KREMMLING SANITATION DISTRICT

200 Eagle Avenue
PO Box 538
Kremmling, CO 80459

(970) 724-3249
https://www.kremmlingsd.org

REGULAR BOARD MEETING

AGENDA

July 13, 2026

6:00 PM

Google Meet joining info:
Video call link: https://meet.google.com/spv-mmmv-jtb
Or dial: (US) +1 252-371-1068 PIN: 228 910 551#

1. CALL TO ORDER

2. PUBLIC COMMENT
   Comments will be received on non-agenda items at this time. No board action will be taken on issues raised during public comment. Please state your name for the record when called upon. Comments limited to 5 minutes per person.

3. APPROVAL OF PREVIOUS MEETING MINUTES
   a. Approval of minutes from the June 8, 2026, regular meeting
   b. Approval of minutes from the June 22, 2026, special meeting

4. LEGAL MATTERS
   Hearing To Show Cause in the Matter of the Sanitary Sewer Connection Permits Held by FCAP Muddy Creek, LLC, Located At 315 River Lane, Kremmling, Colorado

5. EXECUTIVE SESSION
   To confer with legal counsel regarding the hearing held in the Matter of the Sanitary Sewer Connection Permits Held by FCAP Muddy Creek, LLC, Located At 315 River Lane, Kremmling, Colorado, pursuant to C.R.S. § 24-6-402(4)(b)

6. FINANCE
   a. Approval of the June 9, 2026 – July 13, 2026, expenditure report
   b. Discuss the Budget to Actuals Report for the period ending May 31, 2026

7. OPERATOR'S REPORT
   a. Report on Compliance Labs and Plant Activity
   b. Report of Septic Receiving Station

8. ENGINEER'S REPORT
   a. Report on Development Activity

b. Report on Collection System Improvement Project

9. MANAGER'S REPORTS
    a. Draft 2025 Audit

10. ADJOURNMENT

KREMMLING SANITATION DISTRICT
RECORD OF PROCEEDINGS

Regular Meeting Minutes
June 8, 2026

A regular meeting of the Board of Directors (Board) of the Kremmling Sanitation District (District) was held on June 8, 2026, at 6:00 PM at the Kremmling Town Hall, 200 Eagle Avenue, Kremmling, Colorado, online using Google Meet. Links and call-in information were provided.

ATTENDANCE

Directors Present

Noble Underbrink, President
Dave Sammons, Vice President
Alan Hassler, Secretary/Treasurer
Stuart Heller, Assistant Secretary
Rory Menhennett, Assistant Secretary

Staff

Jack Seward, District Manager
Rich Rosene, Project Manager
Scott Weber, Superintendent
Trista Petefish, Utility Billing Clerk

1. **CALL TO ORDER**

   After notice was duly given and posted in accordance with Colorado law, the meeting was called to order by Mr. Underbrink at 6:00 PM.

2. **PUBLIC COMMENT**

   None.

3. **APPROVAL OF MINUTES**

   Mr. Seward presented the minutes of the May 11, 2026, regular meeting.

   Mr. Sammons made a motion to approve the minutes as presented. Mr. Menhennett seconded the motion, which unanimously carried.

4. APPROVAL OF EXPENDITURES

a. Mr. Seward presented the expenditure report dated May 12, 2026 – June 7, 2026.

   Mr. Menhennett made a motion to (i) approve the expenditure report dated May 12, 2026 – June 4, 2026, in the amount of forty thousand seven hundred thirty-six dollars and four cents ($40,736.04) and (ii) authorize the payment of all accounts, including current payables, in conformance with budgetary appropriations. Mr. Heller seconded the motion, which unanimously carried.

b. Mr. Seward presented the Board with an expenditure item that was not listed on the report for Fones Construction in the amount of forty-five thousand eight hundred seventy-one dollars and thirty-two cents. ($45,871.32) Mr. Menhennett made a motion to approve the added expenditure for Fones Construction. Mr. Sammons seconded the motion, which unanimously carried.

c. Mr. Seward presented the budget-to-actuals report for April 30, 2025. Mr. Seward reported that expenses are trending normally while revenue is not. Discussion included reconciling utility accounts, the possibility of needing a budget amendment, the ongoing audit, and delinquent utility accounts.

5. OPERATOR'S REPORT

a. Mr. Weber presented the operator's report. Mr. Weber reported that the compliance results have a spike in the BOD but are otherwise within normal compliance standards. Mr. Weber will follow up with ACZ testing to get further clarification on the issue. Mr. Weber discussed opening the septic receiving station with the Board. Mr. Weber updated that the Town is now connected to the reclaim water.

b. Mr. Seward presented the draft septic receiving station rates and rules and advised that a public hearing on the same will occur on June 22, 2026 a 6:00 pm.

6. ENGINEER'S REPORT

a. Mr. Seward provided an update on development activities, reporting that the Sunrise development is working on the required flow study and the K-Town North development has provided a revised set of plans to be reviewed by Element and staff. Mr. Seward reported that the Grand Cliffs will be purchasing seven (7) new taps.

b. Mr. Seward provided an update regarding the collection system project, discussing the possibility of doing an additional manhole within the budgeted amounts.

c. Mr. Seward presented a change order for Fones Construction to extend their allotted time to July 31, 2026. Mr. Hassler made a motion to approve the change order for Fones Construction extension of time to July 31, 2026. Mr. Heller seconded the motion, which unanimously carried.

7. MANAGER'S REPORT

a. Mr. Seward provided an update on the reuse water system agreement negotiations with the Town and School District. Negotiations are underway and have so far been successful. Mr. Seward indicated that a final version will be available for action at the special meeting later in the month.

b. Mr. Seward presented the draft policy on investments. The Board discussed annually reviewing this policy in September or October, after state statute changes go into effect. A final version of the policy will be adopted at the special meeting occurring later in the month.

c. Mr. Seward presented his memo on conduct of the meeting and parliamentary procedure to the Board. After discussion, the Board decided that the current practices meet its needs and no changes are necessary.

d. Mr. Seward reported on the ongoing dispute with FCAP Muddy Creek, LLC, which relates to billing and property classification. The District will issue an order to show cause and schedule the matter for hearing before the Board at the July meeting.

8. ADJOURNMENT

There being no further business to come before the Board, Mr. Sammons made a motion to adjourn the meeting. Mr. Heller seconded the motion, which unanimously carried. The Board adjourned at 7:18 PM.

The foregoing represents a true and accurate representation of the proceedings of the Board's regular meeting held on June 8, 2026

Jack Seward
Recording Secretary

KREMMLING SANITATION DISTRICT
RECORD OF PROCEEDINGS

Special Meeting Minutes
June 22, 2026

A special meeting of the Board of Directors (Board) of the Kremmling Sanitation District (District) was held on June 22, 2026, at 6:00 PM at the Kremmling Town Hall, 200 Eagle Avenue, Kremmling, Colorado, online using Google Meet. Links and call-in information were provided.

ATTENDANCE

Directors Present

Noble Underbrink, President
Dave Sammons, Vice President
Alan Hassler, Secretary/Treasurer
Stuart Heller, Assistant Secretary
Rory Menhennett, Assistant Secretary

Staff

Jack Seward, District Manager
Scott Weber, Superintendent

1. **CALL TO ORDER**

   After notice was duly given and posted in accordance with Colorado law, the meeting was called to order by Mr. Sammons at 6:00 PM.

2. **PUBLIC COMMENT**

   None.

3. **PUBLIC HEARING**

   The Board conducted a public hearing to fix rates, fees, charges, and penalties. Notice of the public hearing was published pursuant to C.R.S. § 32-1-1001(2)(a). Mr. Hassler made a motion to open the public hearing. Mr. Menhennett seconded the motion, which unanimously carried. The public hearing was opened at 6:03 PM. Mr. Seward presented Resolution 2026-06-01, a Resolution Fixing Rates, Fees, and Charges for Use of the District's Septic Receiving Station. Mr. Sammons called on members of the public to offer comment; none were present. Mr. Sammons closed the public hearing at 6:06 PM.

The Board discussed the resolution, and Mr. Seward responded to questions. Mr. Heller inquired how the fees were set. Mr. Weber replied that it's based on the previous fee with an adjustment for inflation. The proposed fee is the middle of other providers of the same service within other neighboring jurisdictions. The District also faces higher electricity costs and a need for pond improvements. Mr. Seward responded to a question from Mr. Hassler regarding prohibited waste and clarified that the waste haulers will have to prove the waste originated in Grand County.

Mr. Menhennett made a motion to adopt Resolution 2026-06-01, a Resolution Fixing Rates, Fees, and Charges for Use of the District's Septic Receiving Station. Mr. Hassler seconded the motion, which unanimously carried.

4. LEGAL MATTERS

a. Mr. Seward presented Resolution 2026-06-02, a Resolution Approving a Reclaimed Water Connection Agreement with the West Grand School District No. 1-JT and the Town of Kremmling. The agreement is the result of negotiations between the parties to enable the School District to water their grass fields this summer during the water restrictions. Mr. Weber advised that water is going quickly and once it is gone, it is gone. This agreement is designed to specifically relate to the School District's use of reclaimed water. It has a term until December 31, 2026. The District and Town continue to negotiate a long-term agreement regarding the reclaimed water system. After additional discussion, Mr. Underbrink made a motion to approve Resolution 2026-06-02, a Resolution Approving a Reclaimed Water Connection Agreement with the West Grand School District No. 1-JT and the Town of Kremmling. Mr. Menhennett seconded the motion, which unanimously carried.

b. Mr. Seward next presented Resolution 2026-06-03, a Resolution Adopting an Investment Policy. This policy was previously discussed at a previous meeting, and this matter is now ripe for action. Mr. Hassler made a motion to approve Resolution 2026-06-03, a Resolution Adopting an Investment Policy. Mr. Heller seconded the motion, which unanimously.

5. ADJOURNMENT

There being no further business to come before the Board, Mr. Hassler made a motion to adjourn the meeting. Mr. Menhennett seconded the motion, which unanimously carried. The Board adjourned at 6:35 PM.

The foregoing represents a true and accurate representation of the proceedings of the Board’s special meeting held on June 22, 2026

Jack Seward
Recording Secretary

KREMMLING SANITATION DISTRICT

PO BOX 538
200 EAGLE AVENUE
KREMMLING, CO 80459

PHONE: (970) 724-3249
FAX: (970) 724-9409

Memorandum

To: Board of Directors
From: Jack Seward, District Manager
Date: July 10, 2026
Subject: Hearing To Show Cause in the Matter of the Sanitary Sewer Connection Permits Held by FCAP Muddy Creek, LLC, Located At 315 River Lane, Kremmling, Colorado

On July 13, 2026, you will conduct a hearing in the Matter of the Sanitary Sewer Connection Permits Held by FCAP Muddy Creek, LLC (Customer), Located at 315 River Lane, Kremmling, Colorado (Property).

This matter concerns the reclassification of the Property and revocation of the existing Sanitary Sewer Connection Permits. The Kremmling Sanitation District's (District) position relevant to this matter has been discussed at some length before. The District was unable to come to a resolution with the Customer and issued a formal Order to Show Cause on June 19, 2026, and this case followed. Due to the quasi-judicial nature of these proceedings, you must constrain your thinking to the evidence in the record and base any decision you make on the submitted evidence and no other factors.

The record in this matter so far consists of the following:

1. Order to Show Cause – June 19, 2026
2. Scheduling Order – July 2, 2026
3. Customer's Brief in Opposition – July 8, 2026
4. District's Reply Brief – July 10, 2026
5. District's Disclosure of Evidence – July 10, 2026

The Customer has advised that they will be represented by counsel at the hearing. I will present on behalf of the District. The Customer's counsel will present on behalf of the Customer. The District's counsel will attend the hearing to provide advice to the Board.

Staff is not providing a recommended decision to the Board; the District's position is detailed in its briefs. The Board will need to reduce its decision to writing in the form of either an interim or final decision and order. Staff recommends that the Board develop its record based on the documents submitted to date and any submitted at the hearing and the testimony taken at the hearing. At the conclusion of the hearing, the Board will confer with the District's counsel. At that time, the Board may either close the record or ask for submission of supplemental information. Once the record is closed, the Board should direct staff and counsel to draft the decision and order based on the Board's findings and conclusions.

KREMMLING SANITATION DISTRICT
GRAND COUNTY, COLORADO

ORDER TO SHOW CAUSE

SANITARY SEWER CONNECTION PERMITS HELD BY FCAP MUDDY CREEK LLC, LOCATED AT 315 RIVER LANE, KREMMLING, COLORADO

CONNECTION PERMIT 2000-5-1
CONNECTION PERMIT 2001-6-1
CONNECTION PERMIT 2016-12-1
CONNECTION PERMIT 2024-5-1

FCAP Muddy Creek, LLC, (Customer) is hereby ordered to appear before the Board of Directors (Board) of the Kremmling Sanitation District (District), located at 200 Eagle Avenue, Kremmling, Colorado on July 12, 2026 at 5:00 PM and SHOW CAUSE why the Board should not reclassify Customer's Sanitary Sewer Connection Permits referenced above at 315 River Lane, Kremmling, Colorado as residential with 31 single equivalent unit taps, payment of the applicable tap fees, and adjustment to monthly billings and order the issuance of new sanitary sewer connection permits consistent with this reclassification for change of use.

ALLEGED VIOLATIONS

The District, as a result of a full investigation, has objective and reasonable grounds to believe that the Property is subject to reclassification as multiple residential dwelling units, resulting in the existing connection permits being null and void, requiring the revocation of current connection permits and issuance of new connection permits. As a result, the Customer must appear before the Board to produce any evidence or refute the District's alleged reclassification and explain why the Customer's connection permits should not be revoked.

I. Legal Authority.

a. The District is a quasi-municipal corporation and political subdivision of the State of Colorado, located in Grand County, Colorado, and is a duly organized and existing special district pursuant to C.R.S. § 32-1-101 *et seq.*

b. The Board has the management, control, and supervision of all the business and affairs of the District, pursuant to C.R.S. § 32-1-1001(1)(h).

c. The Board, pursuant to C.R.S. § 32-1-1001(1)(m), is empowered to adopt rules and regulations governing the use of District facilities, including, but not limited to, use of the sanitary sewer and wastewater collection system and utilization of the District's services.

d. The current Rules and Regulations, adopted and approved by the Board of Directors (Rules and Regulations), can be accessed publicly at the following webpage: https://www.kremmlingsd.org/files/2d2d7a5ec/KSD+Rules+and+Regulations.pdf

e. Section 3.4.6 of the Rules and Regulations provides as follows:

> *CHANGE OF USE. When the principal purpose of a Property is changed through zoning, the erection of new buildings, remodeling or renovation of existing buildings, change in use of the property, destruction of buildings, or any other modification or change to the improvements located on the Property such that the use of the Property is inconsistent with the use of the Property at the time the Connection Permit was issued shall deem the Connection Permit null and void and require the issuance of a new Connection Permit.*
>
> *A credit for the actual number of taps previously purchased for the Property in the previous Connection Permit shall be made toward a new Connection Permit, provided all User Fees owed to the District are paid. It shall be the responsibility of the User to establish the number of taps originally purchased for the previous Connection Permit.*
>
> *The District shall not refund any tap fees previously collected for those taps terminated under the provisions of this Section.*

f. Section 3.4.6 of the Rules and Regulations, describing permits issued to "Hotels, Motels, Condo-tels, Lodges, Boarding Houses, Dormitories, Bed and Breakfasts, etc." states:

> *In the event any of these uses are changed to dwelling units, a further tap fee will be levied against the units for the difference between the amount originally paid and the current charge for a single family dwelling unit.*

g. Section 3.4.6 of the Rules and Regulations states: "Any Connection Permit may be revoked, and the user's service line may be disconnected at the user's expense, if… not... in strict accordance with these Rules and Regulations."

h. Section 3.4.6 of the Rules and Regulations states: "The District shall give the user notice of the revocation of the Connection permit" and "a hearing before the Board of Directors… to adjudicate the same."

i. All connection permits issued by the District are revocable licenses subject to ongoing compliance with the District's Rules and Regulations.

II. Factual Background

a. The Customer owns the real property, located within the territorial boundaries of the District at 315 River Lane, Kremmling, Colorado (Property).

b. The District issued connection permits 2000-5-1, 2001-6-1, 2016-12-1, and 2024-5-1 (collectively, Connection Permits), entitling the Property to the services of the District and connection to the sanitary sewer and wastewater collection system subject to continuing compliance with the District's Rules and Regulations.

c. The existing four (4) Connection Permits previously classified the Property as "Hotels, Motels, Condo-tels, Lodges, Boarding Houses, Dormitories, Bed and Breakfasts" *Rules and Regulations at Section 3.3.3(D)(1).* In this category, the Rules and Regulations describe usage within this category generally as "a unit providing overnight sleeping facilities for transient usage." *Rules and Regulations at Section 3.3.3 (D) (1).*

d. On February 14, 2024, the Town of Kremmling (Town) approved the Customer's application for Use by Special Review (USR) to construct additional dwelling units on the Property.

e. In the Customer's USR application to the Town, the Customer wrote, "our focuses will be to work with local employers and employees to serve as this type of transitional accommodation…" and "We are pursuing local employers to lease units at the property to provide month to month transitional accommodations to their employees." Customer described the additional dwelling units as "The majority are one-bedroom units with a kitchenette, living area, and a full bathroom."

f. The Customer wrote in their USR application that the use of the Property will be consistent with the Hotels, Motels, Boarding Houses, Lodging Houses classification found at Section 17.02 of the Kremmling Municipal Code (KMC).

g. Following the Town's approval of the 2024 USR application, the Customer built an additional twenty-one (21) cabins.

h. The Property now consists of thirty-one (31) "cabin" dwelling units, each with a municipal water connection with potable water service provided by the Town.

i. The District's issuance of the Connection Permits occurred prior to Customer building out the Property to its current 31 cabin units.

j. On January 15, 2026, the Town determined that each cabin is a separate water-using unit as that term is defined in KMC Section 13.04.010. The Town's January 16, 2026 letter cited Section 13.04.010: "'Residential Water Using Unit' is a Water Using Unit that is used as a private dwelling, apartment, condominium unit, town home, single unit in any multifamily structure, a manufactured home, or mobile home whether or not located in a mobile home park, or any other existing unit that commonly houses a single family on an extended term basis." KMC Section 13.04.010 describes a "Water Using Unit" as "any space or any structure or building, movable, fixed, or otherwise, or any part or parcel of it having, or being equipped with, a device, fixture, or method for using water." The Town charges each water-using unit a separate "base rate."

k. Pursuant to a letter from Customer's legal counsel, dated April 9, 2026, the Property provides "commercial lodging" and "transitional workforce housing to a single commercial tenant" under a master lease with a mining company, Freeport-McMoRan, Inc. Reportedly, stays of individuals within a single cabin dwelling unit range "from several days to several months." April 9, 2026, *Letter from Michael Brownlee.*

l. The Customer does not remit lodging or sales tax to the Town for the sale of lodging accommodations.

m. None of the 31 cabin units are available to the general public for "overnight sleeping facilities for transient usage."

n. Collectively, the existing 31 cabin units do not qualify as "<u>a unit</u> providing overnight sleeping facilities for transient usage." Section 3.3.3.D.1.

III. <u>Discussion.</u>

a. The Town's January 15, 2026 letter regarding Water Billing reflects the Town's determination that each cabin unit on the Property constitutes a separate residential water-using unit and is billing accordingly on a monthly per-unit basis. Given that determination, the District has objective and reasonable grounds to determine that each cabin unit constitutes a separate residential sewer-using unit. The District is required to apply its user fees uniformly and equitably across all users and doing so in conformance with Town determinations is in furtherance of this equitable application. Treating the Property as a single or reduced number of commercial units for sewer billing, while it is simultaneously recognized as multiple residential units for water service, would result in inconsistent and inequitable treatment. Billing must reflect the number of functional sewer-using units and be consistent with the District's Rules and Regulations.

b. The Town's "water using unit" is functionally equivalent to the District's single unit equivalent. It is compelling that on January 15, 2026, the Town recognized a change in classification and billing practices for the Property. The Town had previously determined that the principal purpose of the Property was transient usage. The Town's letter reflects a redetermination that each cabin on the Property represents a separate water-using unit.

   In issuing the existing Connection Permits, the District reasonably relied upon the Town's findings and conclusions regarding the use of the Property. The Town controls land use determinations, and the District does not have such legal authority. Although land use determinations do not control the District's interpretation or implementation of its Rules and Regulations, when the Town reclassifies the water use of any property, the Customer's Property included, the District takes note.

   To the District's knowledge, Customer did not protest the Town's reclassification of the Property by the Town's January 15, 2026 letter. The facts are the same with respect to the District's reclassification of the Connection Permits now.

c. Colorado statute describes "transient" occupancy to generally mean lodging for less than thirty (30) days. For example, the landlord-tenant code excludes "transient occupancy in a hotel or motel that lasts less than thirty days," and short-term rental statutes define lodging units rented for less than thirty (30) days as transient uses. *C.R.S. §§ 38-12-511(1)(d) and 29-35-402(19)(a).*

   Although the foregoing Colorado statutes are not directly applicable to the District's Rules and Regulations, the District's Rules and Regulations describe the "Hotels, Motels, Condo-tels, Lodges, Boarding Houses, Dormitories, Bed and Breakfasts," property classification as a unit to be used for "overnight sleeping" and "transient" usage. Section 3.3.3.D.1.

   The current nature and the character of the use of the Property do not support transient usage. While it is possible that there may be some stays that last less than thirty (30) days, it is evident that this is not the principal purpose of the Property. The Customer has entered into a long-term lease agreement with a local business; this lease agreement calls for the use of the Property for long-term workforce housing. By its very nature, this is not transient usage.

d. The Customer does not charge tenants at the Property sales or lodging tax. Colorado state law exempts long-term rentals from lodging and sales tax. A rental of rooms or accommodations becomes exempt from sales tax once it is thirty (30) consecutive days or more. C.R.S. § 39-26-704(3). Conversely, rentals for less than 30 consecutive days are taxable as short-term or transient lodging.

   The exemption applies when the occupant is treated as a "permanent resident" under a continuous arrangement. *1 CCR 201-4, Rule 39-26-704-4.* The Customer has informed the District that their tenants enter into written "license agreements" for their stays in the cabins.

