Trustee Resolution Date	3/24/2021	4/23/2019	6/24/2019	NONE	10/9/2018
Current Trustee awarded amount	\$0.00	\$356,077.67	\$287,000.00	\$0.00	\$11,299.18
Pending Contracts	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Current Contract Encumbrances	\$104,000.00	\$0.00	\$168,200.00	\$0.00	\$11,261.00
Remaining available funds	\$6,124,386.94   \$1,200,000	\$356,077.67	\$30,000.85	\$668,421.65	\$38.18
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 and explanations	Segregated Funds. Interest not earmarked for site.	Interest goes to CPW to include in Chilcott Diversion Project, no remaining funds available	Interest goes to the Governor's Basin Restoration Project, no remaining funds available	\$259,415.26 was returned by DURA.	Interest awarded to Rocky Mountain Youth Corps, no remaining funds available

## Natural Resource Damages Accounts

NRD Matter	RMA Recovery Fund	RMA Foundation Fund	Shattuck	Standard Metals	Summitville	Suncor	Uravan
Total Settlement amount	\$17,400,000.00	\$10,000,000.00	\$1,250,000.00	\$415,368.00	\$5,000,000.00	\$1,230,000.00	\$1,000,000.00
Total NRD dollars spent	\$11,681,129.50	\$8,097,832.00	\$1,272,904.00	\$0.00	\$4,871,685.39	\$70,384.44	\$1,023,823.62
Account Balance as of 9/30/21	\$8,622,531.80	\$1,462,147.93	\$23,076.72	\$460,892.65	\$516,172.89	\$188,562.07	\$343,852.38
Most recent Trustee Resolution Date	10/10/2019	10/10/2019	NONE	NONE	1/21/2021	10/9/2018	3/24/2021
Current Trustee awarded amount	\$5,707,087.93		\$0.00	\$0.00	\$1,171,620.00	\$1,230,000.00	\$270,000.00
Pending Contracts	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	\$0.00
Current Contract Encumbrances	\$1,782,695.00	\$550,000.00	\$0.00	\$0.00	\$295,082.05	\$1,157,181.07	\$341,678.13
Remaining available funds	\$6,839,836.80	\$912,147.93	\$23,076.72	\$460,892.65	\$278,479.22	-\$968,619.00	\$2,174.25
Settlement Restrictions	NO	NO	NO	NO	YES	NO	NO
Type of Restriction	None	Foundation Fund can only be used with NGC	None	Money received through settlement with insurance company - no NRD requirements	All money must be spent in the Alamosa River Watershed	None	None
Interest and explanations	Recovery Fund- Trustees agreed to work with NGC for restoration projects	Waiting for Amended Consent Decree to reallocate funds to RMS Recovery Fund	None	None	Interest awarded to TU, no remaining funds available	None	Interest awarded to WEEDC, no remaining available funds

ITEM #4  
NO DOCUMENTS

ITEM #5

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Office of the Attorney General

December 10, 2021

**M E M O R A N D U M**

**TO: Colorado's Natural Resources Trustees**  
**FROM: David Kreutzer, First Assistant Attorney General**  
**RE: California Gulch Projects: Trustee Council Recommendations**

**BACKGROUND**

California Gulch was one of Colorado's original 1983 natural resource damages cases, yielding \$10.25 million. Many projects have been implemented with these funds, most recently the purchase of several properties along the Upper Arkansas River in 2021 by the Central Colorado Conservancy.

Staff for the Trustees from the Colorado Department of Public Health & Environment ("CDPHE"), Department of Natural Resources, and Department of Law work on the California Gulch site pursuant to a July 2020 Trustee Council Memorandum of Understanding with federal Trustees, a new MOU governing these funds ("New MOU").

In September 2020, Staff issued a Solicitation for Project Proposals ("SPP"), hoping to award the approximately \$7.2 million of remaining funds. Project proposals were received in September 2021. Staff followed the November 2014 Project Selection Guidance in selecting projects to recommend for funding and evaluated the proposals alongside the federal Trustees (collectively, the "Trustee Council").

**UPDATE**

The Trustee Council met pursuant to the New MOU several times, toured many of the proposed project sites, communicated with proponents, and evaluated some amendments to the originally submitted projects. The following recommendations

are unanimously supported by all members of the Trustee Council, as is required by the New MOU. We address each proposal submitted below.

