



## The Colorado River Cooperative Agreement<sup>1</sup>

May 15, 2012

### Introduction

The Colorado River Cooperative Agreement is the product of five years of mediated negotiations. The negotiations were triggered by several events. In 2003, Denver Water initiated the National Environmental Policy Act (NEPA) process with the U.S. Army Corps of Engineers to enlarge Gross Reservoir. In 2006, Denver Water filed a diligence application in federal court regarding some of its water rights under the Blue River Decree. These filings created the potential for significant litigation and political dispute between Colorado's East and West Slopes. In 2006, several West Slope entities met with then-Mayor Hickenlooper, who suggested that resolution of longstanding disputes over water would require the services of a mediator. John Bickerman began serving as the mediator for the negotiations in February 2007.

The proposed agreement goes well beyond these triggering events, however. Its geographic scope is from the Front Range, across the Continental Divide, to the western state line. It directly involves 43 parties that are either signing the agreement or receiving benefits:

#### Signatories to CRCA

- Denver Water
- Colorado River Water Conservation District
- Middle Park Water Conservancy District
- Board of County Commissioners of Eagle County
- Board of County Commissioners of Grand County
- Board of County Commissioners of Summit County
- Clinton Reservoir Company
- Eagle Park Reservoir Company
- Eagle River Water and Sanitation District
- Upper Eagle Regional Water Authority
- Grand Valley Water Users Association
- Orchard Mesa Irrigation District
- Ute Water Conservancy District
- Palisade Irrigation District
- Mesa County Irrigation District
- Grand Valley Irrigation Company
- City of Glenwood Springs

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<sup>1</sup> This briefing is only a summary of the proposed agreement and does not represent the interpretation of the agreement by any party.

- City of Rifle

#### Entities Receiving Water or Money – Signatories to Implementation Agreements

##### Grand County

- Granby Sanitation District
- Grand County Mutual Ditch and Reservoir Company
- Grand County Water and Sanitation District No. 1
- Tabernash Meadows Water and Sanitation District
- Town of Fraser
- Town of Granby
- Winter Park Ranch Water and Sanitation District
- Winter Park Recreational Association
- Winter Park Water and Sanitation District

##### Summit County

- Arapahoe Basin Ski Area
- Copper Mountain Metro District
- Copper Mountain Resort
- Dillon Valley Metro District
- Frisco Sanitation District
- Snake River Water District
- Town of Breckenridge
- Town of Dillon
- Town of Frisco
- Town of Silverthorne
- Vail Summit Resorts (Breckenridge)
- Vail Summit Resorts (Keystone)
- Buffalo Mountain Metropolitan District
- East Dillon Water District
- Hamilton Creek Metropolitan District
- Mesa Cortina Water and Sanitation District

#### **Overview**

The proposed agreement begins a long-term partnership between Denver Water and the West Slope. The agreement is really a framework for numerous actions by the parties to benefit water supply, water quality, recreation, and the environment on both sides of the Continental Divide. Provisions in the agreement are effective: (1) upon execution, (2) when the federal district court approves the parties' stipulations in the Blue River (water) Decree, (3) when the Denver Water Board accepts all the permits necessary for the construction of the Moffat Project, and (4) when the Moffat Project becomes operational.

## **Benefits to Colorado**

The agreement is a multiparty agreement that provides many benefits to the parties, the environment, and other interests. Some of those benefits include:

- Moves forward an important project for the enlargement of the existing Gross Reservoir (the Moffat Project), which will provide additional water and enhance system reliability for the customers of Denver Water.
- Reinforces the priority and increases the amount of conservation and reuse within Denver Water's service area.
- Provides water for current and future West Slope environmental and consumptive use needs.
- Provides protections for river flows and water quality along the entire reach of the mainstem of the Colorado River.
- Provides that future water projects on the Colorado River will be accomplished through cooperation, not confrontation.
- Demonstrates how future water agreements can be reached through negotiations where all parties can be better off with an agreement than without one.