   If the Customer is not going to collect sales tax from its tenants, the Customer must have knowingly and intentionally determined that the rentals are exempt from sales tax. To do this, the Customer would have to conclude that the period of stay is longer than thirty (30) days. If the stay is longer than thirty (30) days, then it can't be transient.

   The Customer even admits that its Property is not transient in his letter to the District on April 9, 2026. Customer's counsel states the Property is used in a "manner functionally identical to an extended-stay hotel in that occupants cycle through on stays ranging from several days to <u>several months</u>." *Emphasis added.* If occupants are staying for "several months," their use is not transient.

e. After application to the Town, and the Town's February 14, 2024 approval of Customer's USR application, Customer constructed additional cabin and dwelling units on the Property. The now existing 31 cabin units do not qualify as "<u>a unit</u> providing overnight sleeping facilities for transient usage." Section 3.3.3.D.1. The 31 cabin units each represent separate structures each containing an independent dwelling unit habitable by not more than one family for living, sleeping, cooking, and eating. This type of use is more accurately described and classified by Section 3.3.3.A. of the District's Rules and Regulations, "Single Family Dwelling."

IV. <u>Conclusion.</u>

The Customer currently holds four (4) Connection Permits, each a revocable license that is conditioned on compliance with the District's Rules and Regulations. By its USR application to the Town, construction of additional cabin dwelling units, and the Town's reclassification of municipal water usage on the Property, the Customer's existing Connection Permits are subject to reclassification for change of use. The current Connection Permits are null and void, pursuant to the Rules and Regulations at Section 3.4.3, and the Board must reclassify the Customer's use at the Property, with further tap fees to be levied for the appropriate number of sewer taps and dwelling units.

RELIEF SOUGHT

The District asks the Board to find and conclude that the use of the Property has changed and order the reclassification of the Property as residential with 31 single equivalent units, requiring payment of the applicable tap fees, and adjustment to monthly billings. The Board will consider revocation of sanitary sewer connection permits 2000-5-1, 2001-6-1, 2016-12-1, and 2024-5-1 as the permits are null and void, pursuant to Section 3.4.3 of the Rules and Regulations, and order the issuance of a new sanitary sewer connection permit consistent with the reclassification. The Customer should be credited for twenty and three-tenths (20.3) taps, which have already been purchased and ordered to acquire ten and seven-tenths (10.7) additional taps at the current rate fixed in the District's fee schedule, pursuant to Section 3.4.3 of the Rules and Regulations.

ORDERED this 19th day of June 2026.

John Seward

Jack Seward
District Manager

Hearing Procedures

In any proceeding before the Board, the Customer bears the burden of proof and must demonstrate by a preponderance of the evidence. Hearings are conducted during a public meeting at the time and date detailed in this Show Cause Order.

The District and Customer shall each be given the same amount of uninterrupted time to present their case. The District shall start the hearing and present evidence in support of the relief sought. The Customer shall then have the opportunity to refute the claim and present any evidence to the contrary. Rebuttal time may be granted to either party at the Board's discretion.

The decision by the Board shall be fair and reasonable and take into consideration all of the relevant facts, circumstances, and evidence presented at the hearing. A majority of the Board is required to make a decision. The Board's decision shall include the factual basis for the findings, sustain or overrule the allegations, impose a fine, suspend or revoke any right or privilege, assess costs, or take any other reasonable action that is otherwise lawful.

Should the Customer fail to appear at the hearing, the Board need not conduct a formal hearing or make any further findings except that the Customer's failure to appear constitutes a waiver of the right to a hearing, the District's allegations are admitted as fact, and the Board may enter an order by default.

CERTIFICATE OF DELIVERY

The undersigned hereby certifies and states that one true and complete copy of the above Order to Show Cause and Hearing Procedures was sent by email and regular mail this 19th day of June 2026, addressed as follows:

FCAP Muddy Creek LLC
Attn: Levi Rozga
PO Box 7044
Avon, CO 81620
lrozga@fortiuscap.com

Brownlee & Associates, LLC
Attn: Michael Brownlee
PO Box 268
Edwards, CO 81632
michael@brownleelawllc.com

John Seward

Jack Seward
District Manager

KREMMLING SANITATION DISTRICT
GRAND COUNTY, COLORADO

SCHEDULING ORDER

SANITARY SEWER CONNECTION PERMITS HELD BY FCAP MUDDY CREEK LLC, LOCATED AT 315 RIVER LANE, KREMMLING, COLORADO

CONNECTION PERMIT 2000-5-1
CONNECTION PERMIT 2001-6-1
CONNECTION PERMIT 2016-12-1
CONNECTION PERMIT 2024-5-1

The Kremmling Sanitation District (District) in the above-captioned matter on June 19, 2026, ordered FCAP Muddy Creek, LLC (Customer) to appear and show cause why its Sanitary Sewer Connection Permits should not be reclassified and revoked. The District finds the hearing date set forth in the Order to Show Cause was stated incorrectly.

Therefore, the District orders that the hearing on the Order to Show Cause shall be held on Monday, July 13, 2026, at 6:00 PM, at the Kremmling Town Hall, 200 Eagle Avenue, Kremmling, Colorado.

Except as expressly modified by this Order, all provisions of the previously issued Order to Show Cause remain in full force and effect.

On July 1, 2026, the District received Notice of Intent to Appear and Contest from the Customers' counsel. Accordingly, the Customer is ordered to file a brief in opposition to the District's proposed action no later than July 8, 2026, at 5:00 PM. The District is ordered to then file a brief containing its evidence and response to the Customer's brief in opposition no later than July 10, 2026, at 5:00 PM.

ORDERED this 2nd day of July 2026.

John Seward

Jack Seward
District Manager

The undersigned hereby certifies and states that one true and complete copy of the above Scheduling Order was sent by email this 2nd day of July 2026, addressed as follows:

FCAP Muddy Creek LLC
Attn: Levi Rozga
PO Box 7044
Avon, CO 81620
lrozga@fortiuscap.com

Brownlee & Associates, LLC
Attn: Michael Brownlee
PO Box 268
Edwards, CO 81632
michael@brownleelawllc.com

John Seward

Jack Seward
District Manager

BROWNLEE & ASSOCIATES, LLC

Physical Address: 216 Main Street, Edwards, CO 81632
Mailing Address: PO Box 268, Edwards, CO 81632
Tel. No.: (970) 306-3312 * Fax No.: (970) 360-1049
Email: michael@brownleelawllc.com

July 8, 2026

Board of Directors
KREMMLING SANITATION DISTRICT
c/o Jack Seward, District Manager
200 Eagle Avenue
PO Box 538
Kremmling, CO 80459
Via Email Only: sanmanager@townofkremmling.org

Re: Written Response to Order to Show Cause Dated June 19, 2026
FCAP Muddy Creek LLC, 315 River Lane, Kremmling, Colorado
Connection Permits 2000-5-1, 2001-6-1, 2016-12-1, 2024-5-1

Dear Members of the Board:

I. Introduction

FCAP MUDDY CREEK LLC ("Customer"), through undersigned counsel, submits this Written Response to the Order to Show Cause dated June 19, 2026 ("Order"), issued by the KREMMLING SANITATION DISTRICT ("District") through District Manager Jack Seward. The Customer contests the Order in its entirety and respectfully requests that the Board of Directors dismiss the Order, confirm the existing classification and tap allocations under Connection Permits 2000-5-1, 2001-6-1, 2016-12-1, and 2024-5-1, and take no further action against the Property.

The Customer owns and operates the Muddy Creek Cabins, a commercial lodging property located at 315 River Lane, Kremmling, Colorado ("Property"). The District has classified this Property as commercial and has issued commercial connection permits for the Property for over twenty-five years. The Property operates today exactly as the Customer described it in the 2024 Use by Special Review application that the Town of Kremmling approved. No change of use has occurred. The District now seeks to reclassify the Property from commercial lodging to thirty-one[1] individual residential dwelling units, void the existing connection permits, and impose over $100,000 in additional tap fees. This action represents a fundamental departure from the District's own prior determinations and the equitable principles that govern the exercise of governmental authority.

II. Statement of Facts

[1] Note that there are 32 units.

The Muddy Creek Cabins property has operated as commercial lodging since at least 2000. The District has issued four connection permits for the Property, each classifying it as commercial:

Connection Permit 2000-5-1 (2000). The District assigned 4.2 SEU for seven cabins at 0.6 SFE per cabin under a Commercial (Class C) classification.

Connection Permit 2001-6-1 (2001). The District assigned 1.5 SEU for three additional cabins at 0.5 SFE per cabin under a Commercial (Class C) classification.

Connection Permit 2016-12-1 (2016). The District assigned 2.0 SEU for one new cabin/residence and one new laundry building under a Commercial (Class C) classification.

Connection Permit 2024-5-1 (May 2024). The District assigned 12.6 SEU for twenty-one additional park model cabins at 0.6 SFE per cabin under a Commercial (Class C) classification. The Customer paid $126,000 in tap fees for this permit.

The District's own tap records database, produced in response to the Customer's Colorado Open Records Act request, confirms that all four permits carry a Class "C" (Commercial) designation and a Type "C" classification. The total allocation across all permits is 20.3 SEU. The District has billed the Property as a single commercial account since 2000.

In February 2024, the Town of Kremmling's Board of Trustees approved the Customer's application for Use by Special Review ("USR") pursuant to Resolution 2024-02-01PZ. The application described the Property as commercial lodging consistent with the "Hotels, Motels, Boarding Houses, Lodging Houses" classification at Kremmling Municipal Code Section 17.02. Concurrently, the Board of Trustees adopted Resolution 2024-02-05, which set the water system development fee for each new cabin at 0.325 SFE per cabin, formally determining that each cabin represents approximately one-third of a single-family dwelling unit.

On January 15, 2026, the Town of Kremmling, through Town Manager Jen MacPherson, sent a letter reclassifying the Property's water billing from a single commercial tap to thirty-one[2] individual "Residential Water Using Units" under KMC Section 13.04.010. The Customer, through counsel, formally contested that reclassification by letter dated June 29, 2026.

On June 19, 2026, the District issued the Order. The Order seeks to reclassify the Property from its existing commercial classification to individual dwelling units, declaring the existing connection permits null and void under Section 3.4.3 of the District's Rules and Regulations. The Order demands that the Customer acquire thirty-one[3] SEU (with credit for the existing 20.3 SEU, requiring 10.7 additional SEU at $10,000 each) and threatens disconnection under Section 3.4.6.

III. No Change of Use Has Occurred

[2] Note that there are 32 units.
[3] Note that there are 32 units.

The Order rests on the premise that the Property has undergone a "change of use" within the meaning of Section 3.4.6 of the District's Rules and Regulations. This premise is wrong.

Section 3.4.6 provides that when the use of a building, structure, or property changes, the Customer must obtain a new connection permit reflecting the new use. The District bears the burden of establishing that a change of use actually occurred before it can invoke Section 3.4.6 to void existing permits and impose new tap fees. A governmental body abuses its discretion when it misinterprets or misapplies the law, or when no competent record evidence supports its decision. *Bd. of Cnty. Comm'rs v. O'Dell*, 920 P.2d 48, 50 (Colo. 1996); *No Laporte Gravel Corp. v. Bd. of Cnty. Comm'rs of Larimer Cnty.*, 507 P.3d 1053 (Colo. App. 2022). The District has produced no competent evidence of any change in use.

The Property operates today exactly as the Customer described it in the February 2024 USR application. The cabins provide commercial lodging and transitional workforce housing. A single commercial tenant leases the cabins under a master lease arrangement. Individual occupants do not hold separate leases, do not establish permanent residency, and rotate through the Property on stays ranging from days to months.

The District issued Connection Permit 2024-5-1 in May 2024, three months after the Town approved the USR. The District reviewed the Customer's application, assigned a commercial classification, calculated the tap fee at 0.6 SFE per cabin (the same ratio the District used when it issued the original 2000 permit), and accepted $126,000 in tap fees. Nothing about the Property's use has changed since the District issued that permit.

Under Colorado law, common-law property rights vest in a particular land use after a building permit or similar governmental approval has been issued and the landowner acts in reliance on it. *Van Sant & Co. v. Town of Calhan*, 83 F.4th 1254, 1270 (10th Cir. 2023) (applying Colorado law); *P-W Investments, Inc. v. City of Westminster*, 655 P.2d 1365, 1371 (Colo. 1982). The Customer's right to operate the Property under the District's commercial classification vested no later than May 2024, when the District issued the most recent connection permit, and the Customer invested $126,000 in tap fees and substantial additional capital in constructing the approved cabins.

The Order does not identify any specific event, action, or change in operations that triggered the reclassification. The Order does not explain how a property that the District classified as commercial in May 2024 suddenly required reclassification as residential in June 2026. The District points to no change in the Property's physical characteristics, no change in occupancy patterns, and no change in the master lease structure. The only intervening event is the Town's January 2026 water billing reclassification, which the Customer has contested, and which does not bind the District.

IV. The District Cannot Repudiate Its Own Classification

The District cannot claim ignorance of the Property's use. The Customer filed a Use by Special Review application with the Town in late 2023, describing the planned expansion of the Property in detail. The Town's Board of Trustees held a public hearing on February 14, 2024, and approved the application. The District reviewed the Customer's application for Connection Permit 2024-5-

1, assigned a commercial classification and a 0.6 SFE-per-cabin ratio, and issued the permit in May 2024.

The Customer relied on the District's classification and paid $126,000 in tap fees. The Customer then invested substantial additional capital in constructing twenty-one new cabins, installing sewer connections, and developing the Property in accordance with the approved USR and the issued connection permit. The District cannot now repudiate its own classification after the Customer has performed and invested in reliance on that classification.

Under Colorado law, equitable estoppel bars a governmental entity from taking a position inconsistent with its prior representations when the party asserting estoppel relied on those representations to its detriment. The essential elements of equitable estoppel include: (1) lack of knowledge and of means of knowledge of the truth as to the facts in question; (2) reliance upon the conduct of the party estopped; and (3) action based thereon of such character as to change the party's position prejudicially. *City of Thornton v. Bijou Irr. Co.*, 926 P.2d 1, 39 (Colo. 1996). The party claiming equitable estoppel must show that its reliance on the actions or statements of the other party was justified and reasonable under the circumstances of the case considered as a whole. *Id.* Furthermore, Colorado law recognizes that a protected property interest in a zoning classification arises when a specifically permitted use becomes securely vested by the landowner's substantial actions taken in reliance, to his or her detriment, on representations and affirmative actions by the government. *Eason v. Bd. of Cnty. Comm'rs*, 70 P.3d 600, 604-05 (Colo. App. 2003).

The District represented, through four separate connection permits issued over twenty-five years, that the Property qualified for commercial classification at a per-cabin SFE ratio well below one full SFE per unit. The Customer relied on those representations and invested accordingly. The District's issuance of Connection Permit 2024-5-1 constitutes precisely the type of affirmative governmental act that gives rise to a vested property right under Colorado common law. The District should be estopped from reclassifying the Property and demanding additional tap fees that the District's own classification did not require.

V. The District's Reliance on the Town's Reclassification Is Misplaced

The Order relies in substantial part on the Town's January 15, 2026 water billing reclassification as a basis for the District's own action. This reliance fails for several reasons.

First, the District operates as an independent special district organized under C.R.S. § 32-1-1001 et seq. The District makes its own classification determinations under its own Rules and Regulations. A reclassification by the Town's water billing department does not constitute evidence of a "change of use" under Section 3.4.6 and does not bind the District.

Second, the Town's reclassification contradicts the Town's own prior actions. In February 2024, the Town's Board of Trustees determined, through Resolution 2024-02-05, that each cabin on the Property represents 0.325 SFE. Eleven months later, the Town's administrative staff reclassified each cabin as a full "Residential Water Using Unit" without reconciling that determination with the Board's prior resolution.

Third, the Customer has formally contested the Town's reclassification by letter dated June 29, 2026. As of the date of this submission, the Town has not responded to the Customer's letter, has not provided the legal or factual basis for its reclassification, and has not identified any appeal or review process. The District should not base its own quasi-judicial action on a disputed, unexplained, and potentially unlawful determination by a separate governmental entity.

Fourth, the District's own Rules and Regulations require the District to make an independent determination of a property's classification. The District cannot outsource its classification authority to the Town and then invoke that outsourced determination to void existing connection permits. If the District intends to reclassify the Property, the District must identify an independent basis for doing so under its own Rules and Regulations.

VI. The District Selectively Enforces Its Rules

The District's tap records, produced in response to the Customer's CORA request, reveal that the District applies its classification rules inconsistently across similarly situated properties.

Alpine RV Park (115 West Central Avenue). The District issued one commercial connection permit (Tap #1988-6-1) for 1 SEU to serve nineteen individual RV sites. The District classifies this property as Commercial (Class C) and bills it as a single commercial account. The District has never reclassified this property or required the owner to obtain individual connection permits for each of the nineteen sites.

Red Mountain RV Park (2201 East Central Avenue). The District issued three commercial connection permits (Tap #3-87, #1998-6-1, and #2022-7-1) for a total of 8 SEU to serve thirty-two individual RV sites. The District classifies this property as Commercial (Class C) and bills it as a single commercial account. The District has never reclassified this property or required the owner to obtain individual connection permits for each of the thirty-two sites.

These properties are directly analogous to the Muddy Creek Cabins. Each operates a commercial lodging business with multiple individual units connected to shared sewer infrastructure under commercial connection permits. The District classifies each as commercial. The District bills each as a single commercial account. The District has never sought to reclassify either property or void its connection permits.

The District's decision to single out the Muddy Creek Cabins for reclassification while leaving these comparable properties undisturbed raises serious equal protection and selective enforcement concerns. Under the Equal Protection Clause, a governmental entity violates the Constitution when it treats a party differently from others who are similarly situated in every material respect, and the difference in treatment lacks any rational basis. *Van Sant & Co. v. Town of Calhan*, 83 F.4th 1254, 1270 (10th Cir. 2023). To prevail on a class-of-one claim, the Customer need only establish that others similarly situated in every material respect received different treatment, and that the difference was "irrational and abusive, and wholly unrelated to any legitimate state activity." *Id.* The Alpine RV Park, the Red Mountain RV Park, and the Muddy Creek Cabins all operate commercial lodging with multiple individual units under commercial connection permits. The

District has offered no rational basis for reclassifying the Muddy Creek Cabins while leaving the RV parks undisturbed.

The District's own CORA response confirms that it has reclassified only one property in the past ten years: the former Bob's Western Motel at 109 West Park Avenue (Hill Holdings, LLC). That reclassification is entirely distinguishable from the present matter. The District reclassified Bob's Western Motel only after the property owner disclosed to the Town that the property was "no longer being utilized as a motel" and had been converted to "long-term multi-family residential for lease housing." The owner voluntarily reported an actual change of use from commercial motel to residential apartments. No analogous event has occurred at the Muddy Creek Cabins. The Customer has not changed the use of the Property, has not reported a change of use to any governmental entity, and continues to operate the Property as commercial lodging exactly as described in the 2024 USR application.

The District's CORA response also revealed that the District does not maintain any records identifying properties classified under Section 3.3.3(D)(1) of the Rules and Regulations (the "Hotels, Motels, Condo-tels, Lodges, Boarding Houses, Dormitories, Bed and Breakfasts" category). The District responded that "no such documents exist." The District seeks to reclassify the Property under a provision that the District itself has never tracked or systematically applied to any property in its service area.

VII. The District's Reclassification Campaign

The District's CORA response disclosed that the District "is currently engaged in the reclassification of multiple properties within its service area" and that District staff "have produced various memoranda and documentation regarding these ongoing matters." The District withheld these records under the work product exemption (C.R.S. § 24-72-202(6)(b)) and the deliberative process privilege (C.R.S. § 24-72-204(3)(a)).

This disclosure undercuts the District's theory that the Muddy Creek Cabins underwent a specific change of use requiring individual reclassification. Instead, the District has undertaken a broad reclassification effort targeting multiple properties. The Customer's Property appears to be one of several targets of this campaign. A reclassification driven by a desire to increase revenue rather than by an actual change in property use does not satisfy the requirements of Section 3.4.6 and constitutes an arbitrary exercise of governmental authority.

VIII. Procedural Concerns

The Order raises several procedural concerns that the Customer brings to the Board's attention. The Board's decision in this matter constitutes a quasi-judicial action because it involves the determination of the rights, duties, and obligations of a specific property owner through the application of presently existing standards to past or present facts. *Cherry Hills Resort Dev. Co. v. City of Cherry Hills Vill.*, 757 P.2d 622, 626 (Colo. 1988). As a quasi-judicial proceeding, this hearing must satisfy constitutional due process requirements.

First, the Order improperly shifts the burden of proof. The caption “Order to Show Cause” places the burden on the Customer to demonstrate why the District should not void the existing connection permits. The District bears the burden of establishing that a change of use occurred before it can invoke Section 3.4.6 to void existing permits. The District should not require the Customer to prove a negative.

Second, the Board of Directors must act as a neutral decision-making body in this quasi-judicial proceeding. “The due process requirement of neutrality in adjudicative administrative proceedings entitles a person to an impartial decision-maker.” *No Laporte Gravel Corp.*, 507 P.3d 1053 (citing *City of Manassa v. Ruff*, 235 P.3d 1051, 1056 (Colo. 2010)). An impartial adjudication requires the absence of a personal, financial, or official stake in the decision evidencing a conflict of interest on the part of the decision-maker. *Id.* When administrative proceedings are quasi-judicial in nature, agency officials should be held to the same standards as judges. *Wells v. Del Norte Sch. Dist. C-7*, 753 P.2d 770, 772 (Colo. App. 1987); *Scott v. City of Englewood*, 672 P.2d 225, 228 (Colo. App. 1983). The District Manager who initiated the Order and who has communicated the District’s position to the Customer cannot serve as both the advocate for reclassification and the advisor to the decision-making body. The Board must evaluate the evidence independently and render an impartial decision based on the record.

Third, the Customer is entitled to adequate notice of the specific factual and legal basis for the proposed reclassification. The Order refers generally to Section 3.4.6 and a “change of use” but does not identify the specific change in the Property’s operations that the District contends occurred. Due process requires the District to articulate the factual basis for its action so that the Customer can meaningfully respond.

