

**THIRD REGULAR JOINT QUARTERLY MEETING OF THE
BOARD OF DIRECTORS OF THE
COLORADO RIVER WATER CONSERVATION DISTRICT
AND OF THE
COLORADO RIVER WATER CONSERVATION DISTRICT
ACTING BY AND THROUGH ITS COLORADO RIVER WATER PROJECTS ENTERPRISE**

July 21, 2020

Pursuant to notice duly and properly given, the Second Regular Joint Quarterly Meeting of the Board of Directors of the Colorado River Water Conservation District (CRWCD) and of the Colorado River Water Conservation District acting by and through its Colorado River Water Projects Enterprise was held on Tuesday July 21, 2020 via Zoom.

Directors participating during all or part of the meeting:

David H. Merritt, President	Martha Whitmore, Vice President
Tom Alvey	Tom Gray
Steve Acquafresca	Rebie Hazard
John Ely	Doug Monger
Alden Vanden Brink	William S. Trampe
Karn Stiegelmeier	Kathy Chandler-Henry
Mike Ritschard	Marc Catlin
Stan Whinnery	

Others participating during all or part of the meeting:

Andrew A. Mueller, General Manager, CRWCD
Peter Fleming, General Counsel, CRWCD
John Currier, Chief Engineer, CRWCD
Audrey Turner, Chief of Operations, CRWCD
Jason Turner, Senior Counsel, CRWCD
Laurie DePaolo, Executive Assistant, CRWCD
Jim Pokrandt, Director, Community Affairs, CRWCD
Ray Tenney, Deputy Chief Engineer, CRWCD
Dave Kanzer, Deputy Chief Engineer, CRWCD
Don Meyer, Sr. Water Resources Engineer, CRWCD
Ian Philips, Chief Accountant, CRWCD
Mike Eytel, Sr. Water Resources Specialist, CRWCD
Hunter Causey, Sr. Water Resources Engineer, CRWCD
Zane Kessler, Director of Government Relations, CRWCD
Luci Wilson, Accountant, CRWCD
Lorra Nichols, Paralegal, CRWCD
Alesha Fredrick, Director of Information & Outreach, CRWCD
Gracie Wright, Contract Administrator/Information Specialist, CRWCD
Eleanor Hasenbeck, Water Policy & Communications Fellow, CRWCD
Lyzzi Borkenhagen, Administrative Assistant, CRWCD
Lori Weigel, New Bridge Strategy
Dan Cudahy, McMahan and Associates, LLC
Yadira Miller, McMahan and Associates, LLC
Jeff Rieker, U.S. Bureau of Reclamation
Dee Wisor, Butler Snow, LLP
Heather Sackett, Aspen Journalism

¹An audio recording has been made of the meeting. The motions described herein may not necessarily represent a verbatim transcription. The audio recordings are available for listening at the CRWCD offices during regular office hours. These minutes are the official record of the Colorado River Water Conservation District's meeting.

Dennis Webb, Daily Sentential
Orla Bannon, Western Water Advocates
Ken Neubecker, American Rivers
Ted Kowalski, Walton Foundation
Sonja Chavez, Upper Gunnison River Water Conservancy District
Laura Spann, Southwestern Water Conservation District
Maria Pastore, Colorado Springs Utilities
Steve Anderson, Uncompahgre Valley Water Users Association
Kyle Whittaker, Northern Water Conservancy District
Jackie Brown, Tri-State Generation & Transmission
Curran Trick Cliff Thompson
Katherine Duncan Cindy Dozier
Matt Rice Fay Hartman
Lauren Boebert JR Hamby
Sinjin Eberle April Long
Matt Mosely Eleanor Morris
Isabelle Deibel Martha Moore
Victor Lee Juan Roberto Madrid
Tony Massaro Meredith Brown

Quorum.

President Merritt found a quorum and called the meeting to order at 8:33 a.m.

Review Meeting Agenda and Objectives.

No changes were made to the agenda.

Consent Agenda.

Director Ely requested a correction on page 4 of the April 21, 2020 Second Regular Joint Quarterly Meeting minutes to reflect his vote opposing the Crystal River Study. Director Whitmore moved, seconded by Director Ely, to approve the consent agenda with the corrected minutes. Motion carried unanimously.

- a. Approval of Minutes and Actions Taken:
 - i. Minutes of Second Regular Joint Quarterly Meeting, April 21, 2020.
 - ii. Minutes of Special Joint Meeting, Teleconference, June 4, 2020.