## **Summary of Provisions**

It is helpful to think of the agreement by geographic area. This summary provides only a high-level overview of some of the more important provisions. Many other benefits will be created under the proposed agreement. The following are highlights of some of the key provisions of the agreement, when fully implemented.

### *Provisions Related to Denver's Service Area and Use of Water*

- Denver Water's existing water rights must be used within its existing combined service area, which cannot be expanded, and to fulfill its obligations under current contracts with many entities in the metropolitan area, with some exceptions as outlined in the agreement.
- Denver Water may develop any new water project on the West Slope only with the prior approval or under good faith consultation with the West Slope, depending on specified circumstances.
- Denver Water will complete construction of its 17,500 acre-foot per year recycled treatment plant and 30,000 acre-feet of gravel pit storage and will maximize exchanges. Denver Water will implement its existing water conservation plan to achieve 29,000 acre-feet of savings.
- Denver Water will develop an additional 10,000 acre-feet per year of water supply through conservation or reuse.

### *Provisions Related to Grand County and the Williams Fork and Upper Colorado River Basins*

- Most of the Grand County commitments are intended to improve current stream conditions in Grand County.

- Denver Water will pay \$11 million for projects such as nutrient loading, aquatic habitat, the Berthoud Pass sedimentation pond, Windy Gap pumping costs for environmental purposes and Learning by Doing.
- The Learning by Doing referenced above will include Denver Water managing flows it does not capture for diversion in a way that benefits the environment as determined by a broad-based management team with representatives from Trout Unlimited, Colorado Parks and Wildlife, Denver Water, Grand County, and other water users.
- Denver Water will make available 1,000 acre-feet of water each year from its Fraser River Collection System for environmental purposes in Grand County, at times and locations requested by Grand County. This water otherwise would have been diverted to the East Slope. This water will be matched with an additional 1,000 acre-feet from Williams Fork Reservoir under specified conditions that also will be released at the request of Grand County.
- Denver Water will limit its existing right to reduce bypass flows to times when it has banned residential lawn watering (estimated to provide 3,000 acre-feet of “new water”) and to manage spills from its Fraser River Collection System to provide environmental benefits.
- Denver Water will provide 375 acre-feet of water from its system for use by municipal water providers and ski areas in Grand County.
- Denver Water will operate its system to provide 920 acre-feet of Clinton Bypass Water on a year-round basis.
- Denver Water will allow use of its Fraser River Collection system to convey water as a temporary source of supply and will explore other possibilities to use its system to benefit Grand County and the environment. Denver Water and Grand County also will study how Denver Water’s lands in Grand County may be used for wildlife habitat and public fishing access.
- Denver Water will allow the Grand County Mutual Ditch and Reservoir Company to move water acquired by means of the purchase of Vail Ditch shares through the Fraser River Collection System.
- Denver Water will not oppose Colorado Water Conservation Board instream flow filings on the Colorado River below the Blue River and will not oppose a Recreation In-Channel Diversion water right filing on the Colorado River below Gore Canyon.
- Denver Water will not undertake any future water development activities without the prior approval of Grand County and the Colorado River District.

*Provisions Related to Summit County*

- Denver Water will contribute \$11 million for environmental enhancements, local water supply and water quality projects, and wastewater treatment plant projects.
- Denver Water will provide 250 acre-feet of water without charge for use in districts and towns in Summit County.
- Denver Water will use best efforts to maintain the water level of Dillon Reservoir at or above 9,012 feet in elevation between June 18 and Labor Day.
- Denver Water will provide 1,493 acre-feet of water to various Summit County water users and ski areas.

- Denver Water agrees not to exercise its existing right to reduce bypass flows from Dillon Reservoir into the Blue River during droughts to below the amount of inflow to the reservoir unless it has banned residential lawn watering in its combined service area.
- Denver Water and Summit County ski areas and towns agree to amendments to the existing 1992 Clinton Reservoir Agreement.
- Denver Water will not undertake any future water development activities without the prior approval of Summit County and the Colorado River District.