IX. The Customer Would Prevail on Judicial Review

Under C.R.C.P. 106(a)(4), a party aggrieved by the quasi-judicial action of a governmental body may seek judicial review by certiorari in the district court. C.R.C.P. 106(a)(4) is “generally the sole remedy for review of quasi-judicial actions.” *Sundheim v. Bd. of Cnty. Comm'rs*, 904 P.2d 1337, 1349 (Colo. App. 1995). The reviewing court determines whether the Board exceeded its jurisdiction or abused its discretion. “Abuse of discretion” means that the decision under review is not reasonably supported by any competent evidence in the record, and the ultimate decision of the governmental body is “so devoid of evidentiary support that it can only be explained as an arbitrary and capricious exercise of authority.” *No Laporte Gravel Corp.*, 507 P.3d at 1053 (citing *Ross v. Fire & Police Pension Ass'n*, 713 P.2d 1304, 1309 (Colo. 1986)).

The evidence before the Board does not support reclassification. The District’s own records classify the Property as commercial across twenty-five years and four connection permits. The District issued the most recent permit in May 2024 with full knowledge of the Property’s use. No change in the Property’s operations has occurred since the District issued that permit. The District selectively targets this Property while exempting comparable properties from the same treatment. The District relies on a disputed reclassification by a separate governmental entity rather than on any independent determination of a change of use. The District does not maintain records of Section 3.3.3(D)(1) classifications, yet seeks to use that provision as the basis for its action. And the District's own disclosures reveal a broad reclassification campaign that suggests a revenue motive rather than a genuine change-of-use enforcement action.

On this record, a reviewing court would find that the Board abused its discretion if it voided the existing connection permits and reclassified the Property. *See Berger v. City of Boulder*, 195 P.3d 1138 (Colo. App. 2008); *Alpenhof, LLC v. City of Ouray*, 2013 COA 9. The Customer is confident it would prevail in any judicial challenge to an adverse Board determination.

X. Conclusion and Relief Requested

For the reasons set forth above, the Customer respectfully requests that the Board of Directors take the following actions:

1. Dismiss the Order to Show Cause.
2. Confirm the existing classification of the Property under Connection Permits 2000-5-1, 2001-6-1, 2016-12-1, and 2024-5-1 as Commercial (Class C).
3. Confirm the existing allocation of 20.3 SEU and the current billing arrangement.
4. Direct the District Manager to take no further reclassification action against the Property.

XI. Reservation of Rights

The Customer reserves all rights and remedies available under applicable law, including the right to seek judicial review of any Board determination pursuant to C.R.C.P. 106(a)(4), the right to seek injunctive relief in the Grand County District Court, and all claims for damages arising from the District's actions. The Customer further reserves the right to supplement this Written Response with additional evidence, legal authority, and argument at the hearing.

Respectfully submitted,

/s/ Michael G. Brownlee
Michael G. Brownlee
BROWNLEE & ASSOCIATES, LLC
Email: michael@brownleelawllc.com

*cc: Levi Rozga, VP of Operations, Fortius Capital (**via email only**)*
*Mike Pearson, CEO, Fortius Capital (**via email only**)*

KREMMLING SANITATION DISTRICT
GRAND COUNTY, COLORADO

RESPONSE TO CUSTOMER'S BRIEF IN OPPOSITION

SANITARY SEWER CONNECTION PERMITS HELD BY FCAP MUDDY CREEK LLC, LOCATED AT 315 RIVER LANE, KREMMLING, COLORADO

CONNECTION PERMIT 2000-5-1
CONNECTION PERMIT 2001-6-1
CONNECTION PERMIT 2016-12-1
CONNECTION PERMIT 2024-5-1

INTRODUCTION

The Kremmling Sanitation District (District) submits the following response brief to FCAP Muddy Creek, LLC's (Customer) Brief in Opposition, dated July 8, 2026, in the above-captioned matter.

ARGUMENT

I. Background.

This matter is before the District's Board of Directors (Board) on the District's order to show cause relating to revocation of sanitary sewer connection permits (Connection Permits) for the real property located at 315 River Lane, Kremmling, Colorado (Property). The Customer's Brief in Opposition characterizes this proceeding as an attempt by the District to reconsider connection permits issued years ago. That characterization is incorrect.

This proceeding is not about whether the District properly issued prior Connection Permits, nor is it about whether the Property may continue operating as workforce housing. The sole question before the Board is whether the Property, as it presently exists and presently operates, continues to satisfy the classification under which the existing Connection Permits were issued.

The District's Rules and Regulations expressly recognize that a Connection Permit is not permanent. A permit remains valid only so long as the Property continues to comply with the Rules and Regulations. Where the present use becomes inconsistent with the use for which the permit was issued, the Rules require issuance of a new Connection Permit reflecting the current use.

The undisputed evidence demonstrates that the Property no longer functions as transient lodging within the meaning of the District's Rules and Regulations. Instead, it consists of individual dwelling units utilized for extended workforce housing under a long-term commercial arrangement. The existing permits therefore no longer accurately reflect the Property's present use and configuration and must be reclassified pursuant to Section 3.4.6 of the District's Rules and Regulations.

II. Discussion.

a. The Board Must Apply the District's Rules and Regulations as Written.

The Customer repeatedly argues that "no change of use" has occurred because the Property continues to operate as a commercial business. That argument misreads the District's Rules and Regulations.

The Rules and Regulations classify land uses, not ownership structures, lease arrangements, or business entities. Whether the Property generates commercial income is irrelevant. The controlling question is whether the Property presently satisfies the classification under which its Connection Permits were issued.

The applicable classification includes "Hotels, Motels, Condo-tels, Lodges, Boarding Houses, Dormitories, Bed and Breakfasts" which the Rules and Regulations define as providing "overnight sleeping facilities for transient usage." The operative language is "transient usage." The evidence establishes that the Property no longer principally serves transient occupants.

The Customer admits that (i) the Property is leased to a single commercial tenant; (ii) the cabins are occupied by workforce employees; (iii) occupants remain for periods ranging from several days to several months; (iv) the cabins are unavailable to the traveling public; and (v) each cabin contains its own kitchen, bathroom, and living facilities. Those facts describe independent dwelling units used for workforce housing, not transient lodging.

b. Section 3.4.6 Contains Two Independent Grounds for Reclassification.

The Customer's Brief in Opposition assumes that Section 3.4.6 applies only when a property owner affirmatively changes the use of a property. That is not what the Rules and Regulations provide.

Section 3.4.6 provides that a Connection Permit becomes null and void when the principal purpose of a Property is changed, or the use of the Property becomes inconsistent with the use of the Property at the time the Connection Permit was issued. These are independent operative provisions.

Accordingly, even if the Board were to conclude that the Customer did not intentionally change the Property's use after construction of the additional cabins, the Board must still determine whether the Property, as it presently exists and presently operates, remains consistent with the classification for which the existing permits were issued. The evidence demonstrates that it does not.

The Property now consists of more than thirty independent cabin dwelling units occupied for extended workforce housing. Whatever label the Customer chooses to apply to its business model, that use is materially different from the transient lodging classification described in Section 3.3.3(D)(1).

The Customer's interpretation would effectively eliminate the second operative clause of Section 3.4.6 from the Rules and Regulations entirely. The Board should instead give effect to every portion of the Rules and Regulations as written.

c. <u>The Property No Longer Operates Principally as Transient Lodging.</u>

The Customer emphasizes that some occupants remain only a few days. That observation misses the relevant question. The question is not whether every occupant stays fewer than thirty days. The question is whether the Property's principal purpose is providing overnight accommodations for transient occupancy. The evidence demonstrates that it is not.

The Property exists to provide workforce housing to employees of a single commercial tenant under a master lease arrangement. It is not operated as a hotel, motel, or lodge serving members of the traveling public.

Colorado statutes distinguishing transient lodging from longer-term occupancy are not controlling in this proceeding, but they reflect the commonly understood distinction between temporary lodging and residential occupancy. Those authorities reinforce the District's conclusion that occupancy measured in months is inconsistent with transient lodging.

The District is aware that individuals residing on the Property have registered to vote using Properties address. Under Colorado law, a person registering to vote must register at their primary residence. C.R.S. § 1-2-102 provides that "[t]he residence of a person is the principal or primary home or place of abode of a person." Registration to vote at a particular address therefore constitutes objective evidence that the registrant regards that location as their principal residence rather than a temporary place of lodging. This is further evidence that the Property is functioning as long-term residential housing rather than transient overnight accommodations contemplated by Section 3.3.3(D)(1) of the District's Rules and Regulations.

d. Issuance of the 2024 Connection Permit Does Not Immunize the Property from Future Enforcement.

The Customer argues that issuance of Connection Permit 2024-5-1 permanently established the Property's commercial classification. The Rules and Regulations provide otherwise. Every Connection Permit remains subject to continuing compliance with the District's Rules and Regulations. Section 3.4.6 expressly provides that a permit becomes null and void whenever the use of the Property changes or becomes inconsistent with the use existing when the permit was issued.

Thus, issuance of a permit cannot forever prevent the District from enforcing its Rules and Regulations. If the Customer's interpretation were adopted, Section 3.4.6 would become meaningless because no property could ever be reclassified regardless of subsequent development or operational changes.

e. The District's Reclassification Is Consistent With the Town's Longstanding Recognition of the Property.

The Customer repeatedly asserts that the Town of Kremmling (Town) "reclassified" the Property in January 2026 and argues that the District improperly relied upon that action. That characterization is inaccurate.

The Town did not reclassify the Property's land use in January 2026. The Town approved the Property through the 2024 Use by Special Review permit in substantially its present configuration. From that point forward, the Property consisted of multiple individual water-using units. The January 15, 2026, correspondence from the Town did not alter the approved land use of the Property. Rather, it corrected the Town's utility billing practices so that monthly water billing accurately reflected the Property as approved and constructed.

The Town is the governmental entity vested with authority over zoning and land use within the Town of Kremmling. The District possesses no zoning authority. While the District independently administers its Rules and Regulations governing sanitary sewer service, it is entirely appropriate for the District to administer those Rules and Regulations consistently with the Town's land use determinations and utility classifications.

Accordingly, the District is not delegating or outsourcing its authority to the

Town. Instead, the District independently concludes that the Property consists of multiple independent dwelling units whose present use no longer satisfies the transient lodging classification under the District's Rules and Regulations. The Town's correction of its billing practices simply corroborates that conclusion.

Indeed, equitable administration of the District's Rules and Regulations requires consistency among similarly situated utility users. It would be fundamentally inconsistent for the Property to be recognized as thirty-one (31) separate water-using units for municipal water service while simultaneously being treated as substantially fewer sewer-using.

The District's decision therefore rests upon its own independent application of its Rules and Regulations to the facts before it. The Town's billing correction confirms, not creates, the factual circumstances supporting the District's determination.

The Customer's present characterization of the Property also differs materially from representations previously made to the District. When seeking approval for earlier Connection Permits, the Customer represented that the cabins would primarily serve as vacation rentals consistent with the transient lodging classification under which the permits were issued. The District relied upon those representations when issuing the applicable Connection Permits. The Property is now operated principally as workforce housing under a long-term master lease, a materially different operational model than the vacation-oriented transient lodging previously represented to the District. The District's present action is therefore based not upon a change in policy, but upon the present use of the Property as compared to the use represented when the permits were originally issued.

f. <u>Vested Rights and Equitable Estoppel Do Not Apply.</u>

The Customer relies upon vested-rights and equitable-estoppel doctrines. Neither doctrine governs this proceeding. The cases cited by the Customer concern land use approvals and zoning decisions. The District is not revoking the Town's approval, prohibiting the Property's continued operation, or altering any zoning entitlement. Nor does it have the authority to do so.

The District is determining only the appropriate sewer classification under its Rules and Regulations. Likewise, equitable estoppel against a governmental entity is an extraordinary remedy that cannot require a public body to disregard or fail to enforce its duly adopted regulations enacted for the benefit of all users of the wastewater system. The Board has an obligation to administer its Rules and Regulations uniformly and equitably.

g. The Alleged Comparable Properties Are Not Similarly Situated.

The Customer identifies RV parks as comparable properties. They are not. An RV site is not an independent dwelling unit. Occupants supply their own recreational vehicles, occupy parking spaces rather than permanent structures, and typically utilize common facilities.

By contrast, each cabin on the Property is a separate permanent structure with independent living facilities, including potable water, sanitary sewer service, kitchen facilities, bathroom facilities, and sleeping accommodations. These are materially different land uses.

The District's prior reclassification of the former Bob's Western Motel likewise supports the District's position. There, the District required reclassification after transient lodging was converted to long-term residential occupancy. The same principle applies here.

h. Reference is Made to Tap Fees Not Paid

The Customer argues they paid more than one hundred twenty thousand dollars ($120,000) in tap fees in 2024. This is incorrect. The Customer paid sixty-three thousand dollars ($63,000) in tap fees in 2024.

i. The Order Affords Full Procedural Due Process

The Customer contends that the Order to Show Cause (Order) improperly shifts the burden of proof. It does not.

The Order sets forth detailed factual allegations supporting the proposed reclassification and affords the Customer notice, the opportunity to submit written materials, and the opportunity to be heard before any final action is taken.

The purpose of the Order is simply to notify the Customer of the allegations and provide an opportunity to rebut them before the Board renders its decision. The procedures employed by the District therefore satisfy the requirements of procedural due process.

CONCLUSION

The evidence establishes that the Property no longer principally functions as transient lodging within the meaning of the District's Rules and Regulations. The existing Connection Permits therefore no longer accurately reflect the present use and configuration of the Property and are inconsistent with the use for which those permits were issued.

This proceeding does not revisit prior permitting decisions, alter or revoke the Town's land use approval, or prohibit the continued operation of the Property as approved by the Town. Rather, it ensures that the District's Connection Permits accurately correspond to the Property's present use in accordance with the District's Rules and Regulations and that the District's tap fee and user fee structure is applied uniformly and equitably among similarly situated users.

For the reasons set forth herein, the District respectfully requests that the Board deny the relief requested in the Customer's Brief in Opposition, sustain the allegations contained in the Order to Show Cause, determine that the existing Connection Permits totaling twenty and three tenths (20.3) single equivalent units are no longer consistent with the present use of the Property, order that the Property be reclassified to 31 Single Equivalent Units, credit the Customer for the twenty and three tenths (20.3) single equivalent units previously purchased, require payment for the additional ten and seven tenths (10.7) single equivalent units in accordance with the District's fee schedule, direct the issuance of a new Connection Permit reflecting the proper classification, adjust future monthly billings accordingly, and grant such additional relief as the Board deems just and proper.

SUBMITTED this 10th day of July 2026.

John Seward

Jack Seward
District Manager

The undersigned hereby certifies and states that one true and complete copy of the above Response to Customer's Brief in Opposition was sent by email this 10th day of July 2026, addressed as follows:

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John Seward

Jack Seward
District Manager

KREMMLING SANITATION DISTRICT
GRAND COUNTY, COLORADO

DISCLOSURE OF EVIDENCE

SANITARY SEWER CONNECTION PERMITS HELD BY FCAP MUDDY CREEK LLC, LOCATED AT 315 RIVER LANE, KREMMLING, COLORADO

CONNECTION PERMIT 2000-5-1
CONNECTION PERMIT 2001-6-1
CONNECTION PERMIT 2016-12-1
CONNECTION PERMIT 2024-5-1

The Kremmling Sanitation District (District) by and through its undersigned agent, discloses its evidence to be submitted to the Board of Directors at the Show Cause Hearing scheduled for July 13, 2026.

SUBMITTED this 10th day of July 2026.

John Seward

Jack Seward
District Manager

Exhibit 1

Customers Connection Permits

Connection Permit 2000-5-1
Connection Permit 2001-6-1
Connection Permit 2016-12-1
Connection Permit 2024-5-1

Application No. 2001-6-1

KREMMLING SANITATION DISTRICT

APPLICATION FOR PERMIT

DATE June 26, ~~19~~2001

To: BOARD OF DIRECTORS

The undersigned herewith makes applicat ion for a permit to make one service connection to the sewer main of the District for the premises located within your District, as follows:

Name of Owner Martin Sayers

Street Address 315 Quin Lane

Lot ______ Block No. ______

Subdivision ______

The property is: ______

Dwelling ( )
Multiple unit ( ) with ______ units
Commercial ( ) used as ______

Which contains ______ rooms.

3 additional cabins located at 315 Quin Lane - no kitchens

Martin M. Sayers

Applicant

(1) Single unit fee @ 3 taps @ .5 sfe $ 3,750.00
(2) Additonal unit fee @ ______ $ ______
(3) Inspection fee @ ______ $ ~~25.00~~
(4) Monthly service charge @ ______ $ ______
(5) Other ______ $ ______

Total ______ $ ~~3,775.00~~ 3,750.00

Payment received June 26, ~~19~~2001
KREMMLING SANITATION DISTRICT
By Sharon R. Cesar

(Application must be made out in triplicate - original for District, yellow copy for applicant, pink copy for superintendent.)

Application approved this ......day of ...., 19......

By ....

109700

Application No. 2000-5-1

KREMMLING SANITATION DISTRICT

APPLICATION FOR PERMIT

DATE May 18, ~~19~~ 2000

To: BOARD OF DIRECTORS

The undersigned herewith makes applicat ion for a permit to make one service connection to the sewer main of the District for the premises located within your District, as follows:

Name of Owner Martin & Kimberley Sayer

Street Address 315 River Lane (off of 3rd St)

Lot ________ Block No. ________

Subdivision ________

The property is: ________

Dwelling ( )
Multiple unit (X) with 7 units
Commercial ( ) used as Cabins

Which contains ________ rooms.

Martin M. Sayer
Applicant

(1)	Single unit fee @ ~~15~~ 7 @ .60	$ 10,500
(2)	Additonal unit fee @	$
(3)	Inspection fee @	$ 25
(4)	Monthly service charge @	$
(5)	Other	$
	Total	$ 10,525

Payment received ...., 19.......
KREMMLING SANITATION DISTRICT

By ....

(Application must be made out in triplicate - original for District, yellow copy for applicant, pink copy for superintendent.)

Application approved this..........day of ...., 19.......

By ....

Application No. 2016-12-1

KREMMLING SANITATION DISTRICT

APPLICATION FOR PERMIT

DATE DECEMBER 6, ~~19~~ 2016

To: BOARD OF DIRECTORS

The undersigned herewith makes applicat ion for a permit to make one service connection to the sewer main of the District for the premises located within your District, as follows:

Name of Owner MUDDY CREEK CABINS (JEFF + SARA MILLER)

Street Address 315 RIVER LANE

~~Lot~~ PARCEL 5 ~~Block No.~~

Subdivision GORE CANYON LTD OUTRIGHT EXEMPTION

The property is:

Dwelling (X) Cabin
Multiple unit ( ) with ____ units
Commercial (X) used as Laundry Bldg

Which contains ____ rooms.

[signature]
Applicant

(1)	Single unit fee @	1 SFE for Cabin	$ 5,000
(2)	Additonal unit fee @	1 SFE for Laundry	$ 5,000
(3)	Inspection fee @		$
(4)	Monthly service charge @		$
(5)	Other	CREDIT FOR WATER LEAK	$ -1,000
		Total	$ 9,000

Payment received Dec. 6, ~~19~~ 2016
KREMMLING SANITATION DISTRICT
By Richard A Rosene

(Application must be made out in triplicate - original for District, yellow copy for applicant, pink copy for superintendent.)

Application approved this 6th day of December, ~~19~~ 2016
By Richard A Rosene

Application No. 2024-5-1

KREMMLING SANITATION DISTRICT

APPLICATION FOR PERMIT

DATE May 8, ~~19~~2024

To: BOARD OF DIRECTORS

The undersigned herewith makes applicat ion for a permit to make one service connection to the sewer main of the District for the premises located within your District, as follows:

Name of Owner Muddy Creek Cabins

Street Address 315 River Lane

Lot ______ ~~Block No.~~ Parcel 5

Subdivision Gore Canyon Ltd. Outright Ex.

The property is:

Dwelling ( )
Multiple unit ( ) with ______ units
Commercial ( ) used as ______

Which contains ______ rooms.

______
Applicant

(1)	Single unit fee @		$
(2) 12.6	Additonal unit fee @ 5000.00		$ 63,000.00
(3)	Inspection fee @		$ 50.00
(4)	Monthly service charge @		$
(5)	Other		$

Total $63,050.00

7/25/24

Payment received May 8, ~~19~~2024
KREMMLING SANITATION DISTRICT

By ______

(Application must be made out in triplicate - original for District, yellow copy for applicant, pink copy for superintendent.)

Application approved this 8th day of May, ~~19~~2024

By Richard A Rosene

Exhibit 2

Customers Use by Special Review Application

Page 4
Page 13

The project will be served by the Kremmling Sanitation District and the Town of Kremmling water system. Water and sewer main lines are anticipated to be extended throughout the project.

Water: Water and sewer main lines abut the property. The system design will required and reviewed by Town staff and consultants at submittal of Building permit. Per the application, Total Average Daily Demand for water was calculated as 5166 GPD and the Total Peak Demand was calculated at 10,333 GPD. The maximum possible demand in the system calculated using the IPC Fixture Count Method was 24 GPM. These will be verified at Site Plan review.

Sanitary Sewer: The property is currently connected to Kremmling Sanitation District sewer service. A lift station is required for the use of the public sewer and design will be reviewed with the site plan application and construction plans.

Electric: Electric service is provided by Mountain Park Electric Inc (MPEI). The application implies that there will not be any changes to the electrical supply and the development will require two (2) gang meters (meter banks), one for the seven (7) new RV pads on the north side and one for the fourteen (14) new RV pads on the south side. The Applicant will run the service line from the meter bank to the individual RV. Additional review and analysis will be provided at Site Plan review.

Gas: Natural gas service is provided by Xcel in this area; however the property does not currently utilize natural gas service and does not intend to add service.

REFERRAL REVIEW COMMENTS

The Application was sent to referral agencies with the following agencies providing responses. The full comment(s) provided are attached to this staff report.

- Colorado Parks and Wildlife
- Mountain Parks Electric, Inc.
- Kelly P.C., Town Attorney
- Xcel Energy
- Element Engineering, Engineering Department
- U.S. Army Corps of Engineers
- CPS, Planning Department

PUBLIC COMMENTS

The Property has been posted and proper notification has been completed by Public Notice requirements of KCB 17.09.010. The Property was posted on October 26, 2023. The notice was published in the Grand Gazzette on October 20, 2023. Adjacent property owners were sent notice on October 26, 2023.

