

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE
BACA GRANDE WATER AND SANITATION DISTRICT

May 15, 2024 - 9:00 A.M.

District Office – 57 Baca Grant Way South

Crestone, Colorado 81131

Meeting held via Zoom

ATTENDANCE

Directors in Attendance:

Vivia Lawson

John Loll

Rick Hart

David Karas

Also in Attendance:

Marcus Lock, District Legal Counsel

Diego Martinez, District Manager

Natalie DeBon, Administrative Manager

Gary Potter, Director of Utilities

Cathy Fromm, District Accountant (for a portion of the meeting)

Community Members and Guests:

Dan Gray

Lisa Cyriacks

CALL TO ORDER

President Lawson called the meeting to order at 9:01 A.M.

Board Roll Call: All Directors were present except Director Smith, as he had an excused absence.

Director Loll, joined the meeting at 9:28 AM.

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

Members of the Board were requested to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting. No potential conflicts were disclosed.

AGENDA

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR HART, SECONDED BY DIRECTOR KARAS AND UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE AGENDA.

APPOINTMENT OF OFFICERS

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR HART, SECONDED BY DIRECTOR KARAS AND UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPOINTED OFFICERS AS FOLLOWS, WITH DIRECTOR SMITH'S ACCEPTANCE SCHEDULED FOR NEXT BOD MEETING.

President : Vivia Lawson

Vice President: Rick Hart

Treasurer: Mike Smith

Secretary: David Karas

CONSENT AGENDA

The Board considered the following consent agenda items:

- REVIEW AND ACCEPT UNAUDITED FINANCIAL STATEMENTS FOR THE PERIOD ENDING APRIL 30, 2024 AND CURRENT SCHEDULE OF CASH POSITION.
- APPROVE MINUTES FROM THE APRIL, 2024 REGULAR MEETING
- APPROVE MINUTES FROM THE APRIL, 2024 BOARD RETREAT

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR KARAS, SECONDED BY DIRECTOR HART AND UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE CONSENT AGENDA.

PUBLIC COMMENT (ITEMS NOT ON THE AGENDA ONLY. NO ACTION MAY BE TAKEN). *In accordance with the Colorado Open Meetings Law, no Board action will take place until a later date, if necessary. Please limit your comments to three minutes or less.*

Dan Gray: voiced his concerns that the Town of Crestone should be included into the District.

FINANCIAL MATTERS

Check Register: The Board discussed and considered approval of the check register through the period ending May 15, 2024 as follows:

| | | |
|-------------------|----|------------------|
| General | \$ | 6,760.50 |
| Capital | \$ | 823.52 |
| <u>Enterprise</u> | \$ | <u>33,301.27</u> |
| | \$ | 40,885.29 |

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR HART, SECONDED BY DIRECTOR KARS AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE CHECK REGISTERS FOR THE PERIODS ENDING MAY 15, 2024.

Engineer’s Report:

The Board reviewed the Engineer’s report incorporated in the Board packet, attached to the minutes as supporting documentation. Mr. Marcotte was not able to attend the BOD Meeting this month. Mr. Martinez discussed a few highlights from the Engineer’s report.

STAFF REPORTS

The Board reviewed and discussed the reports incorporated in the Board packet; the staff reports are attached to the minutes as supporting documents.

Planning Committee

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR HART, SECONDED BY DIRECTOR KARAS AND UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD FORMED THE PLANNING COMMITTEE WITH DIRECTOR LOLL AS A CHAIR; AN ADDITIONAL MEMBER OF THE COMMITTEE WILL BE ASSIGNED AT A LATER DATE.

June Board Meeting

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR HART, SECONDED BY DIRECTOR KARAS AND UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD RESCHEDULED JUNE BOD MEETING TO WEDNESDAY JUNE 26TH, 2024.

BGWSD 4/10 Work Schedule Presentation:

MOTION: THE BOARD DISCUSSED THE PROPOSAL AND, FOLLOWING A MOTION BY DIRECTOR LOLL, SECONDED BY DIRECTOR KARAS, UNANIMOUSLY APPROVED A THREE-MONTH TRIAL PERIOD FOR A NEW 10-HOUR PER DAY, FOUR-DAY WORKWEEK SCHEDULE, RUNNING FROM MONDAY TO THURSDAY. THIS TRIAL AIMS TO EVALUATE THE BENEFITS FOR THE STAFF AND CUSTOMERS. THE BOARD WILL DEVELOP A TOOL TO GATHER FEEDBACK FROM BOTH STAFF AND CUSTOMERS. BASED ON THIS FEEDBACK, THE BOARD WILL DECIDE ON THE SPECIFICS OF THE SCHEDULE, INCLUDING THE TIMEFRAME AND LENGTH OF THE WORKDAY.

THE DISTRICT MANAGER WAS DIRECTED TO INCLUDE UPDATES ON THE TRIAL IN THE MONTHLY REPORT TO MONITOR PROGRESS. THE TRIAL WILL BEGIN ON JUNE 17TH, 2024. NOTICE SHOULD BE PUBLISHED IN THE CRESTONE EAGLE.

Legal Matters**USFSW Water Service Agreement:**

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR HART, SECONDED BY DIRECTOR KARAS AND UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD MOVED THAT THE DISTRICT ENTER INTO THE ONE YEAR EXTENSION OF THE SHORT TERM AMENDMENT WITH USFWS, AND A PRICE OF \$75.00/ACRE-FOOT FOR UP TO 500 ACRE-FEET WILL BE EXTENDED UNTIL MAY 31ST 2025. PRESIDENT LAWSON WAS ASKED TO SIGN THE EXTENSION AS SOON AS POSSIBLE IN ORDER TO FACILITATE A COUNTER-SIGNATURE FROM USFWS.

ADJOURNMENT:

THERE BEING NO FURTHER BUSINESS TO DISCUSS, UPON MOTION DULY MADE DIRECTOR LOLL, SECONDED BY DIRECTOR KARAS AND UPON VOTE, UNANIMOUSLY CARRIED, THE MEETING WAS ADJOURNED AT 10:59 A.M.

THE NEXT REGULAR MEETING IS SCHEDULED FOR
June 26, 2024

Drafted by Natalie DeBon

Natalie DeBon

Signed with DocuBee — 3db358fd6817

Respectfully submitted,

Diego Martinez

Signed with DocuBee — 18a33bc7d72c

Diego Martinez

THESE MINUTES ARE APPROVED AS THE OFFICIAL May 15th, 2024 MINUTES OF THE BACA GRANDE WATER AND SANITATION DISTRICT BY THE BOARD OF DIRECTORS SIGNING BELOW:

Vivia Lawson
Signed with DocuSign - 59451e0aa482

Vivia Lawson

John Loll

Mike Smith

Mike Smith

rick
Signed with DocuSign - 75c08595c51c

Rick Hart

David Karas
Minutes - 8f73c448a9f0

David Karas

**NOTICE OF REGULAR MEETING and AGENDA
BACA GRANDE WATER AND SANITATION DISTRICT BOARD of DIRECTORS**

WHEN: Wednesday, May 15, 2024

TIME: 9:00 AM

WHERE: **TELECONFERENCE VIA Zoom** [Ctrl+click to join Zoom meeting](#) (see below)

| <u>Board of Directors</u> | <u>Office</u> | <u>Term/Expiration</u> |
|---------------------------|---------------------|------------------------|
| Viva Lawson | President | 2025/May 2025 |
| John Loll | Vice-President | 2025/May 2025 |
| Mike Smith | Treasurer/Secretary | 2027/May 2027 |
| Rick Hart | Director | 2025/May 2025 |
| David Karas | Director | 2027/May 2027 |

****Requires Board Action***

I. CALL TO ORDER

- Present disclosures and potential conflicts of interest
- Board Roll Call

II. *Approve Agenda

III. * CONSIDER APPOINTMENTS OF OFFICERS

President _____
 Vice President _____
 Treasurer _____
 Secretary _____

IV. *CONSENT AGENDA

These items are considered routine and will be approved and/or ratified by one motion. There will be no separate discussion of these items unless a Board member so requests; in which event, the item will be removed from the Consent Agenda and considered in the Regular Agenda.

- a. * Approve Minutes from the April, 2024 Regular Meeting
 - b. * Approve Minutes from the April, 2024 Board Retreat
-

- c. * Review and accept unaudited financial statements for the period ending April 30, 2024 and current schedule of cash position (enclosure)
-

V. PUBLIC COMMENT (ITEMS NOT ON THE AGENDA ONLY. NO ACTION MAY BE TAKEN)

Per Colorado Open Meetings Law, no Board discussion or action will take place until a later date, if necessary. Speakers must identify themselves with their full name and address. Each speaker's comments are limited to three minutes or less.

VI. FINANCIAL MATTERS

a. * Review and approve the check register for the period ending May 17, 2024(enclosure)

| | |
|-------------------|---------------------|
| General | \$ 6,760.50 |
| Capital | \$ 823.52 |
| <u>Enterprise</u> | <u>\$ 33,301.27</u> |
| Total | \$40,885.29 |

VII. BOARD AND STAFF REPORTS

- a. Board of Director Matters
 - b. District Engineer Report (enclosure)
 - c. District Manager Report (enclosure)
 - Planning Committee
 - June Board Meeting
 - 4/10 Work Schedule Presentation
 - d. Administrative Manager's Report (enclosure)
 - e. Director of Utilities Report (enclosure)
-

VIII. LEGAL MATTERS

- a. *USFSW Water Service Agreement
-

IX. EXECUTIVE SESSION

Adjourn to Executive Session pursuant to C.R.S. § 24-6-402(4) (a), (b), and (e), which respectively concern, the purchase or lease of real property, specific legal advice from counsel, and determining positions relative to matters subject to negotiation regarding the lease rate for the next 20-year term of the Water Service Agreement and the terms and conditions for continued provision of sewer service to the Town of Crestone as well as negotiations related thereto.

