

MEMORANDUM
JANUARY 4, 2019

TO: BOARD OF DIRECTORS

FROM: ANDY MUELLER, GENERAL MANAGER

SUBJECT: GENERAL MANAGER'S UPDATE

ACTION: *Specific Board Actions are requested on the following items and Staff's recommendations are detailed in the issue specific memorandums attached to this memo:*

- c. Proposed Fiscal Agency for the Yampa Integrated Water Management Plan;*
 - d. White River Storage Project; and*
 - g. Approval of Joint Funding Agreement regarding the USGS gauging program*
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General Manager's 2019 Goals and Objectives.

Please see attached Memo (accessed in the electronic packet by clicking here).

a. Update on Discussions Regarding a Demand Management Program

APPLICABLE STRATEGIC INITIATIVE(S):

4. Colorado River Supplies:

- 4. A. The River District will advocate for full use of its Colorado River Basin water supplies for the benefit of the District's inhabitants, without undue risk of overdevelopment.*
- 4. B. The River District will advocate for full protection and preservation of water rights perfected by use prior to the effective date of the 1922 Compact and thereby excluded from curtailment in the event of compact administration.*
- 4. C. The River District will continue to study mechanisms, such as a Compact Water Bank and Contingency Planning that include demand management, drought operations of CRSP reservoirs, and water supply augmentation to address the risk of overdevelopment.*
- 4. D. The River District will work with the State Engineer's Office and other interested parties to develop an equitable mechanism for potential compact administration.*

6. Agricultural Water Use:

- 6. A. The River District will continue to study the concept of a voluntary and compensated compact water bank in collaboration with other stakeholders to best preserve western Colorado agriculture.*
- 6. B. The River District will explore alternative transfer methods that allow agricultural water users to benefit from the value of their water rights without the permanent transfer of the rights, and without adverse impacts to the local communities and the regional economy.*
- 6. C. Although the River District recognizes that some reductions in demands of agricultural water rights may be necessary to protect existing water uses in the basin, the District will work to ensure that the*

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burden of demand reduction is shared across all types of water use sectors, and that agricultural water rights, and agriculture itself, are not injured.

6. D. The River District will protect the integrity of senior agricultural water rights within Colorado's prior appropriation system, recognizing the potential risks to those rights posed by the constitution's municipal right of condemnation.

8. Colorado's Water Plan:

8. B. The River District will work with the, Southwest Water Conservation District, the Southwest Basin Roundtable and the three Basin Roundtables that comprise the District to achieve a consistent West Slope perspective related to contingency planning and compact administration risk matters.

8. E. The River District will work to ensure that the IBCC Conceptual Framework is honored and fairly implemented.

As discussed in prior communications and elsewhere in this memo, the Upper Basin, through the Upper Colorado River Commission ("UCRC), has indicated unanimous agreement to the terms of the Upper Basin Drought Contingency Plan ("DCP") documents which include the Upper Basin Demand Management Agreement. Due to the lack of agreement in the Lower Basin regarding the terms of the Lower Basin DCP, the Upper Basin states have not executed the documents and no federal legislation authorizing the secretary to effectuate the DCP's has been introduced or passed in Congress. Until and unless there is affirmative unanimous approval by the Lower Basin parties, execution of the documents by all parties, and passage of federal legislation, it is extremely unlikely that there will be a storage account in the CRSP reservoirs to store water conserved in the Upper Basin through a Demand Management program. While the Lower Basin may endorse the Lower Basin DCP on or before the January 31, 2019 deadline set by Bureau of Reclamation Commissioner Burman, it is unimaginable that legislation will sail through our newly constituted Congress and land on President Trump's desk for his signature anytime soon.

Within the State of Colorado, there are parties primed to begin the process of creating the structure for a Demand Management program. In light of the interstate and federal delays, however, the immediacy of creating a Demand Management Program within our State has abated somewhat. That being said, our District on behalf of and together with our water users do need to be prepared to engage in discussions related to the structure of a Demand Management Program. It will be useful for our water users to develop a vision of what we need to see in such a program in order to meet the needs of our water users and communities, and it is not in our best interest to allow those discussions to be driven in directions which may be harmful to the preservation and protection of our constituents' continued use and development of water on the West Slope. We anticipate organizing an appropriate negotiation team and accompanying public input process to inform our negotiation team and keep our water users abreast of any developments in this area so that they are provided with a meaningful opportunity for input.

b. Proposed Fiscal Agency for the Yampa Integrated Water Management Plan

Please see attached memo (accessed in the electronic packet by clicking here).

c. White River Storage Project

Please see attached memo (accessed in the electronic packet by clicking here).

d. Colorado River Basin Hydrology 2019 Forecast

Please see attached memo (accessed in the electronic packet by clicking here).