As of the drafting of this staff report, no public comments were received.

STAFF RECOMMENDATION

Upon review of the Application materials against applicable Town standards, Town Staff recommends that the Town of Kremmling Planning Commission recommend approval of the Muddy Creek Cabins Use by Special Review incorporating the findings and comments discussed in this staff report.

Total Average Daily Demand for potable water was calculated as 5166 GPD and the Total Peak Demand was calculated at 10,333 GPD. The maximum possible demand in the system calculated using the IPC Fixture Count Method was 24 GPM. These will be verified at Building Plan Application.

17.03.070.C.4

The proposed use satisfies any additional standards imposed by this Zoning Code.

The proposed use does satisfy any additional standards imposed by this Zoning Code.

Exhibit 3

District's Sewer Flow Calculations

Muddy Creek Sewer Usage Calculation

Gallons Per Day: 10,333

Formula: $\mathrm{GPM} = \dfrac{\mathrm{GPD}}{1440}$

Conversion of gallons per day (GPD) to gallons per minute (GPM): 7.17569444

Table 1: Sanitary Sewer Design Flow

Residential			
Use	**Units Per Acre**	**Occupancy**	**Average Day Wastewater Flows**
Single Family Large Lots	3	3.1 persons	0.13 gpm/unit
Single Family	5	3.1 persons	0.13 gpm/unit
Duplexes, Townhouses, Small Apartments	10	2.7 persons	0.11 gpm/unit
Multi Family Housing	20	1.7 persons	0.07 gpm/unit

GPM / Multi Family Housing = Total Units

GPM = 7.17569444
Multi-Family Housing = 0.7

7.17569444/0.07 = 102.50992063

Water usage equivalent to 102.6 single-equivalent units.

Exhibit 4

Town of Kremmling (Town) Correspondence with Customer

The Towns Letter to Customer
Customers Email to the Town

Town of Kremmling
200 Eagle Ave. | P.O. Box 538
Kremmling, CO 80459-0538
Office 970.724.3249
https://townofkremmling.colorado.gov/

Date: 1/15/2026

Levi Rozga
Fortius Capital
PO Box 7044
Avon CO 81620

Re: Water Billing

Dear Mr. Rozga,

The purpose of this letter is to notify you of a correction to the way the Town of Kremmling bills its base water rate for Muddy Creek Cabins, effective February 16, 2026. Currently, Muddy Creek Cabins is being billed only at the base rate for a single 2-inch tap ($349 / month). However, each cabin on your property is considered a Residential Water Using Unit as defined in Kremmling Municipal Code (KMC) Section 13.04.010:

"Residential Water Using Unit" is a Water Using Unit that is used as a private dwelling, apartment, condominium unit, town home, single unit in any multifamily structure, a manufactured home, or mobile home whether or not located in a mobile home park, or any other existing unit that commonly houses a single family on an extended term basis.

As per KMC 13.04.090.A, each Residential Water using unit is to be charged the minimum Base Amount:

For each Residential Water Using Unit, whether individually metered or using a common meter with other Water Using Units, and whether or not served through an individual tap or through a residential or commercial tap shared with other Water Using Units, the minimum charge as set, per resolution, by the Board of Trustees shall be charged to each Residential Water Using Unit. ("Base Amount").

The Town's minimum Base Amount per Residential Water Using Unit will be $89 / month (including up to 6,000 gallons per unit) in 2026. We currently understand there to be 31 cabins on your property. Consequently, your base rate will be corrected to:

- $89 / month x 31 cabins = $2,759 / month

Please note that, as per Resolution 2024-02-05, the Board of Trustees continues to reserve the right to adjust the Single Family Unit Equivalent (SFE) multiple applied to the water system development (tap) fee assigned to if actual water usage exceeds the estimate of 1,788 gallons per cabin per month.

If you have questions, or if you believe our understanding of your property is incorrect, please contact the Town Manager at 970-724-3249 or manager@townofkremmling.org.

Town of Kremmling
200 Eagle Ave. | P.O. Box 538
Kremmling, CO 80459-0538
Office 970.724.3249
https://townofkremmling.colorado.gov/

Sincerely,

Jen MacPherson

Jen MacPherson
Town Manager, Town of Kremmling

Jack Seward <sanmanager@townofkremmling.org>

Fwd: Water Billing

1 message

Jen MacPherson <manager@townofkremmling.org> Tue, Jan 27, 2026 at 7:54 PM
To: Jack Seward <sanmanager@townofkremmling.org>
Cc: Trista Petefish <trista@townofkremmling.org>, Teagan Serres <townclerk@townofkremmling.org>

Caution! This message was sent from outside your organization.

Jack,

As requested, please see below and attached for communication between the Town and Fortius re: water billing.

To provide some context - in 2024 our board approved them for tap fees at a 0.325x multiple. That is to say they only had to pay 0.325x of a tap fee for a 3/4" for each of the 21 new cabins they were putting in. This was approved because of the relatively low anticipated use of the cabins at the time, and while we have reserved the right to increase that multiple if water consumption exceeds projections, to date it hasn't appeared necessary.

When I recently informed them we'd be correcting their water billing, Muddy Creek was adamant that this multiple applied to their monthly payments as well. But when I went back and listened to the recording of the meeting, our board explicitly noted that this multiple only applied to our tap fees, but that each cabin would pay the same Base Rate (i.e. the monthly water charge plus up to 6k gallons) as a single family dwelling.

Anyways, that's how the Town is handling the water side of things. Let us know what you decide to do with sanitation.

Best,

Jen MacPherson

Kremmling Town Manager

manager@townofkremmling.org

C: 970.531.6343

---------- Forwarded message ---------
From: **Jen MacPherson** <manager@townofkremmling.org>
Date: Tue, Jan 27, 2026 at 5:20 PM
Subject: Re: Water Billing
To: Teagan Serres <townclerk@townofkremmling.org>
Cc: Trista Petefish <trista@townofkremmling.org>

Thank you, Teagan! The recording was very helpful. I listened to the entire Muddy Creek session and it's very clear that the 0.325x multiple applies to the tap fees only and that the normal base rate for a 3/4" tap applies to each cabin / RWUU.

I'm not sure how much time it took to dredge this up, but it was well worth it. Much appreciated.

Jen MacPherson

Kremmling Town Manager

manager@townofkremmling.org

C: 970.531.6343

On Tue, Jan 27, 2026 at 2:21 PM Teagan Serres <townclerk@townofkremmling.org> wrote:

This sender is trusted.

Hi Jen,

Here are the meeting minutes from the meeting where the resolution was approved, begins middle of page 4, agenda item #7. Also attached is the meeting recording, agenda item #7 begins at 33:10

02.21.24 Regular BOT.mp3

On Tue, Jan 27, 2026 at 8:53 AM Jen MacPherson <manager@townofkremmling.org> wrote:

Caution! This message was sent from outside your organization.

Yes - the one where the resolution was approved please.

Jen MacPherson

Kremmling Town Manager

manager@townofkremmling.org

C: 970.531.6343

On Fri, Jan 23, 2026 at 4:36 PM Teagan Serres <townclerk@townofkremmling.org> wrote:

This sender is trusted.

I'm not sure what zoom call he is referring to. If it is the Town Board meeting where the resolution was approved, we have the minutes and potentially the Board meeting recording. I will check on the recording.

On Thu, Jan 22, 2026 at 12:16 PM Jen MacPherson <manager@townofkremmling.org> wrote:

Caution! This message was sent from outside your organization.

Do we have a recording of the Zoom call when Muddy was granted its 0.325x multiple on the water system development fee, and their USR?

Jen MacPherson

Kremmling Town Manager

manager@townofkremmling.org

C: 970.531.6343

---------- Forwarded message ---------
From: **Levi Rozga** <lrozga@fortiuscap.com>
Date: Tue, Jan 20, 2026 at 4:47 PM
Subject: RE: Water Billing
To: Jen MacPherson <manager@townofkremmling.org>

Caution! This message was sent from outside your organization.

Hi Jen –

Thank you for the offer to attend a work session with the town. At this point, unfortunately, I don't see the point in arguing with the Town Board. I remember them being aware that we were going to be assessed as a commercial user, but without a recording of the Zoom call, I'm not going to be able to convince them of this. And while I feel like our group got off to a great start with the town (negotiating in good faith, having open and transparent conversations about our investment in the town and the mutually beneficial outcomes from our development), I am concerned about the precedent this might set. I was also a bit taken aback by your comment regarding the need for me to "study up on our use of the property" if I were to attend a work session to discuss the water billing. As I mentioned on our call, we have really tried hard to establish ourselves as a good member of the community, and yet the town seems to be taking a threatening posture. It is quite confusing. But, at this point, I would prefer not to re-enter negotiations on a topic that I don't feel confident will yield any different results.

If the town feels it is necessary to change our water billing status, I'm not sure we can change their minds. We are not going to dispute.

I will see you at our meeting tomorrow morning.

Thanks,

LEVI ROZGA | VP OF OPERATIONS

Direct: 970 305 3676 | Email: lrozga@fortiuscap.com
fortiuscap.com

FORTIUS CAPITAL

From: Jen MacPherson <manager@townofkremmling.org>
Sent: Thursday, January 15, 2026 7:04 PM
To: Levi Rozga <lrozga@fortiuscap.com>
Subject: Re: Water Billing

Sounds good.

FYI there's also a working session on the first Wednesday of every month, so if you'd like to come up for one of those that's also an option (I know the evening of the 21st is a question mark for you).

There are no minutes taken at those meetings - they're more informal and a better forum for a candid discussion. Depends on your preference.

Best,

Jen MacPherson

Kremmling Town Manager

manager@townofkremmling.org

C: 970.531.6343

On Thu, Jan 15, 2026 at 5:36 PM Levi Rozga <lrozga@fortiuscap.com> wrote:

Caution! This message was sent from outside your organization.

Thank you Jen –

I will share with the team so that we can prepare a response.

I will be out of the office tomorrow and Monday, but will have limited access to email. I'll follow up on this and the access letter on Tuesday.

Have a nice weekend and take care of that knee!

LEVI ROZGA | VP OF OPERATIONS

Direct: 970 305 3676 | Email: lrozga@fortiuscap.com
fortiuscap.com

FORTIUS CAPITAL

From: Jen MacPherson <manager@townofkremmling.org>
Sent: Thursday, January 15, 2026 4:37 PM
To: Levi Rozga <lrozga@fortiuscap.com>
Subject: Re: Water Billing

Hi Levi,

As discussed, please see attached.

Best,

Jen MacPherson

Kremmling Town Manager

manager@townofkremmling.org

C: 970.531.6343

On Wed, Jan 14, 2026 at 4:51 PM Levi Rozga <lrozga@fortiuscap.com> wrote:

> Caution! This message was sent from outside your organization.
>
> Hi Jen –
>
> I just left you a voicemail, sorry for calling so late in the day.
>
> I'm so sorry to hear about your knee! I hope its ok!
>
> I should be in the office all day tomorrow, with some calls here and there. But, lets try to connect at some point.
>
> Thanks!

LEVI ROZGA | VP OF OPERATIONS

Direct: 970 305 3676 | Email: lrozga@fortiuscap.com
fortiuscap.com

FORTIUS CAPITAL

From: Jen MacPherson <manager@townofkremmling.org>
Sent: Tuesday, January 13, 2026 4:18 PM
To: Levi Rozga <lrozga@fortiuscap.com>
Subject: Re: Water Billing

Hey! Sorry - I blew my knee out and have been out of the office at doctors appointments.

I'm free now, and virtually all day tomorrow to chat re: water billing updates. Let me know when works?

Jen MacPherson

Kremmling Town Manager

manager@townofkremmling.org

C: 970.531.6343

On Thu, Jan 8, 2026 at 3:17 PM Levi Rozga <lrozga@fortiuscap.com> wrote:

> Caution! This message was sent from outside your organization.
>
> Hi Jen –
>
> I'm ready to discuss if you are. I'm available most of tomorrow if you want to suggest a time.

Thanks!

LEVI ROZGA | VP OF OPERATIONS

Direct: 970 305 3676 | Email: lrozga@fortiuscap.com
fortiuscap.com

FORTIUS CAPITAL

From: Jen MacPherson <manager@townofkremmling.org>
Sent: Wednesday, January 7, 2026 6:35 PM
To: Levi Rozga <lrozga@fortiuscap.com>
Subject: Water Billing

Hi Levi - Let me know once you've had some time to dig into your notes on the water billing matter we discussed. I'd like to have another conversation on it prior to the end of the week if possible?

Putting this on a separate thread it's going to be easiest to keep it separate from the access discussion and leak question.

Best,

Jen MacPherson
Town Manager

970-724-3249
970-531-6343
townofkremmling.colorado.gov
manager@townofkremmling.org
200 Eagle Ave, PO Box 538, Kremmling, CO 80459

--

Teagan Serres
Town Clerk & Treasurer

O: 970-724-3249 C: 970-531-9795
townofkremmling.colorado.gov
townclerk@townofkremmling.org
200 Eagle Ave, PO Box 538, Kremmling, CO 80459

--

Teagan Serres
Town Clerk & Treasurer

O: 970-724-3249 C: 970-531-9795
townofkremmling.colorado.gov
townclerk@townofkremmling.org
200 Eagle Ave, PO Box 538, Kremmling, CO 80459

2 attachments

2026-1-15 Muddy Creek Water Rate Letter (1).pdf
224K

Reso2024-02-05_MuddyCreekCabinsWaterSysDevFee_02.21.24 (3).pdf
523K

Exhibit 5

District's Correspondence with Customer

District's Letter to Customer
Customer's Letter to District
District's Reply to Customer
Customers Letter to District

KREMMLING SANITATION DISTRICT

200 Eagle Avenue
PO Box 538
Kremmling, CO 80459

(970) 724-3249
https://www.kremmlingsd.org

March 23, 2026

FCAP Muddy Creek LLC
C/O: Fortius Capital, LLC
Attn: Levi Rozga
PO Box 7044
Avon, CO 81620

RE: Muddy Creek Cabins
315 River Lane, Kremmling, Colorado

Dear Mr. Rozga:

The Kremmling Sanitation District (District) provides sanitary sewer services to the property you own at 315 River Lane, Kremmling, Colorado (Property). As you know, the District has adopted Rules and Regulations (Rules) governing usage of the District's wastewater collection system, pursuant to C.R.S. § 32-1-1001(1)(m).

The District has been informed by the Town of Kremmling (Town) that you have changed the principal use of the Property. Specifically, the cabins located on the Property are now being used for principal residences and no longer for transient use as originally proposed. The use of the property, as we understand it, is now long-term multi-family residential for lease housing.

The District currently classifies your property as "Hotels, Motels, Condo-tels, Lodges, Boarding Houses, Dormitories, Bed and Breakfasts" (Rules at Section 3.3.3 (D) (1)). In this category, the usage of a property is for "a unit providing overnight sleeping facilities for transient usage" (Rules at Section 3.3.3 (D) (1)). Based on the information provided to the District by the Town, the use of the Property is inconsistent with this classification.

The District is in possession of correspondence to you from the Town dated January 15, 2026. From this correspondence, we understand the Town considers each cabin as a separate water-using unit as that term is defined in Section 13.04.010 of the Kremmling Municipal Code (KMC). We understand there are 31 cabins located on the Property.

The Property, through various connection permits issued on May 1, 2000 (permit number 2000-5-1), June 20, 2001 (permit number 2001-6-1), December 6, 2016 (permit number 2016-12-1), and May 8, 2024 (permit number 2024-5-1), is in possession of 20.3 single equivalent unit (SEU) taps. The District currently bills the Property at the commercial rate for two SEU each month. SEU is the District's term analogous to the Town's water-using unit (KMC at Section 13.04.010).

“When the principal purpose of a Property is changed… such that the use of the Property is inconsistent with the use of the Property at the time the Connection Permit was issued, shall deem the Connection Permit null and void and require the issuance of a new Connection Permit” (Rules at Section 3.4.3). “In the event any of these uses are changed to dwelling units, a further tap fee will be levied against the units for the difference between the amount originally paid and the current charge for a single-family dwelling unit” (Rules at Section 3.3.3 (D) (1)).

It is our understanding that the Town is now charging the Property monthly for each cabin as a separate water-using unit, and a total of 31 separate water-using units. Effective in the next billing cycle, the District will begin charging the Property for 31 SEUs at the commercial rate.

Additionally, pursuant to Section 3.4.3 of the Rules, the District may revoke connection permits 2000-5-1, 2001-6-1, 2016-12-1, and 2024-5-1 as being null and void, since the use of the Property has changed. The District hopes to avoid the need to commence proceedings to revoke the above-listed connection permits by accepting an application for a connection permit for the difference in taps and the permanent reclassification of the Property based on the current use. The District will agree to charge the 2024 fees for the new connection permit under this arrangement.

I hope you will contact me so we can discuss the resolution of this matter. Should you fail to contact me within 30 days, the District will be forced to commence proceedings to formally revoke the null and void connection permit and disconnect the property from the sanitary sewer (Rules at Section 3.4.6).

I trust you will give this matter your immediate attention. Should you desire to discuss this matter further, you may contact me by emailing sanmanager@townofkremmling.org or calling (720) 682-4501.

Sincerely,

John Seward

Jack Seward
District Manager

Brownlee & Associates, LLC

Physical Address: 216 Main Street, Edwards, CO 81632
Mailing Address: PO Box 268, Edwards, CO 81632
Tel. No.: (970) 306-3312 * Fax No.: (970) 360-1049
Email: michael@brownleelawllc.com

April 9, 2026

Jack Seward, District Manager
KREMMLING SANITATION DISTRICT
200 Eagle Avenue
PO Box 538
Kremmling, CO 80459
Via Email Only: sanmanager@townofkremmling.org

Re: Muddy Creek Cabins — 315 River Lane, Kremmling, Colorado

Dear Mr. Seward:

This firm represents FCAP MUDDY CREEK LLC ("Muddy Creek" or "Client") in connection with the above-referenced Property. We write in response to your letter dated March 23, 2026, in which the KREMMLING SANITATION DISTRICT (the "District") proposes to reclassify the Property, void existing connection permits, and impose substantial new fees. My Client disputes the factual and legal bases for the District's position. As detailed below, the Property's use has not changed, the District's proposed reclassification lacks factual and legal support, and Muddy Creek rejects the District's demands in their entirety. My Client values its relationship with the District and the TOWN OF KREMMLING (the "Town"), and it approaches this matter in good faith. That said, the District's letter rests on a fundamental mischaracterization of the use of my Client's property located at 315 River Lane, Kremmling, Colorado (the "Property"). My Client cannot accept a blanket reclassification, or additional fee demands predicated on inaccurate assumptions, and it will take all steps necessary to protect its rights if the District proceeds without affording Muddy Creek a meaningful opportunity to be heard.

<u>The Property's Use Has Not Changed</u>

The District's letter states that the Property's principal use has changed from transient lodging to long-term multi-family residential housing. That characterization does not reflect the reality of the Property's operations. Muddy Creek operates the Property as a commercial lodging facility under the "Hotels, Motels, Boarding Houses, Lodging Houses" designation, consistent with Section 3.3.3(D)(1) of the District's Rules and Regulations. The Property provides transitional workforce housing to a single commercial tenant, Freeport-McMoRan ("Freeport"), under a master lease. Freeport uses the Property to house employees and third-party contractors who require temporary accommodations while working in the Kremmling area. The Property operates in a manner functionally identical to an extended-stay hotel in that occupants cycle through on stays ranging from several days to several months; units are turned over and re-prepared with fresh linens and amenities within days of a departure. On any given day, a significant number of units sit vacant awaiting the next occupant. Currently, only 18 of the Property's 32 units are occupied.

This is precisely the use that our Client described to the Town during the Use by Special Review application process in 2023. In its October 2, 2023 response to referral comments from the Town's outside counsel, Melinda Culley of Kelly PC ("Town Attorney"), Muddy Creek stated that it intended to "continue to design and operate the property as it has been operated as defined by the 'Hotel, Motel, Boarding Houses, Lodging Houses' designation," that it would offer stay options "in daily (2-night minimum), weekly and monthly increments," and that one of its primary focuses would be "to work with local employers and employees to serve as this type of transitional accommodation."

The Towns Attorney reviewed that description and confirmed she had no further comments on the application. The Town's own former Town Manager, Ashley McDonald, had encouraged our Client to pursue exactly this type of workforce housing arrangement, identifying it as a significant community need. Our Client followed that guidance, secured the necessary approvals, invested substantial capital in expanding the Property, and operated the Property in the manner it described to the Town. The principal use of the Property has not changed. Our Client did exactly what it told the Town it would do, and the Town accepted that use without objection.

The District's Proposed Reclassification Lacks Factual and Legal Support

The District's letter proposes to reclassify the Property as 31 separate single-family dwelling units, each constituting an independent water-using unit under Section 13.04.010 of the Kremmling Municipal Code. This characterization fails for several reasons.

First, the Property does not operate as 31 independent dwelling units. The entire Property is subject to a single master lease with one commercial tenant. Individual occupants do not hold leases with Muddy Creek; they hold license agreements with Freeport, their employer. Freeport deducts housing costs from employee paychecks as a payroll matter. No occupant holds a residential lease, establishes permanent domicile at the Property, or has any direct contractual relationship with Muddy Creek. The Property is managed as a single commercial campus with shared amenities, common areas, centralized management, and uniform operating procedures. Treating each unit as a separate dwelling distorts the Property's actual operational character.

Second, 21 of the Property's 32 units are park model recreational vehicles situated on RV pads. They are not permanent structures. Classifying each park model RV as a separate single-family dwelling unit raises significant questions about whether the District's rules contemplate that classification for this type of improvement and whether that approach would apply consistently to other RV parks within the District's service area.

Third, the District's own conduct undermines its current position. The District issued connection permit number 2024-5-1 as recently as May 8, 2024. At that time, the Property's master lease arrangement with Freeport was already in place. The District accepted the permit application, processed it, and issued the permit without raising any concern about the Property's use or classification. The District cannot now declare that same permit null and void on the theory that the Property's use changed, when the use at the time of issuance was the same use that exists today.

