

Fountain Creek ILF Program – Standing Meeting Notes

Date: 09/1/2026

Location: Microsoft Teams

Time: 11:00 AM

Attendees:

- Steve Rodriguez, FCWD
- Lucy Harrington, GEI Consultants
- Christine Gutierrez, GEI Consultants
- Shai Kamin, GEI Consultants
- Mark Shea, Colorado Springs Utilities
- Stephane Atencio, FCWD Counsel
- Wendy Pettit, Pueblo County
- Terry Hart, FCWD Board
- Tamara Estes, FCWD Board
- Yvonne Wetzig, Colorado Springs Utilities
- Jessica Clayton, Stormwater Enterprise
- Jeff Rice, El Paso County

Agenda:

- I. Introductions of those present (if needed) and review and acceptance of previous meeting notes (Mark) (5 min).
 - a. *No new introductions needed.*
- II. Schedule and deliverable review for 2026-2027. (5 min) (Lucy)
 - a. Please make sure you have entered your availability for the next subcommittee meeting
 - i. *Three upcoming ILF Subcommittee meetings are in the process of being rescheduled. Another poll will be sent out for the September 15 reschedule due to conflicts.*
 - b. We are behind on site visits due to info delays BUT moving forward (in progress putting this together)
 - i. *Site visits for site selection has been delayed; however, the model is progressing. Currently aiming for site visits to resume following October 15 submittal of the revised draft ILF Instrument.*
 - c. ILF redline MUST be reviewed and all comments submitted by 9/29
 - i. *Lucy provided an update on the ILF Instrument timeline. Comments from the ILF Subcommittee are due to GEI by the September 29th ILF Subcommittee meeting. The schedule will be updated to include FCWD Board approval, tentatively scheduled for March 2027 to allow for a second round of IRT comments/revisions following the October 15th submittal. Steve A. will have a follow up discussion with Alli and the FCWD Board chair to discuss the potential to have an additional, separate meeting to review the ILF Instrument prior to final FCWD Board approval.*
- III. Review of meeting topics and chance to discuss items and follow up from August 18, 2026 ILF subcommittee meeting and meeting with Steve Atencio (45 minutes)

- a. Site selection prioritization Update (Shai/Lucy – 10 min)
 - i. Incorporating the Town of Monument Stormwater Management Plan.
 - 1. *Information from this plan is being incorporated per Alli's recommendation during the previous ILF Subcommittee meeting.*
 - ii. Property data provided by Matrix from FMO; incorporating now into the site selection spreadsheet.
 - 1. *Parcel data was received since the last ILF Subcommittee meeting and is being incorporated into the model.*
 - iii. Running our first interested landowner through the process.
 - 1. *First interested landowner provided the location for a potential site, which appeared to have potential until it was ran through the model and was determined to be outside of the General Service Area of the ILF Program which indicates the model is working. If anyone is approached by a landowner who is interested in participating, please exercise caution until information can be ran through the model and verified. This will manage landowner expectations and give the program more credibility.*
 - iv. Water rights as a filter in the site selection criteria as Step 4 in approach (per conversation with Steve A).
 - 1. *A water rights filter has been added to help determine if the site will be in compliance with the state laws/ordinances. This will help determine whether a site is suitable or needs additional evaluation of water assurances. This step will be taken only after initial recon of sites through the spreadsheet and model and a site visit has been conducted to limit the use of funds until other criteria have been verified.*
 - v. Encumbrances of all kinds incl. ROW, easements, liens/mortgages (Per conversation with Steve A) will be considered in Step 4
 - 1. *These layers are being added to help understand all the legal and physical encumbrances of a property before we incorporate it into the IL Program. While semi-publicly available data will be added to the model in Step 1, a deeper dive through acquisition and review of title reports for a specific parcel will not occur until a site has reached step 4. Similar to water rights, this will reduce budget spend until other criteria have been met.*
 - vi. Incorporated all into the CPF language of the revised ILF Instrument.
 - 1. The redline version of the draft ILF Instrument
 - vii. Other Discussion
 - 1. *Mark asked for an update on efforts on identifying undecreed ponds with DWR Division 2. Lucy provided an update on the grant that DU, FCWD, and others are working on to fund the identification of undecreed ponds in El Paso and Pueblo counties. The group will be presenting at the November 11 Arkansas Basin Roundtable meeting to initiate the grant process. A placeholder for undecreed ponds has been added to the Project Selection model and will be incorporated fully once the data is available.*
- b. Comment Matrix (Christine/Lucy – 40 min)
 - i. Completed review of agency comments as a sub-committee team except related to audits
 - 1. See notes from 8/18/26 for complete resolution

