



ASSOCIATION MEETING AGENDA

March 25, 2021, 2:00 PM

Remote Meeting Only

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 720-739-6745](tel:+17207396745),,285807660# United States, Denver

Phone Conference ID: 285 807 660#

Notice is given to the North Front Range Water Quality Planning Association (NFRWQPA) members and the general public that the Association will hold its regular association meeting, which is open to the public.

1. **CALL MEETING TO ORDER.**
2. **DETERMINATION OF A QUORUM FROM MEMBERSHIP.** – Attachment #1 (page3).
3. **APPROVAL OF AGENDA.**
4. **DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST.**
5. **PUBLIC COMMENTS.**
6. **APPROVAL OF PAST MINUTES.** - Attachment #2 (page 4-6).
For review and consideration are the February 25, 2021, meeting minutes.
7. **FINANCIAL REPORTS:** – Attachment #3 (page 7-9).
For review and consideration are the February 2021 financial statements.
8. **DISCUSSION ITEM:** 208 Planning Considerations for Designated Management and Operation Agencies.
Designated Management and Operation Agencies of the Association can discuss responsibilities regarding 208 planning. Including planning for Utility Plans, fee rate increases, tap fee increases, population projections, facility capacity increases, facility upgrades to meet water quality standards, inflow and infiltration issues, service area increases, consolidation considerations, and nonpoint source control considerations in the planning region.
9. **DECISION ITEM:** City of Greeley Ashcroft Lift Station Site Application.
The City of Greeley has submitted a Regulation 22 Site Location and Design application for the Ashcroft Lift Station (22.9). The Ashcroft Lift Station is a 0.5 MGD lift station with a 1.4 MGD peak hour capacity. The proposed lift station is documented within the City of Greeley Utility Plan approved December 12, 2019. The Ashcroft Lift Station application submitted is available online: <https://drive.google.com/drive/u/1/folders/1IA05fYBGXwfBoXV3CC6Bi5jAwaDg-zO>.

10. DECISION ITEM: Riverview RV Park Utility Plan.

The Riverview RV Park has submitted a Utility Plan for consideration and approval. Riverview RV Park is located at 2444 River Rim Road, Loveland; CO 80537 is an unincorporated part of Larimer County, approximately 3 miles west of Loveland. The park contains 134 RV slots, 16 tiny homes, and a rustic cabin. The property currently provides wastewater treatment utilizing a network of septic tanks, lift stations, and leach fields. The Utility Plan proposes to use the septic tanks and lift stations as primary settling for a centralized extended aeration process with anoxic zones, secondary settling, chlorine disinfection discharging into a disposal leach field on-site. The FINAL DRAFT of the Riverview RV Park Utility Plan is available online: <https://nfrwqpa.colorado.gov/utility-plan-guidance>.

11. DISCUSSION ITEM: Continuation - Public Meeting Notice to Modify Association Dues for 2022 – Attachment #4 (pages 10-19).

This discussion is a continuation of the January 28, 2021, and February 25, 2021 meetings to modify the Association Dues for 2022. During the Association meeting on February 25, 2021, Mr. Dinges with Carestream Health questioned the dues contribution for Industries within the proposed dues tier model? During the Executive committee meeting on March 4, 2021, the committee agreed to propose the dues contribution level equal to Associates at \$1,275, as illustrated in track changes of Attachment #4. Presentation of legal counsel's review to ensure the proposal to modify the dues for 2022, including assessing nonmember review fees, will not jeopardize the Association's 501(c)1 status in conflict with the Articles of Association. Membership may continue to discuss the proposal.

12. DISCUSSION ITEM: NFRWQPA Party Status Filed for Regulation No. 31 and 38.

The Association did file for party status for the upcoming hearing for the Basic Standards and Methodologies for Surface water Regulation No. 31 and the South Platte River Basin, Laramie River Basin, Republican River Basin, Smokey Hill River Basin Regulation No. 38. The Prehearing conference will be May 18, 2021, and the Rulemaking Hearing is scheduled for June 14, 2021.

13. OTHER BUSINESS:

a) Workgroup Updates; Can be accessed here:

