

**RESOLUTION NO. 20220214-01**

**RESOLUTION  
OF THE BOARD OF DIRECTORS OF  
NORTH WELD COUNTY WATER DISTRICT**

**CONCERNING MORATORIUM AND ESTABLISHING A TAP SALE CRITERIA  
POLICY**

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WHEREAS, the North Weld County Water District (the “District”) was organized pursuant to §§ 32-1-101 *et seq.*, C.R.S. (the “Special District Act”), as amended, and is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, pursuant to § 32-1-1001(1)(h), C.R.S., the Board of Directors of the District (the “Board”) is empowered with the management, control, and supervision of all the business and affairs of the District; and

WHEREAS, pursuant to § 32-1-1001(1)(m), C.R.S., the Board is authorized to adopt, amend, and enforce bylaws and rules and regulations not in conflict with the constitution and laws of Colorado for carrying on the business, objects, and affairs of the Board and the District; and

WHEREAS, on September 29, 2021, in response to proposed permitting regulations in Ft. Collins and Larimer County related to critical infrastructure projects intended to meet the current and future service demands on the District’s water system, including its planned NEWT III Pipeline Project (“NEWT III”), and in order to allow the District to understand the impact of the proposed permitting regulations on the District, the Board imposed a moratorium on all tap sales and plant investments until October 25, 2021 (the “Moratorium”); and

WHEREAS, on October 25, 2021, it was reported that Ft. Collins’ proposed permitting regulations would not impact the District’s planned NEWT III project, but the issues with Larimer County’s proposed permitting regulations had not been resolved and required further discussion. The Board extended the Moratorium to December 13, 2021, allowing additional time for negotiation with Larimer County, and the Board directed staff to start to develop policies related to tap sales criteria based on results from ongoing hydraulic model verification work; and

WHEREAS, during the Moratorium, the District continued to work to verify its hydraulic to understand the current and future capacity of the District’s water infrastructure, and to discuss with potential partners solutions to capacity issues found as part of the District’s efforts to verify it’s hydraulic model; and

WHEREAS, on December 13, 2021, the Board determined to extend the Moratorium again until May 9, 2022; and

WHEREAS, District staff has determined that the District's water system has sufficient capacity to allow for the sale of limited tap sales; and

WHEREAS, on January 10, 2022, based on recommendations from District staff and analysis of the District's water system capacity, the Board directed staff and legal counsel to prepare a proposed policy for consideration at its February 14, 2022 regular meeting to lift the Moratorium and allow for limited tap sales; and

WHEREAS, the District recognizes that it has entered into water service agreements with developers and property owners and that those developers and property owners have relied, and are relying, on the District to fulfill its commitments to serve under those water service agreements; and

WHEREAS, the Board desires to lift the Moratorium and allow for limited tap sales per year until additional capacity can be made available to the District either through intergovernmental agreements with other water providers or the completion of additional infrastructure projects, including NEWT III; and

WHEREAS, the Board desires to establish a tap sale criteria policy in order to clarify how and when the District will sell water taps (the "Tap Sale Criteria Policy") and to allow the District to manage water system capacity and ensure that it can continue to provide water to its customers; and

WHEREAS, the Board finds that lifting the Moratorium and the adoption of this North Weld County Water District Tap Sale Criteria Policy is in the best interest of the public health, safety, and welfare within the District.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE DISTRICT AS FOLLOWS:

1. Moratorium. The Board, having reviewed the District's water system capacity and hydraulic modeling, and based on the recommendations of District staff and consultants, hereby finds and determines that it is in the best interest of the District to lift the Moratorium and allow for the limited sale of water taps and plant investments, and hereby repeals and lifts the Moratorium in Zones 1, 2, 7, and 7B as indicated on the zone map, attached hereto and incorporated herein as **Exhibit A**. District staff is hereby directed to resume the sale of taps and plant investments in Zones 1, 2, 7, and 7B, subject to the Tap Sale Criteria Policy. Person's or property owners seeing a water tap and plant investment outside Zones 1, 2, 7, and 7B may seeks a variance from the Moratorium in writing to the Board, and the Board map approve the variance at its sole discretion.

2. Adoption. The Board hereby adopts the North Weld County Water District Tap Sale Criteria Policy, attached hereto and incorporated herein as **Exhibit B**.

3. Authorization. The Board hereby directs the District Manager, as may be necessary, to implement and otherwise oversee compliance with the Tap Sale Criteria Policy.