Fourth, the District's Rules at Section 3.3.3(D)(1) classify the Property's category as providing "overnight sleeping facilities for transient usage." The Rules do not define a maximum duration for what constitutes "transient" occupancy. The Property's occupants do not establish permanent domicile at the Property. They hold license agreements—not residential leases—and cycle through accommodations as their employment assignments require. No occupant treats the Property as a permanent residence.

<u>The January 15, 2026 Correspondence Does Not Support Reclassification</u>

The District's letter references correspondence from the Town dated January 15, 2026. That correspondence addressed the Town's decision to adjust its water billing methodology for the Property. Our Client's willingness to discuss a billing adjustment with the Town does not constitute an admission that the Property's use has changed. An administrative billing classification adopted by the Town for its own revenue purposes carries no legal weight in determining the District's separate classification of the Property under the District's own Rules and Regulations. The District should conduct its own independent analysis of the Property's actual operations before taking action that could expose the District to legal liability.

<u>Muddy Creek Rejects the District's Demands</u>

For the reasons set forth above, Muddy Creek rejects the District's demand to reclassify the Property, void existing connection permits, and impose additional fees. The Property's use has not changed, and the District's proposed reclassification lacks factual and legal support. Muddy Creek will not submit a new connection permit application or pay reclassification fees predicated on an inaccurate characterization of the Property's operations. If the District proceeds unilaterally to revoke permits, alter billing, or disconnect service, Muddy Creek will seek injunctive and declaratory relief without further notice.

Muddy Creek invested significantly in the Kremmling community and recognizes the value of a constructive relationship with the District and the Town. My Client remains willing to engage in good-faith discussions, but it will protect its rights if the District takes adverse action without affording Muddy Creek due process. Please direct all further communications on this matter to our office.

Best regards,

Michael Brownlee
BROWNLEE & ASSOCIATES, LLC
Email: michael@brownleelawllc.com

cc: *Levi Rozga, VP of Operations, Fortius Capital* (***via email only***)
Mike Pearson, CEO, Fortius Capital (***via email only***)

KREMMLING SANITATION DISTRICT

200 Eagle Avenue
PO Box 538
Kremmling, CO 80459

(970) 724-3249
https://www.kremmlingsd.org

April 15, 2026

Brownlee & Associates, LLC
Attn: Michael Brownlee
michael@brownleelawllc.com

RE: Muddy Creek Cabins
315 River Lane, Kremmling, Colorado

Dear Mr. Brownlee,

The Kremmling Sanitation District (District) is in receipt of your April 9, 2026, correspondence on behalf of FCAP Muddy Creek LLC (Muddy Creek). At the onset, I want to make sure you know that it is important that you and Muddy Creek feel heard. No final decision has been made, and the District's position, as represented in my previous letter, is initial. I hope that we can have a meaningful discussion and come together to find a resolution.

The District has carefully reviewed your letter in its entirety. Our response to the issues you raised is below.

1. No Change in Use

   Your letter asserts that "[t]he Property's use has not changed." That assertion is not supported under the District's Rules and Regulations. The relevant inquiry is whether the current functional use of the property remains consistent with the use under which the connection permits were issued. Section 3.4.3 of the District's Rules and Regulations provides that where "the principal purpose of a Property is changed… such that the use of the Property is inconsistent with the use of the Property at the time the Connection Permit was issued," the permit may be deemed null and void.

   Under Colorado law, "transient" occupancy generally means lodging for less than thirty (30) days, as reflected in multiple statutes and regulations. For example, the landlord-tenant code excludes "transient occupancy in a hotel or motel that lasts less than thirty days," and short-term rental statutes define lodging units rented for less than thirty (30) days as transient uses. *See C.R.S. §§ 38-12-511(1)(d) and 29-35-402(19)(a).*

   The applicable classification, "overnight sleeping facilities for transient usage," requires transient occupancy. Your letter acknowledges that occupants stay for "several days to several months." Occupancy extending beyond thirty (30) days is not transient. Accordingly, even under Muddy Creek's own description, the property is no longer operating within that classification.

2. <u>Extended-Stay Characterization and Master Lease Structure</u>

   The existence of a master lease with Freeport-McMoRan does not control classification and is immaterial to the issue at hand. The contractual structure that Muddy Creek utilizes to form its business is of no concern to the District. Whether occupancy is arranged through a lease, license, or employer program is irrelevant where units are, in fact, occupied as independent living spaces for extended durations.

   Your analogy to an extended-stay hotel fails to resolve this issue. Transient lodging is defined by duration and nature of occupancy, not by branding or operational features. Once stays extend beyond thirty (30) days and function as ongoing habitation, the use becomes residential in character.

   Where units are occupied for extended durations, they must be treated as residential dwelling units for purposes of classification and flow calculation.

3. <u>Prior Connection Permits and Town Approval</u>

   Connection permits are revocable licenses subject to ongoing compliance with the Rules and Regulations. Section 3.4.3 expressly authorizes revocation where use changes, after notice and hearing. The prior issuance of permits does not vest a right to maintain an inconsistent use.

   The District is a separate political subdivision from the Town. It appears that certain representations regarding the District were made by former Town officials. Those officials had no authority to speak for or on behalf of the District. Additionally, any approvals or authorizations provided by the Town are irrelevant to the District's classification of the property.

   However, the District is in possession of correspondence from the Town to Muddy Creek, where the Town, using identical rationale as the District, classifies each cabin as a separate "Residential Water Using Unit," defined as a unit housing occupants on an extended-term basis. This classification aligns with the District's assessment of how the property is functioning.

   The District is also in possession of reply correspondence from Muddy Creek indicating they would not protest the Town's reclassification. It seems Muddy Creek takes an opposite position relative to the District's reclassification when the fact pattern is the same.

4. <u>Monthly Service Fees</u>

   The Town has determined that each cabin constitutes a separate residential water-using unit and is billing accordingly on a monthly per-unit basis. Given that determination, each unit likewise constitutes a separate sewer-using unit. The District is required to apply its user fees uniformly and equitably across all users. Treating the Property as a single or reduced number of units for sewer billing, while it is simultaneously recognized as multiple residential units for water service, would result in inconsistent and inequitable treatment.

Accordingly, the District's position with respect to monthly user fees is not discretionary. Billing must reflect the number of functional units.

5. Tap Capacity and Connection Permits

Distinct from monthly billing is the number of connection permits required under the Rules and Regulations. The property currently holds 20.3 taps, while its present use reflects a significantly greater number of functional units. The Rules and Regulations provide that where uses are changed to dwelling units, additional tap fees may be required to account for the difference between existing capacity and actual use.

The District's position is that additional taps are required to bring the Property into compliance. However, unlike the monthly user fee issue, the District recognizes that the question of how and when additional tap capacity is obtained may be appropriate for discussion. Your permit does not currently authorize 31 functional units, so we must issue a permit that captures all of the units on the Muddy Creek property, since each functional unit requires a connection permit. This does not necessarily mean Muddy Creek needs to purchase 11 additional taps; it just means that we need to issue a permit for the full 31 functional units.

Only if we cannot collectively come to a resolution, which I hope we will be able to do, will the District commence a formal action to revoke the existing connection permits pursuant to Section 3.4.3 of the Rules and Regulations. This process includes a filing of a formal notice, an opportunity to respond, and a public hearing before the District's Board of Directors.

To move things forward, perhaps we tackle the user fees issue first and then return to connection permits. I would be happy to meet with you and your client, if appropriate, to discuss how we move forward.

Sincerely,

John Seward

Jack Seward
District Manager

Brownlee & Associates, LLC

Physical Address: 216 Main Street, Edwards, CO 81632
Mailing Address: PO Box 268, Edwards, CO 81632
Tel. No.: (970) 306-3312 * Fax No.: (970) 360-1049
Email: michael@brownleelawllc.com

July 1, 2026

Jack Seward, District Manager
KREMMLING SANITATION DISTRICT
200 Eagle Avenue
PO Box 538
Kremmling, CO 80459
Via Email & U.S. Mail: sanmanager@townofkremmling.org

Re: Order to Show Cause — FCAP Muddy Creek LLC
315 River Lane, Kremmling, Colorado
Connection Permits 2000-5-1, 2001-6-1, 2016-12-1, 2024-5-1

Dear Mr. Seward:

As you are aware, this firm represents FCAP MUDDY CREEK LLC ("Customer") in connection with the above-referenced Property. the holder of the above-referenced Connection Permits. This letter responds to the Order to Show Cause dated June 19, 2026 ("Order"), served by email on the same date.

Hearing Date. The Order directs the Customer to appear before the Board of Directors on July 12, 2026 at 5:00 PM. July 12, 2026 falls on a Sunday. I respectfully request that the District confirm the correct hearing date. If the District intended to schedule the hearing for a regular monthly Board meeting, please advise the corrected date at your earliest convenience so that the Customer and counsel can make arrangements to attend.

Notice of Intent to Appear and Contest. The Customer hereby provides notice that it intends to appear at the hearing, through counsel, and contest the Order in its entirety. The Customer denies that a "change of use" has occurred within the meaning of Section 3.4.6 of the District's Rules and Regulations. The Customer will file a detailed written response to the Order in advance of the hearing.

Reservation of Rights. The Customer reserves all rights and remedies available under applicable law, including but not limited to the right to challenge the sufficiency of notice, the right to seek judicial review of any Board determination pursuant to C.R.C.P. 106(a)(4), and the right to seek injunctive relief in the Grand County District Court.

Please confirm the corrected hearing date and any procedural requirements for the submission of the Customer's written response.

Best regards,

/s/ Michael G. Brownlee
Michael G. Brownlee
BROWNLEE & ASSOCIATES, LLC
Email: michael@brownleelawllc.com

cc: *Levi Rozga, VP of Operations, Fortius Capital (**via email only**)*
*Mike Pearson, CEO, Fortius Capital (**via email only**)*

Exhibit 6

Town’s Official Actions

Resolution 2024-02-01PZ
Resolution 2024-02-05

TOWN OF KREMMLING PLANNING AND ZONING COMMISSION RESOLUTION NO. 2024-02-01PZ

A RESOLUTION GRANTING APPROVAL OF A SPECIAL REVIEW USE PERMIT FOR FORTIUS CAPITAL PARTNERS AT 315 RIVER LANE

LOCATED AT GORE CANYON LTD. EXEMPTIONS LOT: 5 PT OF PARCEL 5

WHEREAS, Fortius Capital Partners, also known as FCAP Muddy Creek LLC, (the "Applicant") requested a Special Review Use Permit to allow the expansion of the Muddy Creek Cabins to accommodate additional detached cabins/park models in the Central Business Zoning District on the property located at 315 River Lane and legally described as Gore Canyon Ltd. Exemptions Lot: 5 Pt of Parcel 5, Town of Kremmling, State of Colorado (the "Property"); and

WHEREAS, at the time of the Special Review Public Hearing, the Property was owned by Jeffrey and Sara Miller by Warranty Deed recorded at Reception No. 2011008336; and

WHEREAS, the Property is owned by the Applicant, FCAP Muddy Creek LLC, by Special Warranty Deed recorded at Reception No. 2023008466 as of December 6, 2023; and

WHEREAS, the Property is zoned CB (Central Business) and the expansion of hotels, motels, boarding houses, and lodging houses by more than two-hundred (200) square feet within the CB zone district are a use by special review; and

WHEREAS, notice of a Public Hearing was sent to adjacent property owners on October 26, 2023; posted on the subject property on October 26, 2023; and published in the Sky-Hi Newspaper on October 20, 2023; and

WHEREAS, the Planning and Zoning Commission conducted a Public Hearing on said application on November 8, 2023 at 6:00 p.m.; and

WHEREAS, the Planning and Zoning Commission has considered the criteria for special review set forth in the Kremmling Municipal Code and has determined that the proposed use:

a. Is in conformance with the Town's Comprehensive Plan
b. Is compatible with the character within the immediate vicinity of the lot and surrounding land uses
c. The location, size, design and operating characteristics of the proposed use will have no significant adverse effect on visual characteristics, pedestrian and vehicular circulation, parking trash, service delivery, noise, vibrations and odor on surrounding properties
d. There are adequate public facilities to serve the proposed use including, but not limited to, roads, potable water, sewer, solid waste, parks, police and fire protection, emergency medical services, hospital and medical services, drainage systems and schools; and

WHEREAS, the Planning and Zoning Commission has determined that the proposed Special Review Use should be approved subject to the terms and conditions hereinafter set forth in the attached Exhibit "A."

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION FOR THE TOWN OF KREMMLING, COLORADO that a Special Review Use Permit shall be and is hereby granted to Fortius Capital Partners to expand the current facility to add twenty-one (21) additional cabins/park models on the property located at 315 River Lane under the terms and conditions set forth in the attached Exhibit "A".

Upon motion duly made, seconded and carried, the forgoing Resolution was adopted this 14th day of February 2024.

TOWN OF KREMMLING

By: Alan N. Hassler

Alan Hassler, Chair

ATTEST:

Teagan Serres

Teagan Serres, Town Clerk

EXHIBIT "A"
RESOLUTION NO. 2024-02-01PZ

A. PERMITTEE:

Name:	FCAP Muddy Creek LLC
Address:	PO Box 8690
	Avon, CO 81620
Phone #	970-331-4292
Email:	pscanlan@fortiuscap.com

B. USES PERMITTED:

Expand the current facility to add twenty-one (21) additional cabins/park models on the property.

C. LOCATION OF PERMITTED USE:

Gore Canyon Ltd. Exemptions Lot: 4 Pt of Parcel 5, commonly known as 315 River Lane, Kremmling, CO 80459.

Parcel ID: 1441-074-20-004

D. BEGINNING DATE OF PERMIT: November 8, 2023
ENDING DATE OF PERMIT: Permanent with conditions

E. CONDITIONS OF PERMIT:

1. Uses Permitted: This Special Use Permit ("Permit") is limited to allow an expansion of the current facility to add twenty-one (21) additional park models on the property. There shall be no subdivision nor shall it become a mobile home park under this Special Use Permit.

2. Dimensional and Setback Requirements: The lot shall have a minimum area of two thousand five hundred square feet. The commercial/residential structure shall have no minimum front setback requirements, no minimum side setback requirements where roof drainage is toward the rear lot line. If roof drainage is toward a side lot line, a minimum of six (6) foot setback from such side lot line is required, and rear setback of ten (10) feet; except, where the alley abuts the rear lot line, the distance may be reduced to five (5) feet for all structures, temporary structures, other buildings, and other obstructions, to provide for proper snow handling. The site shall also adhere to a ten foot (10') structural setback from the wetlands.

3. On-site Property Manager Required: There shall be an on-site property manager for the Muddy Creek Cabins business operations.

4. Traffic Study Waived: The requirement of a traffic study for this project shall be waived by Town of Kremmling staff.

5. Alteration of Terms and Conditions: The terms and conditions of this Permit cannot be altered without proper notice and review by the Town of Kremmling Planning & Zoning Commission in a public hearing.

6. Violation of Terms and Conditions: In the event of violation of any of the restrictions or conditions on the use of the Permit, or in the event of failure to fulfill any of the conditions required by this Permit, the Planning & Zoning Commission may, upon not less than ten (10) days notice in writing to Permittee, hold a public hearing to consider the revocation of this Permit or to take such other action as the & Zoning Commission for the Town of Kremmling, in its sole discretion, deems appropriate. Notice to Permittee shall be complete upon mailing at the following address.

   FCAP Muddy Creek LLC
   PO Box 8690
   Avon, CO 81620

7. Termination: No termination of this Permit shall be made without good cause shown and any modification of the Permit shall be made only upon resolution of the Planning & Zoning Commission and any oral representations or agreements shall be null and void and of no legal effect.

8. Limitation of Liability: The Town of Kremmling by the issuance of this Permit, assumes no responsibility for the operation of the site and Permittee hereby covenants and agrees to hold the Town of Kremmling harmless for any injury or damage which may occur of whatever type or nature, as the result of the operation contemplated by this Permit. Permittee warrants that appropriate liability and hazard insurance to compensate any individuals who may be injured or damaged in any manner by the conduct of this use will be obtained. Permittee further warrants and agrees to compensate the Town of Kremmling for any expense incurred in the defense of any lawsuit or other type of action which may be brought against said Town as a result of said Permittees operation of this use.

9. Binding Contract: This Permit shall become a binding contract between the parties hereto upon the execution hereof as provided for below. Said contract shall be binding upon and inure to the benefit of the successors, heirs, assigns and personal representatives of the parties.

F. APPLICABLE SECTIONS OF KREMMLING MUNICIPAL CODE:

17.03.020 - Building permits.
17.03.070 - Application and approval of Use by Special Review.
17.04.010 - Zoning District standards established.

G. DATE AND TIME OF APPROVAL:

Wednesday, November 8, 2023 at 6:00 pm.

TOWN OF KREMMLING

BY: Alan N Hassler
Alan Hassler, Chair

ATTEST: A. Macdonald
Ashley Macdonald, Planning Director

DATE: 2-14-2024

PERMITTEE:

BY: [signature]

DATE: 2-14-24

RECEPTION#: 2024001825, 03/28/2024 at 02:20:46 PM
1 OF 1, R $13.00 ,
Jolene S. Linke, Grand County Clerk, Colorado

TOWN OF KREMMLING
RESOLUTION NO. 2024-02-05

A RESOLUTION CONCERNING THE WATER SYSTEM DEVELOPMENT FEE FOR THE MUDDY CREEK CABINS SPECIAL REVIEW USE AND SITE PLAN

WHEREAS, the Town has received an application for a special review use and site plan for the Muddy Creek Cabins located at 315 River Lane, which property is legally described as Gore Canyon LTD. Exemptions Lot 5 PT of Parcel 5 (the "Property"); and

WHEREAS, the Property is currently used for ten rental cabins, a single-family residence and common amenities, and the application proposes to add twenty-one additional rental cabins along with parking and drive aisles to the Property; and

WHEREAS, Kremmling Municipal Code (KMC) Section 13.04.100.A requires an applicant for water service to pay a water system development fee as set per resolution of the Board of Trustees; and

WHEREAS, pursuant to KMC 13.04.100.B, each residential water using unit shall pay a system development fee for three-quarter inch service while the size of tap required for a commercial water using unit (defined as a water unit using unit put to a non-residential use) shall be determined based on an application for service that provides information about the purpose, extent and nature of water use and the potential demand for water; and

WHEREAS, the Town has received information about the average water used by the existing cabins on the Property and by similar park model/RV sites, which estimates the average water use per cabin to be 1,788 gallons per month, which is approximately 32.5 percent of what is used by an average single-family residence in the Town; and

WHEREAS, based on such information, the Board of Trustees desires to assign a single-family equivalent unit (SFE) to each cabin and to establish the water system development fee to be paid for each cabin.

NOW, THEREFORE, BE IT RESOLVED THE BOARD OF TRUSTEES FOR THE TOWN OF KREMMLING, COLORADO THAT:

Section 1. The single-family equivalent unit (SFE) assigned to the Muddy Creek Cabins Special Review Use and Site Plan is 0.325 SFE per cabin. The water system development to be paid for each cabin shall be calculated as 0.325 SFE x the rate for a ¾ inch tap in effect at the time application is made for a tap permit.

Section 2. The Board of Trustees reserves the right to adjust the SFE assigned to each cabin if actual water usage exceeds the estimates set forth herein.

INTRODUCED, READ AND ADOPTED by the Board of Trustees on this 21st day of February 2024.

TOWN OF KREMMLING

Wes Howell, Mayor

ATTEST:

Teagan Serres, Town Clerk

The undersigned hereby certifies and states that one true and complete copy of the above Disclosure of Evidence was sent by email this 10th day of July 2026, addressed as follows:

FCAP Muddy Creek LLC
Attn: Levi Rozga
PO Box 7044
Avon, CO 81620
lrozga@fortiuscap.com

Brownlee & Associates, LLC
Attn: Michael Brownlee
PO Box 268
Edwards, CO 81632
michael@brownleelawllc.com

John Seward

Jack Seward
District Manager

Report Criteria:
Invoices with totals above $0.00 included.
Paid and unpaid invoices included.