https://drive.google.com/drive/u/1/folders/1mAStJ7L24LgM3_Gu64zh4Q6FbxknNjrt

14. ADJOURN.

NORTH FRONT RANGE WATER QUALITY PLANNING ASSOCIATION

257 Johnstown Center Dr.; Unit 206
 Johnstown, CO 80534
 970.587.8872 - <http://www.nfrwqpa.org>

Designated Management and Operation Agency Members

1	Ault	Voting	Grant Ruff	Dustin Preston
2	Berthoud	Voting	Stephanie Brothers	Wayne Ramey
3	Boxelder Sanitation District	Voting	Brian Zick	David Lewis
4	Brighton	Voting	Kim Schoen	
5	Broomfield	Voting	Ken Rutt	Dennis Rodriguez
6	Eaton	Voting	Gary Carsten	Jeff Schreier
7	Erie	Voting	Jon Coyle	Todd Fessenden
8	Estes Park Sanitation District	Voting	James Duell	
9	Evans	Voting	Randy Ready	Todd Hepworth
10	Fox Acres	Voting	Richard Hopp	Ted Carter
11	Ft. Collins	Voting	Jason Graham	Bonnie Pierce
12	Ft. Lupton	Voting	Jon Mays	Chris Cross
13	Galeton Water & Sanitation District	Voting	William Warren	
14	Greeley	Voting	Jeremy Woolf	Justin Scholz
15	Hudson	Voting	Guy Patterson	Hunter Fobare
16	Johnstown	Voting	Marco Carani	Matt LeCerf
17	Kersey	Voting	Christian Morgan	
18	Larimer County	Voting	Chris Manley	
19	LaSalle	Voting	Barry Schaeffer	
20	Lochbuie	Voting	Steve Stamey	
21	Longmont	Voting	Kathryne Marko	Dale Rademacher
22	Loveland	Voting	Joe Creaghe	Carlos Medina
23	Mead	Voting	Hellen Migchelbrink	Erika Rasmussen
24	Metro Wastewater Rec. Dist.	Voting	Tom Acampora	Katie Koplitz
25	Milliken	Voting	Don Stonebrink	Brad Simons
26	Northglenn	Voting	Manual Freye	Brain Malavsky
27	Pierce	Voting	Pat Larson	
28	Platteville	Voting	David Brand	
29	Severance	Voting	Nicholas Wharton	Mike Ketterling
30	South Ft. Collins San. Dist.	Voting	Chris Pletcher	Eric Bailey
31	St. Vrain San. District	Voting	Rob Fleck	Dave Cross
32	Timnath	Voting	Don Taranto	
33	Upper Thompson San. Dist.	Voting	Chris Bieker	Matt Allen
34	Weld County	Voting	Skip Holland	Katie Sall
35	Wellington	Voting	Bob Gowing	Mike Flores
36	Windsor	Voting	Dennis Markham	

Associates and Industries

37	NCWCD	Voting	Curtis Hartenstine	Ester Vincent
38	Carestream	Voting	John Dinges	

37 Representative Votes / 9 Representatives required for Quorum (25%)

rev.3-10-2021

Attachment No. 2



ASSOCIATION MEETING MINUTES

February 25, 2021; 2:00 PM

Remote Meeting Only

1. **CALL MEETING TO ORDER.**

Mr. Thomas, NFRWQPA Manager, called the meeting to order at 2:05 PM.

2. **DETERMINATION OF A QUORUM FROM MEMBERSHIP.**

In attendance: Mark Thomas, Brain Zick, Jason Graham, Rob Fleck, Chris Bieker, Jermy Woolf, Marco Carani, Craig Matsuda, David Brand, Dennis Markham, Dustin Preston, Joe Creaghe, John Dinges, Jon Coyle, Katie Koplitz, Katie Sall, Kathryne Marko, Matt Allen, Mary Paterniti, Matt LeCerf, Skip Holland, Stephanie Brothers, and Todd Hepworth. – Mr. Thomas announced a quorum.

3. **APPROVAL OF AGENDA.**

Mr. Bieker made a motion to approve the agenda, seconded by Mr. Carani - Motion carried unanimously.

4. **DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST.**

Mr. Carani of the Town of Johnstown abstained from agenda topic # 8, the Town of Johnstown Lowpoint Facility Expansion Site Application.

5. **PUBLIC COMMENTS.**

No members of the public stated any public comments.

6. **APPROVAL OF PAST MINUTES.**

Mr. Bieker moved to approve the minutes from January 28, 2020, meeting, seconded by Mr. Woolf. – Motion carried unanimously.

7. **FINANCIAL REPORTS.**

Mr. Brand moved to approve the January 2021 financial statement, seconded by Mr. Bieker. – Motion carried unanimously.

8. **DECISION ITEM:** Town of Johnstown Lowpoint Facility Expansion Site Application.

The Town of Johnstown submitted a Regulation 22 Site Location and Design Application for consideration and approval by the Association. The application expands Johnstown's Low Point Wastewater Treatment Facility to 1.5 MGD from 0.5 MGD, switching the treatment technology from a Sequencing Batch Reactor (SBR) to a Membrane Bioreactor (MBR). The Lowpoint Facility Expansion projected is documented within the Town of Johnstown's Conditionally Approved Utility Plan (January 28, 2021). Mr. Graham moved to approve the Town of Johnstown Lowpoint Facility Expansion Site Application, seconded by Mr. Hepworth. – Motion carried unanimously.

9. **DISCUSSION ITEM:** Continuation - Public Meeting Notice to Modify Association Dues for 2022.