4. Amendments. The District expressly reserves the right to amend, revise, redact, and/or repeal this Resolution and the Tap Sale Criteria Policy in whole or in part, from time to time, in order to further the purpose of carrying on the business, objects, and affairs of the District.


5. Effective Date. This Resolution and the Tap Sale Criteria Policy shall be effective immediately and shall remain in full force and effect until such time as such processes is repealed by the Board.

6. Severability. If any term or provision of this Resolution of the Tap Sale Criteria Policy are found to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable term or provision shall not affect the validity of the Tap Sale Criteria Policy as a whole but shall be severed from the Tap Sale Criteria Policy, leaving the remaining terms or provisions in full force and effect.

*[Remainder of the page intentionally left blank. Signature page to follow.]*

ADOPTED THIS 14<sup>TH</sup> DAY OF FEBRUARY, 2022.

NORTH WELD COUNTY WATER DISTRICT, a  
quasi-municipal corporation and political  
subdivision of the State of Colorado

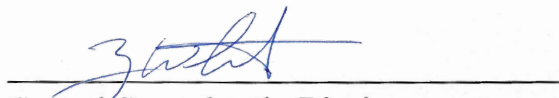
  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

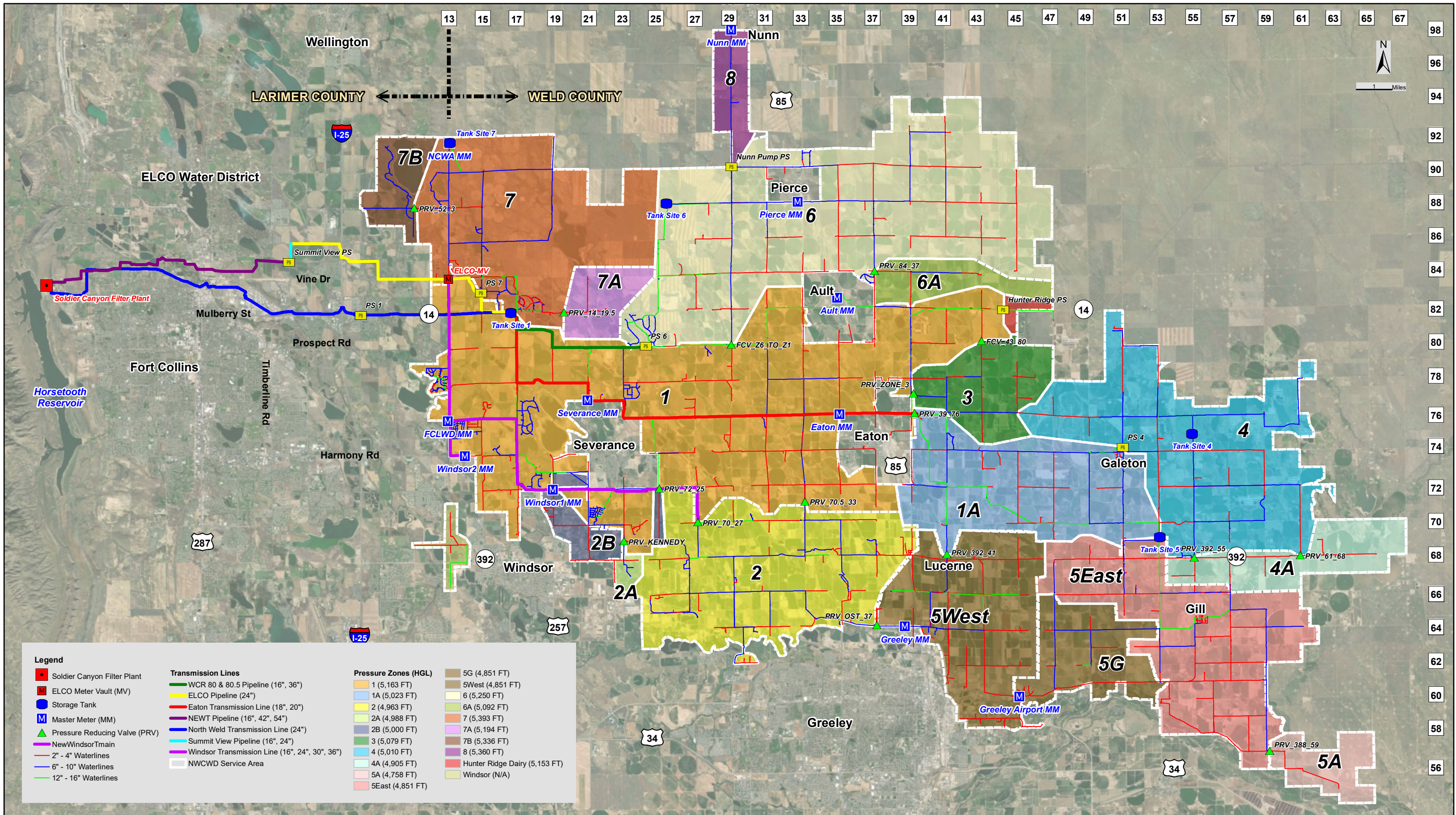
WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