X. ADJOURN

**Requires Board Action*

**NEXT REGULAR MEETING IS SCHEDULED FOR
TBD**

Join Zoom Meeting

<https://us02web.zoom.us/j/87269124750?pwd=ZmZVcTd2Y0UycW0vRmFWNS9wTU5WQT09>

Meeting ID: 872 6912 4750 -- Passcode: 638055 -- One tap mobile - Dial by your location +1 346 248 7799 US (Houston)

Chapter II

Conflicts of Interest

The Colorado statutes establish a code of ethics for all local government officials and the Special District Act adds standards of conduct that apply only to special district Directors. Public officials can look to these in order to determine whether certain official actions are proper or improper. The holding of a public office is a “public trust” and Directors must carry out their duties for the benefit of the people, not for their own self-interest. The statutory code of ethics attempts to balance the conflicts of a private interest with the public duty.

A. Disclosure Required:

Any Director shall disqualify himself/herself from voting on any issue in which he/she has a conflict of interest, unless such Director has disclosed the conflict of interest as required by law to the Secretary of State and to the Board, [§32-1-902\(3\)\(b\), C.R.S.](#), and then only to vote if his/her participation is necessary to obtain a quorum or otherwise enable the Board to act. [§24-18-109\(3\)\(b\), C.R.S.](#)

A Director with a conflict who does not vote shall also refrain from attempting to influence the decisions of other members of the Board in voting on the matter. [§24-18-109\(3\)\(a\), C.R.S.](#)

A Director is guilty of failing to disclose a conflict of interest if he/she exercises any substantial discretionary function in connection with a government contract without having given 72 hours’ actual advance written notice to the Secretary of State and to the District Board of the existence of a known potential conflicting interest. [§18-8-308\(1\), C.R.S.](#) Failure to disclose a conflict of interest is a class 2 misdemeanor. [§18-8-308\(3\), C.R.S.](#)

B. Proscribed Acts Constituting a Conflict of Interest:

A potential conflict of interest exists when the Director is an executive officer or owns or controls, directly or indirectly, a substantial interest in any nongovernmental entity participating in the transaction. [§18-8-308\(2\), C.R.S.](#)

A District Board member, as a local government official (elected or appointed), or a District employee, shall not:

1. Disclose or use confidential information acquired in the course of his/her official duties in order to further his/her personal financial interests.
2. Accept gifts of substantial value or of substantial economic benefit tantamount to a gift of substantial value, which would

tend to improperly influence a “reasonable person” in his/her public position to depart from the faithful and impartial discharge of his/her public duties or which he/she knows or which a reasonable person in his/her position should know under the circumstances is primarily for the purpose of rewarding him/her for official action he/she has taken.

3. Engage in a substantial financial transaction for his/her private business purposes with a person whom he/she inspects or supervises in the course of his/her official duties.
4. Perform an official act directly and substantially affecting to its economic benefit, a business or other undertaking in which he/she either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.
5. Be interested in any contract made in his/her official capacity or by any body, agency, or Board of which he/she is a member or employee.
6. Be a purchaser at any sale or vendor at any purchase made by him/her in his/her official capacity. [§§24-18-104, 24-18-109, 24-18-201, and 24-18-202, C.R.S.](#)

The following exceptions exist which are *not* considered to be conflicts of interest:

1. A Director holding a minority interest in a corporation contracting with the District is not considered “interested” in such contract. [§24-18-201\(1\)\(a\), C.R.S.](#);
2. Contracts in which the Director has disclosed a personal interest and has not voted thereon; and
3. A Director may vote, notwithstanding any other prohibition, if participation is necessary to obtain a quorum or otherwise enable the Board to act, and if the Director complies with voluntary disclosure procedures. [§24-18-109\(3\)\(b\), C.R.S.](#)

Note All of these exceptions must be very carefully scrutinized for legal compliance purposes. Perhaps no area offers greater potential exposure to liability than the area of conflicts of interest. Before a Director takes any action which may involve a potential conflict of interest, all legal implications as well as the policy implications and appearance of impropriety should be considered.

C. Guides to Conduct Regarding Ethical Principles:

The following principles are intended as guides to conduct; they do not constitute violations of the public trust or employment in local government unless circumstances would otherwise so indicate:

1. A local government official or employee should not acquire or hold an interest in any business or undertaking which he/she has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the local government agency over which he/she has substantive authority.
2. A local government official or employee should not, within six months following the termination of his/her office or employment, obtain employment in which he/she will take direct advantage, unavailable to others, of matters with which he/she was directly involved during his/her term of employment.
3. A local government official or employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he/she has a substantial financial interest in a competing firm or undertaking. *§24-18-105(4), C.R.S.*

D. Conflicts Involving Developer Districts:

A Director who owns undeveloped land constituting at least 20% of the District's territory must disclose such ownership by giving 72-hours' advance written notice to the Secretary of State and the Board before each meeting of the Board, and such disclosure must be entered in the minutes. "Undeveloped land" means real property which has not been subdivided or on which no improvements have been constructed, excluding dedicated parks, recreation areas, or open spaces. *§32-1-902(4), C.R.S.*

No contract for work or material including a contract for services, regardless of amount, may be entered into between a District and a Board member or a person owning 25% or more of the territory within the District unless notice for bids is published and the Board member or owner submits the lowest responsible and responsive bid. *§32-1-1001(1)(d)(II), C.R.S.*

E. Effect of Existence of Potential Conflict of Interest:

Failing to disclose a potential conflict of interest is a criminal misdemeanor and could result in prosecution. *§18-8-308(3), C.R.S.*

Any contract, vote, or other official act in which a Director had a potential conflict, not cured by disclosure, may result in the act or contract being voided.

Officers of the Board Quick Reference

The Board of Directors is the governing authority of the district. Apart from his/her normal function as a part of this unit, or as directed by the Board, no individual director may commit the district to any policy, act, or expenditure. All powers, privileges, and duties vested in or imposed upon the district shall be exercised and performed by and through the Board. The Board may delegate to Officers, employees, and agents of the district any or all administrative and ministerial powers, but cannot delegate away the ultimate responsibility for the governance of the district.

REPRESENTATION

The Board of Directors as a whole should not represent any factional segment of the district, but rather should represent and act for the district as a whole. The Board of Directors shall comply with and be guided by applicable state laws and regulations including the Colorado Special District Act and applicable state and federal laws and regulations.

OFFICERS

Annually, at the first regular Board meeting following the biennial election of Board members, and during the same month in the following year, the Board should select a President, Vice President, Treasurer, and Secretary for the next year.

PRESIDENT

The President (or Chairman) should perform the duties of presiding officer at all meetings of the Board of Directors; carry out the resolutions and orders of the Board of Directors; and perform such other duties as the Board of Directors prescribes.

The President (Chairman) should be the Board's liaison to the Manager and should work with the Manager to develop the Board agenda prior to each Board meeting. The President (Chairman) should convey the Board's actions and directions to the Manager, and monitor the Manager's progress on Board directives and policies.

The President is authorized to sign all official documents of the district.

VICE PRESIDENT

When the President resigns or is absent or disabled, the Vice President (Vice Chair) shall perform the President's duties. When the President disqualifies himself/herself from participating in an agenda item, the Vice President shall perform the duties of the presiding officer.

TREASURER

The Treasurer shall be a member of the Board and shall be responsible for seeing that appropriate financial procedures are in place and that accurate financial records are kept.

The Treasurer shall also be responsible to see that an annual budget is prepared and adopted pursuant to the provisions of the Colorado Budget Act.

SECRETARY

The Secretary may be a member of the Board and shall be responsible for seeing that accurate minutes of Board meetings are kept and preserved.

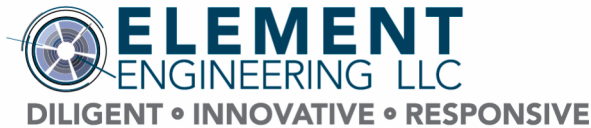
The Secretary and Treasurer may be the same person, but if such is the case, he or she shall be a member of the Board.

MANAGER

The Board may hire a Manager or contract with an administrator to serve for such term and upon such conditions, including compensation, as the Board may establish. The Manager shall have general supervision over the administration of the affairs, employees, and business of the district. He/she shall also be charged with the hiring and discharging of employees and the management of district properties.

The Manager, as authorized by the Board, can have the care and custody of the general funds of the district and shall deposit or cause to be deposited the same in the name of the district in such banks or savings associations as the Board may select.

The Board may delegate to Officers, employees, and agents of the district any or all administrative and ministerial powers, but cannot delegate away the ultimate responsibility for the governance of the district.