This discussion continued from the January 28, 2021 meeting to modify the Association Dues for 2022. NFRWQPA engaged with legal counsel to ensure the proposal to revise the dues for 2022, including assessing nonmember review fees, not jeopardizing the Association's 501(c)1 status in conflict with the Articles of Association. The legal review should be completed and presented during the March 25, 2021, Association meeting. Mr. Dinges with Carestream Health asked the membership where do industries fall within the new tiered dues model? Mr. Fleck, Association Treasurer, suggested that the Executive Committee determine the fees for industries within the proposed dues model and report back during the

March 25, 2021, Association meeting. Mr. Creaghe with the City of Loveland also stated that the city saw a lot of value in the Association and was willing to pay the full dues contribution for 2021 rather than receive the agreed-upon COVID-19 50% refund for 2021. Mr. Thomas, Association Manager, further explained the rationale for the tiered dues model to make the dues contributions more equitable for the entire membership.

10. DISCUSSION ITEM: Continuation - Chemical Evaluation Forms.

This discussion continued from the January 28, 2021 meeting discussing Chemical Evaluation Forms. The Colorado Wastewater Utility Council and the Division met on February 10, 2021, to discuss facility issues with the Chemical Evaluation Form. A recording of that meeting is available from the Colorado Wastewater Utility Council. The membership discussed the Colorado Wastewater Utility Council meeting and the issues brought up to the Division.

11. DISCUSSION ITEM: Future Facility Needs to Meet Regulation 31 Nutrient Standards.

The Division has concerns about treatment facilities' ability to meet Regulation 31 nutrient standards effluent limits that will need to be incorporated into permits in response to the nutrient standards being developed through 2027. Mr. Thomas, Association Manager, asked the membership if there are facilities in the NFRWQPA region that will struggle to meet the new Regulation 31 nutrient standards permit limits. If so, how can the Division help those facilities prepare? Mr. Holland, representing Weld County, asked if the Division has funding for additional FTE to assist facilities in preparing for Regulation 31. The general agreement among the membership was that most facilities would have difficulty meeting the water quality limits of Regulation 31, and funding facility upgrades was the main issue.

12. OTHER BUSINESS:

a) Workgroup Updates; Can be accessed here:

<https://drive.google.com/drive/u/1/folders/1ZuqjIQadwnsZKi5G21ovoCSMzNJ-rOcq>

13. ADJOURN.

Attachment No. 3

North Front Range Water Quality Planning Association
Statements of Revenue and Expenses - Budget vs. Actual - Cash Basis
As of February 28, 2021 and January 31, 2021

	<u>Feb 28, 21</u>	<u>Jan 31, 21</u>	<u>\$ Change</u>
ASSETS			
Current Assets			
Checking/Savings			
1100 · Checking NFRWQPA	52,639.89	18,446.19	34,193.70
1250 · Colorado Trust NFRWQPA	605,332.33	605,292.37	39.96
Total Checking/Savings	<u>657,972.22</u>	<u>623,738.56</u>	<u>34,233.66</u>
Other Current Assets			
1500 · Security Deposit	1,353.00	1,353.00	0.00
Total Other Current Assets	<u>1,353.00</u>	<u>1,353.00</u>	<u>0.00</u>
Total Current Assets	<u>659,325.22</u>	<u>625,091.56</u>	<u>34,233.66</u>
TOTAL ASSETS	<u><u>659,325.22</u></u>	<u><u>625,091.56</u></u>	<u><u>34,233.66</u></u>
LIABILITIES & EQUITY			
Liabilities			
Current Liabilities			
Credit Cards			
2050 · Mark's CC x7640	1,401.55	832.55	569.00
Total Credit Cards	<u>1,401.55</u>	<u>832.55</u>	<u>569.00</u>
Other Current Liabilities			
2300 · Pension Payable	325.00	325.00	0.00
24000 · Payroll Liabilities			
2406 · Accrued Vacation Payable	1,592.31	1,592.31	0.00
2407 · PERA	1,865.27	1,865.27	0.00
Total 24000 · Payroll Liabilities	<u>3,457.58</u>	<u>3,457.58</u>	<u>0.00</u>
Total Other Current Liabilities	<u>3,782.58</u>	<u>3,782.58</u>	<u>0.00</u>
Total Current Liabilities	<u>5,184.13</u>	<u>4,615.13</u>	<u>569.00</u>
Total Liabilities	5,184.13	4,615.13	569.00
Equity			
2810 · Assets Beginning of Year	572,240.82	572,240.82	0.00
32000 · Retained Earnings	51,739.87	51,739.87	0.00
Net Income	<u>30,160.40</u>	<u>-3,504.26</u>	<u>33,664.66</u>
Total Equity	<u>654,141.09</u>	<u>620,476.43</u>	<u>33,664.66</u>
TOTAL LIABILITIES & EQUITY	<u><u>659,325.22</u></u>	<u><u>625,091.56</u></u>	<u><u>34,233.66</u></u>

No assurance is provided on these financial statements.
The financial statements do not include a statement of cash flows.
Substantially all disclosures required by GAAP omitted.