**Arkansas River Watershed Counsel:**

The ARWC submittal, as amended, contains many different sub-projects. Some sub-projects have better developed plans, designs, and budgets but most are lacking in detail and the budgets contain significant errors and inconsistencies. The Trustee Council worked with ARWC on several occasions since their original submittal and provided them two sample budgets previously approved by Trustees for the Rocky Mt. Arsenal site. The Trustee Council also sent ARWC several pages of questions, requesting responses by November 8, 2021.

ARWC's revised budget provided sufficient detail, but still contained many significant errors and discrepancies, making it difficult to review and impossible to rely upon. In addition, many of the important inquiries went unanswered in ARWC's November 8, 2021 revisions to the September submittals.

The Trustee Council recognizes that ARWC improved the form of its budgets and revised or removed some projects based on feedback provided by the Trustee Council earlier. Nonetheless, the Trustee Council unanimously agreed not to recommend any of the ARWC projects for approval as they do not meet the screening criteria set out in the September 2020 SPP.

Note: The SPP provides various minimum screening criteria that proposals must meet. The SPP further provides that the Trustee Council was not to further consider proposed projects that failed to meet screening criteria. SPP ¶ VI B. 1. Trustee staff has continued to work with ARWC despite this provision because many of the projects have merit, despite not meeting the SPP requirements at this time. The Trustee Council seeks Trustee authorization to continue working with ARWC in hopes of approving many of the ARWC projects at a future Trustee meeting. In anticipation of this approval the Trustee Council has arranged to meet with ARWC in January 2022 to continue discussions.

**Central Colorado Conservancy:**

The Central Colorado Conservancy (CCC) requests \$900,000 over two (2) years to protect five (5) parcels containing 126 acres and 0.7 miles of Arkansas River frontage in Lake County. The funding will be used to acquire the parcels in fee title and protect them under perpetual conservation easements. All five of the parcels at a total of 126 contiguous acres will be included in the recently established Shawn

Andrick Memorial Preserve (Andrick Preserve) along the Arkansas River in southern Lake County. The parcels will allow for some public access by users of different abilities and have excellent connectivity with other protected land. This project builds on previous CCC projects funded by the Trustees and, according to CCC, has several years of broader development, funding, and partner support behind it.

The currently proposed CCC project is a scaled-down version of its original September 2021 submittal and the Trustee Council appreciates CCC working with other California Gulch project proponents to coordinate submittals.

CCC will spend \$1,350,000 to acquire the 5 (five) parcels; it requests \$900,000 in NRDs and will match \$450,000.

The Trustee Council unanimously recommends the Trustees fund the amended project, contingent only upon confirmation of matching funds availability.

### **Colorado Parks & Wildlife:**

Colorado Parks and Wildlife (CPW) maintains a low head dam on the Arkansas River near the Mt. Shavano State Fish Hatchery that was historically used to divert water for the hatchery. The diversion has not been used since 2000 after the Arkansas River, and subsequently the hatchery, became positive for whirling disease. The dam structure and the existing boat chute are barriers to upstream fish migration. The Arkansas River was designated a Gold Medal trout fishery by CPW in 2016 and is currently the longest stretch of Gold Medal water in the State. The river is home to brown trout, rainbow trout, and native white suckers. All river fishes have an innate instinct to migrate long distances upstream to spawn. Diversions limit the amount of genetic diversity by essentially dividing the population into two segments. The ability of fish to move freely in a river also helps to prevent overpopulation by balancing the amount of habitat and forage with the number of fish it can support. The structure has also been a safety concern for whitewater recreation and has been involved in several fatalities and countless near-drownings.

CPW proposes to restore the Arkansas River mostly to its natural state by completely removing the diversion and boat chute and installing several natural-looking cross-vane and/or constructed rock riffle structures that will allow for safe fish and boat passage. The removal of the existing diversion structure will allow for fish to swim 85 miles upstream to the headwaters of the East Fork of the Arkansas



River. These rock structures will also improve the fish habitat by creating deeper overwintering pools and reducing shear stress on the banks which causes erosion.

This project will have the multiple benefits of restoring the river to its natural state, increasing public access, improving fish populations, restoring aquatic habitat, and enhancing angling opportunities.

