

**HAMILTON CREEK METROPOLITAN DISTRICT**

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FINANCIAL STATEMENTS  
WITH  
INDEPENDENT AUDITOR'S REPORT

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DECEMBER 31, 2001

HAMILTON CREEK METROPOLITAN DISTRICT  
SILVERTHORNE, COLORADO

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## **INDEPENDENT AUDITOR'S REPORT**

Board of Directors  
Hamilton Creek Metropolitan District  
Silverthorne, Colorado

We have audited the accompanying financial statements of the Hamilton Creek Metropolitan District, Silverthorne, Colorado, as of and for the year ended December 31, 2001, as listed in the table of contents. These financial statements are the responsibility of the management of Hamilton Creek Metropolitan District, Silverthorne, Colorado. Our responsibility is to express an opinion on these general purpose financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the general purpose financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall general purpose financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Hamilton Creek Metropolitan District, Silverthorne, Colorado, as of December 31, 2001, and the results of its operations for the year then ended in conformity with accounting principles generally accepted in the United States of America.

Denver, Colorado  
July 30, 2002

**HAMILTON CREEK METROPOLITAN DISTRICT**  
**Combined Balance Sheet - All Fund Types and Account Groups**  
**December 31, 2001**  
**(With comparative totals for December 31, 2000)**

	Governmental Fund Types		Account Groups		Totals (memorandum only)	
	General	Debt Service	General	General	2001	2000
			Fixed Assets	Long-term Debt		
<b>ASSETS AND OTHER DEBITS:</b>						
<b>Assets:</b>						
Cash and cash equivalents	\$ 3,575	\$ --	\$ --	\$ --	\$ 3,575	\$ 29,227
Investments	--	1,891,735	--	--	1,891,735	1,754,441
Accounts receivable:						
Customer	19,077	--	--	--	19,077	10,922
Taxes - current	--	1,560	--	--	1,560	1,628
Taxes - assessed	--	269,953	--	--	269,953	216,505
Due from other fund	25,085	--	--	--	25,085	12,382
Improvements	--	--	1,515,641	--	1,515,641	1,515,641
<b>Other debits:</b>						
Amount available in debt service fund	--	--	--	1,868,210	1,868,210	1,768,451
Amount to be provided for the retirement of long-term debt	--	--	--	6,316,175	6,316,175	5,099,241
<b>Total assets and other debits</b>	<b>\$ 47,737</b>	<b>\$ 2,163,248</b>	<b>\$ 1,515,641</b>	<b>\$ 8,184,385</b>	<b>\$ 11,911,011</b>	<b>\$ 10,408,438</b>
<b>LIABILITIES, EQUITY AND OTHER CREDITS:</b>						
<b>Liabilities:</b>						
Checks written in excess of cash on deposit	\$ 25,763	\$ --	\$ --	\$ --	\$ 25,763	\$ --
Accounts payable	6,574	--	--	--	6,574	15,367
Construction deposits	12,000	--	--	--	12,000	9,000
Deferred tax revenues	--	269,953	--	--	269,953	216,505
Due to other fund	--	25,085	--	--	25,085	12,382
General obligation bonds payable	--	--	--	2,110,000	2,110,000	2,111,000
Matured interest payable	--	--	--	4,056,922	4,056,922	3,108,546
Interest on matured interest payable	--	--	--	2,017,463	2,017,463	1,648,146
<b>Total liabilities</b>	<b>44,337</b>	<b>295,038</b>	<b>--</b>	<b>8,184,385</b>	<b>8,523,760</b>	<b>7,120,946</b>
<b>FUND EQUITY AND OTHER CREDITS:</b>						
Investment in general fixed assets	--	--	1,515,641	--	1,515,641	1,515,641
Fund balance:						
Reserved for:						
Debt service	--	1,813,198	--	--	1,813,198	1,713,439
Capital improvements	--	55,012	--	--	55,012	55,012
Amendment 1	3,400	--	--	--	3,400	3,400
<b>Total equity and other credits</b>	<b>3,400</b>	<b>1,868,210</b>	<b>1,515,641</b>	<b>--</b>	<b>3,387,251</b>	<b>3,287,492</b>
<b>Total liabilities, equity and other credits</b>	<b>\$ 47,737</b>	<b>\$ 2,163,248</b>	<b>\$ 1,515,641</b>	<b>\$ 8,184,385</b>	<b>\$ 11,911,011</b>	<b>\$ 10,408,438</b>

The accompanying notes are an integral part of this financial statement.