North Front Range Water Quality Planning Association
Statements of Revenue and Expenses - Budget vs. Actual - Cash Basis
For the One-Month and Two Month Periods Ended February 28, 2021

	<u>Feb 21</u>	<u>Jan-Feb 21</u>	<u>Budget</u>	<u>% of Budget</u>
Revenues				
9010 · Membership Dues	46,862.62	55,367.62	90,484.00	61.19
9020 · Interest Income	39.96	94.42	6,000.00	1.57
9030 · CDPH & E	-	-	10,800.00	-
Total Revenues	<u>46,902.58</u>	<u>55,462.04</u>	<u>107,284.00</u>	<u>51.70</u>
Expenses				
3100 · Salary	7,697.86	15,395.72	92,374.26	16.67
3103 · Vision Stipend	-	-	100.00	-
3200 · Health Insurance	338.72	677.44	4,500.00	15.05
3210 · Dental & Vision Insurance	107.40	214.80	1,000.00	21.48
3220 · Life Insurance	65.83	131.66	1,000.00	13.17
3400 · FICA/PERA Manager	1,286.48	2,572.96	17,000.00	15.14
3600 · Workman's Compensation	-	-	425.00	-
5010 · Rent & Utilities	1,300.00	2,600.00	16,000.00	16.25
5100 · Telephone Cellular	75.00	150.00	900.00	16.67
5120 · Interest	-	-	10.00	-
5130 · Internet Service	143.38	285.76	2,000.00	14.29
5140 · IT Support	2,117.00	2,117.00	3,000.00	70.57
5150 · Advertising	-	-	500.00	-
5160 · Insurance	-	-	450.00	-
5200 · Printing	-	-	-	-
5250 · Legal Notices	-	-	-	-
5300 · Office Supplies	-	774.00	2,000.00	38.70
5350 · Postage	-	58.55	150.00	39.03
5400 · Dues & Subscriptions	-	-	7,500.00	-
5425 · Intergovernmental Assist	-	-	10,000.00	-
5450 · Training	-	-	500.00	-
5500 · Mileage Reimbursement	-	-	2,000.00	-
5510 · Meals & Lodging	-	-	2,500.00	-
5520 · Transportation	-	-	500.00	-
5550 · Conferences	-	-	2,000.00	-
5600 · Accounting	106.25	323.75	4,500.00	7.19
5650 · Auditing	-	-	6,500.00	-
5700 · Legal	-	-	10,000.00	-
5750 · Bank Charges	-	-	50.00	-
5800 · Capital Recovery	-	-	750.00	-
5850 · Capital Expenditures	-	-	4,500.00	-
5900 · Contingency Website	-	-	-	-
6010 · Contract Services/GIS	-	-	5,000.00	-
6011 · Contract Services Office	-	-	-	-
6020 · Contract Supplies State	-	-	-	-
6025 · Operations Contingency w/	-	-	15,000.00	-
7000 · Miscellaneous Expense	-	-	100.00	-
Total Expenses	<u>13,237.92</u>	<u>25,301.64</u>	<u>212,809.26</u>	<u>11.89</u>
Net Revenues and Expenses	<u><u>33,664.66</u></u>	<u><u>30,160.40</u></u>	<u><u>(105,525.26)</u></u>	<u><u>(28.58)</u></u>

No assurance is provided on these financial statements.
The financial statements do not include a statement of cash flows.
Substantially all disclosures required by GAAP omitted.

Attachment No. 4



NORTH FRONT RANGE WATER QUALITY PLANNING ASSOCIATION
257 Johnstown Center Dr.; Unit 206
Johnstown, CO 80534
970-587-8872 – <http://www.nfrwqpa.org>

RE: Public Meeting Notice to Modify Association Dues for 2022

During membership approval of the 2021 Association budget (June 25, 2020) to include a 2020 COVID-19 refund at 50% regarding the membership dues for 2021, membership also expressed the desire to modify the current population dues model. The goal of changing the membership dues model was to make the dues revenue more equitable for the entire membership while paying for each member's fair share of the regions' watershed assimilative load capacity. Currently, five members fund 50% of the annual revenue for the Association. The Association will consider a new dues model during the June 24, 2021, Association meeting for the ensuing (2022) year dues and budget.