  
\_\_\_\_\_  
General Counsel to the District

*Signature page to Resolution Concerning Moratorium and Establishing a Tap Sale Criteria Policy*

**EXHIBIT A**  
**NORTH WELD COUNTY WATER DISTRICT**  
**ZONE MAP**





**NORTH WELD COUNTY WATER DISTRICT  
EXISTING WATER SYSTEM AND PRESSURE ZONES MAP**

Figure 1





## EXHIBIT B

### NORTH WELD COUNTY WATER DISTRICT

#### TAP SALE CRITERIA POLICY

- I. **Tap Sale Criteria Policy:** The District’s policy is to allow those persons or property owners currently in need of water taps and plant investments from the District to be able to purchase the necessary water taps and plant investments at the time they are needed, but not sooner. The District does not intend to reserve or pre-sell water taps and plant investments. Therefore, the District hereby establishes that in order to be eligible to purchase a tap and plant investment from the District the following criteria must be met:
- a. The property to be served by the water tap and plant investment is subject to a current “Water Service Agreement”;
  - b. All requirements of the Water Service Agreement with respect to the property to be served by the water tap have been completed and accepted by the District;
  - c. All water required to dedicated to the District has been dedicated and accepted by the District;
  - d. The person or property owner seeking a water tap and plant investment must own the deed to the property to be served by the water tap and plant investment; and
  - e. The person or property owner seeking the water tap and plant investment must be concurrently seeking a building permit from the appropriate jurisdiction.
- II. **Limitation on Tap Sales:** In furtherance of the District’s need to preserve the health, safety, and welfare of its and its customers, and to ensure that the District’s water system has sufficient capacity to meet the demands of its customers, the District’s policy is to limit the number of water tap and plant investments it sells in each year.
- a. The number of water tap and plant investments the District may sell in a single year shall be as follows:
    - i. Until the District is able to complete the construction of additional critical infrastructure, including its NEWT III project, or until the District is able to acquire sufficient additional treatment and transmission capacity from other water service providers, the District will limit its sale of taps and plant investments to no more than 120 per calendar year, with up to 50 taps and plant investment sales through March 31, 2022, and up to 10 tap and plant investment sales per month thereafter until 120 are sold.
    - ii. After the District is able to complete the construction of additional critical infrastructure or the acquisition of additional treatment and transmission

capacity from other water service providers, the Board of Directors shall establish a maximum number of tap and plant investment sales it will sell in the subsequent year (the “Annual Sales”). In making its determination, the Board of Directors may consider the District’s hydraulic model and system capacity, recommendations from staff and consultants, current and future infrastructure projects, and any other information deemed by the Board of Directors to be beneficial in making its determination. The Board of Directors may adjust the number of Annual Sales if it determines additional sales are acceptable, or that additional limitations are needed in order to protect the District’s water system.

- b. The District Manager, in consultation with District Staff and consultants, shall be responsible for monitoring the sale of taps and the District’s water system capacity in order to ensure that the sale of taps will not have an adverse impact on the District’s water system or its customers.
- c. The District Manager shall report to the Board of Directors at each regular meeting of the Board of Directors the total number of water taps and plant investments sold during the previous month, and the total number of water taps and plant investments sold year to date.

III. **Variance:** Any person or property owner seeking a variance from this policy shall make such request in writing establishing the basis for the request, and such request shall be presented to the Board of Directors at its next regular meeting for consideration. Only the Board of Directors shall have the authority to approve a variance.

IV. **Enforcement:** The Board hereby directs the District Manager, as may be necessary, to implement and oversee compliance with this Policy in accordance with any rules and regulations of the District which may be in existence now or adopted in the future, including the imposition of fines.