CPW estimates the total project cost at \$1,662,600, with NRDs providing \$831,300, for a 50% match from other sources, including CPW's own funds.

The Trustee Council unanimously recommends the Trustees fund CPW's project, contingent only upon confirmation of matching funds availability.

### **Colorado State University:**

CSU proposes to continue long-standing scientific sampling and studies regarding the Arkansas River's response to remediation, especially the reduction in heavy-metals loading to the riparian zone. CSU's studies have covered the last 32 years. According to CSU, this dataset represents the longest continuous record and most comprehensive assessment of aquatic communities and associated water quality in North America. Because data were collected from reference and treatment sites before and after remediation and/or restoration, CSU can employ a powerful before-after control-impact experimental design to directly link changes in aquatic communities to improvements in water quality and habitat. CSU's long-term data provide an opportunity to quantify the success of new remediation and restoration projects in the Arkansas River.

CSU's total project cost is \$733,183, of which \$480,500 will be NRDs funds if approved, and have arranged \$252,683 in matching funds.

The Trustee Council unanimously recommends the Trustees fund the monitoring project, contingent only upon confirmation of matching funds availability.

### **River Science:**

River Science proposes to restore Arkansas River tributaries adversely impacted by the Hayden Peak Fire of July 2016, which burned 16,700 acres. Nine impacted drainages showed elevated flow levels, sediment transport, and significant damage. Most notably, in 2018, two years post-fire, a devastating flood wreaked havoc on Big Cottonwood Creek. According to precipitation data, the flood was determined to be

a 25-year rain event. However, the impacts were as if from a much bigger rainfall; the dramatic increase in flow was due to large amounts of debris distributed in the floodwaters from the burn scar. The impacts included incising a deep channel into what had been a broad mountain stream, well-connected to its flood-plain.

River Science reports they have worked with ARWC and other local partners to address issues caused by the Hayden Pass Fire and subsequent flooding. Five years post-fire and three years post-flood, they propose to work towards rehabilitation, restoration, and improvement of this area's riparian systems and habitat. River Science says it has completed extensive community outreach, hydraulic and hydrologic modeling, risk assessments, and long-term recovery planning.

The River Science project will focus on restoring fluvial processes to Big Cottonwood Creek using Process-Based Restoration ("PBR") techniques. PBR uses simple, hand-built structures that mimic beaver dams (beaver dam analogs) and large wood accumulations (i.e., post-assisted log structures). River Science suggests PBR as a way to accelerate this channel bed aggradation and to improve the conditions in a few as opposed to hundreds of years.

River Science has proposed a \$227,788 total budget, requests \$113,444 in NRDs and proposes \$114,344 of in-kind and cash matching funds.

The Trustee Council unanimously recommends the Trustees fund the monitoring project, contingent only upon confirmation of matching funds availability.

### **United States Forest Service:**

The USFS proposes relocation of a popular destination trail and parking area so as to make access to Lost Lake more sustainable. The current trailhead and social trails create a braided trail system through the riparian area and cause sediment loss through the wetlands, and continued resource damage from off route travel and parking. Though the distance to the lake is roughly 1.2 miles, there is estimated to be about 3 miles of total trail due to braiding and various access points.

The USFS would like to establish a planned trailhead and official trails to access the popular Lost Lake. According to the USFS, the project will assist with watershed restoration primarily; however, the new trailhead and trails will also benefit forest health, wildlife habitat, heritage sites, and scenic views while improving safety for public users and extending the recreational user experience. The new trail will be primarily located along an old administrative road complete with raised tread and culverts to ensure the trail stays out of the water. After

installation of the new trail location, USFS will remove the old social trails. The Colorado Trustees usually do not fund parking lot construction or trail creation, but as noted below, federal Cal Gulch settlement dollars will be allocated to this project.

USFS proposes a project cost of \$121,599.20, and requests \$79,830 in NRDs funding.

The United States Department of the Interior holds Cal Gulch settlement funds and can transfer the \$79,830 directly to the USFS without the need for any State contracting through CDPHE. This is a benefit to CDPHE.

The Trustee Council unanimously recommends the Trustees fund the monitoring project, contingent only upon confirmation of matching funds availability.