e. Phase III Risk Study Update

Please see attached memo (accessed in the electronic packet by clicking here).

f. Approval of Joint Funding Agreement regarding the USGS Gauging

Please see attached memo (accessed in the electronic packet by clicking here).

g. Discussion of Anticipated Impacts of Gallagher and TABOR Amendments on Long Term Revenue

Applicable Strategic Initiatives:

12. Financial Sustainability: *The above strategic initiatives cannot be achieved without financial sustainability. The River District enjoys a diversified tax base for its Governmental Funds, which helps to reduce the impacts of dramatic downturns in its overall assessed valuation. Over the long-term, the Enterprise Fund is intended to be self-sustaining, managing the River District's Business-Type Activities.*

13. Asset Management: *The River District will plan and implement operation, maintenance and replacement (OM&R) activities to ensure the reliable and safe operation of all River District owned facilities and properties. The District recognizes that the significant investment in these assets as well as the financial stability of our District and Enterprise must be protected by regular maintenance and repair of its assets.*

The Colorado River District relies predominantly (97%) on property tax revenues for our General Fund budget. As the Board discussed at some length at the September budget workshop, the Gallagher amendment is projected to cause a 15% decline in the statewide residential assessment rate ("RAR") in 2019. This will have a significant adverse impact on the District's 2020 budget. Looking at the long term fiscal impacts of the Gallagher Amendment (falling RAR) and longer term, structural changes to the District's economic base, I'm concerned about the District's fiscal stability and sustainability. There are numerous options to address this situation on both the revenue and expense side of our ledger. None, however, is without cost or risk.

The District's Enterprise Fund is about to lose its most significant annual revenue source with the end of Denver Water's semi-annual lease payments for Wolford Mountain Reservoir in January 2020. This has an obvious and immediate impact on the Enterprise Fund, but also on the General Fund, as most of the District's salaries and other activities are split 75-25 between the Enterprise and General Funds.

I propose the Board set a date for an in-person Strategic Fiscal Workshop in the next six weeks to fully explore the fiscal challenges the District faces and lay out options to address those challenges. I would also like to discuss implementation timelines. My goal for the workshop would be Board consensus concerning a strategy to ensure the long-term fiscal sustainability of the District and preservation of our ability to meet the District's mission.

h. UCRC and CRWUA December Meeting Updates.

Applicable Strategic Initiatives:

4. Colorado River Supplies

4. C. The River District will continue to study mechanisms, such as a Compact Water Bank and Contingency Planning that include demand management, drought operations of CRSP reservoirs, and water supply augmentation to address the risk of overdevelopment.

6. Agricultural Water Use

6. A. The River District will continue to study the concept of a voluntary and compensated compact water bank in collaboration with other stakeholders to best preserve western Colorado agriculture.

6. B. The River District will explore alternative transfer methods that allow agricultural water users to benefit from the value of their water rights without the permanent transfer of the rights, and without adverse impacts to the local communities and the regional economy.

6. C. Although the River District recognizes that some reductions in demands of agricultural water rights may be necessary to protect existing water uses in the basin, the District will work to ensure that the burden of demand reduction is shared across all types of water use sectors, and that agricultural water rights, and agriculture itself, are not injured.

6. D. The River District will protect the integrity of senior agricultural water rights within Colorado's prior appropriation system, recognizing the potential risks to those rights posed by the constitution's municipal right of condemnation.

6. E. The River District will advocate for sensible water quality regulations and cooperative actions that do not unduly burden the agricultural community.

7. Water Needs/Project Development

7. D. The River District will actively pursue funding sources and provide financial assistance to be used for the refurbishment and modernization of the aging water supply infrastructure within the District in order to help preserve and improve existing supplies and operations.

The UCRC met on the first day of the Colorado Water Users Association meeting in Las Vegas in December with a standing room only crowd in attendance. The UCRC had several items of interest on its agenda. First and foremost was their anticipated public vote of approval of the Upper Basin DCP documents. While there was a unanimous vote of approval, without additional action, the UCRC Commissioners will not be executing the Upper Basin DCP documents unless and until the Lower Basin approves and is ready to execute their documents.