The Executive Committee has considered many dues models since the membership's request. The present Association dues model assesses membership population each year using the State Demography Office population totals for Colorado Municipalities utilizing a factor of 0.1852 to calculate the dues owed for each member. Dues models considered include;

1. Flat Rate Dues Model
2. Tiered Dues Model based on wastewater treatment facility design capacity and/or population
3. Tiered Dues Model based on wastewater treatment facility design capacity and/or population, and charging for nonmember Association reviews
4. Hybrid dues model based on Tiers and charging for Association reviews
5. Percent share of assessed population total for the region
6. Percent share of assessed evaluation total for the region
7. Current Population dues model, unfreezing the dues, i.e., dues have been frozen since 2015 using 2014 population data
8. Current Population dues model, keeping the dues frozen

Using a Tiered Dues Model and charging for nonmember Association reviews, the Association would have a steady annual revenue with dues projected at \$159,375.00. Association review fees for nonmembers from 2015 through 2020, would have generated \$41,355.00 at an average of \$8,271.00 per year, bringing the annual average revenue to \$167,646.00 for that period. Per single-family equivalent (SFE) (or sewer customer), this model ranges from \$0.02-0.95 per customer. A tiered dues model accomplishes the goal to make association dues more equitable for the entire membership while paying for each member's fair share of the regions' watershed assimilative load capacity. Understanding agencies less than one (1) MGD pay less for dues given they are exempt from many of the regulations in which the Association may advocate. A tiered dues model also keeps pace with wastewater treatment facility capacity increases over time. A dues schedule comparison is attached (Appendix A), showing each current member's dues and the Tiered Dues fee structure and SFE assessment. The Association recognizes that some members may pay more, and some members may pay less under this Tiered Dues model. However, it accomplishes the goal to make association dues more equitable for the entire membership, illustrated by the attached dues schedule comparison. Membership equally shares the dues savings or increases, given that 18 members would save money, and 16 members will accrue dues increases. The dues are more impartial since all members pay the same rates within their respective tiers. For ease of comparing each current member's change in dues, Appendix B is provided.

Assessments for all the above possible dues models were conducted, although the Tiered Dues Model and charging for nonmember Association reviews revealed to be the most favorable and equitable. A tiered dues model also reflects other water quality association industry-standard practices. NFRWQPA also explored and considered other 208 Planning Agency dues models.

With regulation and permit water quality limits becoming more stringent, and new regulations or parameters

being proposed, membership has its advantages. NFRWQPA, in collaboration with the Colorado Monitoring Framework and the Colorado Wastewater Utility Council, actively provides stakeholder input to relevant water quality matters that directly affect wastewater dischargers. NFRWQPA attends and provides stakeholder input during the Water Quality Control Commission, Permit Issues Forum, Water Quality Forum, and relevant workgroup meetings for triannual reviews of water quality regulations on behalf of the membership. In turn, membership controls wastewater utility planning, collaborating regionally to approve locale wastewater facilities and their collection systems. Members can't get a better value for the services that NFRWQPA provides by employing their own environmental policy advisor personnel to lobby for fair water quality matters.

Therefore, after much consideration, the Executive Committee recommends that the Association move to a Tiered Dues Model assessing review fees to nonmembers. A Fee Schedule is attached for the Tiered Dues Model assessing review fees to nonmembers, Appendix C. This Tiered Dues Model and fee schedule will be considered for approval by the membership on June 24, 2021, for the ensuing (2022) year dues and budget. In preparation for the dues model possibly changing to this Tiered Dues Model, the Association will public notice this intent, discuss this during multiple Association meetings, and notify the membership with emails. NFRWQPA wants to ensure members in turn adequately budget for NFRWQPA dues in the 2022 fiscal year.

If you have any questions regarding this matter, please contact me at (970) 587-8872 or via email at mthomas@nfrwqpa.org