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid	Voided
Kremmling Sanitation								
Administration								
00-200-6025								
1171	RISER ACCOUNTING	2194	ACCOUNTING SERVICES 6/1/26	06/30/2026	2,060.90	.00		
	Total 00-200-6025:				2,060.90	.00		
00-200-6065								
1004	BANKCARD CENTER	JUNE 19, 2026	MICROSOFT	06/19/2026	13.13	.00		
1154	STREAMLINE	378335	STREAMLINE FLEX 7/1 - 8/31/26	07/01/2026	147.00	.00		
	Total 00-200-6065:				160.13	.00		
00-200-6100								
1169	CEGR LAW	6/30/2026	ATTORNEY FEE	06/30/2026	3,394.50	.00		
	Total 00-200-6100:				3,394.50	.00		
00-200-6180								
1088	TOWN OF KREMMLING	1057	JUNE 26 SHARED SERVICES	07/01/2026	5,833.33	.00		
	Total 00-200-6180:				5,833.33	.00		
00-200-6200								
1066	MOUNTAIN PARKS ELECTRIC I	6/22/2026	CONVENIENCE FEE	06/22/2026	2.00	.00		
	Total 00-200-6200:				2.00	.00		
	Total Administration:				11,450.86	.00		
Collections								
00-300-6065								
1069	NORTHWEST RANCH SUPPLY	6/25/2026	SEPTIC RECEIVING STATION R	06/25/2026	28.96	.00		
1069	NORTHWEST RANCH SUPPLY	6/25/2026	1 1/2" BALL VALVE	06/25/2026	14.99	.00		
	Total 00-300-6065:				43.95	.00		
00-300-6078								
1150	CORE & MAIN	Z193366	PVC SWR PIPE, CLAY, ECC INC	06/11/2026	2,043.51	.00		
1069	NORTHWEST RANCH SUPPLY	6/25/2026	4" S & D CAP	06/25/2026	3.49	.00		
1069	NORTHWEST RANCH SUPPLY	6/25/2026	2" BLUEBOARD	06/25/2026	121.98	.00		
	Total 00-300-6078:				2,168.98	.00		
00-300-6155								
1030	BOWMAN CONSULTING GROU	568337	REUSE - USER - TREATER ENG	06/30/2026	1,170.00	.00		
1030	BOWMAN CONSULTING GROU	568339	ENG SRVS TO BE REIMB BY K-	06/30/2026	595.00	.00		
	Total 00-300-6155:				1,765.00	.00		
00-300-6190								
1001	ACZ LABORATORIES INC	104813	COMPLIANCE LABS	06/19/2026	465.60	.00		
1058	KREMMLING MERCANTILE LLC	01-64070	LAB SUPPLIES	07/07/2026	10.90	.00		

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid	Voided
Total 00-300-6190:					476.50	.00		
00-300-6210								
1004	BANKCARD CENTER	JUNE 19, 2026	OFFICE SUPPLIES	06/19/2026	5.41	.00		
1004	BANKCARD CENTER	JUNE 19, 2026	SPRINKLER HEAD TOOL KIT	06/19/2026	39.89	.00		
1058	KREMMLING MERCANTILE LLC	02-34941	LIME AWAY & TP	06/15/2026	22.37	.00		
1059	K-TOWN NAPA	088139	GLOVES FOR EMPLOYEES	06/30/2026	45.80	.00		
1069	NORTHWEST RANCH SUPPLY	6/25/2026	ROTOR ADJUSTMENT TOOL	06/25/2026	15.85	.00		
1069	NORTHWEST RANCH SUPPLY	6/25/2026	THREADED ROD	06/25/2026	3.99	.00		
1069	NORTHWEST RANCH SUPPLY	6/25/2026	FASTENERS	06/25/2026	7.28	.00		
1069	NORTHWEST RANCH SUPPLY	6/25/2026	4 1/2" METAL TYPE 27, RECIP B	06/25/2026	33.06	.00		
Total 00-300-6210:					173.65	.00		
00-300-6250								
1004	BANKCARD CENTER	JUNE 19, 2026	STUDY BOOKS	06/19/2026	115.99	.00		
1004	BANKCARD CENTER	JUNE 19, 2026	TRAINING BOOK	06/19/2026	57.25	.00		
Total 00-300-6250:					173.24	.00		
00-300-6300								
1066	MOUNTAIN PARKS ELECTRIC I	6/22/2026	416 S 3RD ST	06/22/2026	58.06	.00		
1066	MOUNTAIN PARKS ELECTRIC I	6/22/2026	MCELROY SWR PMP	06/22/2026	45.72	.00		
Total 00-300-6300:					103.78	.00		
00-300-6310								
1004	BANKCARD CENTER	JUNE 19, 2026	VISIONARY	06/19/2026	110.74	.00		
1014	CENTURY LINK	JUN. 19, 2026	970-724-9259 967B	06/19/2026	106.35	.00		
1066	MOUNTAIN PARKS ELECTRIC I	6/22/2026	345 MARTIN WAY BLOWERS	06/22/2026	5,507.83	.00		
1066	MOUNTAIN PARKS ELECTRIC I	6/22/2026	345 MARTIN WAY SEWER LAGO	06/22/2026	1,042.67	.00		
1091	VERIZON WIRELESS	6146046189	CELL PHONE	06/13/2026	103.58	.00		
1094	WASTE MANAGEMENT-HOT SU	04292026	TRASH SERVICE	04/29/2026	446.45	446.45	06/23/2026	
1094	WASTE MANAGEMENT-HOT SU	0495164-1195-	TRASH SERVICE	06/29/2026	438.80	.00		
1094	WASTE MANAGEMENT-HOT SU	494149	TRASH SERVICE	06/18/2026	449.37	.00		
1101	XCEL ENERGY	984347889	345 MARTIN WAY	06/30/2026	68.10	.00		
Total 00-300-6310:					8,273.89	446.45		
00-300-6320								
1128	GRAND COUNTY COLORADO	INV06022	FUEL + FUEL SURCHARGE	07/01/2026	893.46	.00		
Total 00-300-6320:					893.46	.00		
00-300-6351								
1059	K-TOWN NAPA	088268	DODGE PU OIL CHANGE	07/02/2026	55.06	.00		
1098	WEST END RENTAL	A-3615	MOWER REPAIR	05/27/2026	223.16	.00		
Total 00-300-6351:					278.22	.00		
00-300-6400								
1170	BRI-CHEM SUPPLY CORP. LLC	105502	SODA ASH	06/11/2026	827.12	.00		
Total 00-300-6400:					827.12	.00		

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid	Voided
00-300-7000								
1030	BOWMAN CONSULTING GROU	568338	COLLECTION SYSTEM PROJEC	06/30/2026	3,560.00	.00		
Total 00-300-7000:					3,560.00	.00		
Total Collections:					18,737.79	446.45		
Total Kremmling Sanitation:					30,188.65	446.45		
Grand Totals:					30,188.65	446.45		

Dated: ______________________________

Treasurer: ______________________________

District Manager: ______________________________

Report Criteria:

Invoices with totals above $0.00 included.

Paid and unpaid invoices included.

Report Criteria:

Includes all accounts

Includes grand totals

Account Number	Title	2026-26 Current year Actual	2026-26 Current year Budget	2026-26 Current year Remaining	2026-26 Current year Percent
Kremmling Sanitation					
Sanitation Revenue					
00-100-3000	GENERAL PROPERTY TAXES	41,605.98	59,249.00	17,643.02	70.22
00-100-3010	SPECIFIC OWNERSHIP TAXES	1,373.42	2,500.00	1,126.58	54.94
00-100-3100	TAP FEES	28,300.00	80,000.00	51,700.00	35.38
00-100-3200	SEWER CHARGES	243,699.88	847,740.00	604,040.12	28.75
00-100-3210	SEPTAGE RECEIVING STATION	25.00	.00	25.00-	.00
00-100-3400	PAYMENT FROM TOWN	.00	1,560.00	1,560.00	.00
00-100-3500	INTEREST EARNED	8,638.79	25,000.00	16,361.21	34.56
00-100-3550	MISCELLANEOUS INCOME	.00	1,000.00	1,000.00	.00
00-100-3600	GRANTS AND LOANS	154,470.82	136,835.00	17,635.82-	112.89
	Total Sanitation Revenue:	478,113.89	1,153,884.00	675,770.11	41.44
Administration					
00-200-4000	SALARIES	.00	.00	.00	.00
00-200-4005	DIRECTOR FEES	2,200.00	3,250.00	1,050.00	67.69
00-200-4010	PART-TIME SALARIES	15,214.00	29,484.00	14,270.00	51.60
00-200-4030	WORKERS COMPENSATION IN	3,044.00	3,044.00	.00	100.00
00-200-4050	RETIREMENT & TAXES	1,419.57	2,701.00	1,281.43	52.56
00-200-6025	ACCOUNTING	1,717.45	17,000.00	15,282.55	10.10
00-200-6050	DUES / SUBSCRIPTIONS	1,029.30	2,035.00	1,005.70	50.58
00-200-6055	DUES AND SUBSCRIPTIONS	.00	.00	.00	.00
00-200-6065	IT SERVICES	3,904.44	7,840.00	3,935.56	49.80
00-200-6075	CASUALTY INSURANCE	19,975.00	19,975.00	.00	100.00
00-200-6080	DEPOSIT REFUND	.00	.00	.00	.00
00-200-6090	INVESTMENT EXPENSE	199.75	.00	199.75-	.00
00-200-6100	LEGAL	8,073.50	15,000.00	6,926.50	53.82
00-200-6175	BUILDING REPAIRS - TOWN HA	1,260.00	12,000.00	10,740.00	10.50
00-200-6180	PAYMENT TO TOWN	29,166.65	58,140.00	28,973.35	50.17
00-200-6185	EMERGENCY RESERVE	.00	34,617.00	34,617.00	.00
00-200-6200	SUPPLIES AND EXPENSES	30.00	5,000.00	4,970.00	.60
00-200-6250	TRAINING	104.00	.00	104.00-	.00
00-200-6285	TREASURER'S FEE	2,707.15	2,963.00	255.85	91.37
00-200-6300	UTILITIES - TOWN HALL	106.45	2,256.00	2,149.55	4.72
	Total Administration:	90,151.26	215,305.00	125,153.74	41.87
Collections					
00-300-4000	SALARIES	80,111.50	156,800.00	76,688.50	51.09
00-300-4010	PART-TIME SALARIES	19,372.00	56,280.00	36,908.00	34.42
00-300-4050	RETIREMENT & BENEFITS	38,800.80	58,395.00	19,594.20	66.45
00-300-4100	OVERTIME	13,755.00	11,230.00	2,525.00-	122.48
00-300-6060	LAGOON MAINTENANCE & REP	398.85	22,000.00	21,601.15	1.81
00-300-6065	REUSE MAINTENANCE & REPAI	1,445.46	15,160.00	13,714.54	9.53
00-300-6078	COLLECTION MAINT & REPAIR	7,761.42	37,100.00	29,338.58	20.92
00-300-6082	DISCHARGE & REUSE PERMIT	.00	6,500.00	6,500.00	.00
00-300-6155	ENGINEERING & TECHNICAL S	5,231.86	10,000.00	4,768.14	52.32
00-300-6190	LAB TESTS & SUPPLIES	6,633.00	13,865.00	7,232.00	47.84
00-300-6210	GENERAL SUPPLIES	2,503.65	5,000.00	2,496.35	50.07
00-300-6250	TRAINING	1,664.26	6,000.00	4,335.74	27.74

Account Number	Title	2026-26 Current year Actual	2026-26 Current year Budget	2026-26 Current year Remaining	2026-26 Current year Percent
00-300-6300	UTILITIES-LIFT STATIONS	546.40	1,386.00	839.60	39.42
00-300-6310	UTILITIES-LAGOONS & REUSE	41,979.94	119,676.00	77,696.06	35.08
00-300-6320	VEHICLES - FUEL	2,292.49	5,000.00	2,707.51	45.85
00-300-6351	VEHICLES-REPAIRS	3,237.26	5,000.00	1,762.74	64.75
00-300-6400	CHEMICALS	7,994.75	17,445.00	9,450.25	45.83
00-300-6520	DAMAGE CLAIMS	.00	500.00	500.00	.00
00-300-7000	CAPITAL IMPROVEMENTS	364,866.44	390,520.00	25,653.56	93.43
00-300-7001	CAPITAL IMPROVEMENT RESE	.00	172,000.00	172,000.00	.00
	Total Collections:	598,595.08	1,109,857.00	511,261.92	53.93
	Kremmling Sanitation Revenue Total:	478,113.89	1,153,884.00	675,770.11	41.44
	Kremmling Sanitation Expenditure Total:	688,746.34	1,325,162.00	636,415.66	51.97
	Total Kremmling Sanitation:	210,632.45-	171,278.00-	39,354.45	122.98
	Grand Totals:	210,632.45-	171,278.00-	39,354.45	122.98

KREMMLING SANITATION DISTRICT

JULY 7TH 2026

OPERATORS REPORT

June compliance labs results

June Plant Performance

July compliance labs sent in 7-1-2026

CDOT mainline and manhole work began 7-8-2026

Headworks channels and line to pond A cleaned and jetted 6-16-2026

Septic receiving station startied operating 6-17-2026

Serviced Aqua Disk filter tank and swapped out filters week of 6-22

Met with school and town regarding reuse water on 6-15-2026

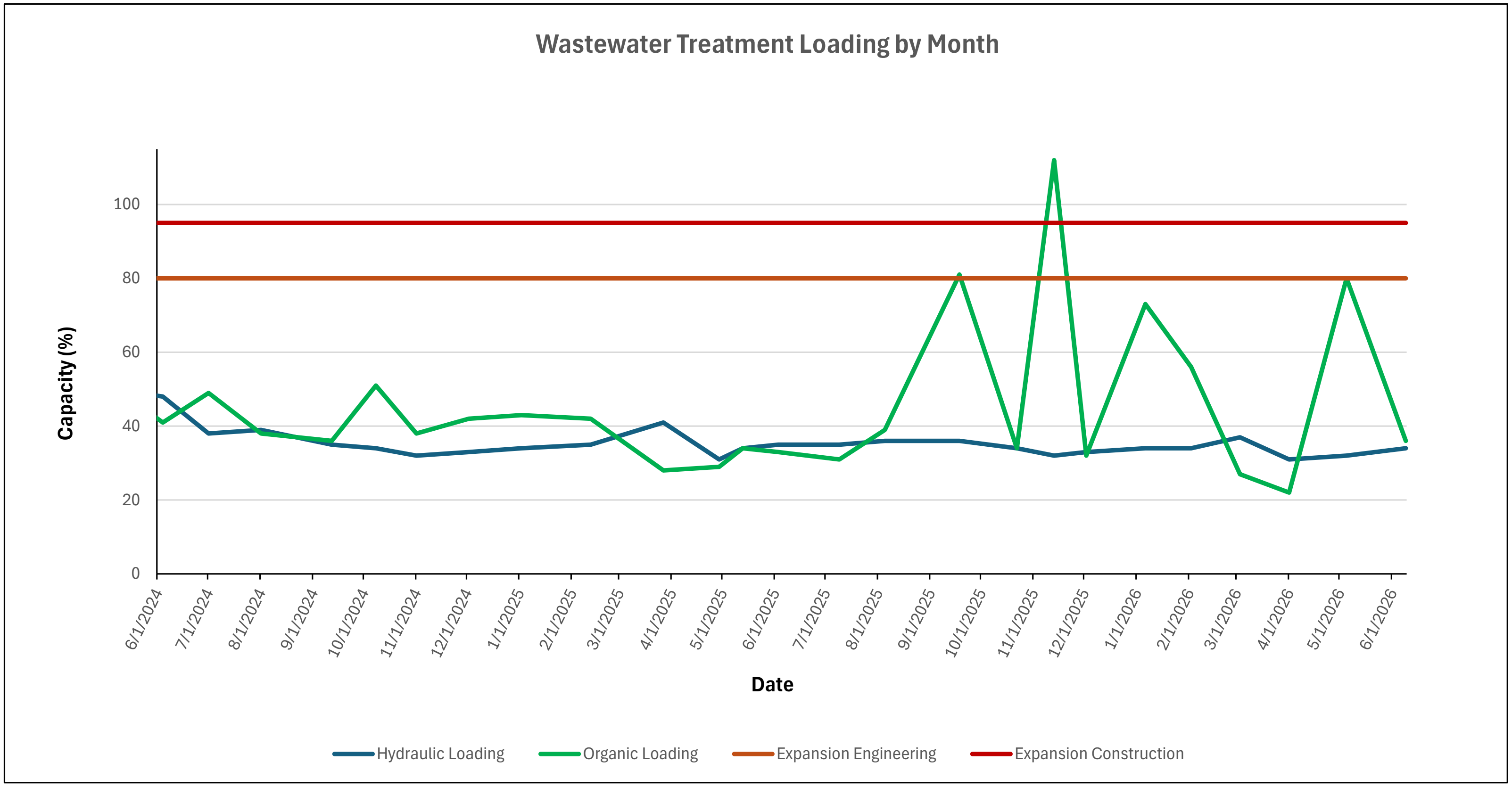
School began using reuse water 6-19-2026

Met with town and school regarding reuse overconsumption on 7-6-2026

Results of ACZ investigation of previously high BOD labs

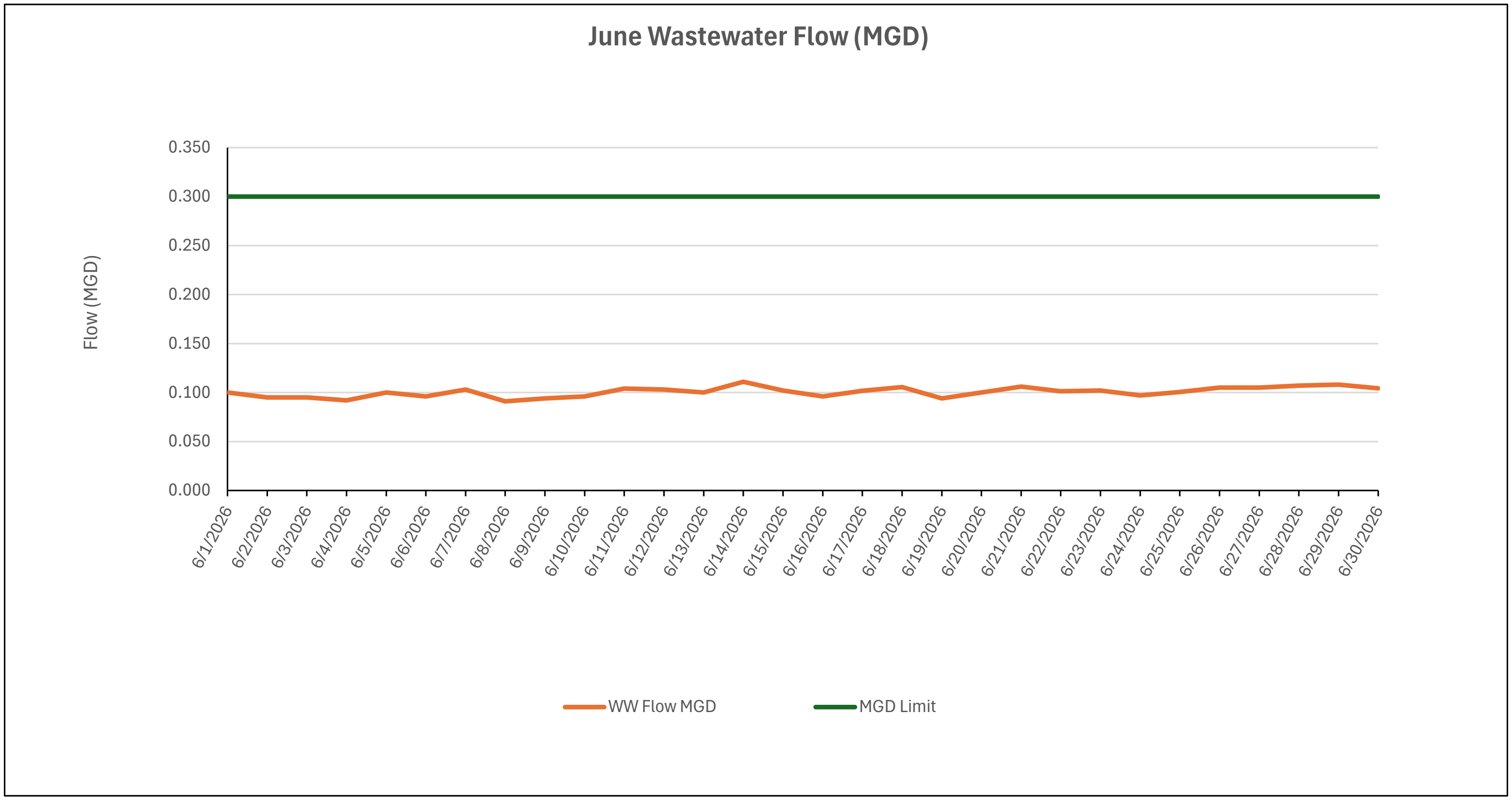
June 2026 Wastewater Performance

Sample date: 6/9/26

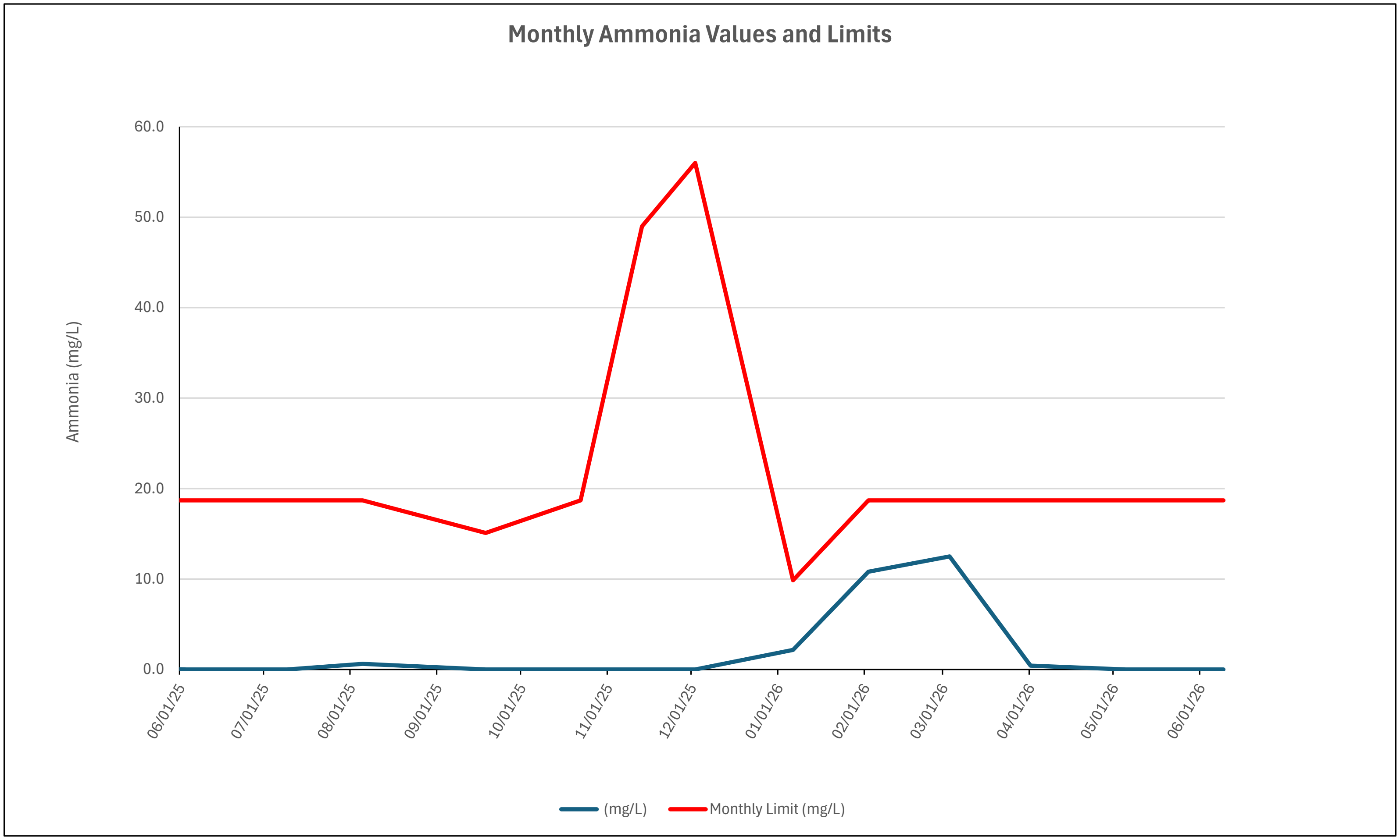


Effluent Parameters	Permit Limit	Monthly Reported Values
BOD (mg/L)	30-45 mg/L	< 2 mg/L
BOD % Removal	85% minimum	100.0%
TSS (mg/L)	75-110 mg/L	11.2 mg/L
Ammonia	18.7 mg/L	< 0.1 mg/L
E. coli (#/100mL)	1088-2176 #/100mL	1.0 #/100mL
pH	6.5 - 9.0 SU	7.22 - 7.61 SU