**HAMILTON CREEK METROPOLITAN DISTRICT**  
**Combined Statement of Revenue, Expenditures and Changes in Fund Balance**  
**All Governmental Fund Types**  
**For the Fiscal Year Ended December 31, 2001**  
**(With comparative totals for the fiscal year ended December 31, 2000)**

	General	Debt Service	Totals (Memorandum only)	
			2001	2000
<b>Revenue:</b>				
Property taxes	\$ --	\$ 216,517	\$ 216,517	\$ 217,110
Specific ownership taxes	--	19,654	19,654	19,616
Interest	1,539	--	1,539	8,310
Unrealized gain on investments	--	152,902	152,902	201,151
User fees	40,919	--	40,919	37,122
Development fees	--	10,000	10,000	5,000
Water tap fees	--	8,800	8,800	16,800
Miscellaneous	100	--	100	-
<b>Total revenue</b>	<b>42,558</b>	<b>407,873</b>	<b>450,431</b>	<b>505,109</b>
<b>Expenditures:</b>				
<b>Current:</b>				
Administration	24,000	23,750	47,750	54,363
Legal and audit fees	5,822	52,003	57,825	85,572
Director's expense	1,200	--	1,200	750
Street maintenance	69,913	--	69,913	23,702
Water system maintenance	133,243	--	133,243	202,380
Forest maintenance	7,083	--	7,083	10,580
Utility operations	1,601	--	1,601	1,551
Septic maintenance	13,660	--	13,660	10,763
Miscellaneous	5,892	663	6,555	20,772
<b>Debt service:</b>				
Principal payments	--	1,000	1,000	--
Interest payments	--	--	-	10,000
County Treasurer fees	--	10,842	10,842	10,881
<b>Total expenditures</b>	<b>262,414</b>	<b>88,258</b>	<b>350,672</b>	<b>431,314</b>
<b>Excess of revenue over (under) expenditures</b>	<b>(219,856)</b>	<b>319,615</b>	<b>99,759</b>	<b>73,795</b>
<b>Other financing sources (uses):</b>				
<b>Transfer in (out)</b>	<b>219,856</b>	<b>(219,856)</b>	<b>--</b>	<b>--</b>
<b>Excess of revenue over (under) expenditures and other financing sources (uses)</b>	<b>--</b>	<b>99,759</b>	<b>99,759</b>	<b>73,795</b>
Fund balance - beginning of year	3,400	1,768,451	1,771,851	1,698,056
<b>Fund balance - end of year</b>	<b>\$ 3,400</b>	<b>\$ 1,868,210</b>	<b>\$ 1,871,610</b>	<b>\$ 1,771,851</b>

The accompanying notes are an integral part of this financial statement.

**HAMILTON CREEK METROPOLITAN DISTRICT**  
**Combined Statement of Revenues, Expenditures and**  
**and Changes in Fund Balance - Budget and Actual**  
**All Governmental Fund Types**  
**For the Fiscal Year Ended December 31, 2001**