Sincerely,

Mark Thomas
Manager
NFRWQPA

Appendix A
Association Dues Schedule Comparison

Member Name	Current Dues Population Model			Tired Model Only				
	2020 Dues			2022				
	Actual SFEs December 2020	Current Dues	Actual SFE Cost per mth	Tiers	Tiered Dues	Actual SFE Cost per mth	Annual Net Difference	
Ault	593	\$ 1,225.00	\$ 0.17	<1 MGD or Population <10,000	\$ 1,000.00	\$ 0.14	\$ 225.00	
Fox Acres	102	\$ 1,225.00	\$ 1.00		\$ 1,000.00	\$ 0.82	\$ 225.00	
Milliken	2,963	\$ 1,225.00	\$ 0.03		\$ 1,000.00	\$ 0.03	\$ 225.00	
Platteville	879	\$ 1,225.00	\$ 0.12		\$ 1,000.00	\$ 0.09	\$ 225.00	
Severance	2,607	\$ 1,225.00	\$ 0.04		\$ 1,000.00	\$ 0.03	\$ 225.00	
Wellington	4,249	\$ 1,241.00	\$ 0.02		\$ 1,000.00	\$ 0.02	\$ 241.00	
Eaton	2,276	\$ 856.00	\$ 0.03		\$ 1,000.00	\$ 0.04	\$ (144.00)	
Hudson	534	\$ 477.00	\$ 0.07		\$ 1,000.00	\$ 0.16	\$ (523.00)	
Kersey	485	\$ 280.00	\$ 0.05		\$ 1,000.00	\$ 0.17	\$ (720.00)	
Mead	1,090	\$ 838.00	\$ 0.06		\$ 1,000.00	\$ 0.08	\$ (162.00)	
*Pierce	412	\$ 160.00	\$ 0.03		\$ 1,000.00	\$ 0.20	\$ (840.00)	
*Timnath	4,413	\$ 147.00	\$ 0.00		\$ 1,000.00	\$ 0.02	\$ (853.00)	
St. Vrain Sanitation District	13,750	\$ 5,441.00	\$ 0.03		1- to-9.99 MGD or Population 10,001-to- 25,000	\$ 3,150.00	\$ 0.02	\$ 2,291.00
Berthoud	4,966	\$ 1,225.00	\$ 0.02			\$ 3,150.00	\$ 0.05	\$ (1,925.00)
Johnstown	5,557	\$2,229	\$ 0.03	\$ 3,150.00		\$ 0.05	\$ (921.00)	
Estes Park S.D.	2,239	\$1,225	\$ 0.05	\$ 3,150.00		\$ 0.12	\$ (1,925.00)	
Erie	10,002	\$3,724	\$ 0.03	\$ 3,150.00		\$ 0.03	\$ 574.00	
*Upper Thompson S.D.	4,413	\$2,891	\$ 0.05	\$ 3,150.00		\$ 0.06	\$ (259.00)	
Lochbuie	2,694	\$1,225	\$ 0.04	\$ 3,150.00		\$ 0.10	\$ (1,925.00)	
Ft. Lupton	2,584	\$1,417	\$ 0.05	\$ 3,150.00		\$ 0.10	\$ (1,733.00)	
Evans	6,263	\$3,613	\$ 0.05	\$ 3,150.00		\$ 0.04	\$ 463.00	
Windsor	9,702	\$3,965	\$ 0.03	\$ 3,150.00		\$ 0.03	\$ 815.00	
Boxelder S. D.	6,450	\$1,726	\$ 0.02	\$ 3,150.00		\$ 0.04	\$ (1,424.00)	
Brighton	11,650	\$6,708	\$ 0.05	\$ 3,150.00		\$ 0.02	\$ 3,558.00	
*South Ft. Collins S.D.	17,712	\$5,000	\$ 0.02	\$ 3,150.00		\$ 0.01	\$ 1,850.00	
*Northglenn	13,789	\$6,921	\$ 0.04	\$ 3,150.00		\$ 0.02	\$ 3,771.00	
*Larimer County-Unincorporated	24,245	\$12,690	\$ 0.04	>10 MGD or Population > 25,000	\$ 7,500.00	\$ 0.03	\$ 5,189.90	
*Weld County Unincorporated	18,048	\$8,215	\$ 0.04		\$ 7,500.00	\$ 0.03	\$ 715.00	
Loveland	35,565	\$13,194	\$ 0.03		\$ 14,500.00	\$ 0.03	\$ (1,306.00)	
Broomfield	20,588	\$11,010	\$ 0.04		\$ 14,500.00	\$ 0.06	\$ (3,490.00)	
*Longmont	34,740	\$16,710	\$ 0.04		\$ 14,500.00	\$ 0.03	\$ 2,210.00	
Greeley	26,520	\$17,836	\$ 0.06		\$ 14,500.00	\$ 0.05	\$ 3,336.00	
*Metro WW Rec Dist.	28,179	\$7,189	\$ 0.02		\$ 14,500.00	\$ 0.04	\$ (7,311.00)	
*Ft. Collins	60,828	\$28,188	\$ 0.04		\$ 14,500.00	\$ 0.02	\$ 13,688.00	
NCWCD	0	\$1,725			Associate	\$ 1,275.00		\$ 450.00
Revenue		\$ 174,190.90				\$ 159,375.00	Members Save	18
*SFE=2.8 based on 2019 population								
	Average Dues	\$ 5,072.53	\$ 0.07	Average Dues	\$ 4,650.00	\$ 0.08		
	Dues Ranges	\$ 147.00	\$ 28,188.00	Dues Ranges	\$ 1,000.00	\$ 14,500.00		
	SFE Ranges	\$ 0.00	\$ 1.00	SFE Ranges	\$ 0.01	\$ 0.82		