MONTHLY ENGINEER'S REPORT

DATE OF MEETING: MAY 15, 2024
CLIENT: BACA GRANGE WATER & SANITATION DISTRICT (BGWSD)
SUBJECT: MONTHLY ENGINEER'S REPORT **NEW ITEMS IN BOLD**

GENERAL ENGINEERING (PROJECT NO. 0001)

The district's discharge permit expires on November 30, 2024. A discharge permit application must be filed six months prior to the termination of the permit. Therefore, the permit application is due on May 30, 2024. Element will assist the district with the discharge permit application. Currently the district has an individual permit. If it is possible, Element recommends the district apply for a general permit as there are several benefits of a general over an individual. We are currently reviewing if the district is eligible for a general permit.

We are currently working on the general permit renewal application and plan to have that sent to the district for review by the end of February.

Element is assisting the district with an application for the FY2024 Water Smart grant. This application will be written in support of a project to replace outdated water meters and install meters and meter pits where meters are located in homes. The grant is due by February 22nd.

The Water Smart grant application for meter replacements was submitted. Element continues to work with the district on compiling the discharge permit renewal application and associated documentation.

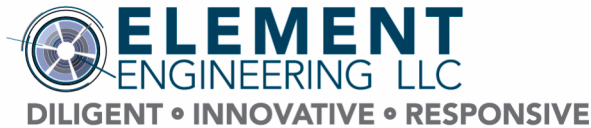
No items to report.

WATER AND WASTEWATER MASTER PLAN UPDATE (PROJECT NO. 0009)

The Water and Wastewater Master Plan Update document has been finalized in draft format and provided to the BGWSD staff and board for review.

The master plan was approved by the district board in September 2022. The district approved Water and Wastewater Master Plan culminated in recommendations for water and wastewater system improvements. These recommendations are being included in the Wastewater Treatment Plant Improvements (Project No. 0010) and Water Treatment Plant Improvements (Project No. 0011) projects. Status reports on these projects are presented under their respective project numbers.

The master plan also included recommendations for water loss reduction. Reporting on progress for this item is listed under General Engineering (Project No. 0001). As the master plan document itself has been approved, and action is being taken on the master plan recommendations, no additional updates will be included on this project number.



WASTEWATER TREATMENT PLANT IMPROVEMENTS (PROJECT NO. 0010)

Element has provided the district with a proposal to complete a Wastewater Treatment Plant (WWTP) Improvements Preliminary Engineering Report and Environmental Report. The report will be assembled for United States Department of Agriculture (USDA) Rural Development (RD) funding of a new or upgraded/expanded WWTP. A preliminary schedule for the proposed project is shown below. Note that this schedule may vary widely based on review time by CDPHE and USDA as each entity reviews and processes the required submittals.

- Compile and submit Preliminary Engineering Report (Includes ER and RD Apply funding application) December 2022
- USDA review and funding/underwriting (Note this timeline is assumed and is shown conservatively long) January 2023 – July 2023
- USDA Letter of Conditions Coordination July 2023 – September 2023
- Design, CDPHE and local permitting September 2023 – August 2024
- Bidding November 2024
- Construction March 2025 – March 2026

Element was approved on the wastewater PER/ER in the district's September special meeting. We intend to meet the deadline for the PER/ER of the end of December 2022.

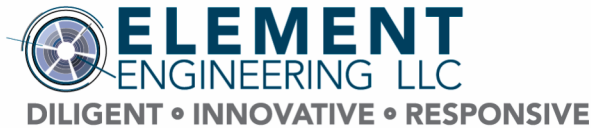
The PER was submitted to district staff for review in December of 2022. We are working to schedule a staff review meeting prior to updating the draft for submittal to the board for review. It is expected that the PER will be submitted to the board for review in late January or early February.

The PER was reviewed with staff on January 23, 2023. An updated PER has been provided to the district along with a PER summary handout. A work session to review the PER has been scheduled for Thursday February 23rd. USDA has informed Element that, based on the suggested project scope, an Environmental Report is required. Our original goal was to demonstrate that this was not required due to the fact that the disturbance would all occur at existing project locations, however, after review USDA has required the ER to be compiled and submitted as part of the project. Our current proposal has funding for this work but excludes State Historic Preservation Act site surveys. If a survey is required, we will let the district know and pass that on with no markup.

After review of the PER by the board, and any necessary updates, the PER and ER will be submitted to USDA, along with the RDApply application to finalize the grant and loan funding request.

The PER was reviewed at a board special meeting on February 23rd, 2023. The board approved moving forward with the project and completing the RDApply application. Element is in the process of compiling the required Environmental Report. The Environmental Report and RDApply application will be completed by the end of April 2023. Please note that the Environmental Report requires 30 and 45-day review periods for various state, federal, and tribal agencies for review and comment on the project scope.

The Environmental Report (ER) has been drafted. We are waiting for final responses from the State Historic Preservation Office (SHPO) and other agency responses to finalize the ER. The RDApply application is being processed and drafted by Element and district staff.



The RDAApply application and Preliminary Engineering Report have been finalized in draft format. The Environmental Report is nearly complete. We are finalizing correspondence with the State Historic Preservation Office (SHPO). Further environmental compliance reporting may be required, and we are scheduling a meeting with SHPO to determine the necessary scope of this additional work, if any. It is anticipated we will finalize our conversations with SHPO by the end of May.

The USDA funding application has been completed. The PER and ER have been submitted to USDA. We are now waiting for the USDA underwriting process to be completed. USDA will generate a letter of conditions that outlines the funding package grant/loan combination.

USDA provided their review comments of the PER and ER. Element has completed the comment responses and resubmitted the reports. The comments were minor and did not necessitate major changes to either report.

At the December meeting it was requested that Element provide a proposal to complete an updated evaluation of the alternatives (improvements to existing facility and replace existing secondary unit processes). This was based on newer data showing that a facility expansion may not be necessary. A proposal for this evaluation is attached to this board report.

We are finalizing the updated alternatives analysis. It is expected to be completed by the end of February for staff review followed by presentation at the district's March meeting.

We have been informed by USDA that the funding application will be processed approximately 45-days after a budget is passed by the United States House of Representatives. Currently the House is operating under a continuing resolution. Until a budget is passed, no funding can be processed.

A draft of the alternatives analysis was submitted to district staff and a meeting held to review and discuss. The updated alternatives analysis memorandum has been completed and submitted to district staff. This document was reviewed with the district at the board retreat. It was recommended that the WWTP should be put on hold based on the most recent influent loading data.

No items to report.

WATER TREATMENT SYSTEM IMPROVEMENTS (PROJECT NO. 0011)

The Water and Wastewater Master Plan Update recommended a water project be completed including the following:

- Integrate the Motel Well and Booster Pump Station into the large BGWSD system.
- Increase Water Treatment Plant (WTP) Pumping Capacity
- Add Administrative Building for district.

It is recommended that these projects be funded through the Colorado Department of Health and Environment (CDPHE) State Revolving Fund (SRF) Loan Program. Upon completion of the WWTP PER and ER the funding process for the water system improvement project should begin. A preliminary schedule for the proposed project is shown below. Note that this schedule may vary widely based on review time by CDPHE.

- | | |
|---|----------------------------|
| • Compile and submit pre-qualification form (CDPHE funding) | December 2022 |
| • Compile and submit Project Needs Assessment | April 2023 |
| • CDPHE review and design and engineering grant execution | July 2023 |
| • Design, CDPHE permitting | August 2023 – March 2024 |
| • CDPHE funding coordination and loan execution | February 2024 – April 2024 |
| • Bidding | April 2024 |
| • Construction | June 2024 – December 2024 |

The pre-qualification form was submitted in December of 2022. A pre-qualification meeting has been scheduled with CDPHE, DOLA, BGWSD, and Element staff on Tuesday January 31st at 10:00. The pre-qualification meeting is the next step in the CDPHE funding process where all entities discuss the proposed project and review the steps in the funding process.

The prequalification meeting was held to discuss the CDPHE funding process specific to the BGWSD water project. The district qualifies for a planning grant of \$10,000 to support compilation of the Project Needs Assessment. The planning grant requires a local match of \$2,500, for total funding of \$12,500 for the Project Needs Assessment. The Project Needs Assessment (PNA) is an engineering planning document similar to the PER but compiled in a format and form acceptable to CDPHE. Element has compiled a proposal to complete the PNA on behalf of the district.

The draft PNA is nearly complete with an internal (Element) review by the middle of April. We are on target to provide the draft to district staff by the end of April.

CDPHE has provided a pre-qualification review letter after our January pre-qualification meeting. The review letter (dated April 19, 2023) is attached to this report. This letter clarifies that the district is eligible for a planning grant (already obtained), a design and engineering grant, and Bipartisan Infrastructure Law (BIL) funding.

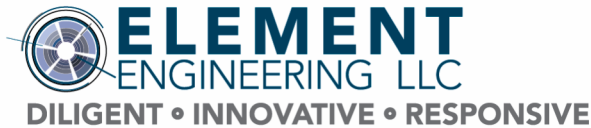
Element finalized a draft of the PNA and transmitted it to district staff on May 9, 2023. It is recommended the district board schedule a work session or special meeting to review the final PNA during the month of June. In the meantime, Element and district staff will work to resolve any initial questions and/or comments.

The draft PNA is scheduled to be reviewed by the district at an August 23rd meeting. A handout summarizing the PNA has been transmitted to district staff for board distribution.

The district approved submittal of the PNA at the August 23rd meeting. Element has coordinated with district staff and the PNA has been submitted to CDPHE. We are awaiting CDPHE review of the document. Element will respond to any questions or CDPHE comments.

