ADVANCE SHEET HEADNOTE
May 4, 2026

**2026 CO 29**

**No. 25SA305, *N. Integrated Supply Project Water Activity Enter. v. VIMA Partners*—Eminent Domain—Water Activity—Statutory Interpretation.**

In this C.A.R. 21 proceeding brought by a private landowner, the supreme court issued an order to show cause to consider whether a water activity enterprise formed under sections 37-45.1-101 to -107, C.R.S. (2025), has the authority to bring an eminent domain proceeding against a private property owner.

The court now concludes that pursuant to the express terms of section 37-45.1-103(4), C.R.S. (2025), and section 37-45-118(1)(c), C.R.S. (2025), a water activity enterprise has the power to condemn private property in relation to water activities. Further, on the facts presented here, the court concludes that Northern Integrated Supply Project Water Activity Enterprise has the authority to condemn easements on private land owned by VIMA Partners to survey, locate, construct, operate, and maintain pipelines and related infrastructure for its water delivery project because that work relates to water activities as defined by statute.

Accordingly, the court discharges the order to show cause and remands this case to the district court for further proceedings consistent with this opinion.

**The Supreme Court of the State of Colorado**
2 East 14th Avenue • Denver, Colorado 80203

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**2026 CO 29**

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**Supreme Court Case No. 25SA305**
*Original Proceeding Pursuant to C.A.R. 21*
Weld County District Court Case No. 24CV30952
Honorable Kimberly Schutt, Judge

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**In Re**
**Petitioner:**

Northern Integrated Supply Project Water Activity Enterprise, a government-owned business organized pursuant to C.R.S. §§ 37-45.1-101 et seq,

v.

**Respondents:**

VIMA Partners, LLC, a Colorado limited liability company; City of Thornton, a Colorado home rule municipality; DCP Midstream, LP, a Delaware limited partnership; WES DJ Gathering LLC f/k/a Kerr-McGee Gathering LLC, a Colorado limited liability company; and Brigitte C. Grimm, in her official capacity as Weld County Treasurer.

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**Order Discharged**
*en banc*
May 4, 2026

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No appearance on behalf of: DCP Midstream, LP; WES DJ Gathering LLC f/k/a Kerr-McGee Gathering LLC; and Brigitte C. Grimm, in her official capacity as Weld County Treasurer.

**JUSTICE GABRIEL** delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ**, **JUSTICE BOATRIGHT**, **JUSTICE HOOD**, **JUSTICE SAMOUR**, **JUSTICE BERKENKOTTER**, and **JUSTICE BLANCO** joined.

JUSTICE GABRIEL delivered the Opinion of the Court.

¶1 In this C.A.R. 21 proceeding brought by a private landowner, VIMA Partners, LLC, we issued an order to show cause to consider whether a water activity enterprise formed under sections 37-45.1-101 to -107, C.R.S. (2025), has the authority to bring an eminent domain proceeding against a private property owner.[1] We now conclude that pursuant to the express terms of section 37-45.1-103(4), C.R.S. (2025), and section 37-45-118(1)(c), C.R.S. (2025), a water activity enterprise has the power to condemn private property in relation to water activities. We thus further conclude that, here, Northern Integrated Supply Project Water Activity Enterprise ("NISP Enterprise") has the authority to condemn easements on VIMA Partners' land to survey, locate, construct, operate, and maintain pipelines and related infrastructure for its water delivery project because that work relates to water activities as defined by statute.

¶2 Accordingly, we discharge our order to show cause and remand this case to the district court for further proceedings consistent with this opinion.

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[1] Specifically, the issue presented in this original proceeding is:

> Whether, in a private condemnation action, a district court may allow a water activity enterprise formed under section 37-45.1-101, C.R.S. *et seq.*, to condemn a landowner's private property when the enterprise lacks standing under any of the statutes on which it purports to rely, thereby irreparably depriving the landowner of its private property rights.

## I. Facts and Procedural History

¶3 In October 2024, NISP Enterprise, a business wholly owned by the Northern Colorado Water Conservancy District ("Northern Water"), filed a petition in condemnation in the Weld County District Court seeking to acquire permanent and temporary construction easements on a parcel of land owned by VIMA Partners. According to NISP Enterprise, the easements are required for the surveying, locating, construction, operation, and maintenance of water delivery pipelines and related infrastructure as part of a regional water supply and distribution project called the Northern Integrated Supply Project ("NISP"). The NISP seeks to provide 40,000 acre-feet annually of new, reliable water supply to fifteen municipalities and water districts within Northern Water's boundaries.