Appendix B
Member Association Dues 2020 & 2022

	Member Name	Current Dues Model-2020	Tiered Dues-2022
1.	Town of Ault	\$1,225	\$1,000
2.	Fox Acres	\$1,225	\$1,000
3.	Town of Milliken	\$1,225	\$1,000
4.	Town of Platteville	\$1,225	\$1,000
5.	Town of Severance	\$1,225	\$1,000
6.	Town of Wellington	\$1,241	\$1,000
7.	Town of Eaton	\$856	\$1,000
8.	Town of Hudson	\$477	\$1,000
9.	Town of Kersey	\$280	\$1,000
10.	Town of Mead	\$838	\$1,000
11.	Town of Pierce	\$160	\$1,000
12.	Town of Timnath	\$147	\$1,000
13.	St. Vrain Sanitation District	\$5,441	\$3,150
14.	Town of Berthoud	\$1,225	\$3,150
15.	Town of Johnstown	\$2,229	\$3,150
16.	Estes Park Sanitation District	\$1,225	\$3,150
17.	Town of Erie	\$3,724	\$3,150
18.	Upper Thompson Sanitation District	\$2,891	\$3,150
19.	Town of Lochbuie	\$1,225	\$3,150
20.	Town of Fort Lupton	\$1,417	\$3,150
21.	City of Evans	\$3,613	\$3,150
22.	Town of Windsor	\$3,965	\$3,150
23.	Boxelder Sanitation District	\$1,726	\$3,150
24.	City of Brighton	\$6,708	\$3,150
25.	South Fort Collins Sanitation District	\$5,000	\$3,150
26.	City of Northglenn	\$6,921	\$3,150
27.	City of Loveland	\$13,194	\$14,500
28.	City and County of Broomfield	\$11,010	\$14,500
29.	City of Longmont	\$16,710	\$14,500
30.	City of Greeley	\$17,836	\$14,500
31.	Metro Wastewater Reclamation District	\$7,189	\$14,500
32.	City of Fort Collins	\$28,188	\$14,500
33.	Larimer County	\$12,690	\$7,500
34.	Weld County	\$8,215	\$7,500
35.	Northern Colorado Water Conservancy District	\$1,725	\$1,275

Appendix C
NFRWQPA 2022 Fee Schedule

NFRWQPA Fee Schedule (Effective January 1, 2022)					
Annual Membership Dues					
Treatment Facility			Collection System only		
Design Capacity (mgd)	Dues		Population	Dues	
<1	\$1,000		0-to-10,000	\$1,000	
1.0-to-9.99	\$3,150		10,001-to-25,000	\$3,150	
>10.0	\$14,500		>25,000	\$14,500	
Counties			Associates <u>& Industries</u>		
\$7,500			\$1,275		
Review Fees for Nonmembers					
Site Applications			Utility Plans		
	New (22.6)	Increasing or Decreasing Capacity (22.7)		New	Update
Wastewater treatment plants, less than 999,999 gallons per day:	\$3,115	\$2,492	Wastewater treatment plants, less than 999,999 gallons per day:	\$3,985	\$3,180
Wastewater treatment plants from 1,000,000 to 9,999,999:	\$6,231	\$4,984	Wastewater treatment plants from 1,000,000 to 9,999,999:	\$5,958	\$4,750
Wastewater treatment plants, 10,000,000 gallons per day or more:	\$12,461	\$9,969	Wastewater treatment plants, 10,000,000 gallons per day or more:	\$7,931	\$6,361
Interceptors (Eligible for Certification) (22.8):	\$779		On-site wastewater treatment systems:	\$1,830	\$1,207
Lift Stations & Interceptors (22.9):	\$1,246		Population & Loading projection updates	\$1,257	
Amendments to Existing Site Applications (22.10):	\$779		Wastewater Utility Service Area (WUSA) updates	\$1,257	
Demonstration Projects (22.11):	\$0				
In-kind Replacement Projects (22.12):	\$0				
Areawide Water Quality Management Plan Amendment					
New Management or Operation Agency:			\$2,992		
New Wastewater Treatment Plant:			\$1,992		
New Lift Station or Interceptor:			\$778		
Increase or Decrease in Treatment Plant Capacity:			\$389		
Wastewater Utility Service Area (WUSA) Amendment:			\$628		
Update Population and Loading Projections:			\$628		

Dues & Fee Policies (Effective January 1, 2022)

1. Dues and Rreview fees are non-refundable.
2. Review Fees will be assessed for nonmembers, and members with less than three (3) years of membership.
3. Once Utility Plan fees are paid, associated, or subsequent Site Application(s) and/or 208 Plan Amendment(s), fees are waived if applied for within one (1) year and documented with the said Utility Plan (Approved Date).
4. Review fees may be reapplied and required for multiple reviews of the same subject or project at the Association's discretion.
5. Members with representatives that serve on an Association committee may receive credit for reduced membership dues at a rate of 20% per year up to five years totaling 100%, receiving one (1) year of waived dues for five years of service on the sixth year. The committee service time-period must be served before receiving the credit at the member agency's request. Credit requests can not be in consecutive years. Members may begin earning Association committee credit on January 1, 2022.