General Counsel’s Report – Executive Session.

Peter Fleming reported that the following matters qualify for discussion in Executive Session pursuant to C.R.S. §§ 24-6-402(4) (a) property (b) (legal advice) and (e) (negotiations). Mr. Fleming also noted that agenda items 3.a.i. and 3. a. ix did not warrant discussion during Executive Session.

- i. Wolford Mountain Reservoir and Ritschard Dam Operations. (An Enterprise Matter).
- ii. Application of Ouray County, Ouray County Water Users Association and Tri-County Water Conservancy District, Case No. 19CW3098, Water Division 4.
- iii. Colorado River Cooperative Agreement (CRCA) Implementation Matters.
- iv. Colorado Springs Utilities, Case No. 15CW3019, Water Division 5.
- iv. Upper Colorado River Wild and Scenic Alternative Management Plan.
- v. Colorado River District Conditional Water Rights (Enterprise and General District Matters).
- vi. Discussion of Potential Disposition of Land in Moffat County.
- vii. Paradox Unit Salinity Control Status.
- viii. Colorado River Compact, Interstate, International, and Intrastate Negotiation Matters, including Demand Management.

ix. Fair Campaign Practices Act and Potential Ballot Question.

Director Monger moved, seconded by Director Hazard, to proceed into Executive Session pursuant to C.R.S. §§ 24-6-402(4)(b) (legal advice) and (e) (negotiations). Motion carried unanimously.

Peter Fleming stated that no further record of the Executive Session need be kept based on his opinion that the discussion will constitute privileged attorney-client communications.

President Merritt reconvened into Public Session at 10:05 a.m.

General Counsel's Report – Public Session.

Peter Fleming reported that during Executive Session, the Board provided guidance to staff and General Counsel on the following matters:

- i. Wolford Mountain Reservoir and Ritschard Dam Operations. (An Enterprise Matter).
- ii. Application of Ouray County, Ouray County Water Users Association and Tri-County Water Conservancy District, Case No. 19CW3098, Water Division 4.
- iii. Colorado River Cooperative Agreement (CRCA) Implementation Matters.
- iv. Colorado Springs Utilities, Case No. 15CW3019, Water Division 5.
- iv. Upper Colorado River Wild and Scenic Alternative Management Plan.
- v. Colorado River District Conditional Water Rights (Enterprise and General District Matters).
- vi. Discussion of Potential Disposition of Land in Moffat County.
- vii. Paradox Unit Salinity Control Status.
- viii. Colorado River Compact, Interstate, International, and Intrastate Negotiation Matters, including Demand Management.
- ix. Fair Campaign Practices Act and Potential Ballot Question.

Mr. Fleming also reported that agenda items 3.a. i. and 3 a.ix. were not discussed and Vice President Whitmore was not present during the discussion of agenda item 3.a.ii.

Director Acquafresca moved, seconded by Director Chandler-Henry, to authorize staff and counsel to execute a proposed amendment to the Green Mountain Reservoir Administrative Protocol Agreement and execute and file as co-applicant an Amended Application for Determination of Water Rights for Confirmation of the Green Mountain Reservoir Administrative Protocol in Motion carried unanimously.

Director Trampe moved, seconded by Director Ritschard, to authorize staff and counsel to file an application as co-applicant with Denver Water seeking a finding of reasonable diligence for the conditional Wolford Mountain Reservoir/Dillon Reservoir Exchange. Motion carried unanimously.

Director Ritschard moved, seconded by Director Trampe, to confirm the Board's intent to maintain the conditional Wolford Mountain Reservoir Second Enlargement and direct staff to take the steps necessary to complete the appropriation in a reasonably expedient and efficient manner consistent with Colorado law, and to direct counsel and staff to file an application seeking a finding of reasonable diligence for the conditional Wolford Mountain Reservoir Second Enlargement water right. Motion carried unanimously.

Director Hazard moved, seconded by Director Gray, to relinquish any remaining interest in the Basalt Project water rights to the Basalt Water Conservancy District this would not affect the River District's interests and ownership in Ruedi Reservoir. Motion carried unanimously.

Director Gray moved, seconded by Director Whitmore, to convey a parcel of land to David and Nikora Myers at an agreed upon price, contingent upon Moffat County's approval of the conveyance as a boundary adjustment. Motion carried unanimously.