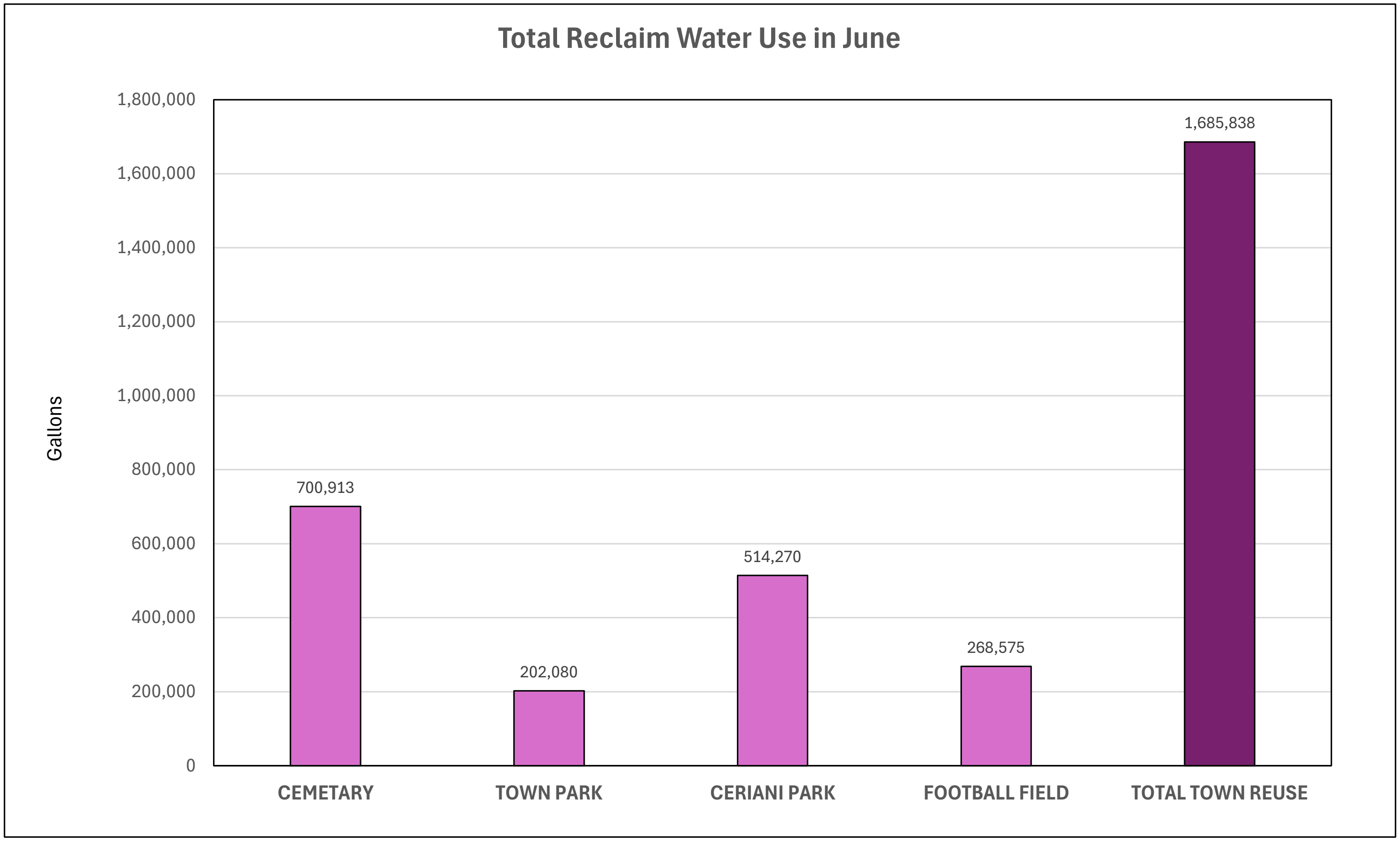
Influent Parameters	Monthly Reported Values
Hydraulic % Capacity	34%
Organic % Capacity	36%
BOD (mg/L)	275 mg/L
TSS (mg/L)	142 mg/L



	Wastewater Plant Flows (Kgal/Day)
Average	0.101
Minimum	0.091
Maximum	0.111
% Flow	34%



Monthly Ammonia Values and Limits
Ammonia (mg/L)
60.0
50.0
40.0
30.0
20.0
10.0
0.0
06/01/25
07/01/25
08/01/25
09/01/25
10/01/25
11/01/25
12/01/25
01/01/26
02/01/26
03/01/26
04/01/26
05/01/26
06/01/26
(mg/L)
Monthly Limit (mg/L)



*Started Football Field reclaim water on 6/19/26

ELEMENT
a Bowman company

ENGINEER'S PROGRESS REPORT

TO: Kremmling Sanitation District Board

FROM: Element Engineering, LLC

DATE: July 13th, 2026

SUBJECT: Progress Report on Current Projects

GENERAL ENGINEERING

All re-use documents regarding Ceriani Park have been completed, signed, and submitted to CDPHE. A response to CDPHE's additional paperwork request has been completed and submitted.

COLLECTION SYSTEM IMPROVEMENTS

All project item are complete except for a few more service lines and the asphalt patching. They are scheduled to have all work completed by July 17th.

COLLECTION SYSTEM IMPROVEMENTS BUDGET AND PROPOSED ADDITIONAL WORK

Fones Construction will be submitting the final pay application after they finish the project next week. Element will provide a complete financial closeout document once all final cost are completed.

DEVELOPMENT COORDINATION

Sunrise Annexation

Sunrise Development moving forward with annexation, the district will have development conditions in their agreement.

K-Town North

Mike Johnston submitted a revised set of plans June 1st, the district completed a review and sent comments back to him on June 13th. We have had no response on our latest review comments.

Kremmling Sanitation District
Kremmling, Colorado

Financial Statements

December 31, 2025 and 2024

KREMMLING
SANITATION DISTRICT

Kremmling Sanitation District
Financial Statements
December 31, 2025 and 2024

Table of Contents

DRAFT

McMahan and Associates, L.L.C.
Certified Public Accountants and Consultants

Web Site: www.McMahanCPA.com Main Office: (970) 845-8800

INDEPENDENT AUDITOR'S REPORT

To the Board of Directors
Kremmling Sanitation District
Kremmling, Colorado

Opinion

We have audited the financial statements of the business-type activities of Kremmling Sanitation District (the "District"), as of and for the years ended December 31, 2025 and 2024, which collectively comprise the District's basic financial statements as listed in the Table of Contents, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the District as of December 31, 2025 and 2024 and the changes in financial position and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America ("U.S. GAAS"). Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of our report. We are required to be independent of the District and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

The District's management is responsible for the preparation and fair presentation of the financial statements in accordance with U.S. GAAP, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the District's ability to continue as a going concern for one year after the date that the financial statements are issued.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions.

INDEPENDENT AUDITOR'S REPORT
To the Board of Directors
Kremmling Sanitation District
Kremmling, Colorado

Auditor's Responsibilities for the Audit of the Financial Statements

Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with U.S. GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with U.S. GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the District's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control–related matters that we identified during the audit.

Required Supplementary Information

U.S. GAAP require that the Management's Discussion and Analysis in section B be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with U.S. GAAS, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

McMahan and Associates, L.L.C.
Avon, Colorado

MANAGEMENT’S DISCUSSION AND ANALYSIS

Kremmling Sanitation District
Management's Discussion and Analysis
December 31, 2025 and 2024

We, the financial managers of Kremmling Sanitation District (the "District"), offer readers of the District's financial statements this narrative summary of the financial activities of the District for the fiscal years ended December 31, 2025 and 2024.

Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to the District's basic financial statements. The District's basic financial statements are comprised of two components: 1) financial statements; and 2) notes to the financial statements. These components are discussed below.

Financial Statements: The financial statements are designed to provide readers with a broad overview of the District's finances, in a manner similar to a private-sector business.

The Statement of Net Position presents information on all the District's assets, liabilities (both short-term and long-term), and deferred inflows with the difference between the three reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the District is improving or deteriorating.

The Statement of Revenues, Expenses and Changes in Net Position shows how the government's net position changed during the years presented. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g., earned revenue that will be received in subsequent years).

The Statement of Cash Flows shows the District's sources of cash inflows and outflows for the years presented. Cash flows are categorized among operating, non-capital financing, capital and related financing and investing activities, and unlike items reported in the Statement of Revenues, Expenses and Changes in Net Position, these amounts are reported on the cash basis of accounting.

The business-type activity of the District relates to sanitation services. There are currently no governmental-type activities occurring at the District.

The District's basic financial statements can be found in Section C of this report.

Proprietary Fund: The District maintains a proprietary fund commonly known as an enterprise fund. Enterprise funds are used to report business-type activities. The District uses an enterprise fund to account for its sanitation services.

Notes to the Financial Statements: The notes provide a background of the entity, certain required statutes, and accounting policies utilized by the District. They also provide additional information that will aid in the interpretation of the financial statements. The Notes to the Financial Statements can be found in Section D of this report.

Other Information: In addition to the basic financial statements and accompanying notes, this report also contains certain supplementary information. The Schedule of Revenues and Expenditures - Budget (Non-GAAP Basis) and Actual with Reconciliation to GAAP Basis provides a detailed comparison of the District's actual revenues and expenditures to budgeted amounts. As the District's budget was adopted in a manner that is not consistent with Generally Accepted Accounting Principles ("GAAP"), this statement is presented on a non-GAAP basis with a reconciliation to GAAP basis. This supplementary information can be found in Section E of this report.

Overview of the Financial Statements (continued)

Financial Analysis of the District: The following table shows the District's assets, liabilities and net position at the end of 2025 and 2024:

Kremmling Sanitation District - Net Position

	2025	2024
Assets:		
Current and other assets	$ 983,202	986,624
Capital assets	2,815,348	2,751,531
Total Assets	3,798,550	3,738,155
Liabilities:		
Current liabilities	134,042	107,135
Long - term liabilities	10,244	10,244
Total Liabilities	144,286	117,379
Deferred Inflows of Resources	59,249	55,960
Net Position:		
Net investment in capital assets	2,815,348	2,686,789
Restricted	-	143,666
Unrestricted	779,667	734,361
Total Net Position	$ 3,595,015	3,564,816

In 2025, the District's total assets increased by $60,395. Amounts due from other governments increased by $18,343 due to an increase in grant receivables related to capital projects. Net capital assets increased between 2025 and 2024, as total additions of $387,010 were more than depreciation expense of $323,193.

The District's total liabilities at the end of the 2025 fiscal year were $26,907 higher than at the end of the preceding year. Current liabilities, which consist primarily of amounts due for trade, construction, and retainage, were higher by $26,907 due to timing of payments and vendor invoicing. Non-current liabilities, which is comprised of accrued compensated absences, did not change from the prior year.

Deferred inflows of resources, which consist of unavailable property tax revenue, was $3,289 higher at December 31, 2025.

Traditionally, the largest portion of any special district's net position is its investment in capital assets used to deliver or provide services to its constituents and other users. The District's investment in capital assets accounted for approximately 78% of its total net position at the end of 2025. This portion of the District's net position is not available for future spending. The remaining net position balance of $779,667 may be used to meet the District's ongoing costs of operations.

At the end of the 2025 fiscal year, the District is able to report positive balances in all categories of net position. Overall, the District's net position increased $30,199 during 2025 and decreased $92,948 during 2024. These changes are further analyzed on the following pages.

Overview of the Financial Statements (continued)

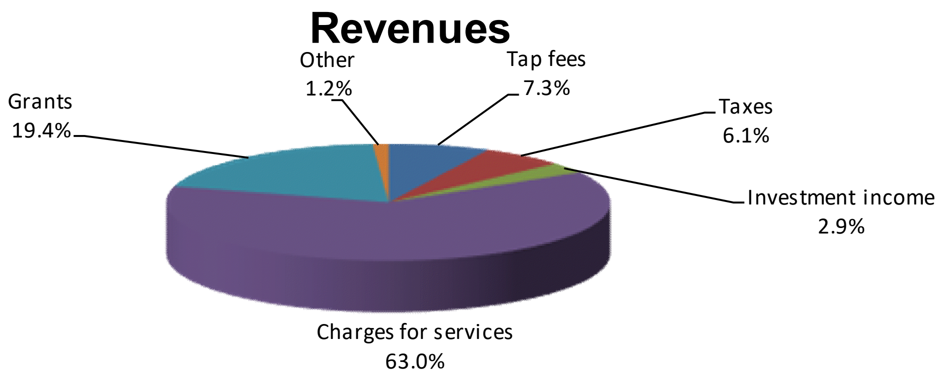
Financial Analysis of the District (continued): The following table summarizes information from the District's Statement of Revenues, Expenses and Changes in Net Position:

Kremmling Sanitation District - Change in Net Position

	2025	2024
Revenues:		
Program revenues:		
Charges for services	$ 600,716	595,888
General revenues:		
Property taxes	55,386	53,367
Specific ownership taxes	2,940	2,204
Grants	184,961	1,002
Investment income	27,826	40,371
Other revenues	2,496	476
Developer contributions	8,481	1,800
Tap fees	70,000	80,700
Total Revenues	952,806	775,808
Expenses:		
Administration	159,306	131,176
Sewage collection and treatment	436,175	420,381
Depreciation	323,193	311,139
Treasurer's fees	2,790	2,506
Interest expense	1,143	3,554
Total Expenses	922,607	868,756
Change in Net Position	30,199	(92,948)
Net Position - Beginning of Year	3,564,816	3,657,764
Net Position - End of Year	$ 3,595,015	3,564,816

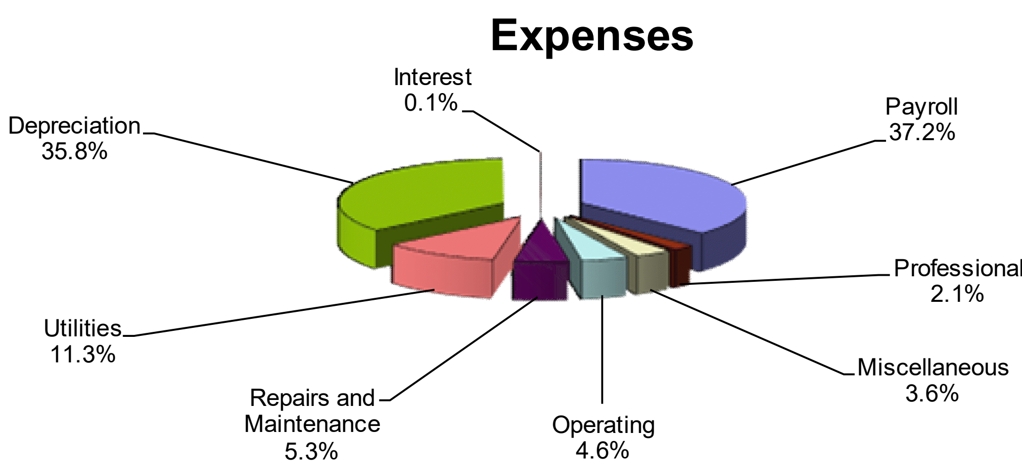
Overview of the Financial Statements (continued)

Financial Analysis of the District (continued): The following chart summarizes the District's revenue sources in 2025:



The District's total revenues increased by $176,998 between 2024 and 2025 due to increases in grant revenue for capital sewer projects.

The following chart summarizes the District's expenses, by natural classification, during 2025:



Total expenses for the District increased by $53,851 between 2024 and 2025 due to increased sewage collection and treatment expenses.

Budget Variances

2025 revenues were $284,889 less than budgeted for the year, while actual 2025 expenditures for the District were $676,033 lower than expected. Significant budget variances were as follows:

	Final Budget	Actual Amount	Variance Positive (Negative)	Reason
Revenues:				
Grants	451,675	184,961	(266,714)	Budget expects full grant for project not yet fully completed and reimbursed
Expenditures:				
Sewage collection and treatment:				
Repairs and maintenance	81,185	39,857	41,328	Conservative budgeting
Capital outlay	943,350	387,010	556,340	Budget expects total project not yet completed

Capital Asset and Debt Administration

Capital Assets: The District's net capital assets increased by $63,817 in 2025 and decreased by $34,728 in 2024. A detailed classification of the District's capital assets activity can be found in Note III.B to the 2025 financial statements.

Long-term Debt: The District's long-term debt obligations at December 31, 2025 consist of a loan with CWRPDA matured in 2025. Additional information about the District's long-term debt can be found in Note III.C of this report.

Next Year's Budget and Rates

The District's net position at the end of 2025 was $3,595,015. The District's 2026 budget anticipates a decrease in net position for the upcoming year, with revenues of $1,237,695 and expenditures of $1,731,980.

Request for Information

This financial report is designed to provide a general overview of the District's finances for all interested parties. Questions concerning any of the information provided in this report or requests for additional information should be addressed to:

Kremmling Sanitation District
P.O. Box 538
Kremmling, Colorado 80459

FINANCIAL STATEMENTS

Kremmling Sanitation District
Statement of Net Position
December 31, 2025 and 2024

	2025	2024
Assets:		
Current assets:		
Cash and investments - Unrestricted	736,131	787,248
Receivables, net:		
Property taxes	59,249	55,960
Other governments	161,759	143,416
Prepaid expenses	26,063	-
Total - Current assets	983,202	986,624
Non-current assets:		
Capital assets:		
Non-depreciable capital assets	238,310	139,671
Depreciable capital assets, net of accumulated depreciation	2,577,038	2,611,860
Total - Non-current assets	2,815,348	2,751,531
Total Assets	3,798,550	3,738,155
Liabilities:		
Current liabilities:		
Trade payables	126,243	25,253
Payroll liabilities	7,799	16,578
Interest payable	-	562
Current portion of long-term debt	-	64,742
Total - Current liabilities	134,042	107,135
Non-current liabilities:		
Accrued compensated absences - Due in more than one year	10,244	10,244
Total - Non-current liabilities	10,244	10,244
Total Liabilities	144,286	117,379
Deferred Inflows of Resources:		
Property taxes	59,249	55,960
Total Deferred Inflows of Resources	59,249	55,960
Net Position:		
Net investment in capital assets	2,815,348	2,686,789
Restricted for operations and maintenance	-	143,666
Unrestricted	779,667	734,361
Total Net Position	3,595,015	3,564,816

The accompanying notes are an integral part of these financial statements.

Kremmling Sanitation District
Statement of Revenues, Expenses, and Changes in Net Position
For the Years Ended December 31, 2025 and 2024

	2025	2024
Operating Revenues:		
Charges for services - Sewer fees	600,716	595,888
Miscellaneous	2,496	476
Total Operating Revenues	603,212	596,364
Operating Expenses:		
Administration	159,306	131,176
Sewage collection and disposal	436,175	420,381
Depreciation	323,193	311,139
Total Operating Expenses	918,674	862,696
Operating Income (Loss)	(315,462)	(266,332)
Non-operating Revenues (Expenses):		
Property taxes	55,386	53,367
Specific ownership taxes	2,940	2,204
Grants	184,961	1,002
Investment income	27,826	40,371
Interest expense	(1,143)	(3,554)
Treasurer's fees	(2,790)	(2,506)
Total Non-operating Revenues (Expenses)	267,180	90,884
Income (Loss) Before Capital Contributions	(48,282)	(175,448)
Capital Contributions:		
Developer contributions	8,481	1,800
Tap fees	70,000	80,700
Total Capital Contributions	78,481	82,500
Change in Net Position	30,199	(92,948)
Net Position - Beginning of Year	3,564,816	3,657,764
Net Position - End of Year	3,595,015	3,564,816

The accompanying notes are an integral part of these financial statements.

Kremmling Sanitation District
Statement of Cash Flows
For the Years Ended December 31, 2025 and 2024

	2025	2024
Cash Flows From Operating Activities:		
Cash received from customers and others	584,869	692,117
Cash paid for goods and services	(184,700)	(272,260)
Cash paid to employees for salaries and benefits	(344,633)	(312,484)
Net Cash Provided (Used) by Operating Activities	55,536	107,373
Cash Flows From Non-capital Financing Activities:		
Cash received from property and specific ownership taxes, net	55,536	53,065
Net Cash Provided (Used) by Non-capital Financing Activities	55,536	53,065
Cash Flows From Capital and Related Financing Activities:		
Cash received from tap fees and developers	78,481	82,500
Cash received from grants	184,961	1,002
Cash paid for loan principal	(64,742)	(62,535)
Cash paid for loan interest	(1,705)	(3,912)
Cash paid for capital acquisitions	(387,010)	(276,411)
Net Cash Provided (Used) by Capital and Related Financing Activities	(190,015)	(259,356)
Cash Flows From Investing Activities:		
Interest received	27,826	40,371
Net Cash Provided (Used) by Investing Activities	27,826	40,371
Net Increase (Decrease) in Cash and Cash Equivalents	(51,117)	(58,547)
Cash and Cash Equivalents - Beginning of Year	787,248	845,795
Cash and Cash Equivalents - End of Year	736,131	787,248
Reconciliation of Operating Income (Loss) to Net Cash Provided (Used) by Operating Activities:		
Operating income (loss)	(315,462)	(266,332)
Adjustments:		
Depreciation	323,193	311,139
(Increase) decrease in accounts receivable	(18,343)	95,753
(Increase) decrease in prepaid expenses	(26,063)	-
Increase (decrease) in accounts payable	100,990	(26,395)
Increase (decrease) in payroll liabilities	(8,779)	(6,792)
Total Adjustments	370,998	373,705
Net Cash Provided (Used) by Operating Activities	55,536	107,373

The accompanying notes are an integral part of these financial statements.