¶4 In its petition in condemnation, NISP Enterprise identified multiple legal sources for its authority to bring and maintain an eminent domain action, namely, article XVI, section 7 of the Colorado Constitution; section 37-86-102, C.R.S. (2025), and section 37-86-104(1), C.R.S. (2025), governing rights-of-way of persons owning water rights or conditional water rights; section 37-45.1-103(4) and section 37-45-118(1)(c), governing water activity enterprises and water conservancy districts; and title 38, article 1 of the Colorado Revised Statutes, governing the right of eminent domain generally.

¶5 Following the filing of NISP Enterprise's petition in condemnation, VIMA Partners filed a motion for judgment on the pleadings, arguing that none of the legal authorities cited by NISP Enterprise provided it with the power of eminent domain. The district court denied VIMA Partners' motion, ruling that NISP Enterprise had condemnation authority under article XVI, section 7 of the Colorado Constitution; sections 37-86-102 and 37-86-104(1); and sections 37-45.1-103(4) and 37-45-118(1)(c).

¶6 VIMA Partners then petitioned this court pursuant to C.A.R. 21 for immediate relief, and we issued an order to show cause.

## II. Analysis

¶7 We begin by addressing our jurisdiction under C.A.R. 21 and setting forth the applicable standard of review and principles of statutory construction. We then apply these legal principles to determine whether NISP Enterprise has the authority to condemn private property for the surveying, locating, construction, operation, and maintenance of pipelines and related infrastructure for the NISP.

### A. Original Jurisdiction

¶8 The decision to exercise our original jurisdiction under C.A.R. 21 rests within our sole discretion. *Garcia v. Centura Health Corp.*, 2025 CO 15, ¶ 14, 566 P.3d 999, 1005. An original proceeding under C.A.R. 21 is an extraordinary remedy that is limited in both its purpose and availability. *Id.* We have found it

appropriate to exercise such original jurisdiction to remedy a district court's abuse of discretion or a ruling in excess of the court's jurisdiction when no other adequate appellate remedy exists. *People v. Smith*, 2023 CO 40, ¶ 15, 531 P.3d 1051, 1054. We have also deemed it appropriate to exercise our C.A.R. 21 jurisdiction in condemnation proceedings when, as here, an appellate remedy would be inadequate because the condemnor would take immediate possession of the land and potentially damage that land while appellate review is pending. *See Dep't of Transp. v. Amerco Real Est. Co.*, 2016 CO 62, ¶ 7, 380 P.3d 117, 119.

### B. Standard of Review and Principles of Statutory Construction

¶9 In condemnation proceedings, as in other matters, we defer to the district court's findings of fact but review its legal conclusions de novo. *Forest View Co. v. Town of Monument*, 2020 CO 52, ¶ 13, 464 P.3d 774, 777.

¶10 We likewise review questions of statutory interpretation de novo. *Byers Peak Props., LLC v. Byers Peak Land & Cattle, LLC*, 2026 CO 7, ¶ 24, 583 P.3d 97, 103. In construing statutes, we seek to determine and effectuate the legislature's intent. *Id.* To do so, we apply words and phrases in accordance with their plain and ordinary meanings, and we consider the entire statutory scheme to give consistent, harmonious, and sensible effect to all of its parts. *Id.* We also avoid constructions that would render any statutory words or phrases superfluous or that would lead to illogical or absurd results. *Id.* And we respect the legislature's choice of

language. *Id.* at ¶ 25, 583 P.3d at 103. Accordingly, we will not add words to or subtract words from a statute. *Id.* If the statutory language is unambiguous, then we will apply it as written, and we need not resort to other rules of statutory construction. *Id.*

## C. Condemnation Authority

¶11 VIMA Partners contends, among other things, that section 37-45.1-103(4) of the water activity enterprise statutes and section 37-45-118(1)(c) of the Water Conservancy Act, when read together and narrowly construed, do not grant NISP Enterprise the power of eminent domain. We disagree.

¶12 As noted above, Northern Water, the parent district of NISP Enterprise, is a water conservancy district. Prior to the passage of Colorado's Taxpayer's Bill of Rights ("TABOR"), Colo. Const. art. X, § 20, the General Assembly enacted the Water Conservancy Act of 1937, §§ 37-45-101 to -153, C.R.S. (2025), which allowed for the organization of water conservancy districts to provide for the conservation of the state's water resources and to ensure the greatest beneficial use of water within this state. To that end, the General Assembly provided water conservancy district boards a variety of powers. *See* § 37-45-118.