Director Trampe moved, seconded by Director Vanden Brink, to authorize counsel to execute a proposed amended stipulation in the Application of the United States of America for the Taylor Park Reservoir Exchange/Refill Right, Case No. 11CW31, Water Division 4. Motion carried unanimously.

General Manager's Report.

WaterSmart Grant Update:

Andy Mueller reported that the River District has executed a contract for a WaterSmart grant that will provide up to \$315,000 towards the District's studies on demand management including the Risk Study, the Secondary Economic Impact Study, and a West Slope Demand Management Stakeholder Group that is currently being formed. The group will be composed of West Slope water users representing agricultural, municipal, industrial, and environmental interests and will use a facilitator. The goal of the group will be to examine potential structures and rules for a potential demand management program and achieve consensus.

Update on CRWCD Long Term Financial Condition and Discussion Regarding Potential Ballot Question:

Andy Mueller reminded the Board of its direction at the April 2020 quarterly meeting to conduct additional research on a potential ballot question in November to increase the River District's mill levy by .248 mills for a total mill levy of .500 mills. Lori Weigel of New Bridge Strategy conducted additional polling of River District constituents in June. Ms. Weigel noted that just as in March, the results indicated a favorable response to the River District's mission and voting for a mill levy increase despite the impacts of the coronavirus.

Mr. Mueller reviewed draft ballot language and a draft fiscal implementation plan outlining potential uses of increased tax revenues to benefit and protect West Slope water uses and noted the addition of language to both documents that no revenues would be allocated to fallow agricultural land.

Following an extensive and detailed discussion, Director Whitmore moved, seconded by Director Chandler-Henry, to adopt Resolution 2020-1 that approves the ballot language with minor modifications as discussed, authorizes Board officers and the General Manager and General Counsel to certify the same to the Clerk and Recorder of all 15 counties within the River District boundaries, and adopt the attached fiscal implementation plan with the inclusion of language committing the District to coordinate and consult with local elected officials in any and all relevant counties prior to committing any funds to any specific project or activity as a clear expression of the District's commitment as to how the additional taxpayer funds will be spent if the voters approve said ballot question. Motion carried with Director Ely voting against the motion. (The Resolution and Fiscal Implementation Plan are attached as Appendices A. and B.).

Discussion with Jeff Rieker, Manager, Eastern Colorado Area Office, U.S. Bureau of Reclamation (USBR).

Jeff Rieker outlined some of the responsibilities of the USBR Eastern Colorado Area Office that include operation of the Fry-Ark Project (Ruedi Reservoir) and Green Mountain Reservoir, overseeing the operation of the Colorado-Big Thompson Project, and monitoring the Heeney Slide at Green Mountain Reservoir. Mr. Rieker also agreed to schedule a staff level meeting between the Eastern Colorado Area Office and River District staff to discuss issues of interest to the District.

General Manager's Report (Cont'd.).

Discussion of Draft Parental Leave Policy:

Director Stiegelmeier moved, seconded by Director Chandler-Henry, to adopt a parental leave policy that allows a full-time regular employee who has been employed for at least six months up to four weeks of paid

time off for the birth, adoption, or placement of a foster care child, to be used within 12 months of the event, in addition to an employee's use of accrued vacation, sick or unpaid leave. Motion carried unanimously.

Drought Contingency Planning and Demand Management Update:

Mr. Mueller noted that discussions are continuing at various levels throughout the Upper Basin on drought contingency planning and demand management.

Colorado River Basin Hydrology:

It was reported that current conditions are very dry, and apart from the Upper Yampa watershed, every sub-basin within the Colorado River Basin is near or below 50% of the 30-year average.

Phase III Risk Study Update:

Director Alvey moved, seconded by Director Trampe, to approve a contract amendment with Hydros Consulting extending the contract to July 31, 2021 and increasing the amount of the contract by \$100,000 for ongoing modeling work connected to the Phase III Risk Study with funding being provided by the WaterSmart grant and participating entities. Motion carried unanimously.

Presentation of 2019 CRWCD Audit by Dan Cudahy of McMahan and Associates, LLC.

Representing the River District's auditor for calendar year 2019, Dan Cudahy reported that in their opinion, the financial statements present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund and aggregate remaining fund information of the Colorado River Water Conservation District as of December 31, 2019. He also stated that the respective changes in financial position and cash flows were acceptable for the year and conform to generally accepted accounting principles. The audit report will be made available on the District's web page.

