

STATE OF COLORADO }  
 } SS.  
County of Grand }

At a regular meeting of the Board of County Commissioners for the Grand County, Colorado, held at the Grand County Administration Building in Hot Sulphur Springs on Tuesday, the 4<sup>th</sup> day of December, 2012 there were present:

Nancy Stuart \_\_\_\_\_, Commissioner Chairman  
James L. Newberry \_\_\_\_\_, Commissioner  
Gary Bumgarner \_\_\_\_\_, Commissioner  
Anthony J. DiCola \_\_\_\_\_, County Attorney  
Lurline Underbrink Curran \_\_\_\_\_, County Manager  
Sara L. Rosene \_\_\_\_\_, Clerk of the Board

when the following proceedings, among others, were had and done, to wit:

**RESOLUTION NO. 2012-12-2**

**A RESOLUTION APPROVING AND AUTHORIZING THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO TO EXECUTE THE WINDY GAP FIRING PROJECT INTERGOVERNMENTAL AGREEMENT, THE WINDY GAP BYPASS FUNDING AGREEMENT, THE INTERGOVERNMENTAL AGREEMENT FOR THE LEARNING BY DOING COOPERATIVE EFFORT, AND A PROCESSED MATERIAL SUPPLY AGREEMENT, AND AUTHORIZING WHITE AND JANKOWSKI TO EXECUTE ON BEHALF OF GRAND COUNTY A RECREATIONAL IN-CHANNEL DIVERSION STIPULATION WITH THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT AND THE MUNICIPAL SUBDISTRICT, NORTHERN COLORADO WATER CONSERVANCY DISTRICT**

WHEREAS, the Board of County Commissioners of the County of Grand, State of Colorado was presented a Windy Gap Firing Project Intergovernmental Agreement (“WGFP IGA”) by and between the Municipal Subdistrict, Northern Colorado Water Conservancy District (“Subdistrict”) and its Windy Gap Firing Project Water Activity Enterprise (“WGFP Enterprise”); Middle Park Water Conservancy District; Colorado River Water Conservation District; Northwest Colorado Council of Governments; and the Board of County Commissioners of the County of Grand, State of Colorado, a copy of which is appended hereto and is incorporated in full herein by reference; and

WHEREAS, the WGFP IGA, in part, supplements and partially amends the April 30, 1980 “Agreement concerning the Windy Gap Project and the Azure Reservoir and Power Project” and the March 29, 1985 “Supplement to Agreement of April 30, 1980” pursuant to the terms and provisions contained within the WGFP IGA; and

WHEREAS, the benefits provided for within the WGFP IGA are in addition to and are not a substitute for the mitigation required by governmental agencies with jurisdiction over the Windy Gap firing Project; and

WHEREAS, Grand County recognizes that other West Slope parties to the WGFP IGA will not be able to sign the WGFP IGA until other associated closing documents have been finalized, such as Reclamation’s SD80 determination and Reclamation’s agreement that the West Slope parties have not waived applicable legal positions, and that finalizing those documents could take several months; and

WHEREAS, the effective date of the WGFP IGA shall be the date of full execution by all parties thereto; and

WHEREAS, the Board was presented a Windy Gap Bypass Funding Agreement (“WG Bypass Funding Agreement”) by and between the Municipal Subdistrict of the Northern Colorado Water Conservancy District (“Subdistrict”) and its Windy Gap Firing Project Water Activity Enterprise (“WGFP Enterprise”), Trout Unlimited, Upper Colorado River Alliance, and the Board of County Commissioners of Grand County, Colorado, a copy of which is appended hereto and is incorporated in full herein by reference; and

WHEREAS, the WG Bypass Funding Agreement includes but is not limited to financial obligations by the Subdistrict and WGFP Enterprise for engineering, permitting and construction of the Windy Gap Bypass pursuant to the terms and conditions of the Agreement, said obligations being in addition to and not a substitute for mitigation required by governmental agencies with jurisdiction over the Windy Gap Firing Project, and in addition to and not a substitute for the Windy Gap Firing Project Enhancement Plan; and