The PNA has been approved. See the attached approval letter.

We have been exchanging email correspondence with CDPHE regarding the district’s potential Design and Engineering grant (D/E grant) for the drinking water project. The proposed budget from the US Congress



is significantly cutting the EPA capitalization grants to the various state SRF programs. Therefore, CDPHE is unsure if they will have D/E grants available and may not know the available amount until September of 2024.

CDPHE will, however, allow the district to recoup funds spent on design and engineering costs from the construction loan, when it is issued to build the project. This would mean funding the design of the project upfront and recouping the costs at the time of construction. The district may apply for a DOLA grant to fund up to half of the design related costs. Therefore, the two options moving forward are as follows:

1. Self-fund the design of the water project and reimburse yourself with funds from the construction loan when the project design is completed and goes to construction. In this case we could potentially apply to DOLA for a 50/50 match grant for design.
2. Wait to see if D/E grant funds become available later in the year and proceed accordingly if one is awarded. If those funds are not available, re-consider item number 1 above.

The design and engineering costs associated with the water system project is \$108,370.00. Therefore, the district could apply for a DOLA grant in the amount of \$54,185.00, which would be a Tier II grant. The upcoming DOLA cycle begins accepting applications on March 1 and closes on April 1. Awards are estimated to be made by July of 2024. Note that if the district intends to use this grant, no work can begin until the grant contract is executed.

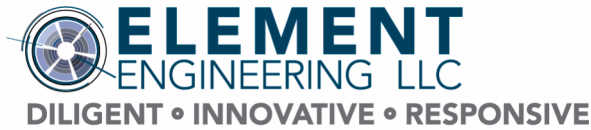
The district has selected to apply for a DOLA grant during the March 1 – April 1 application period to support design. Element will assist the district in completing the grant application. This application has been submitted by the project team.

CDPHE has reached out to Element and indicated that funding for a design and engineering grant in the necessary amount is available. CDPHE is currently working on this grant paperwork.

2023 WATER LOSS PREVENTION PROJECT (PROJECT NO. 0013)

Element staff are periodically working with district staff in developing a water loss prevention program. It is likely that this prevention program will take several months to collaboratively develop prior to presentation by district staff and Element to the board. Element is assisting the district in assembling cost estimates for PRV vault and water main replacement program. Our initial meeting has identified the following items to focus on:

- PRV Vault Cost Estimate
- Metering Vault Cost Estimate
- Cost Estimate 1,000 Feet of Main (General)
- Meter Inventory (Ages, Visual Inspection)
- Unmetered Service Survey
- Testing Meters
- Leak/Break Fix Map
- Water Main Replacement Program



District staff is interested in applying for Saguache County grant funds to potentially pay for relocation of PRVs and installation of flow meter vaults to study. Potential uses for this grant money is installation of metering vaults, PRVs, and water shutoff valves to better isolate for breaks. Also, money could be used for leak detection equipment. A cost estimate of a PRV and metering vault has been provided to district staff for review.

Element has been released on design services of the PRV relocation, new PRV installation, and two new meter vaults. Element is completing design and bidding documents so the project can be publicly bid. We are currently waiting for the field survey work to be completed in order to finalize our draft documents for internal review.

We have received the survey and are finalizing the water loss prevention project deliverable design documents for review by district staff.

We created a cost estimate for replacement of the receiving manhole of the Wagon Wheel Lift Station with a polymer manhole that is corrosion resistant.

We have finalized the water loss prevention plans and met with district staff to review. Upon approval of the drawings the next step is project bidding. The project may be advertised and bid in early 2024 if desired by the district.

The project plans have been finalized and approved by the district. The following bid schedule for this project is as follows:

- | | |
|-----------------------------------|---------------------------------------|
| • Advertisement Published | Week of January 22 nd |
| • Plans/Specifications Available | January 26 th at 4:00 PM |
| • Bids Due (via email to Element) | February 19 th at 4:00 PM |
| • Review Bids at Board Meeting | February 21 st |
| • Notice of Award | February 23 rd (estimated) |

Bids for the project will be presented at the district's February 21st board meeting.

Element and district staff requested that Cooley and Sons revise their bid to only include the two meter installations and the required mobilization. The revised bid table is attached to this report. This will allow the project to fall within the district's budget and gain valuable data to dial in water loss by geographic area.

Element is currently working with Cooley and Sons to nail down a delivery date for the equipment, specifically the water meters and determine a final installation date.

A pre-construction meeting was held Monday May 13th at 9:00 AM.

District Manager Report – May 15, 2024

Saguache County Grant - Water Loss Prevention Project (Capital Project)

- Bids were due on 02/19/2024 – Present to BoD for selection
- Bids were well over the budgeted amount
 - The \$180k meter project was awarded to Cooley & Sons
 - Parts were received on the week of 5/6
 - Pre-construction meeting scheduled for 5/13

United States Fish and Wildlife Service (USFWS) – Water lease negotiations

- USFWS reply was received on 12/20/2023
 - Need to come to agreement on pricing, handling of administration costs, process for working together during drought conditions, and compensation for retiring some of the water rights.
- Next step – In person meeting with USFSW
 - Scheduled for March 14th in Alamosa, CO
- Met with eight representatives from USFWS to negotiate the lease agreement
 - Progress was made, but will need to discuss some issues further, including pricing.
 - Counsel will begin drafting the new agreement
- Management will start defining “drought” conditions
 - Outline restrictions for irrigation and use of MHE Well in a drought
 - Draft presented for legal review
- USFWS approved a 1 year extension to our short-term agreement

Town of Crestone (ToC) – Sewer Service Negotiations

- Received response from ToC on 02/07/2024 – Will be discussing today and responding ASAP
 - Tap Fees
- The District did not receive a response in relation to the Discharge Permit.
 - Will need to follow-up with the next attorney representing the Town.
- No update for April
 - The Discharge Permit was on the agenda of the last trustee meeting
- No update for May
 - Town has been unresponsive

Aspen Wastewater Treatment Facility (AWWTF)

- Still waiting to hear back from USDA on funding application
- Loading data suggests additional capacity may not be necessary – Averaging 40% capacity (have not exceeded 60% capacity since 11/2022)
 - More frequent sampling
 - EQ Basin cleaning program
 - Auto samplers
- Some issues are present – Health or Safety hazards prioritized
 - Structural engineer inspection of foundation

- Industrial health & safety inspection

Grant Opportunities

- Bureau of Reclamation – Planning and Project Design Grant
 - To help with planning the next phases of water loss prevention
 - Up to \$400,000 – Will apply by end of month
- DOLA Energy and Mineral Impact Assistance Fund (EIAF)
 - Application submitted on 03/29
 - Request was for \$54k or 50% of the design and engineering for MHE Well tie in
- Congresswoman Lauren Boebert – Community Project Funding
 - Application submitted on 05/02
 - Request was for \$1,450,000 to help with Water Loss Prevention and new residential meters

Personnel

- COVID – No cases to report
 - One employee on sick leave unrelated to COVID
- Interviewed several candidates for the Operations and Administration Positions
 - Admin position had been filled
 - The remaining Operations position has been accepted with a start date of 05/20
- Working on 4/10 work schedule for all staff
 - Presenting to BOD for approval
 - Requires a change in office hours

Planning Committee

- Official Formation
- Schedule first meeting
 - Decision matrix
 - Prioritize projects

June Board Meeting

- 3rd Wednesday of the month falls on 6/19 the Juneteenth Holiday
- Consider canceling or rescheduling the June Board Meeting

Administrative Monthly Report

May 15th, 2024

Board of Directors Meeting

UTILITY BILLING ACTIVITY FOR THE MONTH OF APRIL (BILLED IN MAY)

| Customer Utility Billing | | |
|--------------------------------|-----------------|---------------|
| Billing Category | Number of Accts | Amount Billed |
| Usage Customers Billed - SEWER | 825 | \$39,806.15 |
| Usage Customers Billed - WATER | 847 | \$47,572.06 |
| ON/OFF Service | 9 | \$400.00 |
| LATE FEE | 46 | \$920.00 |
| TRANSFER | 15 | \$4,550.00 |
| EQR | 27 | \$785.75 |
| NSF FEE | 0 | \$0.00 |
| WATER & SEWER HOOK UP | 3 | \$6,250.00 |

APRIL - XPRESS BILL PAY TRANSACTION ACTIVITY

| Product / Service Description | Qty | Unit Price | Line Total |
|---|-----|------------|------------|
| EFT Web Transactions | 264 | \$0.64 | \$168.96 |
| Credit/Debit Card Web Transactions | 377 | \$0.49 | \$184.73 |
| Online Banking - Bank Bill Pay Transactions | 26 | \$0.25 | \$6.50 |
| Lock Box Service Transactions | 168 | \$0.58 | \$97.44 |
| Toll Free Operator Assisted Transactions | 3 | \$1.25 | \$3.75 |
| Toll Free IVR Transactions | 10 | \$1.25 | \$12.50 |
| Support, Maintenance, Hosting - Fee | 1 | \$100.00 | \$100.00 |