NOTES TO THE FINANCIAL STATEMENTS

Kremmling Sanitation District
Notes to the Financial Statements
December 31, 2025 and 2024

I. Summary of Significant Accounting Policies

Kremmling Sanitation District (the "District") is a quasi-municipal corporation organized and operated pursuant to provisions set forth in the Colorado Special District Act. The District's service area is located in Grand County, Colorado, and was formed to provide sanitation services. The District is governed by an elected, five-member Board of Directors (the "Board").

The District's financial statements are prepared in accordance with U.S. generally accepted accounting principles ("GAAP") as applied to government units. The Governmental Accounting Standards Board ("GASB") is responsible for establishing GAAP for state and local governments through its pronouncements (Statements and Interpretations). The more significant accounting policies established by GAAP used by the District are discussed below.

A. Reporting Entity

The reporting entity consists of (a) the primary government; i.e., the District, and (b) organizations for which the District is financially accountable. The District is considered financially accountable for legally separate organizations if it is able to appoint a voting majority of an organization's governing body and is either able to impose its will on that organization or there is a potential for the organization to provide specific financial benefits to, or to impose specific financial burdens on, the District. Consideration is also given to other organizations, which are fiscally dependent; i.e., unable to adopt a budget, levy taxes, or issue debt without approval by the District. Organizations for which the nature and significance of their relationship with the District are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete are also included in the reporting entity.

Based on the criteria above, the District is not financially accountable for any other entity nor is the District a component unit of any other government.

B. Financial Reporting

The District uses funds to report on its financial position and the results of its operations. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions and activities. A fund is a separate accounting entity with a self-balancing set of accounts.

The District uses a proprietary fund-type, an enterprise fund, to account for its sole activity, providing wastewater treatment services to taxpayers within the District's boundaries. Enterprise funds are used to account for operations (a) which are financed and operated in a manner similar to private business enterprises – where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods and services to the general public on a continuing basis be financed or recovered primarily through user charges; or (b) where the governing body has decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes.

Kremmling Sanitation District
Notes to the Financial Statements
December 31, 2025 and 2024
(Continued)

I. Summary of Significant Accounting Policies (continued)

C. Measurement Focus, Basis of Accounting, and Financial Statement Presentation

Measurement focus refers to whether financial statements measure changes in current resources only (current financial focus) or changes in both current and long-term resources (long-term economic focus). Basis of accounting refers to the point at which revenues, expenditures, or expenses are recognized in the accounts and reported in the financial statements. Financial statement presentation refers to classification of revenues by source and expenses by function.

1. Measurement Focus and Basis of Accounting

Proprietary funds use the long-term economic focus and are presented on the accrual basis of accounting. Revenues are recognized when earned and expenses are recognized when incurred, regardless of the timing of the related cash flows.

2. Financial Statement Presentation

Proprietary funds distinguish operating revenues and expenses from non-operating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the District's enterprise fund are charges to customers for sales and services. Operating expenses for the enterprise funds include the cost of sales and services, administrative expenses, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as non-operating revenues and expenses.

D. Financial Statement Accounts

1. Cash, Cash Equivalents and Investments

Cash and cash equivalents include amounts in demand deposits as well as short-term investments with a maturity date within 3 months of the date acquired by the District.

Investments are stated at fair value or net asset value. The change in fair value of investments is recognized as an increase or decrease to investment assets and investment income.

The District follows Colorado state statutes as an investment policy, which permits investments in the following type of obligations which corresponds with state statutes:

- U.S. Treasury obligations (maximum maturity of 60 months)
- Federal instrumentality securities (maximum maturity of 60 months)
- FDIC-insured certificates of deposit (maximum maturity of 18 months)
- Corporate bonds (maximum maturity of 36 months)
- Prime commercial paper (maximum maturity of 9 months)
- Eligible banker's acceptances
- Repurchase agreements
- General obligations and Revenue obligations
- Local government investment pools
- Money market mutual funds

Kremmling Sanitation District
Notes to the Financial Statements
December 31, 2025 and 2024
(Continued)

I. Summary of Significant Accounting Policies (continued)

D. Financial Statement Accounts (continued)

2. Receivables

Receivables are reported net of an allowance for uncollectible accounts. As of December 31, 2025 and 2024, the District established an allowance for uncollectible accounts of $2,735 and $6,954 respectively.

3. Property Taxes

Property taxes are assessed in one year as a lien on the property, but not collected by governmental units until the subsequent year. In accordance with GAAP, the assessed but uncollected property taxes have been recorded as a receivable and a deferred inflow of resources.

4. Capital Assets

Capital assets, which include land, sewer collection systems and related improvements and equipment, are reported in the financial statements. The District defines capital assets as assets with an initial cost of $5,000 or more and an estimated useful life in excess of two years. Such assets are recorded at historical cost. Donated capital assets are recorded at acquisition value at the date of donation.

Capital outlay for projects is capitalized as projects are constructed. Interest incurred during the construction phase is expensed as incurred.

Sewer collection systems and improvements, equipment, and lagoons are depreciated using the straight-line method over the following estimated useful lives:

Assets	Years
Sewer collection system/improvements - Existing system	30
Equipment	5 - 15
Sewer collection system/improvements - New combined system	20 - 50
Lagoons	30 - 50

5. Compensated Absences

The District allows its employees to accumulate sick and vacation leave based on the employee’s length and hours of service. The District estimates how much accrued leave is more likely than not to be used as paid leave and recognizes that portion as a liability for compensated absences.

Kremmling Sanitation District
Notes to the Financial Statements
December 31, 2025 and 2024
(Continued)

I. Summary of Significant Accounting Policies (continued)

D. Financial Statement Accounts (continued)

6. Deferred Inflows and Outflows of Resources

In addition to assets, the statement of financial position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net assets that applies to a future period(s) and so will not be recognized as an outflow of resources (expense/ expenditure) until then. The District does not have any item that qualifies for reporting in this category.

In addition to liabilities, the statement of financial position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net assets that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. The District has only one type of item that qualifies for reporting in this category. Accordingly, the item – unavailable property taxes – is deferred and recognized as an inflow of resources in the period that the amount becomes available.

7. Use of Estimates

The preparation of financial statements in conformity with GAAP requires the District's management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amount of revenues and expenditures or expenses during the reporting period. Actual results could differ from those estimates.

8. Net Position

Governments report reservations of net position for amounts that are not available for appropriation or are legally restricted by outside parties for use for a specific purpose. At December 31, 2025 and 2024, the District reported $0 and $143,666, respectively, of restricted net position for an operation and maintenance reserve required by debt covenants, as discussed in Note III.C.1. The debt was paid off as of year end and restriction was released.

9. Restricted and Unrestricted Resources

When both restricted and unrestricted resources are available for use, it is the District's policy to use restricted resources first, then unrestricted resources as they are needed.

II. Stewardship, Compliance, and Accountability

A. Budgetary Information

In the fall of each year, the Board formally adopts a budget with appropriations by fund for the ensuing year pursuant to the Colorado Local Budget Law. Annual appropriations are adopted for all funds. Expenditures may not legally exceed appropriations at the fund level and all appropriations lapse at year-end.

Kremmling Sanitation District
Notes to the Financial Statements
December 31, 2025 and 2024
(Continued)

II. Stewardship, Compliance, and Accountability (continued)

A. Budgetary Information (continued)

The budget for the District's sole proprietary fund is adopted on a non-GAAP basis. A reconciliation to GAAP basis is included in the budgetary comparison schedule on page E1.

As required by Colorado statutes, the District followed the timetable noted below in preparing, approving, and enacting its budget for 2025.

1. For the 2025 budget year, prior to August 25, 2024, the County Assessor sent to the District an assessed valuation of all taxable property within the District's boundaries. The County Assessor may change the assessed valuation on or before December 10 only once by a single notification to the District.
2. The Manager of the District submitted, on or before October 15, 2024, a recommended budget that detailed the necessary property taxes needed along with other available revenues to meet the District's operating requirements.
3. Prior to December 15, 2024, after a required publication of "Notice of Proposed Budget" and a public hearing, the District certified to the County Commissioners a levy rate that derived the necessary property taxes as computed in the proposed budget, and the District adopted the proposed budget and an appropriating resolution that legally appropriated expenditures for the upcoming year.
4. After adoption of the budget resolution, the District may make the following changes: a) approve supplemental appropriations to the extent of revenues in excess of estimated revenues in the budget; b) approve emergency appropriations; and c) reduce appropriations for which originally estimated revenues are insufficient.

The District also followed the required budget timeline in preparing, approving, and enacting its budget for 2024.

Taxes levied in one year are collected in the succeeding year. Thus, taxes certified in 2024 were collected in 2025, and taxes certified in 2025 will be collected in 2026. Taxes are due on January 1 in the year of collection; however, they may be paid in either one installment (no later than April 30) or two equal installments (not later than February 28 and June 15) without interest or penalty. Taxes that are not paid within the prescribed time bear interest at the rate of one percent (1%) per month until paid. Unpaid amounts and the accrued interest thereon become delinquent on June 16.

B. TABOR Amendment

In November 1992, Colorado voters amended Article X of the Colorado Constitution by adding Section 20, commonly known as the Taxpayer's Bill of Rights ("TABOR"). TABOR contains revenue, spending, tax and debt limitations that apply to the State of Colorado and local governments. TABOR requires, with certain exceptions, advance voter approval for any new tax, tax rate increase, mill levy above that for the prior year, extension of any expiring tax, or tax policy change directly causing a net tax revenue gain to any local government.

Kremmling Sanitation District
Notes to the Financial Statements
December 31, 2025 and 2024
(Continued)

II. Stewardship, Compliance, and Accountability (continued)

B. TABOR Amendment (continued)

Except for refinancing bonded debt at a lower interest rate or adding new employees to existing pension plans, TABOR requires advance voter approval for the creation of any multiple-fiscal year debt or other financial obligation unless adequate present cash reserves are pledged irrevocably and held for payments in all future fiscal years.

The District's voters approved the following TABOR ballot question on November 5, 1997:

> *Without any increase in the property tax mill levy, which is currently 2.273, shall the Kremmling Sanitation District, be authorized to collect, retain and expend all revenue and other funds from any source effective January 1, 1996, and continuing thereafter, notwithstanding the limitation of Article X, Section 20 of the Colorado Constitution or any other law?*

District management believes it is in compliance with the financial provisions of TABOR. However, TABOR is complex and subject to interpretation. Many of its provisions, including the interpretation of how to calculate fiscal year spending limits, will require judicial interpretation.

III. Detailed Notes on All Funds

A. Deposits and Investments

The District held the following deposits and investments at December 31, 2025 and 2024:

	2025	2024
Deposits	$ 232,296	91,318
Local government investment pools	503,835	695,931
Total	$ 736,131	787,249

The District's deposits are entirely covered by federal depository insurance ("FDIC") or by collateral held under Colorado's Public Deposit Protection Act ("PDPA"). The FDIC insures the first $250,000 of the District's deposits at each financial institution. Deposit balances for accounts over $250,000 are collateralized as required by PDPA.

The District measures and records its investments using fair value measurement guidelines established by GAAP. At December 31, 2025 and 2024, the District had the following investments measured at net asset value:

Investments Measured at Net Asset Value	**2025**	**2024**
Local government investment pools:		
COLOTRUST	$ 503,835	695,930

The local government investment pool represents an investment in the Colorado Government Liquid Asset Trust ("COLOTRUST"), which is a 2a7-like pool. The fair value of the pool is determined by the pool's share price. The District has no regulatory oversight for the pool.

III. Detailed Notes on All Funds (continued)

A. Deposits and Investments (continued)

Interest Rate Risk. As a means of limiting its exposure to interest rate risk, the District coordinates its investment maturities to closely match cash flow needs and restricts the maximum investment term to less than five years from the purchase date. As a result of the limited length of maturities, the District has limited its interest rate risk.

Credit Risk. The District limits its investments to those authorized by Colorado statutes, as outlined in Note I.D.1. The District's general investment policy is to apply the "prudent person rule": investments are made as a prudent person would be expected to act, with discretion and intelligence, to seek reasonable income, preserve capital, and, in general, avoid speculative investments.

At December 31, 2025 and 2024, the District's deposits and investments had the following maturities:

2025

	Standard & Poor's Rating	Carrying Amounts	Maturities: Less than one year	Maturities: One to five years
Deposits:				
Interest-bearing checking	Not rated	$ 124,382	124,382	-
Money market	Not rated	107,914	107,914	-
Total deposits		232,296	232,296	-
Investments:				
Investment pools	AAAm	503,835	503,835	-
		$ 736,131	736,131	-

2024

	Standard & Poor's Rating	Carrying Amounts	Maturities: Less than one year	Maturities: One to five years
Deposits:				
Money market	Not rated	$ 50,231	50,231	-
Investments:				
Investment pools	AAAm	695,930	695,930	-
		$ 787,248	787,248	-

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Kremmling Sanitation District
Notes to the Financial Statements
December 31, 2025 and 2024
(Continued)

III. Detailed Notes on All Funds (continued)

B. Capital Assets

The District's capital asset activity for 2024 and 2025 was as follows:

	1/1/24 Beginning Balance	Additions and Transfers	Disposals and Transfers	12/31/24 Ending Balance	Additions and Transfers	Disposals and Transfers	12/31/25 Ending Balance
Capital assets, not being depreciated:							
Land	$ 103,576	-	-	103,576	-	-	103,576
Construction in progress	-	36,095	-	36,095	98,639	-	134,734
Total capital assets, not being depreciated	103,576	36,095	-	139,671	98,639	-	238,310
Capital assets, being depreciated:							
New wastewater system	5,500,733	224,028	-	5,724,761	288,371	-	6,013,132
Buildings	44,885	-	-	44,885	-	-	44,885
Sewer lines	562,163	-	-	562,163	-	-	562,163
Lagoons	354,366	-	-	354,366	-	-	354,366
Furniture and equipment	505,972	16,288	-	522,260	-	-	522,260
Total capital assets being depreciated	6,968,119	240,316	-	7,208,435	288,371	-	7,496,806
Less accumulated depreciation for:							
New wastewater system	(3,317,177)	(269,615)	-	(3,586,792)	(276,421)	-	(3,863,213)
Buildings	(21,525)	(2,244)	-	(23,769)	(2,245)	-	(26,014)
Sewer lines	(406,356)	(5,801)	-	(412,157)	(5,327)	-	(417,484)
Lagoons	(187,252)	(4,991)	-	(192,243)	(11,332)	-	(203,575)
Furniture and equipment	(353,126)	(28,488)	-	(381,614)	(27,868)	-	(409,482)
Total accumulated depreciation	(4,285,436)	(311,139)	-	(4,596,575)	(323,193)	-	(4,919,768)
Total capital assets, being depreciated, net	2,682,683	(70,823)	-	2,611,860	(34,822)	-	2,577,038
Total capital assets, net	$2,786,259	(34,728)	-	2,751,531	63,817	-	2,815,348

Kremmling Sanitation District
Notes to the Financial Statements
December 31, 2025 and 2024
(Continued)

III. Detailed Notes on All Funds (continued)

C. Long-term Liabilities

1. Colorado Water Resources and Power Development Authority ("CWRPDA") Loan

On September 13, 2005, the District executed a $950,000 loan agreement, with interest accruing at 3.5% per annum, with CWRPDA, the proceeds of which were utilized to upgrade and expand the District's wastewater system.

Starting in 2006, principal, interest, and administrative surcharge (included with interest expense) payments totaling $33,223 are due May 1 and November 1, through 2025. As set forth in the loan agreement, the District received a credit against interest payments for the amount of capitalized interest and investment income available to be applied. This one-time credit in the amount of $14,218 was used to reduce interest payments in 2006.

The loan constitutes an irrevocable and first lien on the District's wastewater system revenues (excluding ad valorem property taxes, capital grant revenues, and other funds borrowed and used to provide capital improvements to the wastewater system). The loan is not a general obligation debt of the District.

The loan agreement contains various restrictive covenants and requirements, including maintenance of a three-month operating and maintenance reserve. The District has restricted $0 and $143,666 of net position at December 31, 2025 and 2024, respectively, for this purpose, which are the approximate required reserves. As of year end December 31, 2025, the debt was paid in full and no reserve was recorded.

2. Long-term Liability Activity

Long-term liability activity for 2025 and 2024 was as follows:

	CWRPDA Loan	Compensated Absences *	Total
January 1, 2024 balance	$ 127,277	15,370	142,647
Additions	-	-	-
Reductions	(62,535)	(5,126)	(67,661)
December 31, 2024 balance	64,742	10,244	74,986
Additions	-	-	-
Reductions	(64,742)	-	(64,742)
December 31, 2025 balance	$ -	10,244	10,244
Due within one year - 2024	$ 64,742	-	64,742
Due within one year - 2025	$ -	-	-

* The change in accrued compensated absences is presented as a net change.

Kremmling Sanitation District
Notes to the Financial Statements
December 31, 2025 and 2024
(Continued)

IV. Other Information

A. Risk Management

The District pays annual premiums to the Pool for liability, property and public official's coverage. In the event aggregated losses incurred by the Pool exceed amounts recoverable from reinsurance contracts and funds accumulated by the Pool, the Pool may require additional contributions from the Pool members. Any excess funds which the Pool determines are not needed for purposes of the Pool may be returned to the members pursuant to a distribution formula. A summary of audited statutory basis financial information for the Pool as of and for the year ended December 31, 2025 (the latest audited information available) is available here: https://csdpool.org/financials

B. Deferred Compensation Plan – Section 457

The District offers its employees a deferred compensation plan created in accordance with Internal Revenue Code section 457 (the "Plan"). The Plan permits employees to defer a portion of the salary until future years. The deferred compensation is not available to employees until termination, retirement, or death.

All amounts of compensation deferred under the Plan, all property and rights purchased with those amounts, and all income attributable to those amounts, property, or rights are to be held in trust for the exclusive benefit of the Plan participants and their beneficiaries.

The accrual basis of accounting is used for the Plan. Revenues are recognized when earned and expenditures are recognized when incurred. Investments are recorded at market value.

The District has no liability for losses under the Plan but does have the duty of due care that would be required of an ordinary prudent investor. The Plan is administered by Mission Square Retirement.

In accordance with GASB Statement No. 32, *Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans*, the District does not report the plan as a fund in the financial statements because the District is not a trustee of the deferred compensation plan.

In addition to Social Security, the District matches a six percent (6%) payroll deduction. District employees contributed $8,977 and $9,368 to the Plan for 2025 and 2024 respectively. These amounts were matched by the District, equal to its required contribution for these years.

Permanent full-time (budgeted for forty (40) hours per week) employees participate in the Plan. Employees may contribute additional amounts, up to maximum allowable limits as established under IRC, but these amounts are not matched by the District.

C. Intergovernmental Agreement – Town of Kremmling

On January 13, 2003, the District entered into an Intergovernmental Agreement with the Town of Kremmling, Colorado for mutually beneficial cooperative use of personnel and equipment. The agreement has an initial one-year term, but renews automatically unless otherwise terminated by the parties. Under the terms of the agreement, each entity is to invoice the other, on a monthly basis, for hours worked and equipment used.

Kremmling Sanitation District
Notes to the Financial Statements
December 31, 2025 and 2024
(Continued)

IV. Other Information (continued)

D. Construction Commitments

The District has entered into construction and professional services contracts having remaining commitments under the contracts as of December 31, 2025 totaling $347,710. The commitments for these funds are not reflected in the accompanying financial statements. Only the unpaid amounts incurred to date for these contracts are included as liabilities in the financial statements.

SUPPLEMENTARY INFORMATION

Kremmling Sanitation District
Schedule of Revenues and Expenditures
Budget (Non-GAAP Basis) and Actual With Reconciliation to GAAP Basis
For the Year Ended December 31, 2025
(With Comparative Actual Amounts for 2024)

	2025			2024
	Original and Final Budget	**Actual**	**Final Budget Variance: Positive / (Negative)**	**Actual**
Revenues:				
Charges for services - Sewer fees	610,000	600,716	(9,284)	595,888
Grants	451,675	184,961	(266,714)	1,002
Developer contributions	-	8,481	8,481	1,800
Tap fees	90,000	70,000	(20,000)	80,700
Property taxes	55,960	55,386	(574)	53,367
Specific ownership taxes	2,500	2,940	440	2,204
Investment income	25,000	27,826	2,826	40,371
Shared employee reimbursements	1,560	-	(1,560)	-
Miscellaneous	1,000	2,496	1,496	476
Total Revenues	1,237,695	952,806	(284,889)	775,808
Expenditures:				
Administration:				
Payroll expenses	74,065	101,037	(26,972)	83,161
Audit and legal	18,700	19,254	(554)	14,700
Insurance	22,940	20,812	2,128	20,199
Miscellaneous	6,720	6,275	445	1,971
Operating supplies and expenses	6,600	1,877	4,723	3,177
Repairs and maintenance	20,000	8,106	11,894	6,212
Utilities	2,365	1,945	420	1,756
Treasurer's fees	2,800	2,790	10	2,506
Total - Administration	154,190	162,096	(7,906)	133,682
Sewage Collection and Treatment:				
Payroll expenses	283,660	234,817	48,843	222,531
Miscellaneous	8,000	2,527	5,473	1,885
Operating supplies and expenses	59,330	39,462	19,868	44,846
Repairs and maintenance	81,185	39,857	41,328	39,085
Utilities	127,365	99,844	27,521	108,931
Engineering and technical services	8,450	23,887	(15,437)	7,103
Capital outlay	943,350	387,010	556,340	276,411
Total - Sewage Collection and Treatment	1,511,340	827,404	683,936	700,792
Debt Service:				
Principal and interest	66,450	66,447	3	66,447
Total Expenditures	1,731,980	1,055,947	676,033	900,921
Excess (Deficiency) of Revenues Over Expenditures - Budget Basis	(494,285)	(103,141)	391,144	(125,113)
Reconciliation to GAAP Basis:				
Depreciation expense		(323,193)		(311,139)
Accrued interest change		562		358
Debt principal payments		64,742		62,535
Change in allowance for doubtful accounts		4,219		4,000
Capitalized assets		387,010		276,411
Change in Net Position - GAAP Basis		30,199		(92,948)

The accompanying notes are an integral part of these financial statements.