	General Fund			Debt Service Fund		
	Budget	Actual	Variance Favorable (Unfavorable)	Budget	Actual	Variance Favorable (Unfavorable)
<b>Revenue:</b>						
Property taxes	\$ --	\$ --	\$ --	\$ 216,505	\$ 216,517	\$ 12
Specific ownership taxes	--	--	--	18,000	19,654	1,654
Interest	3,500	1,539	(1,961)	--	--	--
Unrealized gain on investments	--	--	--	--	152,902	152,902
User fees	39,000	40,919	1,919	--	--	--
Development fees	--	--	--	5,000	10,000	5,000
Water tap fees	--	--	--	8,800	8,800	--
Miscellaneous	--	100	100	--	--	--
<b>Total revenue</b>	<b>42,500</b>	<b>42,558</b>	<b>58</b>	<b>248,305</b>	<b>407,873</b>	<b>159,568</b>
<b>Expenditures:</b>						
<b>Current:</b>						
Administration	24,000	24,000	--	10,000	23,750	(13,750)
Legal and audit fees	8,500	5,822	2,678	75,000	52,003	22,997
Director's expense	1,500	1,200	300	--	--	--
Street maintenance	75,000	69,913	5,087	--	--	--
Water system maintenance	450,000	133,243	316,757	--	--	--
Forest maintenance	25,000	7,083	17,917	--	--	--
Utility operations	1,750	1,601	149	--	--	--
Septic maintenance	13,500	13,660	(160)	--	--	--
Miscellaneous	5,300	5,892	(592)	5,000	663	4,337
<b>Debt service:</b>						
Principal payments	--	--	--	--	1,000	(1,000)
Interest payments	--	--	--	--	--	--
County Treasurer fees	--	--	--	10,825	10,842	(17)
<b>Total expenditures</b>	<b>604,550</b>	<b>262,414</b>	<b>342,136</b>	<b>100,825</b>	<b>88,258</b>	<b>12,567</b>
<b>Excess of revenue over (under) expenditures</b>	<b>(562,050)</b>	<b>(219,856)</b>	<b>(342,194)</b>	<b>147,480</b>	<b>319,615</b>	<b>172,135</b>
<b>Other financing sources (uses):</b>						
<b>Transfer in (out)</b>	<b>219,856</b>	<b>219,856</b>	<b>--</b>	<b>(219,856)</b>	<b>(219,856)</b>	<b>-</b>
<b>Excess of revenue over (under) expenditures and other financing sources (uses)</b>	<b>\$ (342,194)</b>	<b>--</b>	<b>\$ (342,194)</b>	<b>\$ (72,376)</b>	<b>99,759</b>	<b>\$ 172,135</b>
Fund balance - beginning of year		<u>3,400</u>			<u>1,768,451</u>	
<b>Fund balance - end of year</b>		<u><b>\$ 3,400</b></u>			<u><b>\$ 1,868,210</b></u>	

The accompanying notes are an integral part of this financial statement.

**HAMILTON CREEK METROPOLITAN DISTRICT  
SILVERTHORNE, COLORADO  
Notes to Financial Statements  
December 31, 2001**

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**1. Summary of significant accounting policies**

The accounting policies of the Hamilton Creek Metropolitan District (the District) conform to generally accepted principles as applicable to governments. The following is a summary of the more significant policies consistently applied in the preparation of financial statements.

**Reporting entity**

The Hamilton Creek Metropolitan District, Silverthorne, Colorado, was organized May 1, 1985, and is governed by a five-member elected Board of Directors. As required by accounting principles generally accepted in the United States of America, these financial statements present the activities of the District that is legally separate and financially independent of other state and local governments. The District has no component units as defined by the Governmental Accounting Standards Board (GASB) Statement 14.

The District currently provides water, septic tank pumping, street maintenance, snow removal and forest maintenance (parks) services to the geographical area organized as the Hamilton Creek Metropolitan District. The District provides metered water for a fixed quarterly rate, charging additional fees for excessive usage.

**District Plan of Reorganization**

On May 31, 1989, the District filed for Reorganization under Chapter 9 of the Bankruptcy Laws in the United States Bankruptcy Court for the District of Colorado. On February 1, 1990 the Court accepted the Plan of Reorganization (the Plan). The District is currently operating under the terms of the Plan, see the footnotes for additional information related to the reorganization.

**Measurement focus, basis of accounting and basis of presentation**

The accounts of the District are organized and operated on the basis of fund types and account groups. A fund is an independent fiscal accounting entity with a self-balancing set of accounts. Fund accounting segregates funds according to their intended purpose and is used to aid management in demonstrating compliance with finance-related legal and contractual provisions. The minimum number of funds is maintained consistent with legal and managerial requirements.

The District has the following fund types and account groups:

**Governmental funds** - are used to account for general governmental activities. Governmental fund types use the flow of current financial resources measurement focus and the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recognized when susceptible to accrual (i.e., when they become measurable and available). "Measurable" means the amount of the transaction can be determined and "available" means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. The government considers all revenues available if they are collected within 60 days after year-end. Property taxes and user fees are susceptible to accrual. Expenditures are recorded when the related fund liability is incurred.

1. **Summary of significant accounting policies (continued)**

**Measurement focus, basis of accounting and basis of presentation (continued)**

Governmental funds include the following fund types:

**General Fund** - accounts for all financial resources of the general government, except those required to be accounted for in another fund. The fund currently reports amounts expended for maintaining the District water system, as the current levels of activity do not warrant the use of a separate proprietary fund to report utility activities.