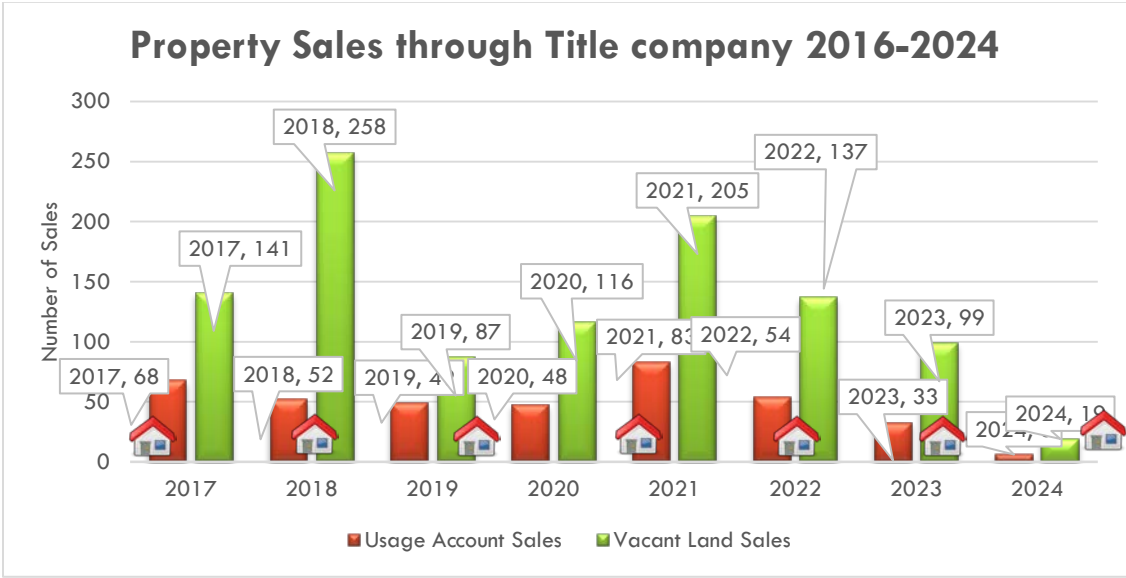
Town of Crestone Sewer 2024

Town of Crestone Sewer Billing - 2024

| Date | Monthly Total | Monthly Flow | Flow Charges | Average Daily BOD | Monthly BOD | BOD Charges | Paid | Balance Due |
|--------------------|------------------|--------------|--------------------|-------------------|-------------|-------------------|--------------|---------------------------|
| January | 418,898 | 3,309,294.20 | \$ 3,309.29 | 37 | 1221 | \$ 1,210.01 | Check #13917 | 02/28/2024- \$4,519.31 |
| February | 379,458 | 2,997,718.20 | \$2,997.72 | 38 | 1140 | \$1,129.74 | online | 03/31/2024- \$4,127.46 |
| March | 351,472 | 2,776,628.80 | \$2,776.63 | 72 | 2016 | \$1997.86 | Check #14046 | 04/30/2024- \$4,774.48 |
| April | 384,310 | 3,036,049.00 | \$3,036.05 | 33 | 1099 | \$1,089.11 | | 5/31/2024- \$4125.16 |
| May | | | | | | | | |
| June | | | | | | | | |
| July | | | | | | | | |
| August | | | | | | | | |
| September | | | | | | | | |
| October | | | | | | | | |
| November | | | | | | | | |
| December | | | | | | | | |
| 2024 Totals | 1,534,138 | | \$12,119.69 | 180 | 5476 | \$5,426.72 | | |

New Rate 10/2022
Rate per 1,000 Gallons of Flow: \$7.900 / 1,000
gallons
Rate per Pound of BOD: \$0.991 /
pounds BOD

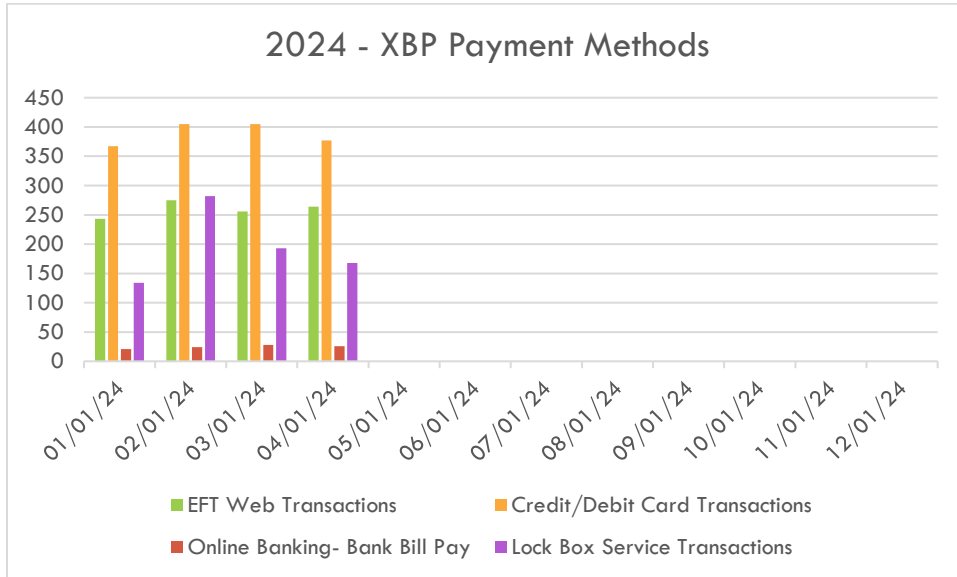
April - 2024- Property Sales: 2- Homes, 5- Lots



April - 2024 – Other Sales Statistic Including Name Changes Only

| Type | Vacant Lot | House | Total Charges |
|---------------------------|------------|-------|------------------------|
| Quit Claim Deed | 1 | 2 | Name change only |
| Warranty Deed | 0 | 0 | n/a |
| Treasurer's Deed | 2 | 0 | \$700.00 |
| Trust Transfer Grant Deed | 0 | 1 | Name change only |
| Bargain & Sale Deed | 0 | 1 | Name change only |
| | | | Total: \$700.00 |

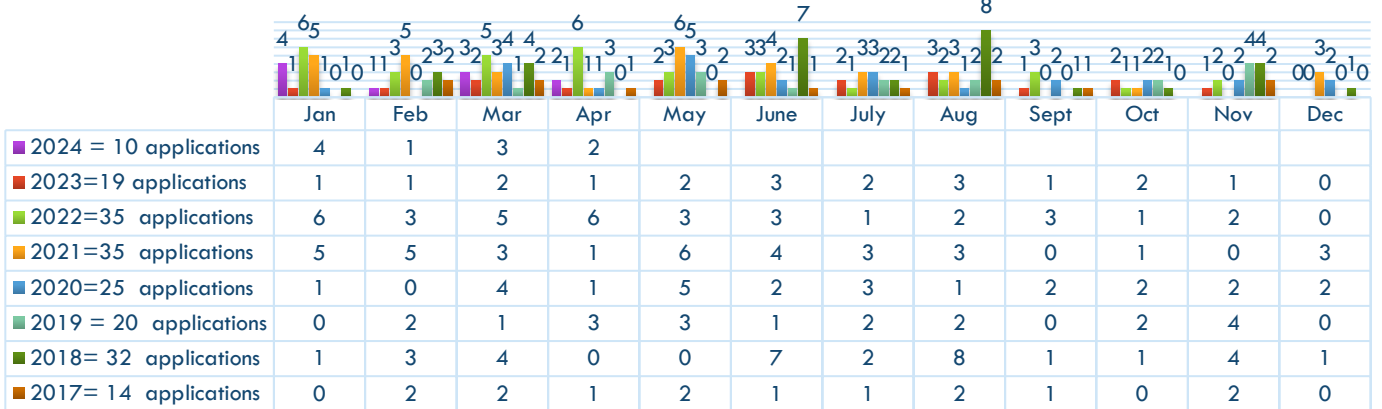
2024 - Xpress Bill Pay Customers Transactions Activity



2024 - Water and Sewer Hook up Applications

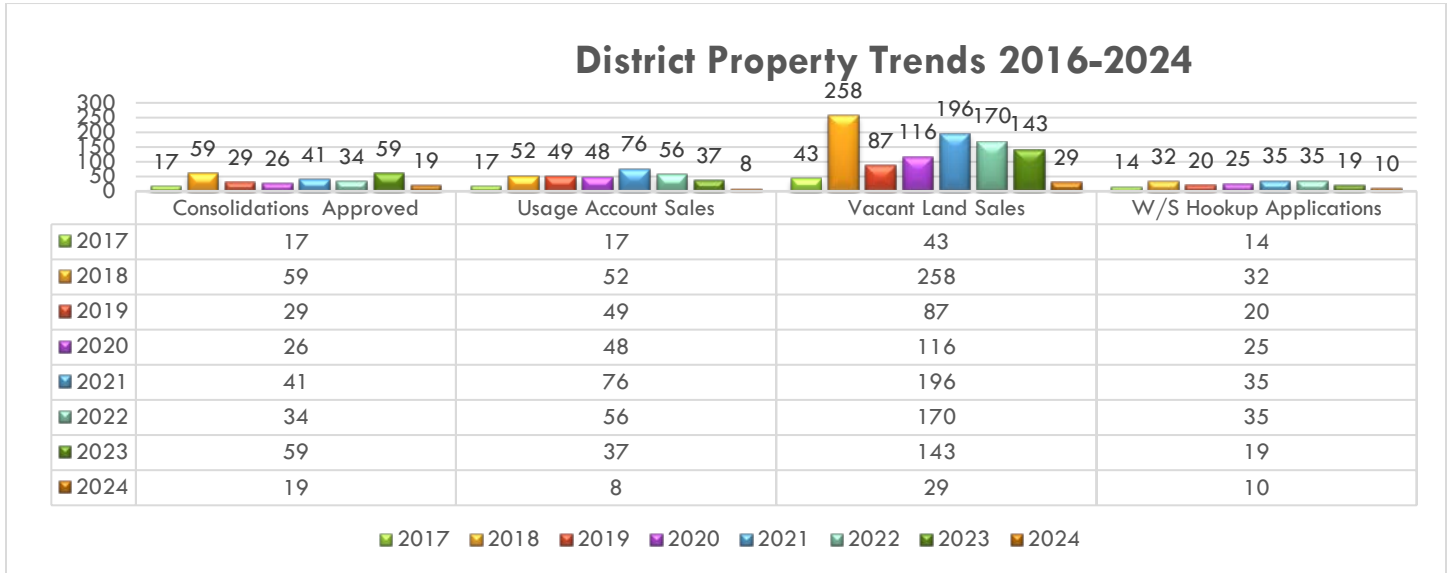
2 - Application (s) received in April. – 10 Total application (s) received in 2024