Acceptance of 2019 CRWCD Audit:

Director Vanden Brink moved, seconded by Director Trampe, to accept the 2019 CRWCD audit as presented. Motion carried unanimously.

Water Bank Workgroup Update:

It was reported that a draft final report on the Secondary Economic Impact Study has been issued and a presentation of the final report will be scheduled for the October 20, 2020 quarterly board meeting.

Upper Colorado Wild and Scenic Alternative Management Plan Update:

The U.S. Bureau of Reclamation and the U.S. Forest Service recently accepted an Amended and Restated Upper Colorado River Wild & Scenic Stakeholder Management Plan. The River District has been very active in the development of the plan.

Service Anniversaries Recognition:

Andy Mueller expressed the River District's appreciation to Jim Pokrandt for his 15 years of service to the District and then expressed the District's appreciation to John Currier for his 10 years of service to the District. Mr. Pokrandt and Mr. Currier will be retiring from the River District this year.

Directors' Updates/Concerns.

Directors reported that drought impacts have been severe throughout the River District, fires have been breaking out, and counties are continuing to deal with the impacts of the coronavirus.

Annual Policy Discussion.

Funding/Infrastructure:

Director Whitmore moved, seconded by Director Trampe, to adopt the River District's Funding/Infrastructure Policy as presented. Motion carried unanimously.

Colorado River Compacts/Entitlements:

Director Whitmore moved, seconded by Director Trampe, to adopt the River District's Colorado River Compacts/Entitlements Policy as presented. Motion carried unanimously.

Interstate Water Marketing:

Director Whitmore moved, seconded by Director Trampe, to list the River District's Interstate Water Marketing Policy as presented. Motion carried unanimously.

Transmountain Diversions:

Director Whitmore moved, seconded by Director Trampe, to adopt the River District's Transmountain Diversions Policy as presented. Motion carried unanimously. (The Policies are attached as Appendices C.-F.).

External Affairs.

Information and Outreach Update:

Because of COVID-19 restrictions, the River District's public outreach effort has successfully pivoted to virtual events including three State of the River meetings and, Water with Your Lunch webinars which occur during the lunch hour. The District's annual water seminar is being planned as several 60-90-minute webinars with guest presenters as well as staff. Outreach through social media is also continuing and has proven to be very effective. Also gaining interest is the River District's News Drop newsletter.

State Affairs:

Zane Kessler reported that budget cuts for the coming fiscal year included significant cuts to the Department of Natural Resources and the Colorado Water Conservation Board including the elimination of \$10 million for Water Plan implementation funding. Interim committees including the Water Resources and Wildfire Matters Review Committees have suspended for lack of funds.

Federal Affairs:

Mr. Kessler reported that Senator Cory Gardner introduced the Great Outdoors Act which permanently funds the Land Water Conservation Fund at \$900 million annually rather than having the funding levels being determined by congressional appropriations every year. He also reported that the House of Representatives passed the Moving Forward Act that includes authorization for almost \$70 billion for water infrastructure. The bill will move to the Senate.

Project Operations and Updates (Enterprise Matters).

Wolford Mountain Reservoir:

Hunter Causey updated the Board on current activities at both Wolford and Elkhead Reservoirs including successful dam inspections by the Office of Dam Safety and ongoing maintenance activities. He also noted that coronavirus safety protocols are in place at the Wolford Campground and recreation area and both areas are experiencing significant use.

Future Meetings.

- a. CRWCD 2021 Budget Workshop, **Date and Location TBD.**
- b. CRWCD Annual Seminar/Webinar, **TBD.**
- c. Fourth Regular Joint Quarterly Meeting, **October 20-21, 2020, Glenwood Springs, CO.**
- d. Other Meetings:
 - i. CWC Summer Event, **TBD.**
 - ii. CRWUA Conference, **December 14-16, 2020, Las Vegas, NV.**

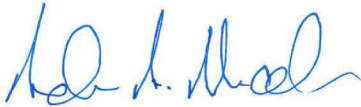
Adjourn.

There being no other business before the Board, President Merritt adjourned the meeting at 4:48 p.m.



David H. Merritt, President

ATTEST:



Andrew A. Mueller, Secretary/General Manager

Executive Session Attestations.

I hereby attest that the portions of the Executive Session that were not recorded constituted privileged attorney-client communications.