¶13 One of these powers is the power of eminent domain. Thus, section 37-45-118(1)(c) provides:

> The board has power on behalf of said district . . . [t]o have and to exercise the power of eminent domain and dominant eminent domain

> and in the manner provided by law for the condemnation of private property for public use to take any property necessary to the exercise of the powers granted in this article, [subject to an exception not pertinent here].

¶14 Accordingly, the General Assembly expressly granted water conservancy districts the power of eminent domain to take private property when necessary for the exercise of the districts' powers. *Id.* Indeed, VIMA Partners does not contest Northern Water's authority to condemn its lands.

¶15 Following the passage of TABOR, taxing, revenue, and spending limitations were applied to state and local governmental entities, including water conservancy districts. *See, e.g.*, Colo. Const. art. X, § 20(1), (4), (7)–(8). To address these limitations and provide for the continued beneficial use of all waters originating in Colorado, the General Assembly enacted water activity enterprise statutes to allow for the establishment of water activity enterprises, within or by water conservancy districts, water conservation districts, and other state and local governments, to pursue or continue "water activities." § 37-45.1-101(1), C.R.S. (2025); § 37-45.1-103(1). *See generally* Gregory J. Hobbs, Jr., *Water Activity Enterprises*, 22 Colo. Law. 2555 (Dec. 1993) (discussing the legislative creation of and purposes for water activity enterprises under TABOR's enterprise exception). Such enterprises are government-owned businesses within the meaning of TABOR but are excluded from certain limitations that TABOR otherwise places on state and local governmental entities. *See* Colo. Const. art. X, § 20(2)(b), (d)

(defining "[d]istrict" as excluding enterprises and "[e]nterprise" as "a government-owned business authorized to issue its own revenue bonds and receiving [sic] under 10% of annual revenue in grants from all Colorado state and local governments combined").

¶16 Each water activity enterprise is wholly owned by a single district, and the governing body of the water activity enterprise is either the governing body of the district that owns it or such governing body as may be prescribed by applicable laws; local charters, resolutions, or ordinances; or intergovernmental agreements. § 37-45.1-103(2)(a), (3). Moreover, the General Assembly expressly authorized the governing body of each water activity enterprise to exercise its parent district's legal authority relating to water activities. § 37-45.1-103(4). Thus, section 37-45.1-103(4) provides, "The governing body of each water activity enterprise may exercise the district's legal authority relating to water activities, but no enterprise may levy a tax which is subject to section 20(4) of article X of the state constitution."

¶17 Because NISP Enterprise is a water activity enterprise and its parent district is Northern Water, we conclude that, read together, the plain and unambiguous language of sections 37-45.1-103(4) and 37-45-118(1)(c) allows NISP Enterprise to exercise Northern Water's legal authority, including the power of eminent domain, provided that this authority is exercised in relation to "water activities."

§ 37-45.1-103(4). The question thus becomes whether NISP Enterprise exercised its eminent domain authority here in relation to such "water activities."

¶18 Section 37-45.1-102(3), C.R.S. (2025), defines "[w]ater activity" to include, without limitation, "the diversion, storage, carriage, delivery, distribution, collection, treatment, use, reuse, augmentation, exchange, or discharge of water." The definition further provides that a "[w]ater activity" includes "the provision of wholesale or retail water or wastewater or storm water services and the acquisition of water or water rights." *Id.*

¶19 In this case, NISP Enterprise initiated the condemnation proceedings at issue in connection with the construction and maintenance of pipelines and related infrastructure for the NISP, which, as noted above, is a water delivery and distribution project. Under section 37-45.1-102(3)'s plain language, such pipelines and infrastructure are directly related to "water activities" because the pipelines and infrastructure are indisputably related to the acquisition, carriage, delivery, and distribution of water.

¶20 For these reasons, we conclude that under the express language of sections 37-45.1-103(4) and 37-45-118(1)(c), NISP Enterprise may exercise the power of eminent domain related to the construction and maintenance of these pipelines and their related infrastructure.

¶21 Our reading of these statutory provisions is confirmed by section 38-1-202, C.R.S. (2025), in which the General Assembly provided a list of entities authorized to exercise the power of eminent domain under Colorado law. As pertinent here, section 38-1-202(1)(f)(XXX) provides:

> The following governmental entities, types of governmental entities, and public corporations . . . may exercise the power of eminent domain: . . . A water activity enterprise, as defined in section 37-45.1-102(4), C.R.S., exercising the legal authority to exercise the power of eminent domain of the district that owns it in relation to a water activity, as defined in section 37-45.1-102(3), C.R.S., as authorized in section 37-45.1-103(4), C.R.S.

