

**ALLOCATION COMMITTEE
MINUTES
February 3, 2022**

A meeting of the Allocation Committee was held on Thursday, February 03, 2022 at 01:00 a.m. at the District Office 31717 United Avenue, Pueblo, Colorado 81001 and via Zoom virtual conference.

Chairman Carl McClure announced a quorum was present.

COMMITTEE MEMBERS PRESENT:

Andy Colosimo, Vice Chairman and James Broderick

Zoom participants: Carl McClure, Chairman; Howard “Bub” Miller, Tom Goodwin, Alan Hamel, Curtis Mitchell, and Bill Long

COMMITTEE MEMBERS ABSENT AND EXCUSED:

None

OTHERS PRESENT:

Garrett Markus, and Leann Noga Southeastern Colorado Water Conservancy District (District) staff.

Zoom participants: Peter Levis, Margie Medina, Lee Miller, Patty Rivas and Chris Woodka, Southeastern Colorado Water Conservancy District (District) staff.

APPROVAL OF MINUTES:

Vice-Chairman Colosimo confirmed that members of the Committee received their copy of the August 4, 2021 Allocation Committee minutes, and asked if there were any corrections or additions. Alan Hamel moved, Bill Long seconded, to approve the minutes. Motion passed unanimously.

PRESENTATIONS:

FRYINGPAN-ARKANSAS PROJECT WATER SUPPLY OUTLOOK

Garrett Markus provided a PowerPoint presentation reviewing the Upper Colorado River Basin soil moisture and snow conditions, also the Colorado monthly snowpack and precipitation summary. The Committee was provided updated graphs of the Fry-Ark collection basin snowpack vs annual basin average with associated Fry-Ark imports along with the four-collection site average, all of which are above 100 percent. The Fry-Ark Bureau of Reclamation forecast for February 1, is 59,100 AF, reiterating that the May 1 is the official forecast considerations are based on SNOTEL sites alone, 70 percent of actual imports come from

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snowpack provided by SNOTEL sites, and 30 percent of actual imports come from precipitation from May 1 to September 30.

AGRICULTURAL FIRST RIGHT OF REFUSAL PILOT PROJECT

Garrett Markus provided an update of the progress that began as the Fort Lyon Pilot Project to investigate the feasibility of a future District-wide plan to ensure that return flows are allocated equitably and to maximize utilization of all Fry-Ark Project Water (Project Water) and Project Water Return Flows.

Stakeholders that receive Fryingpan-Arkansas Project Water and Return Flow allocations were notified of the changes to the *Policy Concerning Sale of Return Flows from Fryingpan-Arkansas Project Water* by letter informing them of four stakeholders' meetings. There was not any substantive feedback from the stakeholders and a suggested motion is recommended to approve the *Policy Concerning Sale of Return Flows from Fryingpan-Arkansas Project Water*.

ACTION ITEM:

PROPOSED AMENDMENTS TO POLICY CONCERNING SALE OF RETURN FLOWS FROM FRYINGPAN-ARKANSAS PROJECT WATER

Under the District's Return Flow Policy, the District sells return flows generated from first-use Fryingpan-Arkansas Project ("Project") Water to eligible entities within the District's boundaries. Under current practices, Project Water is allocated to both municipal and agricultural entities (i.e., ditch and canal companies). Each agricultural entity has a right, under certain conditions, to purchase the return flows generated by that entity's first use of its allocated Project Water. The Return Flow Policy currently includes three rights of first refusal for agricultural entities:

- Agricultural entities have the right to purchase the return flows they generate from their use of Project Water, where physically possible (the "**Agricultural Right of First Refusal**").
- Each agricultural entity has the right to purchase Project Return Flows it generated but did not claim at the time of initial allocation, to the extent those return flows remain unclaimed after the initial allocation and the District exchanges such return flows into Pueblo Reservoir pursuant to its Decree in Case No. 01CW151 (the "**Agricultural Right to Exchanged Project Return Flows**").
- Winter Water Storage Program participants ("WWSP Participants") without their own storage facilities, may purchase agricultural Project Return Flows that the District exchanges into Pueblo Reservoir to the extent storage of exchanged Project Return Flows prevents those WWSP Participants' from storing Winter Water in Pueblo Reservoir (the "**WWSP Right of First Refusal**").