**Debt Service Fund** - debt service funds are generally used to account for the accumulation of resources for and the payment of general long-term debt principal, interest, and related costs. However, the Plan, mandates that this fund account for all District property taxes, specific ownership taxes and water tap fees. In addition the Plan mandates:

- A yearly transfer to the General fund in an amount sufficient to cover operating expenditures in excess of revenue.
- Payment of principal due on bonded debt.
- Payment to the Capital Improvement Reserve. The required payments were made in prior years equal to a predetermined schedule as required by the Plan. Unexpended reserve amounts are reported on the balance sheet of the Debt Service fund as a "reservation for capital improvements."

**Account groups** - the general fixed assets account group is used to account for the fixed assets acquired by the District. The general long-term debt account group is used to account for general long-term debt of the District.

**Assets, liabilities and equity**

**Deposits and Investments**

The District considers cash and cash equivalents to include demand deposits.

**Fair value of financial instruments**

The District's financial instruments include cash and cash equivalents, investments, accounts receivable, and accounts payable. Do to the short maturity of these instruments, the District estimates that the fair value of all financial instruments at December 31, 2001 does not differ materially from the aggregate carrying values recorded in the accompanying balance sheet.

**Estimates**

The preparation of financial statements in conformity with general accepted accounting principles requires District management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

**1. Summary of significant accounting policies (continued)**

**Assets, liabilities and equity (continued)**

**Property taxes**

Property taxes are levied on December 15 of each year and attach as an enforceable lien on property as of January 1. Taxes are due as of January 1 of the following year and are payable in two equal installments due February 28 and June 15 if paid in installments, or April 30 if paid with a single payment. Taxes are delinquent as of August 1. If the taxes are not paid within subsequent statutory periods, the property will be sold at public auction. The County bills and collects the property taxes and remits collections to the District on a monthly basis. No provision has been made for uncollected taxes, as all taxes are deemed fully collectible.

**Fixed assets**

All purchased fixed assets of the road, water and television systems equipment are recorded at historical cost.

**Construction deposits**

The District collects deposits from developers that will be refunded net of any District expenditures to repair developer damage to the infrastructure.

**Comparative data**

Comparative total data for the prior year have been presented in the accompanying financial statements in order to provide an understanding of the changes in the District's financial position and operations.

**2. Stewardship, compliance and accountability**

**Budgetary information**

In compliance with Colorado Revised Statutes, the District conforms to the following procedures, in establishing the budgetary data reflected in the financial statements:

Prior to October 15 of each year the District manager (not an elected official) submits a proposed operating budget for the fiscal year commencing the following January 1 to the Board of Directors (elected officials). The operating budget for the funds includes proposed expenditures and the means of financing them.

Public hearings are held at the regular Board of Directors' meetings to obtain taxpayer input. Prior to December 15 the budget is legally enacted through passage of a budget resolution. The Board of Directors must approve revisions that change total expenditures of the fund.

State statutes require a balanced budget. Appropriations lapse at year-end.

2. **Stewardship, compliance and accountability – (continued)**

**Capital Improvement Reserve**

As previously discussed, the District Plan of Reorganization requires the District to establish a Capital Improvement Reserve prior to making payments on interest related to bonded debt. The District was required to establish a reserve in the amount of \$260,000 that could only be used for capital improvements. The District reserved the entire amount in prior years. As of December 31, 2001 the remaining unexpended balance in the reserve was \$55,012. No amounts were expended from the reserve during 2001, 2000, 1999 or 1998.

3. **Detailed notes concerning the funds**

**Cash and investments**

**Cash**

The Colorado Public Deposit Protection Act (PDPA) requires that all units of local government deposit cash in eligible public depositories. State regulators determine eligibility. Amounts on deposit in excess of federal insurance levels must be collateralized. The eligible collateral is determined by the PDPA. PDPA allows the institution to create a single collateral pool for all public funds. The pool is to be maintained by another institution, or held in trust for all the uninsured public deposits as a group. The market value of the collateral must be equal to 102% of the aggregate uninsured deposits.

Deposits are categorized to give an indication of risk assumed by the government at the end of the year. Category 1 includes deposits that are insured. Category 2 includes collateralized deposits held by the pledging institution's department or agent in the District's name. Category 3 includes uncollateralized, uninsured deposits.

At December 31, 2001, District deposits, all category 1, had a negative carrying balance of \$(22,188) and a bank balance \$2,510.

**Investments**

Colorado statutes specify investment instruments meeting defined rating and risk criteria in which local government entities may invest. The allowed investments include:

- Local government investment pools
- Obligations of the United States Government

The District invests in one Local Government Investment Pool, the Colorado Government Liquid Assets Trust (COLOTRUST *Prime*). Investments in the pool are not categorized because the investments are not evidenced by securities that exist in physical or book entry form. As of December 31, 2001 district investments in COLOTRUST, carrying and fair value, were \$6,016.