¶22 Just as we read the plain language of sections 37-45.1-103(4) and 37-45-118(1)(c) together to grant water activity enterprises the power of eminent domain in relation to water activities, so, too, does our General Assembly.

¶23 Notwithstanding the plain language of the above-described statutes, VIMA Partners argues that, for a number of reasons, a water activity enterprise does not have condemnation authority. We address and reject each of these arguments in turn.

¶24 First, VIMA Partners contends that because Colorado case law dictates that statutes granting condemnation authority must be narrowly construed, sections 37-45.1-103(4) and 37-45-118(1)(c) cannot be read to grant NISP Enterprise the power of eminent domain.

¶25 As VIMA Partners asserts, we construe eminent domain statutes narrowly, and we resolve any ambiguities in favor of the condemnee landowner. *Bly v. Story*, 241 P.3d 529, 533 (Colo. 2010). Accordingly, the power of eminent domain cannot be implied from doubtful or vague language in a statute, but rather the authority to condemn must be provided expressly or by necessary implication. *Mack v. Town of Craig*, 191 P. 101, 101 (Colo. 1920); *accord Bd. of Cnty. Comm'rs of Arapahoe Cnty. v. Intermountain Rural Elec. Ass'n*, 655 P.2d 831, 833–34 (Colo. 1982). Despite VIMA Partners' assertions to the contrary, for the reasons set forth above, the General Assembly *did* expressly authorize water activity enterprises like NISP Enterprise to exercise the power of eminent domain in relation to water activities.

¶26 The cases on which VIMA Partners relies to argue that a narrow construction precludes such a conclusion are distinguishable. In each of those cases, a party sought to find condemnation authority in vague or broad statutory language that did not specifically identify either the power of eminent domain or the class of persons or activities for which that power may be exercised. *See, e.g.*, *Coquina Oil Corp. v. Harry Kourlis Ranch*, 643 P.2d 519, 521–22 (Colo. 1982) (concluding that a federal oil and gas lessee did not have the power to condemn under general constitutional and statutory provisions authorizing the taking of private property in certain circumstances because those provisions did not unambiguously grant to federal oil and gas lessees the right to condemn); *Town of*

*Eaton v. Bouslog*, 292 P.2d 343, 344 (Colo. 1956) (concluding that the power of eminent domain cannot be implied from the word "otherwise" in a statute granting incorporated towns the power to acquire lands for cemeteries "by purchase or otherwise"); *Akin v. Four Corners Encampment*, 179 P.3d 139, 144–46 (Colo. App. 2007) (concluding that the authority to condemn private property for a natural gas pipeline could not be implied from a grant of condemnation authority for "private ways of necessity" because that phrase had been construed narrowly to encompass only passageways or roadways that were indispensable to the practical use of a property). Here, in contrast, the statutory language identifies the power of eminent domain, § 37-45-118(1)(c), and the General Assembly granted water activity enterprises authority to use that power in relation to water activities, § 37-45.1-103(4).

¶27 Second, and related to its first point, VIMA Partners contends that our obligation to construe narrowly statutes granting the power of eminent domain precludes us from interpreting sections 37-45-118(1)(c) and 37-45.1-103(4) so broadly as to encompass a right to condemn in this case. As discussed above, however, these statutes, when read together, authorized NISP Enterprise to exercise condemnation authority relating to "water activities," which are defined to include activities such as those involved here. § 37-45.1-102(3). Contrary to VIMA Partners' suggestion, our duty to construe condemnation statutes narrowly

does not authorize us to ignore express statutory language that grants the power of eminent domain to an entity for what might be deemed a broad set of purposes. *See Dep't of Transp. v. Stapleton*, 97 P.3d 938, 943–45 (Colo. 2004) (interpreting a statute that granted the Colorado Department of Transportation the power of eminent domain for "state highway purposes" to include condemnation authority not only for the acquisition of the land strictly necessary for a highway's construction, but also for purposes "integral to the construction, maintenance, and improvement of state highways," including a parking and transit facility).

¶28 Third, VIMA Partners argues that because the definition of "water activity" does not include the phrase "eminent domain" or similar language referencing the taking of private property, section 37-45.1-103(4)'s grant of authority "relating to water activities" does not include the power of eminent domain. This argument, however, fails to consider the statutory scheme as a whole, as we must do. *See Byers Peak Props.*, ¶ 24, 583 P.3d at 103.