2. Discussion on audit question: How often should they occur areas of operations covered by the audits, and how they will be funded- admin or advance credit sales) (Steve A had a comment too)
 - a. We will talk with NFF about this per conversation with Steve A. *This issue has been highlighted in the revised draft ILF Instrument for Subcommittee review.*
- ii. Overview of IRT discussion on comment matrix and Revised Instrument walk-through (All incorporated into the redline ILF Instrument for your review except as noted):
 1. Do not need to put costs in ILF Instrument; can use “real time” costing spreadsheet (aka Pro forma) which will be included in each site specific plan. This plan will be kept confidential (not for FOIA/CORA). We do need to include a range of credit pricing (2026 dollars with 10% interest per year, (we’re confirming this approach with NFF). *note these costs will be finalized at upcoming ILF Subcommittee meetings.
 - a. *Steve A. requested that pricing be kept in Executive Session for FCWD Board meetings until final decisions have been made during implementation of the ILF Program.*
 - b. *Mark recommended incorporating CFR language into the ILF Instrument that allows for the confidentiality of advance credits pricing. GEI will review the CFR language and incorporate into the ILF Instrument where appropriate.*
 2. Water rights and assurances: We do not need to have a complete water right solution identified the ILF Instrument; just more detail regarding the process to provide water assurances will be addressed. This includes discussion of adding water rights defense to LTMM (accepted by Stephane Atencio).
 - a. *A potential solution to water rights and assurances is to add language regarding assurances in the site specific Project Development Plan and including costs for water assurances in the endowment as a contingency.*
 - b. *This concern will also be discussed with NFF to see how they have handled water assurances for each site they have implemented.*
 3. Number of advance credits: USACE stated we need to build up the justification for the amount of advanced credits requested. We are currently thinking of 35 advanced credits based on observed mitigation need over a five year period. We have added additional information about the FCWD successes and understanding of regional demand. USACE and CDPHE will share these credits. We are working to determine our advanced credit need with USFWS (USFWS staff is reviewing their files for us to tell us their anticipated demand).
 - a. *Number of advance credits will be discussed further with NFF to see what their approach to advance credits is from an implementation perspective and what practices should the FCWD ILF Program follow to maintain financial sustainability.*
 - b. *Additional information needed to justify the number of advance credits as been flagged in the revised draft ILF Instrument for subcommittee review. Mark suggested identifying the types of*

projects from the FOIA data used to establish the number of advance credits and present that information to the FCWD Board/Subcommittee in order to provide an idea of what types of projects the ILF Program will be working with in the future in order to provide the needed justification.

4. How will projects be determined to be successful: CDPHE and USACE will share credits for now (no “stand alone” credits for CDPHE). Therefore, credits that meet USACE standards will also meet requirements for CDPHE (note: USACE determines success using technical evaluation systems such as FACWet and CSQT). If/when the CDPHE project evaluation system is more defined, FCWD can do a formal modification of the ILF Instrument to make stand alone CDPHE credits. We are working through developing a system with USFWS. This will be added to the Instrument.
 - a. *In addition to the above provided information, the CDPHE has stated that credits used for to satisfy USACE mitigation requirements can be used to satisfy CDPHE credit requirements.*
 5. Only FDIC member institutions can hold ILF Program funds: USACE is holding fast to needing FDIC Insured organizations to manage program accounts for ILF programs. FCWD/GEI will discuss with Piper Sandler how we can address this regulatory requirement as Piper Sandler is an investment bank and therefore not an FDIC member. We may also need to discuss with Piper Sandler auditing practices.
 - a. *Lucy recently reviewed the CFR language regarding project accounts. The language is unclear and appears to use “program account” and “project account” synonymously. Suggest we take advantage of this loophole to state that the Project Account will be managed by an FDIC member; However the Program Account can be held by an investment firm. Alli and GEI to meet with Piper Sandler to develop solutions to resolve this issue.*
- c. Outstanding Board Comments (Per Steve A)
- i. How to address projects not covered specifically by SB-270 (Such as those under Regulation 87)
 1. Because we are sticking with USACE wetland/stream credits for the time being (see item b.ii.4 above) we will only be working on projects that fall under WOTUS. Therefore, there will be no incentive for FCWD to develop projects that are not covered by SB23-270 (e.g. close to perennial waterways). Therefore, all ILF projects will fall within this consideration for the time being. If this should change (e.g. CDPHE credits for isolated wetlands and/or a new stream assessment method alternative to CSQT that incorporates ephemeral streams) we will address this in the site specific plans and through a formal modification process of the Instrument.
 - a. *Our goal is to provide as much latitude and flexibility as possible to avoid a formal modification process. However, the CDPHE does not currently have a policy or process for assessing and crediting isolated wetlands or ephemeral channels. Once this is developed, we will need to incorporate this process into the ILF Instrument, which will require a formal modification process.*

- b. *Projects not covered by SB-270 will need to be evaluated under the ILF Program to minimize injury. Projects will be evaluated on a case by case basis and compliance measures will be incorporated into the site specific Project Development Plan.*
- IV. Finalize Construction Pricing Spreadsheet (Shai/Lucy – 55 min)
- a. *Costs provided/selected by the ILF Subcommittee will be incorporated into the Proforma that we will use to set credit pricing. Costs presented have been compiled from CSU, El Paso County, City of Colorado Springs, FCWD, and consulting firms including GEI and a mitigation banking firm. Wendy (Pueblo County) is currently working with staff to provide costs, which have been delayed due to the recent wildfires experienced in Pueblo County. Lucy and Mark to follow up with Summer Slama to obtain costing from CDOT. Steve R. recommended working with current contractors to do pricing on an example project to develop the price ranges to include in the Proforma. Lucy and Mark to follow up with Steve R. on this process and start working with contractors to develop these costs to incorporate into the revised draft ILF Instrument that will be submitted on October 15.*
- V. Next Steps (5 min)
- i. FCWD: Review ILF Instrument redline document by September 29 located on sharepoint.
- ii. Report on ranking of sites
1. *Model will be updated based on information and data received to date.*
- iii. Pro forma will be updated with construction costs for small, medium, and large projects to hone in on credit prices for initial project.
1. *Per discussion under item IV.a, Lucy and Mark will work with Steve R. to obtain additional costs for credit pricing.*
- b. Outreach to landowners and partner groups.
- i. ILF Practitioners meeting/roundtable – tentatively scheduled for October 29, 2026
1. *Lucy has had interest from other consultants who would like to participate in ILF Program implementation. These consultants along with others that may be suitable to assist with program implementation will be invited to the October 29th meeting.*
- VI. Close