Water-Sewer Hookups 2016-2024



■ 2024 = 10 applications
 ■ 2023=19 applications
 ■ 2022=35 applications
 ■ 2021=35 applications
■ 2020=25 applications
 ■ 2019 = 20 applications
 ■ 2018= 32 applications
 ■ 2017= 14 applications

2016-2024 PROPERTY TRENDS



ADMINISTRATIVE UPDATES:

- **Consolidations:**
 - Received multiple resolutions from the SC County and new requests for subdivision and consolidations.
 - 8 consolidations completed, involving a total of 19 lots.
- **Personnel:**
 - Upcoming annual review & Happy 1 year work anniversary to Johann McKee.
 - Onboarding completed for new team member Greg Hess. Training is ongoing for Utility Billing, final bills, customer’s inquiries.
 - Interviews conducted for operation position.
 - Advertisement flyers created for two full-time seasonal operation employees.
- **Water main break and internet outage:**
 - On April 28th, administrative staff called affected customers about the water main break and worked with Ciello on the internet outage. Notices posted on the website.
- **Grants:**
 - Denied grant request from Saguache County Tax Sale for funds to assist numerous district customers facing water disconnections.
- **Annual CCR Report:**
 - Mailed out to all District owners. New copy located on the District website.
- **SDA Annual Regional Workshop:**
 - Date: June 10, 2024. Monday 8:00 AM – 12:30PM. Location: Scout Hut, Salida.
 - Attendees will receive the new 2024 SDA Board Member Manual and the legislative update for 2024.
- **Delinquent water shut off’s:**
 - No delinquent water shut off in the month of May.
- **Upcoming Certification of delinquent accounts**

- **May Billing Message:**
 - Memorial Day office closure: May 27th.
 - Resume normal business hours on May 28th.
 - Water Conservation Tips
- **AOS Billing Due date – June 30th, 2024.**
- **File Organization & Archiving project**
 - Ongoing files organization, scanning, and archiving project.
- **Website verification project:**
 - Website tap status and AOS verification project in progress.
 - Admin staff working to ensure website information remains accurate and up-to-date.
 - Customers advised to contact the office to verify website information.

WE ARE

HIRING

Baca Grande
Water And Sanitation
District

Fulltime seasonal positions


Utility Maintenance

Worker

- ▶ Under general supervision the Utility Maintenance worker performs duties to assist in the operations and maintenance of the District's water and wastewater facilities. General duties include, but are not limited to: sewer collection system cleaning and inspection, fire hydrant maintenance, distribution system valve maintenance, weed control, and various other maintenance and labor tasks as assigned.

STARTING PAY \$18.00 PER HOUR

WWW.BACAWATER.COM

 BGWSD
Human Resources
57 Baca Grant Way S.
PO Box 520
Crestone, CO 81131

**SEND YOUR APPLICATION
AND RESUME :**

HR@bacawater.com

APPLY NOW

Baca Grande Water and Sanitation District
Monthly Operations Report

May 15th, 2024



Mark Elliott. Ready for a Dirty Job.

Facilities and Staff Updates

In Service

Repaired
last month

Out of
Service

| Water Facilities | | | | | | | | | | | |
|------------------|--------|----------------------------|--------|----------------------------|--------|------------------------------|--------|--------------------------|--------|------------------------|--------|
| Well 18 | | Moonlight Transfer Station | | Ridgeview Transfer Station | | Fallen Tree Transfer Station | | Pinecone Booster Station | | Shumei Booster Station | |
| Pump 1 | Pump 2 | Pump 1 | Pump 2 | Pump 1 | Pump 2 | Pump 1 | Pump 2 | Pump 1 | Pump 2 | Pump 1 | Pump 2 |

| Wastewater Facilities | | | | | | | | | |
|-----------------------|--------|----------------------|--------|--------------------------|--------|------------------|--------|---------------------------|--------|
| Aspen WWTP | | Stables Lift Station | | Wagon Wheel Lift Station | | MHE Lift Station | | Dharma Ocean Lift Station | |
| Pump 1 | Pump 2 | Pump 1 | Pump 2 | Pump 1 | Pump 2 | Pump 1 | Pump 2 | Pump 1 | Pump 2 |

| Service Vehicles | | | | |
|------------------|---------|---------|---------|---------|
| Truck 1 | Truck 2 | Truck 3 | Truck 4 | Truck 5 |
| | | | | |

| Equipment | | | | |
|--------------|------------|---------|------------|-----------|
| Vector Truck | Dump Truck | Backhoe | Skid steer | Excavator |
| | | | | |

- **Shumei Booster Pump #1**
 - Has a leak in the pump volute and will need to be replaced
 - We have received a quote for replacement
 - We are evaluating our options and will be moving forward with repair or replacement shortly
- **New Operation Truck**
 - We have purchased used operations utility truck,
 - We are waiting for ladder rack to be installed before pickup
 - New truck will replace truck 3

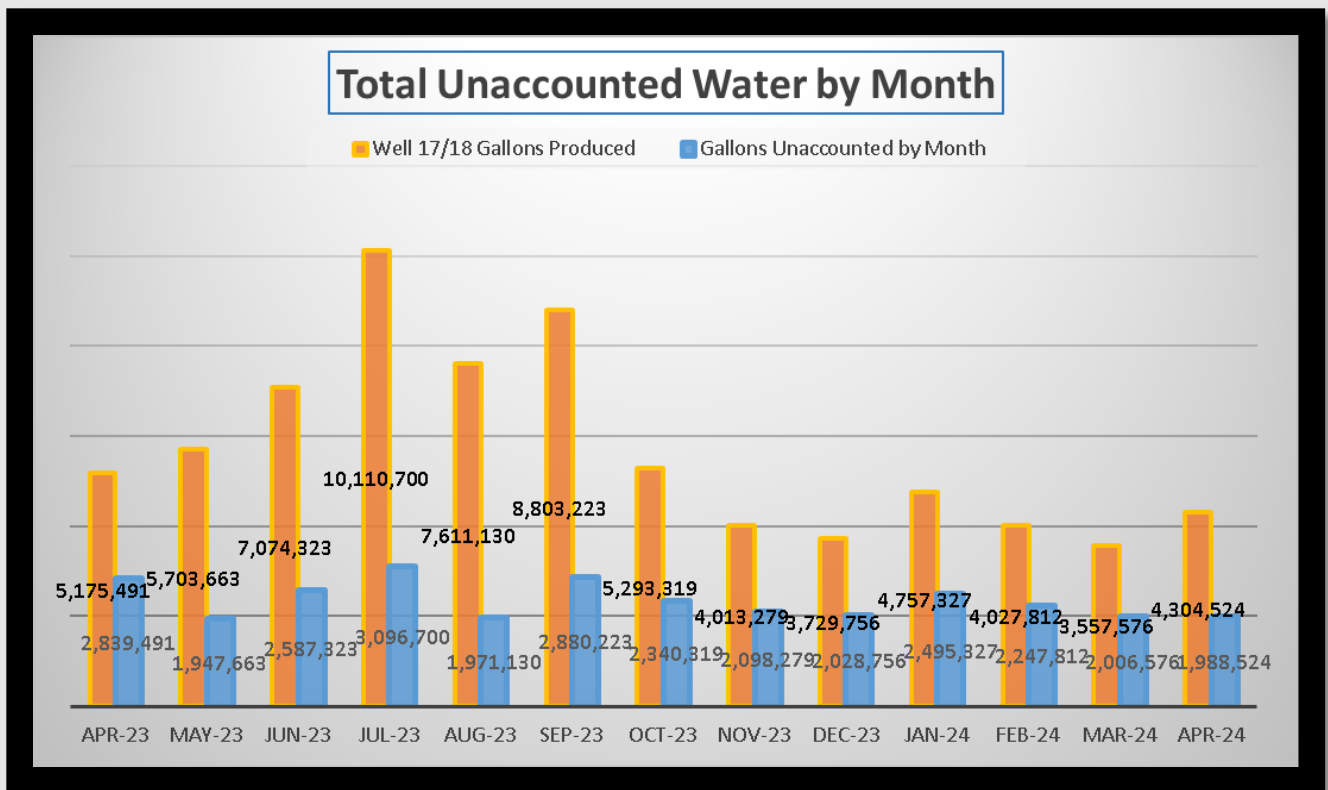
- **Accidents**
 - Happy to report no accidents in April!!