¶29 As discussed at length above, water activity enterprises' condemnation power is rooted in the statutory language establishing that such entities "may exercise the district's legal authority," § 37-45.1-103(4), and water conservancy districts indisputably have the power of eminent domain, § 37-45-118(1)(c). Accordingly, these statutes establish water activity enterprises' power of eminent domain. The phrase "relating to water activities," in turn, describes the *purposes*

for which water activity enterprises may exercise their condemnation authority. *See* § 37-45.1-103(4). Thus, the definition of "water activity" is pertinent to determining the scope of a water activity enterprise's condemnation authority, not the existence of that authority.

¶30 Finally, VIMA Partners contends that NISP Enterprise cannot exercise the power of eminent domain in relation to its pipeline and infrastructure work because the statutory definition of "water activity" does not specifically identify pipelines or infrastructure projects. Again, VIMA Partners' interpretation ignores statutory language, which we may not do. *See Byers Peak Props.*, ¶ 24, 583 P.3d at 103.

¶31 Specifically, section 37-45.1-103(4) does not grant legal authority to water activity enterprises solely for defined water activities under section 37-45.1-102. To the contrary, section 37-45.1-103(4) grants legal authority for purposes "*relating to* water activities." (Emphasis added.) Thus, water activity enterprises may exercise legal authority for actions taken in connection with its water activities, even if the action itself is not expressly identified as a water activity under the statute. *See Related*, Black's Law Dictionary (12th ed. 2024) (defining "related" as "[c]onnected in some way; having relationship to or with something else"); *see also Woodrow v. Wildlife Comm'n*, 206 P.3d 835, 837 (Colo. App. 2009) (defining "related

activity" to mean having a "connection, relation, or reference" or being "connected; associated" with the activities listed in the statute).

¶32 Moreover, section 37-45.1-102(3) provides that the term "'[w]ater activity' *includes but is not limited to*" the illustrative list of activities provided in the definition. (Emphasis added.) We read the phrase "includes, but is not limited to" as an "expansion or enlargement" and a "broader interpretation" of the statutory definition. *People v. Roggow*, 2013 CO 70, ¶ 20, 318 P.3d 446, 451 (quoting *Ruff v. Indus. Claim Appeals Off.*, 218 P.3d 1109, 1113 (Colo. App. 2009), *aff'd in part and rev'd in part sub nom., City of Manassa v. Ruff*, 235 P.3d 1051 (Colo. 2010)).

¶33 Notwithstanding the foregoing, VIMA Partners attempts to bolster its reading of "water activity" as excluding pipeline and infrastructure projects by pointing to the existence of a separate definition in the statutory scheme, namely, section 37-45.1-102(5)'s definition of "[w]ater project or facility," which defines that term to include "a dam, storage reservoir, compensatory or replacement reservoir, canal, conduit, *pipeline*, tunnel, power plant, water or wastewater treatment facility, and any and all works, facilities, improvements and property necessary or convenient for the purpose of conducting a water activity." (Emphasis added.) As VIMA Partners sees it, because the statutory definition of "[w]ater project or facility" includes "pipeline" and other infrastructure projects, a pipeline must be something other than a "water activity." Again, however,

VIMA Partners does not read the statutory language as a whole, as we are required to do. *See Byers Peak Props.*, ¶ 24, 583 P.3d at 103.

¶34 Although the General Assembly included different statutory definitions to distinguish between general water activities and water projects and facilities, we do not read the former as mutually exclusive of the latter. Indeed, in section 37-45.1-103(1), the General Assembly made clear that water activity enterprises may be established "for the purpose of pursuing or continuing water activities, *including* water acquisition or water project or facility activities." (Emphasis added.) The statutory scheme thus describes "water project or facility activities" as a *subset* of "water activities," not as a wholly separate category under the statutory language.

¶35 In sum, we conclude that under sections 37-45.1-103(4) and 37-45-118(1)(c), NISP Enterprise has the authority to condemn easements on VIMA Partners' land to construct and maintain pipelines and related infrastructure for the NISP. In light of this conclusion, we need not decide whether article XVI, section 7 of the Colorado Constitution or sections 37-86-102 and -104(1) independently provide NISP Enterprise with condemnation authority.

## III. Conclusion

¶36 For the foregoing reasons, we conclude that pursuant to the express terms of sections 37-45.1-103(4) and 37-45-118(1)(c), a water activity enterprise has the

power to condemn private property in relation to water activities. We thus further conclude that, here, NISP Enterprise has the authority to condemn easements on VIMA Partners' land to survey, locate, construct, operate, and maintain pipelines and related infrastructure for the NISP because that work relates to water activities as defined by statute.

¶37 Accordingly, we discharge our order to show cause and remand this case to the district court for further proceedings consistent with this opinion.