#### RECOMMENDATION FOR ACTIONS

Please approve and sign the attached Resolutions authorizing the above recommended projects. Also please approve continued engagement with ARWC to refine their proposals.

#### ATTACHMENTS

Five Trustee Resolutions



**COLORADO NATURAL RESOURCES TRUSTEES**  
**December 10, 2021**  
**RESOLUTION CONCERNING**  
**CENTRAL COLORADO CONSERVANCY PROPERTY ACQUISITIONS**

**WHEREAS**, the Colorado Natural Resources Trustees (“Trustees”) are responsible for the management and direction of Colorado’s natural resource damages program and have coordinated with federal trustee agency counterparts to form a Trustee Council pursuant to a 2020 Memorandum of Understanding;

**WHEREAS**, the Trustees are responsible for administering State funds to restore, replace, or acquire the equivalent of injured natural resources;

**WHEREAS**, the Central Colorado Conservancy has requested \$900,000 from the State’s California Gulch Natural Resources Damages (“NRDs”) fund to help acquire five properties and establish conservation easements and public access easements for fishing, hunting, and wildlife watching. The five parcels at a total of 126 contiguous acres will be included in the Shawn Andrick Memorial Preserve (“Andrick Preserve”) along the Arkansas River in southern Lake County;

**WHEREAS**, the Trustee Council has determined: (1) that acquisition and protection of the 126 acres, including public access, is consistent with the Restoration Plan and Environmental Assessment for the Upper Arkansas River Watershed; (2) that the project has a strong nexus to the natural resources injured because it provides the opportunity to protect parcels that provide resource benefits for the same type of resources as those that were injured; and (3) that existing planning processes have identified land acquisition as a high priority in the Arkansas River Valley and in the watershed;

**NOW THEREFORE**, the Trustees resolve as follows:

The Trustees do hereby approve allocation of \$900,000 from the California Gulch NRDs fund to fund the September 28, 2021 Amended Central Colorado Conservancy Proposal to the Natural Resource Trustees for the California Gulch Superfund Site.

This approval is subject to the following conditions:

(1) This resolution will expire December 1, 2026, and the funds will no longer be available, unless a contract consistent with this resolution is executed by that date.

(2) Release of the Funds is contingent on compliance with all laws and regulations, including but not limited to: State and Federal laws, local ordinances, and permitting and zoning requirements.

(3) Release of the Funds is contingent on physical and legal access to the parcels.

(4) Release of the Funds, prior to closing on the fee simple acquisition of any of the ten (10) properties, and prior to conveyance of the conservation easement and the public access easement is contingent on the following for each parcel:

- a. Review and Approval by Trustees' staff of the purchase and sale agreements and the due diligence materials including but not limited to: a phase 1 environmental Assessment, Appraisal, Baseline or Present Conditions Report, title work, and a Minerals Remoteness report in the event minerals have been severed. After the staff's review of the legal description and the Title Commitment, the staff may require a survey(s) to resolve any discrepancies or concerns.
- b. Review and Approval by Trustees' staff of the proposed conservation easement and proposed public access easement.

(5) Release of the Funds is further conditioned upon:

- a. Restatement and amendment of the conservation easement presently encumbering the "Arkansas Preserve" parcel to include the additional five (5) parcels or an alternative mechanism to provide for a unified easement encumbering all five (5) parcels.
- b. Subsequent to the acquisition of any of the parcels, the parcels shall be placed under the conservation easement and the public access easement without waiting for further parcel acquisitions. The failure to acquire any single parcel shall not result in this Resolution becoming ineffective as to the remaining parcel or parcels.

(6) Except as Funds are required for closing the acquisition of a parcel(s), Release of the Funds is on a reimbursable basis or as conditioned in the funding agreement between the Central Colorado Conservancy and the Colorado Department of Public Health and Environment.