Operations Updates

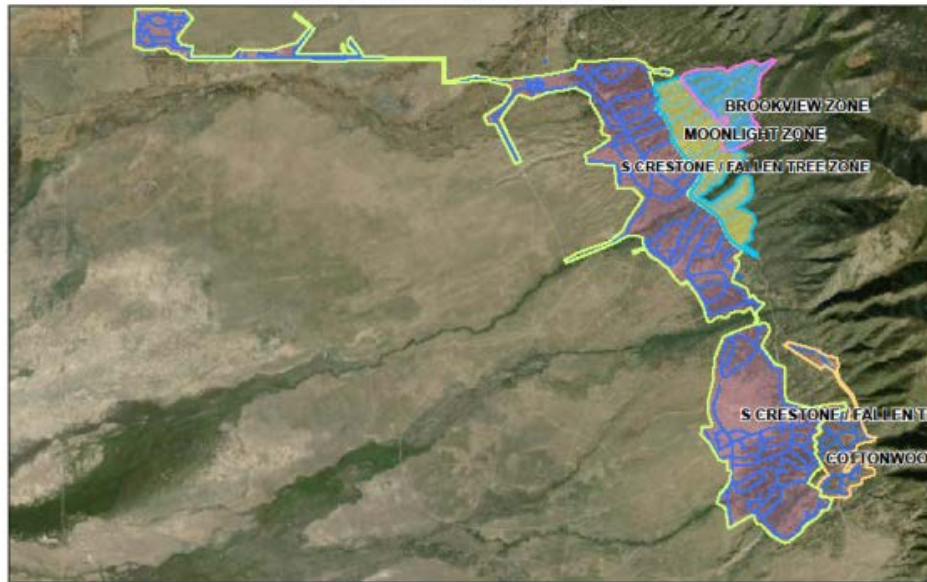
- **Aspen Wastewater Treatment Plant**
 - I have reviewed the draft to renew the discharge permit which expires in October 2024.
 - Have scheduled a review meeting with Element to discuss revisions for final draft.
- **Annual Reports**
 - Biosolids Report-Complete
 - Nutrients Report-Complete
 - Consumer Confidence-Completed
 - Backflow Prevention Report- Completed
- **Water main Break on Camino Real**
 - Water main broke 4/28/24
 - Main had to be repair in three places
 - This is the second break on Camino Real this year
- **Personnel**
 - We a new operations staff team member starting May 20th
 - We are currently advertising for two summer temporary position
- **Projects**
 - Currently Planning for upcoming summer projects
 - Valve Maintenance- In process
 - Collection System Cleaning
 - Collection System Inspections
 - Fire Hydrant Maintenance- In Process
 - Dig List (various projects that require excavation)
- **Unaccounted Water**
 - All production water meters we calibrated 5/6/24.
 - We will be receiving a report soon
 - Wells 17 and 18 produced 4,304,524 gallons of water in the month of April
 - The District sold its customers 2,316,000 gallons of water in the month of April, leaving 1,988,524gallons unaccounted for.
 - 46% of the water produced is unaccounted for in the month of April.

➤ **Aspen WWTP and Town of Crestone Loading**

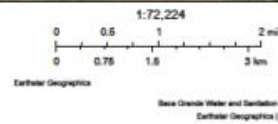
- Aspen WWTP averaged 36% of hydraulic loading capacity in the month of April, the Town of Crestone contributed and average of 21% of the treatment plants hydraulic load.
- Aspen WWTP averaged 43% of organic loading capacity in the month of April. The Town of Crestone contributed an average of 23% of the treatment plants organic load.



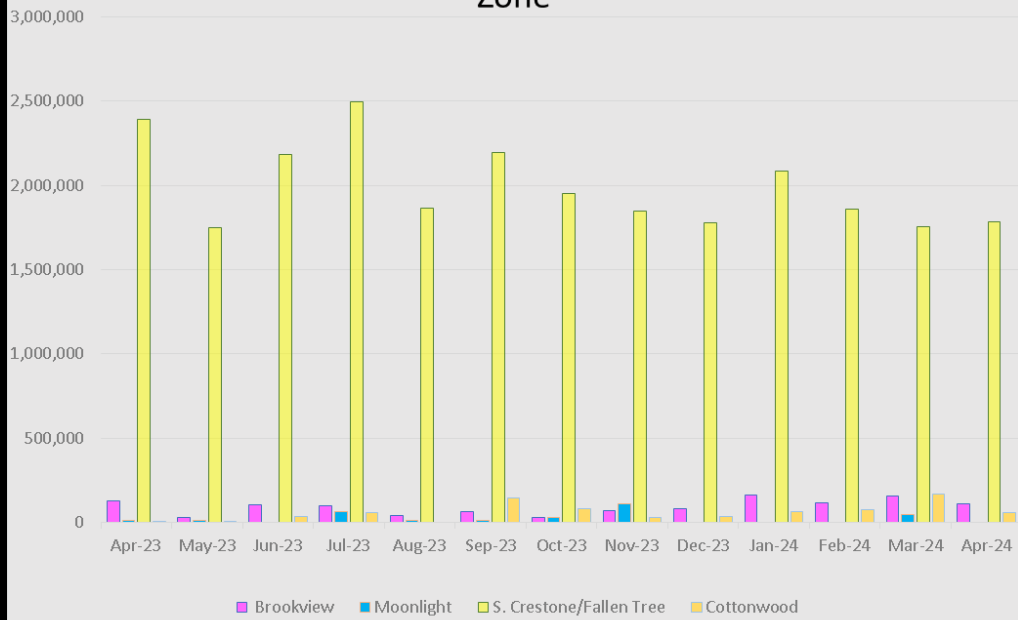
BGWSD Unaccounted Water Zone's



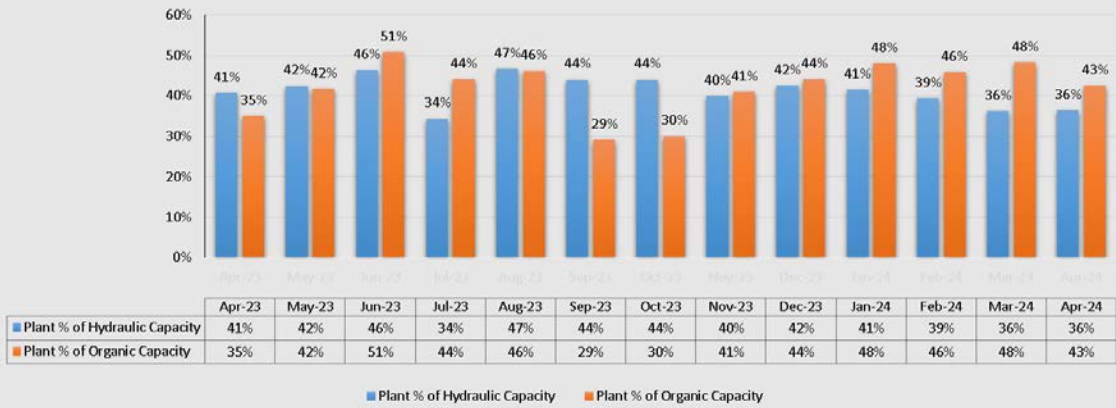
12/10/2020, 3:43:14 PM



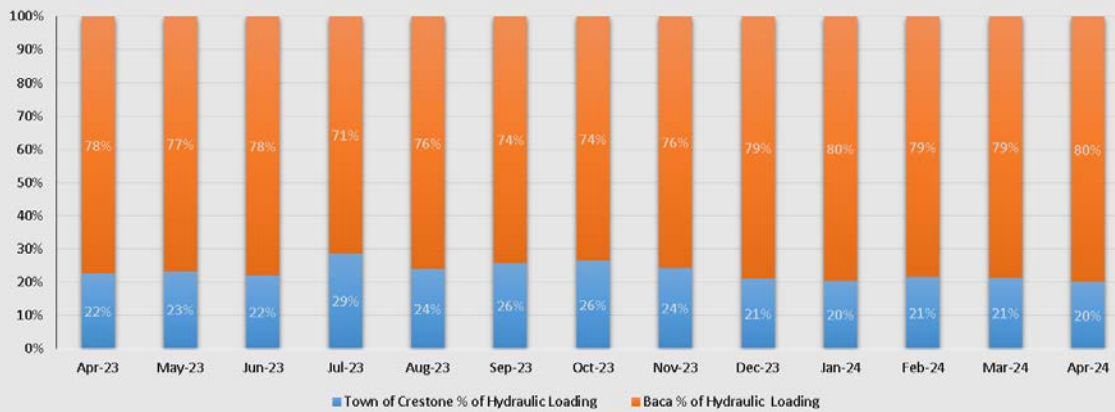
Total Monthly Unaccounted in Gallons by Pressure Zone