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The District included the Agricultural Right of First Refusal in its original Return Flow Policy adopted in 1994. The Agricultural Right to Exchanged Project Return Flows and the WWSP Right of First Refusal apply only to return flows exchanged into Pueblo Reservoir under Case No. 01CW151, the District's case adjudicating exchanges of Project Return Flows. These rights were developed and adopted in 2004, through settlement negotiations with Arkansas Valley Ditch Association (AVDA) and Catlin Canal Company in that case.

Pilot Program and Proposed New Basis for Allocation

In 2014, the Fort Lyon Canal Company requested to purchase and use Project Return Flows to replace depletions in Rule 14 plans and to maintain return flows in Rule 10 plans. Following that request, the District implemented a pilot program to evaluate the use of Project Return Flows in those plans and how such use would impact allocations and the agricultural rights of first refusal outlined in the Return Flow Policy. As a result of that pilot program, District staff proposes to modify the basis on which the District allocates return flows to eligible entities. Through the pilot program, District staff determined that the most equitable means of allocating Project Return Flows is to allocate the water to agricultural entities on a "farm unit" basis, rather than on the basis of each entity's first use of Project Water. District staff defines a "farm unit" as "a field or group of fields that have common wells and a landowner or land user."

Revisions to Return Flow Policy

Under District staff's proposed modification to the basis for return flow allocations, agricultural entities will remain entitled to purchase Project Return Flows in the initial allocation, but this right will no longer be tied to the return flows generated by each entity's first use of its allocated Project Water. Instead, the District's initial allocation of Project Return Flows to each agricultural entity will be based upon the stated needs and beneficial uses for such water on eligible irrigated acres on individual farm units within that entity. See Paragraph 8, Revised Return Flow Policy. This paragraph clarifies that District staff will continue to determine an applicant's eligible irrigated acres in consultation with Reclamation, and includes a new provision defining a "farm unit," as discussed above.

As a result of the District's settlement stipulations with AVDA and Catlin in Case No. 01CW151, modifications to the Return Flow Policy may not (without their consent) alter AVDA's and Catlin's rights to purchase exchanged return flows under the Agricultural Right to Exchanged Project Return Flows and the WWSP Right of First Refusal. Thus, District staff proposes no changes to the existing Agricultural Right to Exchanged Project Return Flows and the WWSP Right of First Refusal. These rights of first refusal in exchanged return flows now appear in Paragraph 9 of the Revised Return Flow Policy.

As a result of the Pilot Program, District staff proposes to add a new provision to the Return Flow Policy, specifying that agricultural Project Return Flows may be used for agricultural irrigation, including the replacement of depletions from wells used for agricultural irrigation (i.e., in Rule 14 plans) and for the replacement of net return flows diminished by surface

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irrigation improvements (i.e., in Rule 10 plans). See Paragraph 10, Revised Return Flow Policy. Paragraph 11, which addresses the District's decreed rights to exchange return flows, includes a new sentence to address the Division Engineer's Office's administration of replacement plans that involve administrative exchanges below Pueblo Reservoir.

Reorganization of the Policy

Many of the remaining revisions to the Return Flow Policy reorganize the Policy into new sections for municipal and agricultural allocations, and for general terms and conditions that are broadly applicable to the allocation and use of Project Return Flows. The Policy also now includes a separate, introductory section for the terms specific to the application process.

Curtis Mitchell moved, seconded by Alan Hamel to recommend the Board of Directors adopt the *Policy Concerning Sale of Return Flows from Fryingpan-Arkansas Project Water* (December 16, 2021). Motion passed unanimously.

INFORMATION ITEM

None

OTHER BUSINESS

None

NEXT MEETING

Thursday, March 3, 2022 at 1:00 p.m.

ADJOURN

Vice-Chairman Colosimo adjourned the meeting at 01:38 p.m.

Respectfully submitted,

Garrett J. Markus, P.E.

Water Resources Engineer