

CASTLE PINES NORTH



METROPOLITAN DISTRICT

March 23, 2022

Status of eight action items re: Inclusion of CPNMD's water and wastewater utilities with Parker Water & Sanitation District (PWSD)

The following eight action items are from PWSD staff's Inclusion update at PWSD's December 9, 2021, board meeting — *six months **after** the voter-approved Inclusion and 25 days **before** the voter-approved Inclusion date of January 3, 2022.*

1. Negotiating a consent decree with the Colorado Department of Public Health & Environment.

No change from last month. CDPHE will act on CPNMD's request if and only if PWSD commits to an Inclusion date. Without a firm Inclusion date, there is no need for CDPHE to issue a consent decree.

2. City of Brighton's water rights lawsuit.

A. **No change from last month.**

B. CPNMD owns water rights in northern Colorado it intended to sell. The City of Aurora submitted a bid package for CPNMD's water rights that was \$865,500 higher than the City of Brighton's bid. The City of Aurora's high-bid package, combined with fiduciary and stewardship responsibilities CPNMD has to its in-district customers, prompted the CPNMD board to award its water rights to the City of Aurora, thereby providing CPNMD's property owners and residents with the highest possible return on investment and an additional \$865,500 to CPNMD's coffers. The City of Brighton was unhappy with the outcome and filed a lawsuit contesting CPNMD's decision.

- C. Counsel and other knowledgeable water law and litigation observers are confident CPNMD and the City of Aurora (CPNMD's co-litigant) will prevail in court. However, the lawsuit could drag on until June, thereby tying up water-right proceeds CPNMD needs to *assist* in paying off its debt, including the \$39.4 million Inclusion fee. Counsel expects a final resolution of the City of Brighton's lawsuit in June 2022.
 - D. Because PWSD chose to terminate the Inclusion, CPNMD *may* terminate the sale of its northern Colorado water rights, thereby allowing those water rights to continue increasing in value.
3. Separating jointly-owned, 1980s-era groundwater rights between CPNMD and its southern neighbor, Castle Pines Metro District in The Village.

No change from last month. An agreement between CPNMD and CPMD (The Village) is necessary concerning the use of jointly owned water to resolve PWSD's concern. While CPNMD and CPMD (The Village) legally own the water rights on a 50/50 basis, the parameters for using said water rights were undefined in the original acquisition and ownership documents. **Counsel is confident of final resolution no later than May 2022.**

4. Renewing water wheeling agreement with Centennial Water & Sanitation District.

No change from last month. Still awaiting Inclusion date from PWSD. The Centennial Water & Sanitation District board was scheduled to consider the agreement in December 2021. Because of PWSD's Inclusion delay, Centennial Water & Sanitation District intends to reschedule the agreement for board consideration upon receiving a final PWSD Inclusion date.

5. Securing Chatfield Reservoir storage-fee waivers.

No change from last month. Still awaiting Inclusion date from PWSD. Five of nine owners have signed the waiver. The remaining four are on hold, awaiting a final PWSD Inclusion date. Without a firm Inclusion-commitment date from PWSD, the remaining four owners have no sense of urgency to sign.

6. Recording decades-old water & wastewater infrastructure easements and property rights conveyances CPNMD inherited from previous administrations.

No change from last month. Counsel has developed, and is working through, a process of determining easements and other rights previous administrations failed to record and including them in CPNMD's GIS system. The process is labor-intensive and time-consuming but otherwise straightforward. In no way does the process affect CPNMD's use or ownership of any of its infrastructure, facilities, equipment, or legal rights. **Counsel anticipates completing this process in June 2022.**

7. CPNMD's water wells and water treatment plant.

- A. **Forward progress:** CPNMD recently accelerated and completed maintenance overhauls on nine of its ten water wells **five years ahead of schedule.** *CPNMD is on track to complete a similar overhaul of its remaining well by the end of March 2022. (NOTE: From October 1st through April 30th of each year, CPNMD utilizes its water stored in Chatfield Reservoir that travels through the Centennial Water & Sanitation District's water-treatment system, through CPNMD's interconnect pipeline, and into CPNMD's water distribution system. During this period, CPNMD intentionally removes its water wells from service for annual maintenance.)* From May 1st through September 30th of each year, CPNMD utilizes its deep-water wells in the Denver Basin Aquifer System.
- B. CPNMD's water treatment plant upgrades are well underway and should be finished in April 2022.

8. PWSD's demand that CPNMD's existing customers pay PWSD \$11,032,778 more than the mutually agreed upon, voter-approved \$34.8 million Inclusion fee.

- A. PWSD's demand constitutes an attempted unjustified money grab.
- B. CPNMD leaders offered PWSD an additional \$5 million in cash toward the PWSD's demand for an additional \$11,032,778. PWSD's all-or-nothing posture insisted that CPNMD residents needed to pay **another \$6,032,778 — monies to which PWSD is not entitled.**

- C. CPNMD will deduct the millions of dollars in recent and ongoing infrastructure investments directly from PWSD's voter-approved \$34.8 million Inclusion fee.
- D. CPNMD will welcome PWSD back to the negotiating table if and when PWSD demonstrates it is ready, willing, and able:
- ✓ First, to work with CPNMD in good faith;
 - ✓ Second, when PWSD's negotiating posture acknowledges CPNMD's cash offer and customer base together constitute a community PWSD values and is pleased to acquire; and
 - ✓ Third, when PWSD's staff sufficiently addresses PWSD's internal challenges, which substantially contributed to PWSD's unilateral decision to terminate the Inclusion. Those PWSD challenges include, but are not limited to, PWSD's internal staffing shortages, billing software issues, and supply chain issues resulting in the substantial delay of AMI water meters for customers of both jurisdictions.
- E. Though PWSD remains CPNMD's first choice as the Inclusion partner for our community's water and wastewater utilities, it would be irresponsible for CPNMD to do anything other than aggressively pursue alternative Inclusion partners. Consequently, with renewed vigor, CPNMD is pursuing other potential Inclusion partners.