Peter Fleming, General Counsel

Adopted July 18, 2017

Revised and readopted July 21, 2020 (combining former separate Funding and Infrastructure policies)

Funding: Water Infrastructure and Programs

Colorado River Water Conservation District Policy Statements:

The Colorado River Water Conservation District (River District) believes the State of Colorado and the federal government have important roles and responsibilities in water planning and development. Moreover, the state and federal governments should encourage investment in capital maintenance, including extraordinary maintenance, to address and maintain – and upgrade where possible - the full function and benefit of Colorado’s aging water infrastructure.

In Colorado, the River District advocates that the state establish reliable and sustainable revenue resources to achieve the above goals. This goal should address full funding of Colorado’s Water Plan.

In the meantime, the state must protect revenues dedicated for water projects and programs for their statutorily intended uses (*i.e.*, no more transfers to the General Fund) and develop dedicated revenue sources that provide for consistent and predictable annual appropriations.

Background & Discussion:

Severance tax and federal mineral leasing (FML) revenues have been the predominant sources of funding for water projects and programs supported and administered by the Colorado Water Conservation Board (CWCB). Historically, all or a portion of these funds have been subject in times of tight state budgets to transfer to the state’s General Fund for non-water related expenditure.

Annual severance tax and FML revenues are largely determined by world energy prices, which fluctuate dramatically year-to-year and are extremely difficult to forecast reliably. An additional challenge to the viability of these funding streams is generated by our society’s push to wean itself from dependence on fossil fuels. These fluctuations, lack of dependable forecasts and an overall declining revenue stream lead to unreliable budgeting and challenging fiscal management. State assistance to water projects and programs is too important to remain reliant on such unpredictable, erratic and declining revenue sources.

In 2019, Colorado voters approved Proposition DD to allow limited sports gambling. Tax revenues, after allocations to prevention programs and administration, will be dedicated to projects and initiatives proscribed in Colorado’s Water Plan. The Colorado River District position is that DD is only a down payment on Colorado’s Water Plan funding and that adoption of additional permanent funding should be a statewide priority.

The River District recognizes that being dependent upon federal and state funding for protection of water resources within the District is not the entire solution and as such the District supports the development of a reliable local funding stream to enable the District to meet its mission of protecting the water resources originating within the District for the use and enjoyment of its constituents.

Adopted July 19, 2005
Revised and readopted April 2008
Revised and readopted July 2011
Revised and readopted April 2014
Revised and readopted April 2017
Revised and adopted July 2020 (combining former separate Compacts and Entitlements policies)

Colorado River Compacts and Entitlements

Colorado River Water Conservation District Policy Statement:

The Colorado River Compacts of 1922 and 1948 must be enforced, protected and defended from legal challenge or amendment unless all seven basin states agree to the terms of any proposed change.

As proscribed in the Colorado River Water Conservation District's (River District) organic legislation in 1937, the River District is "given such powers as may be necessary to safeguard for Colorado, all waters to which the state of Colorado is equitably entitled under the Colorado River Compact."

The River District recognizes that the Colorado River is a highly variable system, and this hydrologic variability is forecast to become more frequent and more pronounced in the future. Therefore, the River District will continue to support the State of Colorado, in cooperation with the other three upper division states, in the development and implementation compact compliance strategies so that the Upper Basin will be fully prepared for periods of extended droughts that minimize impacts to existing uses and minimize the potential for shortages and disruptions to present and future West Slope economies.

New Colorado River water uses must be developed in a manner that minimizes the risk of compact curtailment to existing users.

The River District shall lead efforts to analyze the risk and risk factors of compact curtailment. Such analyses shall explore early warning signs of possible curtailment and recommend alternative avoidance and mitigation responses.

The River District shall lead the effort to inventory and maximize the efficient use of water supplies exempt from compact administration to ensure western Colorado retains the full benefit of pre-compact water rights.

Background & Discussion:

The State of Colorado is signatory to the 1922 Colorado River Compact and the 1948 Upper Colorado River Basin Compact. The 1922 and 1948 Compacts, along with the 1944 International Treaty with Mexico, other federal laws, and United States Supreme Court decisions comprise the "Law of the River." The diversion of Colorado River water for consumptive beneficial uses within the State of Colorado is subject to, and limited by, provisions of the Law of the River.