*Provisions Related to Eagle County*

In Eagle County, Denver Water will not seek new appropriations of water without the approval of several Eagle County water users and Eagle County and will not oppose a future interconnect between Clinton Reservoir and Eagle Park Reservoir.

*Provisions Related to the Colorado River Outside Grand and Summit Counties*

- Denver Water will pay \$1.5 million for water supply, water quality or water infrastructure projects benefiting the Grand Valley.
- Denver Water will pay \$500,000 to offset additional operations and maintenance costs for water treatment plants in Garfield County to address the exercise of drought relaxation of the Shoshone Call.
- Denver Water will place \$1 million into a fund to protect Wild & Scenic outstanding resource values.
- Denver Water will not undertake any future water development activities without the prior approval of the resident county and the Colorado River District.

*Provisions Related to Water Rights and Permits*

- West Slope parties will not oppose and in some cases will support Denver Water's proposed Moffat Project.
- The parties will agree to a resolution of the Blue River Decree litigation.
- The West Slope will agree to storage of Blue River water in any facility on the East Slope up to a limit of 400,000 acre-feet at any one time.
- The West Slope will not object to Denver Water's currently decreed exchanges and operation of listed undecreed exchanges from Dillon Reservoir. Denver Water will file for exchange decrees with a priority date of 2010 and will honor Colorado Water Conservation Board instream flows.
- The West Slope agrees that Denver Water may divert under its direct flow right prior to the Green Mountain fill, under certain conditions.
- The West Slope will support renewals of agreements allowing Denver Water to use water in Wolford Mountain Reservoir in substitution for water otherwise owed to Green Mountain Reservoir.
- Summit County agrees to extend the 1041 permit for Denver Water's proposed Straight Creek project, and Denver Water agrees to develop the project only with the prior approval of Summit County and the Colorado River District.

- Denver Water and the Colorado River District will share the impact of using 1,000 acre-feet of Repayment Water under a 1992 Wolford Mountain Reservoir agreement. Denver Water agrees to waive any right to participate in a second enlargement of Wolford. All parties agree to cooperate to ensure Wolford could be used for replacement water owed to Denver Water under the agreement.
- The West Slope will not contest Denver Water’s storage of Williams Fork or Cabin-Meadow Creek water in Gross and Ralston reservoirs.
- The West Slope will not oppose Denver Water’s water court applications to change the location of Denver Water’s Piney River right or for Denver Water’s pending Williams Fork diligence cases.

*Provisions Relating to Green Mountain Reservoir Administration*

- These provisions are being negotiated among the parties and with the state, the federal government, other water users, and Northern.

*Provisions Relating to the Shoshone Call*

- The parties will implement a “Shoshone Outage Protocol” during an outage of the Shoshone Power Plant to mitigate the potential adverse environmental and recreational effects of the absence of the Shoshone Call. Denver Water, the Middle Park District and the River District agree to operate their water collection and storage systems as if the senior Shoshone Power Plant right were in priority during specified times when the plant is not operational. The parties will cooperate to achieve permanent management of the flows of the Colorado River based on historical conditions and will work with the Bureau of Reclamation to achieve operation of Green Mountain Reservoir based on the Outage Protocol.
- The parties agree to not oppose the existing 2007 call relaxation agreement between Denver Water and Xcel Energy and to support renewal of the agreement.
- Denver Water will support a Recreational In-Channel Diversion application for the boating park in Glenwood Springs.

*Mutual Commitments*

- The parties agree to a “peace pact” on water court diligence applications.
- The parties commit to promote best management practices for water conservation.
- The parties commit to cooperate to develop and implement a strategy to diminish the impact of a Colorado River Compact Call on Colorado.