Colorado Natural Resources Trustees Resolution #2021-12-01-01

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Philip J. Weiser  
Colorado Attorney General

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Date

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Jill Hunsaker Ryan,  
Executive Director, CDPHE

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Date

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Dan Gibbs, Executive Director, DNR

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Date

DRAFT





**COLORADO NATURAL RESOURCES TRUSTEES**  
**December 10, 2021**  
**RESOLUTION**  
**CONCERNING CPW DAM REMOVAL**

**WHEREAS**, the Colorado Natural Resources Trustees (“Trustees”) are responsible for the management and direction of Colorado’s natural resource damages program and have coordinated with federal trustee agency counterparts to form a Trustee Council pursuant to a 2020 Memorandum of Understanding;

**WHEREAS**, the Trustees are responsible for administering State funds to restore, replace, or acquire the equivalent of injured natural resources;

**WHEREAS**, the Department of Natural Resources, Colorado Parks and Wildlife has requested \$831,300 from the State’s California Gulch Natural Resources Damages (“NRDs”) fund to help remove a low-head dam blocking fish passage on the Arkansas River;

**WHEREAS**, the Trustee Council has determined: (1) that improving riparian habitat is consistent with the Restoration Plan and Environmental Assessment for the Upper Arkansas River Watershed; (2) that the project has a strong nexus to the natural resources injured because it improves fish habitat and provides resource benefits for the same type of resources as those that were injured; and (3) that existing planning processes have identified fish habitat as a high priority in the Arkansas River Valley and in the watershed;

**NOW THEREFORE**, the Colorado Natural Resource Trustees resolve as follows:

The Trustees do hereby approve allocation of \$831,300 from the California Gulch NRD fund to fund the September 2021 Mount Shavano State Fishery Low-Head Dam Removal proposal.

This approval is subject to the following conditions:

(1) This resolution will expire December 1, 2026, and the funds will no longer be available, unless a contract consistent with this resolution is executed by that date.

(2) Release of the Funds is contingent on compliance with all laws and regulations, including but not limited to: State and Federal laws, local ordinances, and permitting and zoning requirements.

Colorado Natural Resources Trustees Resolution #2021-12-01-02

(3) Release of the Funds is on a reimbursable basis or as conditioned in the funding agreement between Colorado Parks and Wildlife and the Colorado Department of Health and Environment.

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Philip J. Weiser  
Colorado Attorney General

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Date

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Jill Hunsaker Ryan,  
Executive Director, CDPHE

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Date

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Dan Gibbs, Executive Director, DNR

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Date



**COLORADO NATURAL RESOURCES TRUSTEES**  
**December 10, 2021**  
**RESOLUTION CONCERNING**  
**COLORADO STATE UNIVERSITY ARKANSAS RIVER STUDIES**

**WHEREAS**, the Colorado Natural Resources Trustees (“Trustees”) are responsible for the management and direction of Colorado’s natural resource damages program and have coordinated with federal trustee agency counterparts to form a Trustee Council pursuant to a 2020 Memorandum of Understanding;

**WHEREAS**, the Trustees are responsible for administering State funds to restore, replace, or acquire the equivalent of injured natural resources;

**WHEREAS**, Colorado State University (“CSU”) has requested \$480,500 from the State’s California Gulch Natural Resources Damages (“NRDs”) fund to study the impacts of Superfund Remediation and Natural Resources Damages Restoration projects implemented in response to the 1983 California Gulch National Priorities List Site listing;

**WHEREAS**, the NRD Trustee Council has determined: (1) that studying the effectiveness of past Restoration and Remediation projects will better inform future Restoration efforts; and (2) that the project has a strong nexus to the natural resources injured because it provides the opportunity to better inform future project selection for the same type of resources as those that were injured;

**NOW THEREFORE**, the Colorado Natural Resource Trustees resolve as follows:

The Trustees do hereby approve allocation of \$480,500 from the California Gulch NRD fund to fund CSU’s September 2021 “Assessing remediation and restoration effectiveness in the Upper Arkansas River” proposal.

This approval is subject to the following conditions:

- (1) This resolution will expire December 1, 2026, and the funds will no longer be available, unless a contract consistent with this resolution is executed by that date.
- (2) Release of the Funds is contingent on compliance with all laws and regulations, including but not limited to: State and Federal laws, local ordinances, and permitting and zoning requirements.

Colorado Natural Resources Trustees Resolution #2021-12-01-05

(3) Release of the Funds is contingent on completion and delivery of annual reports and the final report, based on invoices from CSU.

(4) Release of the Funds is on a reimbursable basis or as conditioned in the funding agreement between CSU and the Colorado Department of Health and Environment.