Today, the 1922 Compact negotiators allocated a greater amount of water than is reliably available. This and other unresolved technical and legal issues result in conflicting interpretations of the 1922 Compact. Resolution of unresolved Colorado River compact issues, such as the Mexican Treaty obligation and the accounting of Lower Basin tributaries, will be challenging, time consuming, and costly. However, the cost of inaction is even greater.

Curtailment of Colorado River water uses to meet the 1922 Compact requirements, should it ever occur, is projected to impact all or nearly all post-compact Colorado River water uses. As additional water development in Colorado occurs, the risk of reaching or exceeding our compact entitlement increases. Due to the anticipated magnitude of any interstate curtailment, this risk will likely be shared by all post-compact water users in Colorado. The risks to the West Slope posed by the potential acquisition of pre-compact water rights by non-West Slope interests and dry-up of associated agricultural lands must be addressed. Further, the future effects of, and uncertainty surrounding, climate change represent additional risk and challenges regarding determination and management of Colorado's remaining Colorado River entitlement and must be addressed.

The primary purposes of both compacts are to provide legal certainty regarding how much water each state can develop, to allow states to develop their water resources when the water is needed, and to preclude the interstate application of the prior appropriation doctrine. The Colorado River Compacts protect Colorado from downstream states claiming prior (senior) use of the Colorado River that would preclude Colorado's eventual development of its full consumptive use entitlement.

There are, however, disputes about the interpretation of the language of the compacts. These include conflicting language allocating the river's waters: "in perpetuity to the Upper Basin and to the Lower Basin, respectively, the exclusive beneficial consumptive use of 7,500,000 acre feet of water per annum" (*Article III(a)*) and the requirement that "the States of the Upper Division will not cause the flow of the river at Lee Ferry to be depleted below an aggregate of 75,000,000 acre feet for any period of ten consecutive years."(*Article III(d)*) Interbasin differences also include unresolved issues between the Upper and Lower Basin states regarding respective water delivery obligations to the Republic of Mexico. Failure of the seven basin states to harmonize the terms, conditions and interpretation of the compacts by mutual agreement invites unilateral federal intervention to resolve these differences and legal proceedings that will be protracted, divisive, and exceptionally expensive.

Colorado must continue to improve and refine technical data regarding existing Colorado River uses within the state and throughout the Colorado River Basin, including a consistent and common method for calculating consumptive uses among the four Upper Basin states. Additionally, more and better science must be developed regarding historical Colorado River flows and periodic, sustained droughts, including refinement of paleo-hydrology studies and the potential impacts of climate variability on basin-wide hydrology.

The Colorado River Compact of 1922 expressly grandfathers water uses which pre-date the compact, protecting them from being curtailed when compact administration occurs. Therefore, full legal protection, along with efficient use, including by exchange, is of paramount importance regarding these strategic water rights.

The River District's involvement should include an active education program of its constituents, as well as other affected parties, regarding the issues involved, the importance of water storage and conservation, and the consequences of inaction.

Adopted July 19, 2005
Revised and readopted April 2008
Revised and readopted July 2011
Revised and readopted April 2014
Readopted April 2017
Readopted July 2020

Interstate Water Marketing

Colorado River Water Conservation District Policy Statements: The Colorado River Water Conservation District (River District) opposes any proposal to market Colorado River water between the states of the Upper Colorado River Basin and Lower Colorado River Basin states without the unanimous consent of all seven states. The District also opposes marketing of Compact-related waters among states of the Upper Colorado River Basin without similar, unanimous consent of the Upper Basin states.

Background & Discussion:

The State of Colorado is signatory to the 1922 Colorado River Compact and the 1948 Upper Colorado River Basin Compact. The 1922 and 1948 compacts, along with the 1944 International Treaty with Mexico, a number of other federal laws, and United States Supreme Court decisions comprise the “Law of the River.” The diversion of Colorado River water for consumptive beneficial uses within the State of Colorado is subject to, and limited by, provisions of the Law of the River.

The Colorado River Compacts of 1922 and 1948 protect Colorado from downstream states claiming prior (senior) use that would preclude Colorado’s eventual development of its full entitlement. Accordingly, the compacts must be protected and defended from legal challenge or amendment unless all seven basin states agree to the terms of any proposed change. Any non-consensual proposal to market water between basins may represent an abrogation of the 1922 Compact.

The primary purposes of both compacts are to provide legal certainty regarding how much water each state can develop, to allow states to develop their water resources when the water is needed, and to preclude the interstate application of the prior appropriation doctrine. These, and other, benefits of the compacts outweigh any short-term benefit that may accrue to one state from interstate marketing of its compact-allocated water.