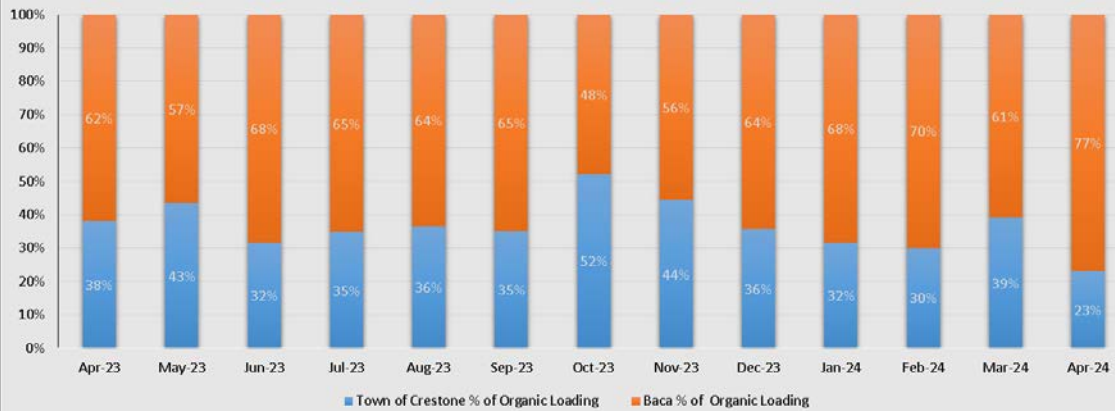
Percentage of Plant Capacities by Month at Aspen Wastewater Treatment Plant



Average % of Total Hydraulic Loading of Aspen Wastewater Treatment Plant by Month 2022-2023



Average % of Total Organic Loading of Aspen Wastewater Treatment Plant by Month of 2022-2023



AMENDMENT No. 1

WATER SERVICES AGREEMENT
United States Fish & Wildlife Service
and
Baca Grande Water and Sanitation District

This Amendment No. 1 is made and entered into, by and between the United States of America, acting in its behalf by the Secretary of the Interior, United States Fish and Wildlife Service (USFWS), and the Baca Grande Water and Sanitation District, a special district organized pursuant to the law of the State of Colorado (the "District"), and is dated as of the date set forth in the signature block below.

WITNESSETH:

THAT WHEREAS, on October 24, 1972, the Arizona-Colorado Land and Cattle Company and the District entered into that certain Water Rights Lease, recorded July 22, 1980, at Book 394, Page 117 of the records of the Saguache County Clerk and Recorder (hereafter sometimes referred to as the "Lease").

THAT WHEREAS, on August 28, 1997, the successor landowner of Arizona-Colorado Land and Cattle Company, Cabeza De Vaca Land & Cattle Company, LLC entered into a Water Service Agreement, which Agreement (hereafter referred to as the "Agreement") amended and restated the Lease. This Agreement was recorded November 13, 1997, under Reception No. 321547 of the Saguache County, Colorado Records.

THAT WHEREAS, the term of the Agreement expired at 12:00 noon on June 1, 2020. The Agreement automatically renewed for a successive term of 20 years beginning on June 1, 2020.

THAT WHEREAS, under the Agreement, Cabeza agreed to sell to the District, on an annual basis, during the term of this Agreement, and any renewal terms, up to 4000 acre-feet of water annually. Section one of the Agreement describes the water rights subject to the Agreement.

THAT WHEREAS, Section 3 of the Agreement provides the price the District agreed to pay Cabeza for the water used under the Agreement.

THAT WHEREAS, The Nature Conservancy purchased land from Cabeza on September 10, 2004, which included water rights subject to the Agreement. The USFWS acquired the property from The Nature Conservancy in two transactions dated March 11, 2004, and March 8, 2005.

THAT WHEREAS, Section 6 of Public Law 106-530 established the Baca National Wildlife Refuge, which requires that the USFWS to administer the water resources at the refuge in a manner that protects and maintains the water rights for the protection of the monument, park, preserve, and refuge resources and uses; and minimum adverse impacts on other water uses.

That WHEREAS, the USFWS and the District have engaged in discussions regarding a long-term Amendment to the Agreement to reflect current conditions in the valley. The parties have discussed the possibility of reducing the maximum quantity of water available under the agreement to the District. In exchange, the USFWS stated that it would consider a tiered approach to pricing based on the amount of water used by the District.

WHEREAS, the USFWS wants to provide the District some temporary relief in the form of a price-reduction while the parties engage in good-faith negotiations to negotiate a long-term Amendment.

NOW THEREFORE, in consideration of the foregoing, the parties hereto covenant and agree to and with each other that the Agreement is hereby temporarily amended as follows:

PARTIES

When the United States Fish and Wildlife Service purchased land owned by Cabeza to create the Baca National Wildlife Refuge, the USFWS became the successor in interest to Cabeza under the Agreement. Any reference in the Agreement to Cabeza should be deleted in entirety and replaced with the USFWS. It is the intention of the Parties that this section be included in any subsequent Amendment to the Agreement.

TERM

This Amendment No. 1 shall have a term from June 1, 2023 - May 31, 2024, or until the parties enter into an Amendment to the Agreement that supersedes this Amendment No. 1, whichever comes first. This Amendment No. 1 may be extended for additional six-month terms by agreement of the parties. The Term of this Amendment No. 1 does not supersede or replace Section 2 of the Agreement, and USFWS and the District both reserve all of their respective rights, claims, arguments, and defenses regarding their differing interpretations of Section 2 of the Agreement and that otherwise may exist under the Agreement.

AMOUNT

Section 1 of the Agreement is revised to state that the USFWS hereby agrees to sell to the District, during the term of this Amendment, up to 500 acre-feet of water annually at a lower price per acre-foot. The lower price does not reflect market value, but instead places value on the District's forbearance. Any additional amounts used by the District during the term of this Amendment No. 1, up to a cap of 850 acre-feet shall be priced in accordance with the terms of the unamended Section 3 of the Agreement. Nothing in this Amendment No. 1 shall alter the District's right to divert up to 4000 acre feet of water annually after the expiration of Amendment No. 1 and any extensions.

PAYMENT

During the term of this Amendment No. 1, Section 3 of the Agreement shall be deleted in its

entirety and replaced with the following:

- a. For the term of this agreement, the District agrees to pay the USFWS a monthly sum, payable in arrears, calculated by multiplying the total volume of water diverted by the District each calendar month, in acre feet to the nearest tenth of an acre foot, by \$75.00 per acre foot.
- b. For any amount of water exceeding 500 acre-feet during the term of this Amendment No. 1, the District will pay the USFWS pursuant to the terms of the unamended Section 3 of the Agreement.

AGREEMENT OTHERWISE UNALTERED

The parties intend for this Amendment No. 1 to be temporary and limited in scope. Except as modified above, the Agreement remains in full force and effect. When the term of this Amendment No. 1 expires, the Agreement shall continue in full force and effect without alteration or modification unless and until the parties enter into a subsequent amendment.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to be executed by their duly authorized officers or representatives as set forth below.

Dated at _____ this 18th day of May 2023.

DISTRICT

UNITED STATES OF AMERICA

By: *Vivia Lawson*

By: SHARON VAUGHN Digitally signed by SHARON VAUGHN Date: 2023.05.17 14:20:33 -0600

Print: VIVIA LAWSON

Print: Sharon Vaughn

Title: Board President
Baca Grande Water and Sanitation District

Title: Project Leader, SLVNWR Complex
United States Fish and Wildlife Service
Department of the Interior

United States Department of the Interior

OFFICE OF THE SOLICITOR

Rocky Mountain Regional Office

755 Parfet Street, Suite 151

Lakewood, CO 80215

Telephone: (303) 445-0603

May 9, 2024

VIA ELECTRONIC MAIL

Marcus J. Lock
Law of the Rockies
525 N. Main Street
Gunnison CO 81230
mlock@lawoftherockies.com

Re: Baca Grande Water and Sanitation District

Dear Marcus,

The United States Fish and Wildlife Service (“Service”) has determined that an extension of Amendment No. 1 to the Water Service Agreement (“Agreement”) between the Service and Baca Grande Water and Sanitation District (“the District”) is necessary while the parties continue to negotiate the reformation of the Agreement.

Accordingly, Amendment No. 1 is hereby extended by this Amendment No. 1 (First Extension) for one year until May 31, 2025, or until such time as a new long-term amendment or reformation of the Agreement is effective, whichever occurs first. The terms and conditions of this first extension are the same as those of Amendment No. 1 to the Agreement.

Please indicate the District’s agreement by having a designated official from the District digitally sign in the space provided below. If you have any questions, please feel free to contact me.

Sincerely,



Colleen Burnidge
U.S. Department of the Interior
Office of the Solicitor
Rocky Mountain Regional Office
755 Parfet Street, Ste. 151
Lakewood, CO 80215
Telephone (303) 445-0603

AMENDMENT NO. 1 (FIRST EXTENSION)

This Amendment No. 1 (First Extension) extends Amendment No. 1 by one year, until May 31, 2025, or until such time as a new long-term amendment or reformation of the Agreement is effective, whichever occurs first. The parties intend for Amendment No. 1 and its extension to be temporary and limited in scope. When the term of this Amendment No. 1 (First Extension) expires, the Agreement shall continue in full force and effect without alteration or modification unless and until the parties enter into a subsequent amendment.

IN WITNESS WHEREOF, the parties hereto have caused the Amendment No. 1 (First Extension) to be executed by their duly authorized officers or representatives as set forth below.

Dated on May ___, 2024.

DISTRICT

UNITED STATES OF AMERICA

By: _____

By: _____

Print: _____

Print: _____

Title: _____

Baca Grande Water and Sanitation District

Title: _____

United States Fish and Wildlife Service
Department of the Interior