



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Brent Newman, Interstate, Federal, & Water Information Section
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DATE: September 19, 2018

AGENDA ITEM: 13. Colorado River Basin Drought Contingency Planning

Background

Since January 2018, CWCB staff and members of the Attorney General's Office have been conducting a series of outreach presentations regarding drought contingency planning efforts underway in the Colorado River basin. Consistent with direction from the Board, these efforts have served dual purposes: to educate and inform interested stakeholders about the status of ongoing efforts to develop drought contingency plans in the Upper and Lower Colorado River Basins, and to solicit feedback from Colorado water users regarding the concept of demand management as a potential drought contingency tool for avoiding the need for compact administration in the event of continued drought or worsening hydrology.

These presentations have occurred in conjunction with water seminars, basin roundtable meetings, conservancy district board meetings, a meeting of the Interim Water Resources Review Committee, and Colorado Water Congress' summer conference. Specifically, staff have highlighted ongoing Drought Contingency Planning (DCP) efforts to protect critical reservoir elevations at Lake Powell and Lake Mead and avoid compact curtailment in the Colorado River Basin, and introduced the concept of demand management as a potential drought contingency tool to consider going forward.

The Upper Basin DCP does not establish any demand management program. Rather, it contemplates the potential interest and utility for such program in the future, and provides a mechanism to further explore development of a program if desired. Before any demand management program could be developed, an array of legal, technical, economic and operational challenges must be addressed. Because each of these challenges has potential benefits and impacts throughout the state, the CWCB has been and continues to be involved in gathering input and feedback on the utility and structure of demand management, as well as the challenges and opportunities that any demand management program would pose to the state and its water users. This process is iterative and is not expected to end in the near future. CWCB and AG staff expect to continue evaluating the various considerations, cautions



and suggestions regarding demand management as the program continues to be explored throughout the Upper Basin and within Colorado.

Sustainability of the Colorado River system is in the interest of the entire state. If a demand management program is determined to be feasible, the parameters for its operation must be set forth in a cooperative process that allows for stakeholder input, while recognizing the interaction between interstate and intrastate efforts.

To date, interest in the DCPs and the concept of a potential demand management program, its limits, operations, application, etc., has been significant. Stakeholders have currently identified a number of potential cautions, considerations and guidelines for the state to consider or adopt before developing and implementing any demand management program in Colorado. The water users have currently considered these and other issues as necessary sideboards to effectively protect and promote the interests of Colorado water users and communities throughout the state. These key issues currently include, but are not limited to:

- Whether the program would be limited to “temporary, voluntary, and compensated” conservation activities or be expanded to include something more;
- Identifying the source of funding for a temporary, voluntary, compensated demand management program;
- Whether the program would be used to help assure continued compliance with the Colorado River Compact or something more;
- How any demand management program would operate to share the benefits and burdens associated, so as to avoid any one sector or geographic area shouldering a disproportionate and negative burden by participating in the program;
- How to avoid water speculation as a result of the program;
- How the program could be operated consistent with Colorado law, including but not limited to: avoiding injury to other water users, shepherding water to designated storage facilities, assuring that participation in the program will not constitute non-use for purposes of change cases or abandonment proceedings, etc.;
- Identifying the roles and authorities regarding the interplay between interstate discussions and negotiations on the Colorado River and the intrastate conversations and considerations of Colorado water users regarding demand management; and
- Understanding the extent to which the state would engage and work in tandem with stakeholders on rules for compact administration before considering a pivot from temporary, voluntary, and compensated demand management to something more akin to mandatory curtailment.

Staff recommendation

Staff recommends that the Board take testimony from the public regarding demand management. Staff recommends the Board consider, in consultation with the State Engineer, adopting a position that sets forth the Board’s approach for determining how evaluation, exploration, and development of any demand management program in Colorado will proceed. The intent of this position and direction to staff will be to appropriately capture and address both current and future input regarding demand management as it evolves. Staff will be



prepared to present the Board with draft position considerations following testimony by the public and the opportunity to have any legal advice provided during executive session.