WHEREAS, the effective date of the WG Bypass Funding Agreement shall be the date of full execution by all parties thereto; and

WHEREAS, the Board was presented a Intergovernmental Agreement for the Learning by Doing Cooperative Effort (“Learning by Doing IGA”) by and between Northern Colorado Water Conservancy District; the Municipal Subdistrict, Northern Colorado Water Conservancy District; Middle Park Water Conservancy District; Colorado River Water Conservation District; and the Board of County Commissioners of the County of Grand, State of Colorado, a copy of which is appended hereto and is incorporated in full herein by reference; and

WHEREAS, the Learning by Doing IGA sets forth terms and provisions under which the parties implement a cooperative, iterative and on-going process as described within the Agreement to maintain, and when reasonably possible, restore or enhance the aquatic environment in the Colorado, Fraser, and Williams Fork River Basins, upstream of the Colorado River confluence with the Blue River; and

WHEREAS, the effective date of the Learning by Doing IGA shall be the date of full execution by all parties thereto; and

WHEREAS, the Board was presented a Processed Material Supply Agreement by and between Northern Colorado Water Conservancy District (“Northern Water”), a copy of which is appended hereto and is incorporated in full herein by reference; and

WHEREAS, Northern Water agrees to allow Grand County to use its sand and gravel quarry located on the Northern Water Ranch, County Road 40, Grand County, Colorado as a source of processed material for county road maintenance and construction activities pursuant to the terms and conditions of the Agreement; and

WHEREAS, the duration of the Processed Material Supply Agreement is five (5) years commencing on the date of execution of the Agreement; and

WHEREAS, White and Jankowski, LLP, special counsel to the Board, presented a request for authorization to execute on behalf of Grand County a Recreational In-Channel Diversion (“RICD”) Stipulation by and between the Board of County Commissioners of the County of Grand, State of Colorado, as Applicant, and Northern Colorado Water Conservancy District and Municipal Subdistrict, Northern Colorado Water Conservancy District, as Opposers; and

WHEREAS, said RICD Stipulation shall be filed in District Court, Water Division 5, Colorado Case Number 2010CW298 concerning the confirmation by Grand County of conditional water rights associated with two proposed whitewater parks in and on the Colorado River: the Hot Sulphur Springs Whitewater Park and the Gore Canyon Whitewater Park; and

WHEREAS, the Board has reviewed the aforesaid Agreements and the Stipulation and has determined that executing the Agreements and authorizing the execution of the Stipulation is in the best interest of the health, safety, and welfare of the citizens of Grand County.

NOW THEREFORE, be it resolved by the Board of County Commissioners of the County of Grand, State of Colorado that the Windy Gap Firming Project Intergovernmental Agreement, the Windy Gap Bypass Funding Agreement, the Intergovernmental Agreement For The Learning By Doing Cooperative Effort, and the Processed Material Supply Agreement be and are hereby approved, and the Chairman is authorized to execute the Agreements.

BE IT FURTHER RESOLVED, that Grand County recognizes that other West Slope parties to the WGFP IGA will not be able to sign the WGFP IGA until other associated closing documents have been finalized, such as Reclamation's SD80 determination and Reclamation's agreement that the West Slope parties have not waived applicable legal positions, and that finalizing those documents could take several months.

BE IT FURTHER RESOLVED, that White and Jankowski, LLP be and is hereby authorized to execute on behalf of Grand County the Recreational In-Channel Diversion Stipulation in District Court, Water Division 5, Colorado Case Number 2010CW298.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

..... *Nancy Stuart* ..... Aye  
..... *James H. Wilson* ..... Aye  
..... *Gary Bumgarner* ..... Aye  
  
Commissioners

STATE OF COLORADO }  
                                  } SS.  
County of Grand        }

I, ....., County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Grand County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Hot Sulphur Springs, this ..... day of ..... A.D. 20.....  
County Clerk and ex-officio Clerk of the Board of Commissioners.

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