The Upper Basin DCP documents consist of three documents: 1. The Drought Response Operations Agreement, 2. The Demand Management Agreement, and 3. The Companion

Agreement. The Drought Response Operations Agreement creates a process by which the Upper Division states and the BOR will consult to determine how and when to release water from the upper CRSP initial units (Navajo, Flaming Gorge and the Aspinall Unit) to Lake Powell in order to prevent or delay Lake Powell falling below the critical elevation of 3525'. The document essentially attempts to create a formal seat at the table for the Upper Division states in the BOR's process of determining if and when to release water out of the Upper CRSP reservoirs to sustain Lake Powell's elevation but it does not lay out the details of how such releases will occur. Similarly, the Demand Management Agreement does not create a Demand Management program in the Upper Basin or within any states, rather it is an agreement to establish a storage account in Lake Powell (provided federal legislation authorizes the Secretary of Interior to do so) and it sets the stage for future actions by the UCRC and the Upper Division states, which enables those entities to create Demand Management programs in each Upper Division state that are coordinated and certified by the UCRC with verification by the Bureau of Reclamation. The actual work of creating a functioning Demand Management Program in Colorado or any other state has not been accomplished. The Companion Agreement is the Agreement which ties the Upper Basin DCP documents to the yet-to-be approved Lower Basin DCP documents and gives each basin a seat at the table to consult, verify and/or approve certain actions by actors in the other basin.

There also was an informative presentation by Robert Henrie (a BOR employee on loan to the UCRC) summarizing the scope, cost and effectiveness of the Upper Basin System Conservation Pilot Program ("SCPP") which took place between 2015 and 2018. Of note, the presentation concluded that there were approximately 47,425 Acre Feet of estimated Conserved Consumptive Use Water "created" during this four year program at a total cost of \$8,525,000.00 for an approximate per acre average price of \$180.00 per acre foot. According to Mr. Henrie's numbers, the average price per acre foot paid in Colorado for SCPP water was \$186.00. It was estimated that Colorado produced approximately 9,440 Acre Feet of Water, roughly 20% of the Basin total, during the program. If any Board members are interested, I have Mr. Henrie's power point presentation which contains greater detail and would be happy to share it with you. A number of issues were identified for further study. One of the largest issues facing any Demand Management program is verification of the actual existence of "conserved water". There are several methods for computing evapo-transpiration and the variations between them are significant raising questions as to how one accurately determines true consumptive water savings. Additionally, significant questions were raised and are unresolved regarding the true consumptive use savings of split season irrigation or deficit irrigation efforts. Many of these same issues have been identified by our Water Bank Work Group in its efforts with our partners in the Grand Valley and at Colorado State University.

The Ute Indian Tribe of the Unitah and Ouray Reservations located in Utah requested and was granted a slot on the UCRC Agenda. With the endorsement of the Ten Tribes, they are formally requesting a full seat on the UCRC. Their message to the UCRC was clear. The Tribe owns significant reserved water rights (as much as 500,000 Acre Feet) and they are willing to be part of the solution to the imbalance in the Colorado River but if they are not granted a seat at the table, they may become a significant hurdle in the Upper Basin's efforts at shoring up its ability to meet Compact obligations. The formal reception by the Commission was polite but not warm. Without voicing support or opposition, Wyoming's Commissioner, Pat Tyrell pointed out the legal and

political challenges facing such a change to the UCRC, i.e. modification to the 1948 Compact which would require approval from the Federal Government and four (and perhaps five) states' legislatures. The issue was left unresolved without any clear path forward to a solution. As you are aware, this tribe is one of several in the Upper Basin with federal reserved water rights in the Upper Colorado River Basin. It appears that this issue will be a significant matter that deserves attention and a productive resolution.

The 2018 CRWUA conference set a record in attendance and participation. The meeting was a bit anti-climactic due to the lack of agreement on the DCP in the Lower Basin. It was, however, a good opportunity for several staff members and directors to receive current information and perspectives on a variety of topics and make or strengthen relationships with water managers throughout the Basin. As I mentioned in my December memo to you, I had the opportunity to moderate a panel consisting of the four UCRC Commissioners and Amy Haas, the UCRC Executive Director on the details and content of the Upper Basin DCP. The panel was informative but nothing earth shattering came out during the discussion. Immediately prior to our panel discussion, BOR Commissioner Burman addressed the standing room only crowd of approximately 1,000 attendees. Commissioner Burman expressed the Department of Interior's concern that the DCPs were not completed. While she acknowledged that the Lower Basin is close it is not done. She specifically called out Arizona and the Imperial Irrigation District as problematic and stressed that if they were unable to get on board the federal government will be forced to act unilaterally in the face of the foreseeable shortage declaration in the Lower Basin.

There were many informative discussions including panel discussions on adaptation strategies in a changing climate and "Ag to urban water transfers". The panel on water transfers had some interesting information on the potential benefits and the actual harm caused by fallowing programs in places like the Palo Verde Irrigation District ("PVID") in California. The PVID representative's emphasis on the economic hit to his community are among the lessons that the Water Bank Work Group are presently studying.

i. Lower Gunnison Project Update.

Please see attached Memo (accessed in the electronic packet by clicking here).