

RESOLUTION
of the
COLORADO WATER CONSERVATION BOARD
September 19, 2018

Regarding the Emergency Upper Basin Drought Contingency Plan and
Colorado's Participation in Demand Management

WHEREAS, the Upper Colorado River Commission ("UCRC") is currently considering the adoption of an Emergency Upper Basin Drought Contingency Plan, which includes a commitment to explore developing and implementing a temporary, voluntary, and compensated demand management program that will make use of a new storage account in Lake Powell or other initial units of the Colorado River Storage Project Act ("Demand Management Program");

WHEREAS, the UCRC has explained that the purpose of a demand management program is to reduce existing consumptive uses within the Upper Basin, if and when needed, to protect against impacts from Lake Powell reaching critical elevations to help assure full compliance with the Colorado River Compact without impairing the right to exercise any existing Upper Basin water rights in the future;

WHEREAS, the CWCB supports the purpose of the Demand Management Program but also recognizes that the program is controversial within Colorado because the water contributed to the program will be generated through reductions in existing consumptive uses and may have associated impacts to local economies; and

WHEREAS, the CWCB recognizes that, in order to ensure the program is implemented consistent with the public presentations and actions of the Upper Colorado River Commission, the State of Colorado, and other public entities, it is appropriate and prudent to establish a set of basic principles that will govern further exploration, adoption and implementation of a Demand Management Program within Colorado.

NOW, THEREFORE, BE IT RESOLVED, by the Colorado Water Conservation Board (CWCB) at its regular meeting held on September 19, 2018 in Steamboat Springs, Colorado that, as a matter of state water policy, the following principles apply to Colorado's participation in a Demand Management Program:

1. The storage account in Lake Powell or other CRSPA initial units must be available without charge, used for the purpose of storing water created by managing consumptive uses under a Demand Management Program, for the exclusive benefit of the Upper Division States to ensure compliance with Article III of the Colorado River Compact ("Upper Division storage account").
2. The Upper Division storage account must be exempt from coordinated operations between Lakes Mead and Powell. In other words, such an account should not be subject to equalization or balancing releases from Lake Powell.

3. Colorado's contributions to the Demand Management Program will be generated exclusively through voluntary, temporary and compensated contributions of water that was beneficially used under existing rights and otherwise would have depleted flows in the Upper Basin within Colorado prior to being conserved as part of that program. The conserved water would be stored and accounted for in the Upper Division storage account until it is determined by the Upper Colorado River Commission ("UCRC") that release of the water is necessary for compliance with the Colorado River Compact. A demand management program will reflect proportionate contributions from each Upper Division state.
4. The creation, delivery, and use of the conserved water must not injure the water rights of others. Conserved water shall not be consumptively used by others within any Upper Division state.
5. The Demand Management Program will be implemented to avoid disproportionate impacts to any single basin or region within Colorado. This means that the water generated from Colorado under the Demand Management Program will be derived from water rights used on both sides of the Continental Divide and, more specifically, in amounts that are roughly proportionate to those two regions' post-compact depletions from the Colorado River. The payments for water generated by demand management should be market-based within the area or market from which the water is generated, and recognizing different market values for water within the state, will not necessarily be proportionate between basins. No water user would be required to contribute conserved water for this purpose and no entity or person would be expected or required to contribute funds for this purpose. Contributions would also be subject to annual and cumulative volumetric caps.
6. Colorado's participation in a Demand Management Program must be consistent with Principles 1 through 7 of the Conceptual Framework set forth in Colorado's Water Plan.

BE IT FURTHER RESOLVED that other uses of, or methods of contributions to, a demand management program or the Upper Division Storage Account within Colorado be made on a consensus basis including the Colorado River Water Conservation District, the Southwestern Conservation District, and other stakeholders.;

BE IT FURTHER RESOLVED that the CWCB, pursuant to its statutory authorities and duties, urges Colorado's State Engineer to also endorse the principles articulated above with respect to his authorities;

FINALLY BE IT FURTHER RESOLVED that the CWCB authorizes its staff to disseminate and make publicly available this resolution.

CERTIFICATE

I certify the foregoing is a true and correct copy of the resolution adopted by a majority vote of the members of the CWCB in regular session assembled in Steamboat Springs, Colorado on September 19, 2018 at which a quorum was present.

Jim Yahn, Chair