**HAMILTON CREEK METROPOLITAN DISTRICT  
SILVERTHORNE, COLORADO  
Notes to Financial Statements  
December 31, 2001**

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**3. Detailed notes concerning the funds (continued)**

**Investments (continued)**

As of December 31, 2001, the District held in its name stripped United States Treasury Securities due November 15, 2004, with an original cost of \$263,865. The securities had a carrying and fair value of \$1,885,719 as of December 31, 2001. These securities are restricted for the payment of the principal on bonded debt that is due at the maturity date of these securities.

**Receivables**

It is the policy of the District to record the property tax receivable in the year in which the taxes are levied and to recognize the property tax revenues in the year in which the lien attaches to the property. Property taxes are reported in the Debt Service fund as a receivable and as deferred revenue for \$269,953.

**Fixed assets**

The following is a summary of the District's General Fixed Assets at December 31, 2001:

Road system	\$	971,366
Water system		544,275
<b>Total</b>	<b>\$</b>	<b>1,515,641</b>

During the year there were no additions or deletions to the General Fixed Asset Account group.

**Water System**

In 1996 and subsequent years, as a result of testing required by the State of Colorado, it was determined that the District's water well exceeded the Maximum Contaminant Level (MCL) for fluoride. The State issued an enforcement order requiring the District to immediately take action to correct the problem. As a result the District contracted with an independent engineering firm to determine the most cost-effective method of eliminating the fluoride problem. As of December 31, 2001, District engineers have developed a plan to use surface water from Hamilton Creek as a source of potable water. A preliminary plan was presented to the State of Colorado in October 2001 for conceptual approval. As of December 31, 2001, the District was continuing to resolve access, engineering and financial issues to utilize the surface water as a permanent potable water supply for District residents. See the following note regarding Litigation and Subsequent Events for additional information.

**HAMILTON CREEK METROPOLITAN DISTRICT  
SILVERTHORNE, COLORADO  
Notes to Financial Statements  
December 31, 2001**

**3. Detailed notes concerning the funds (continued)**

**General long-term debt**

On July 15, 1985 the District issued General Obligation bonds in the principal amount of \$2,125,000 with an effective interest rate of 11.25%. Interest is payable on June 1 and December 1 of each year, and the principal matures on December 1 of each year through 2004. The bonds are subject to certain provisions regarding early redemption on each of the interest payment dates.

As result of the District Plan of Reorganization, the original bonds were replaced with "New Bonds" which retained the same terms, conditions and guarantees as the original bonds except that the premium on early retirement was removed. The District Plan of Reorganization imposed certain other limitations and requirements on the District including:

- A requirement that the District reserve fund balance in an amount equal to the fair market value of the Stripped U.S. Treasury Securities which are due to mature on November 15, 2004 in the principal amount of \$2,100,000. The maturity value of these securities is expected to be sufficient to pay the outstanding principal.
- A requirement that the District accrue interest on unpaid matured interest coupons at the rate of 11.25% per annum, which is to be paid ratably with the matured interest as funds become available.
- A requirement that after 1995 the bond mil levy is limited to 40 mils.

Annual debt service requirements to maturity for general obligation "new" bonds are as follows:

	<b>Interest New Bonds</b>	<b>Matured Coupons</b>	<b>Total</b>	<b>Principal</b>
1989	\$ 488,758	\$ 81,627	\$ 570,385	\$ -
1990	238,725	304,289	543,014	-
1991	238,613	277,299	515,912	-
1992	238,500	250,333	488,833	-
1993	238,387	223,402	461,789	-
1994	238,275	196,488	434,763	-
1995	238,163	169,600	407,763	-
1996	238,050	142,742	380,792	-
1997	237,937	115,906	353,843	-
1998	237,825	89,094	326,919	-
1999	237,713	62,309	300,022	-
2001	237,600	35,554	273,154	-
2001	237,487	8,820	246,307	-
2002	237,375	-	237,375	1,000
2003	236,757	-	236,757	1,000
2004	236,757	-	236,757	2,108,000
	<b>\$ 4,056,922</b>	<b>\$ 1,957,463</b>	<b>\$ 6,014,385</b>	<b>\$ 2,110,000</b>

**HAMILTON CREEK METROPOLITAN DISTRICT  
SILVERTHORNE, COLORADO  
Notes to Financial Statements  
December 31, 2001**

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**3. Detailed notes concerning the funds (continued)**

**General long-term debt (continued)**

Interest payable on the "new bonds" for 2001 includes unpaid interest on the original bonds of \$437,456.