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Philip J. Weiser  
Colorado Attorney General

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Date

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Jill Hunsaker Ryan,  
Executive Director, CDPHE

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Date

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Dan Gibbs, Executive Director, DNR

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Date



**COLORADO NATURAL RESOURCES TRUSTEES**  
**December 10, 2021**  
**RESOLUTION CONCERNING**  
**RIVER SCIENCE UPPER ARKANSAS RIVER**  
**FIRE IMPACT RESTORATION**

**WHEREAS**, the Colorado Natural Resources Trustees (“Trustees”) are responsible for the management and direction of Colorado’s natural resource damages program and have coordinated with federal trustee agency counterparts to form a Trustee Council pursuant to a 2020 Memorandum of Understanding;

**WHEREAS**, the Trustees are responsible for administering State funds to restore, replace, or acquire the equivalent of injured natural resources;

**WHEREAS**, River Science has requested \$113,444.00 from the State’s California Gulch Natural Resources Damages (“NRDs”) fund to help restore tributaries to the Arkansas River impacted by the Hayden Peak Fire;

**WHEREAS**, the Trustee Council has determined: (1) that restoring Big Cottonwood Creek is consistent with the Restoration Plan and Environmental Assessment for the Upper Arkansas River Watershed; and (2) that the project has a strong nexus to the natural resources injured because it provides the opportunity to restore riparian habitat and provide resource benefits for the same type of resources as those that were injured;

**NOW THEREFORE**, the Colorado Natural Resource Trustees resolve as follows:

The Trustees do hereby approve allocation of \$113,444 from the California Gulch NRDs fund to fund the September 2021 Big Cottonwood Post-Fire Long-Term Recovery & Restoration Proposal from River Science.

This approval is subject to the following conditions:

(1) This resolution will expire December 1, 2026, and the funds will no longer be available, unless a contract consistent with this resolution is executed by that date.

(2) Release of the Funds is contingent on compliance with all laws and regulations, including but not limited to: State and Federal laws, local ordinances, and permitting and zoning requirements.

Colorado Natural Resources Trustees Resolution #2021-12-01-04

(3) Release of the Funds is contingent on completion of each of four Tasks identified in the River Science Proposal, on a task-by-task basis.

(4) Release of the Funds is on a reimbursable basis or as conditioned in the funding agreement between River Science and the Colorado Department of Health and Environment.

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Philip J. Weiser  
Colorado Attorney General

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Date

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Jill Hunsaker Ryan,  
Executive Director, CDPHE

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Date

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Dan Gibbs, Executive Director, DNR

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Date





**COLORADO NATURAL RESOURCES TRUSTEES**  
**December 10, 2021**  
**RESOLUTION CONCERNING**  
**UNITED STATES FOREST SERVICE LOST LAKE ACCESS**

**WHEREAS**, the Colorado Natural Resources Trustees (“Trustees”) are responsible for the management and direction of Colorado’s natural resource damages program and have coordinated with federal trustee agency counterparts to form a Trustee Council pursuant to a 2020 Memorandum of Understanding (“MOU”);

**WHEREAS**, the Trustees are responsible for administering State funds to restore, replace, or acquire the equivalent of injured natural resources;

**WHEREAS**, the United States Forest Service (“USFS”) has requested \$79,830 from the State’s California Gulch Natural Resources Damages (“NRDs”) fund to help obliterate improper trailheads and social trails accessing USFS property in the Lost Lake area, Chaffee County;

**WHEREAS**, the Trustee Council has determined: (1) that restoration of USFS property in the Lost Lake area is consistent with the Restoration Plan and Environmental Assessment for the Upper Arkansas River Watershed; (2) that the project has a strong nexus to the natural resources injured because it protects riparian habitat, the same type of resources as those that were injured; and (3) that existing planning processes have identified riparian habitat restoration as a high priority in the Arkansas River Valley and in the watershed;

**NOW THEREFORE**, the Colorado Natural Resource Trustees resolve as follows:

Pursuant to the MOU, the Trustees support the Department of the Interior transferring sufficient funds to the USFS to complete this project.

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Philip J. Weiser  
Colorado Attorney General

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Date

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Jill Hunsaker Ryan,  
Executive Director, CDPHE

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Date

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Dan Gibbs, Executive Director, DNR

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Date

DRAFT

ITEMS #6-11  
NO DOCUMENTS