Under most interpretations of the compacts, the upper basin states do not have a clearly quantified allocation. Therefore, one upper basin state selling a portion of its unquantified entitlement is problematic, at best. At worst, it introduces lower basin interests into any eventual resolution of ambiguities in the 1948 Upper Colorado River Basin Compact and changes allegiances within the Upper Basin when negotiating ambiguities in the 1922 Compact.

In the lower basin of the Colorado River, interstate water storage agreements and consensual water marketing among states of the lower basin have been an important tool to manage limited supplies of and increasing demands for Colorado River water. Because of the structure and operation of the Colorado River, consistent with the Colorado River Compact of 1922, the River District fully supports water marketing among the lower basin states of the Colorado River contingent upon their mutual agreement.

Adopted March 16, 2000
Revised & readopted July 19, 2005
Revised and readopted April 16, 2008
Revised and readopted July 2011
Revised and readopted April 2017
Revised and readopted July 2020

Transmountain Water Diversions

Colorado River Water Conservation District Policy Statements:

The Colorado River Water Conservation District (River District) believes there is no current or reasonably foreseeable need for new transmountain diversion projects. Transmountain diversion of Colorado River water results in adverse economic, environmental, and recreational impacts to the basin of origin. Front Range water demands can be met through a combination of better groundwater management, conservation, reuse, system interconnections, re-operations, and in-basin transfers and exchanges.

Nevertheless, transmountain diversion proposals are likely to persist. Accordingly, the River District will continue its historical willingness to examine fairly and thoroughly all project proposals and to work with willing project proponents to determine if an acceptable project can be developed that provides genuine benefits to both the receiving and exporting basins. In any examination of potential new transmountain diversion projects, the River District, at a minimum, will insist on adherence to the seven principles enumerated in the “IBCC Conceptual Framework” as described in Colorado’s Water Plan, 2015.

The River District will advocate for and pursue full water-related mitigation for every transmountain project. Present and future West Slope water uses, including environmental and recreational needs, must be recognized and protected.

The River District will ensure that mitigation conditions on existing transmountain diversion projects are honored and upheld for the protection of in-basin water users and local environments. Additionally, the River District will advocate that the transmountain diverted waters be efficiently used and fully reused to extinction wherever allowed by law.

Transmountain diversion projects seeking re-operations that result in an expansion of historical use must consult with the basin from which water is being diverted. Alternative re-operation regimes should include those that protect and benefit both the diverter and the basin-of-origin.

Background:

Most of the Colorado’s water is on the western side of the Continental Divide, while Colorado’s population lives predominantly along the Front Range on the state’s eastern slope. As a result, Colorado has dozens of water projects that divert water from the Colorado River basin across the Divide. These projects range from small projects diverting a few hundred acre feet of water per year to the Colorado-Big Thompson (C-BT) Project, which diverts an average of more than 220,000 acre feet annually. On average, a total of roughly 500,000 acre feet of Colorado River Basin water is transmountain diverted annually in Colorado.

Transmountain diversion of water is 100% consumptive for the basin-of-origin. As such, transmountain diversion projects, especially larger transmountain diversions, often have unique

and significant impacts on the basin from which the water is diverted. Therefore, water diverted across the Continental Divide must be used, reused whenever legally allowable, and be integrated into an overall program of water conservation.

The primary goal of the River District is the protection of existing water uses and preservation of future economic opportunities for the residents of Western Colorado. The River District is committed to meeting the present and future water needs of its residents.

The River District supports the House Bill 05-1177 process that resulted in the 2015 Colorado's Water Plan, especially the basin-by-basin review and identification of both consumptive and non-consumptive water needs and potential supply alternatives. Additionally, the District participated with the Interbasin Compact Committee (IBCC) formed by HB 1177 that developed the consensus criteria that any new transmountain diversion proposal should follow to ensure adequate local input, protection of local authorities, acceptance of hydrologic risk by the proponent, and full mitigation. These criteria are formalized as the "IBCC Conceptual Framework" for new water project development in Colorado's Water Plan, 2015.

Western Colorado's economy is increasingly dependent on tourism-related construction and recreational industries that rely on adequate stream flows and healthy river systems. As such, adequate protections for all Western Colorado water uses, including non-consumptive environmental and recreational uses, benefit the entire state.