During 2000, the District made an interest payment for \$10,000. The payment was applied to the unpaid interest that was originally due December 1, 1989 leaving an unpaid balance of \$51,302.

The original authorized bonded debt limit of \$3,000,000 was raised in subsequent elections to \$6,000,000.

**Changes in General Long-term Debt:**

Balance, December 31, 2000	\$ 2,111,000
Payments	<u>(1,000)</u>
<b>Balance, December 31, 2001</b>	<b><u>\$ 2,110,000</u></b>

**4. Other information**

**Risk management**

The District is exposed to various risks of loss related to torts; theft of, damage to and destruction of assets; errors and omissions; and natural disasters, for which the District carries commercial insurance. Settled claims have not exceeded this commercial coverage in any of the past three years.

**TABOR Amendment**

In November 1992, Colorado voters approved Amendment 1 to the State Constitution, which is commonly known as the Taxpayer's Bill of Rights or the TABOR Amendment. The Amendment applies to all units of local government and limits taxes, spending, revenue, and multi-year debt (excepting bond refundings to lower interest rates and adding employees to pension plans). The amendment does not apply to units of local government that are defined as an "enterprise." The District does not qualify as an "enterprise" as property taxes are more than 10% of total revenue. The property tax levy recorded in the Debt Service fund relates to pre-TABOR debt that was incurred to retire the general obligation bonds.

The Amendment defined the District's year-end, December 31, 1992, as the initial base year for purposes of defining compliance with the Amendment. The Amendment defines inflation and local growth. Future years' revenue, relative to prior years' revenue, is only allowed to increase based upon the inflationary and local growth factors. The District must refund revenue received in excess of the limit to the voters, unless the voters approve retention of the excess revenue.

**4. Other information (continued)**

**TABOR Amendment (continued)**

The amendment also requires the District to establish an "Emergency Reserve" which must be equal to 3% of current year's revenue. Conditions under which these reserves may be spent are severity limited. Under the terms of the Plan the District has not funded the "Reserve" except as the amount currently recorded in the fund equity of the General fund.

The District believes that it complies with the provisions of TABOR, as it is currently understood. Many of the provisions may not become fully understood without judicial review.

**Litigation**

In 1996 the District proposed a settlement with the bondholders to refund the principal due on the bonds. The settlement offer was accepted by approximately 90% of the bondholders. Full acceptance (100%) was required. The District filed for a new bankruptcy to have the court approve the offer as some bondholders could not be located and over two thirds favored the offer, two thirds being the approval rate required by the bankruptcy guideline. A group of bondholders objected to the District's plan to file for bankruptcy claiming that the District was not currently bankrupt. The Bankruptcy Court agreed and the District was not allowed to file. The Appellate Court held that as long as the District conformed to the "cash flow plan" the District could never be bankrupt and in addition potentially would never be required to pay the bondholders.

In 1998 the District filed for a declaratory judgment asking the court to rule if a corrective plan to remediate the fluoride problem in the water system was part of the maintenance "cash flow" language of the Plan. Certain bondholders asserted that any expenditures incurred to remediate the fluoride problem should be classified as capital improvements. The bondholders asserted that capital improvements were limited to the original \$260,000 as directed by the Bankruptcy Court, Section 1.5 of the Plan. The District asserted that the expenditures should be recorded as costs of operation and maintenance and were not subject to the \$260,000 limitation. The Court issued a ruling on June 22, 2000 in favor of the District.

On October 25, 2000, the District Court denied the bondholders request for a stay as to the June 22, 2000 court ruling. The Colorado Court of Appeals issued a ruling August 9, 2001 that returned to the Trial Court for additional consideration the question of whether the District's water supply was contaminated with fluoride at the time of the Bankruptcy Plan approval in February 1990. The Appellant Court also ordered that additional testimony be considered to determine the intent of the parties during the Bankruptcy proceedings as to whether interest would continue to accrue on unpaid interest after the payment of the principal on the bonds.

**Subsequent events**

A three-day trial on the questions returned by the Court of Appeals to the District Court is scheduled for January 7-9th, 2003.