Anton V. Dworak
303-776-9900
adworak@lyonsgaddis.com

March 18, 2021

Mark Thomas
North Front Range Water Quality
Planning Association
257 Johnstown Center Drive, Unit 206
Johnstown, CO 80534

VIA EMAIL
mthomas@nfrwqpa.org

Re: 501(c)(1) Tax Exempt Status and Colorado Non-Profit Act Related to Member Dues

Dear Mr. Thomas:

This firm was engaged by the North Front Range Water Quality Planning Association (referred to throughout this letter as “NFRWQPA” or the “Association”) to render an opinion as to whether or not the Association’s intent to change the membership dues structure for members and non-members would jeopardize the Association’s status as a 501(c)(1) organization exempt from tax, Colorado State law, and/or the Association’s Articles of Association. The answer to all the questions is no, the modification of member and non-member dues is not in violation of Colorado law nor will result in a revocation of the Association’s 501(c)(1) status. While I believe the membership dues modifications are not inconsistent with the Association’s Articles of Association, I would recommend some changes to indicate and clarify the differences between member and non-member dues and fees.

In rendering this opinion, I reviewed the Association’s Articles of Incorporation, the Association’s Articles of Association, the Public Meeting Notice to Modify Association dues for 2022, Colorado State Statutes and the Internal Revenue Code. Due to time and budgetary constraints I did not perform an exhaustive review of the Clean Water Act, specifically Section 208.

This opinion is limited in use and scope by the Association and its officers. It cannot be relied on by any other person or entity without the express permission of Lyons Gaddis.

I. 501 (c)(1)

The Internal Revenue Code, specifically Section 501(c) lists 29 different types of tax-exempt organizations. The most common exemption is 501(c)(3) which is for religious, educational and philanthropic organizations. Tax exemptions are a result of either an application to the Internal Revenue Service (“IRS”) applying for an exemption, or an exemption automatically

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existing by virtue of law. Charitable organizations like The Red Cross or The United Way, obtained their tax exemption by applying to the IRS and describing its purposes upon which the IRS granted the exemptions. Examples of exemptions arising out of mere existence includes churches, governments and public schools.

NFRWQPA is entitled to a tax exemption under Section 501(c)(1) as it is a corporation organized under an act of Congress (the Clean Water Act.) In other words, NFRWQPA obtains its exemption via its mere existence. It is not required to make any annual filings with the IRS to continue its tax-exempt status.

By virtue of being a 501(c)(1) organization and obtaining a tax exemption because of an act of Congress, the dues methodology proposed by NFRWQPA cannot result in a loss of its tax exemption or revocation of its status. The only conceivable way that NFRWQPA can lose its tax exemption would be upon an act of the Governor of the State of Colorado to remove the designation of the Association as a 208 planning agency. An independent action by a member or non-member could not dissolve the tax exemption or 501(c)(1) status without an act of the Governor or act of Congress.

While NFRWQPA cannot lose its tax exemption without an action by the Governor or by an act of Congress, it could by its actions be deemed to be exceeding its authority in certain cases. If for example it takes actions that it is not entitled to under Section 208 or it exceeds the scope of its grant, it could be required to correct such actions. Those remedies, however, would still not result in the loss of the 501(c)(1) designation.

II. Colorado Revised Statutes Non-Profit Corporation Act

The Association filed Articles of Incorporation with the State of Colorado in 1987. The Articles do not reference the existence of voting members. The current Colorado Revised Non-Profit Act requires organizations with voting members to note the existence of members in its Articles of Incorporation.

Since the original articles were filed before the requirement to indicate voting members was enacted, the Association is not in violation of the law, but with the revised dues structure, NFRWQPA is advised to amend its Articles of Incorporation to include a simple statement that it has voting members. The amendment does not need to specify the terms and conditions of voting members nor note the existence of non-voting members.

Colorado law does not require a non-profit corporation to have members. C.R.S. 7-126-102 allows a Colorado nonprofit corporation to specify the terms and conditions that an entity can become a member. C.R.S. 7-126-201 allows differences in the rights and obligations of members and non-members so long as the bylaws provide it.

Based on Colorado law, the Association can provide for differing dues and fees between members and non-members. The difference in fees paid between members and non-members does not violate Colorado law. It is our understanding that NFRWQPA does not have a document

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named “bylaws” but uses its Articles of Association to govern its affairs. NFRWQPA’s Articles of Association are in essence “bylaws” but it is advised to amend its Articles of Association to include a simple statement that Articles of Association shall also constitute the bylaws as defined in the Colorado Revised Corporation Act.

III. The Articles of Association

The Articles of Association of NFRWQPA contain its operating structure and procedures. As stated above, they are in essence bylaws. If they remained unchanged, it is my opinion that a change in the dues structure for members and non-members would not violate the Articles of Association but I would recommend changes to confirm and clarify the differences. Some of the changes I would recommend are:

1. Confirm that they also operate as the bylaws of the Association.
2. Modify Article II, Membership to specifically identify the existence of non-members and at the very least indicate that they may have different fee structures and benefits from members. The terms can be very general – the point is to indicate the existence of differences and to allow the Association to change those terms from time to time.

Thank you for this opportunity to render an opinion and let me know if you need anything further or have any questions.

Sincerely,

LYONS GADDIS KAHN HALL
JEFFERS DWORAK & GRANT, PC

By 

Anton V. Dworak

AVD/jrp