

WATER DISTRICT AGREEMENTS ENHANCE RIVER FLOWS

Recent mitigation agreements between the Upper Arkansas Water Conservancy District and the City of Aurora in the Rocky Ford Ditch and Spurlin-Shaw/Hayden Ranch cases are redefining water mitigation for basins of origin. In reaching these historic agreements representatives of the Upper Arkansas Water Conservancy District “UAWCD”, The Southeastern Colorado Water Conservancy District “SECWCD” and the City of Aurora negotiated terms and conditions based on the concept of preserving and improving the water resources of the Arkansas basin. Typically mitigation in water change and transfer cases only address prevention of “injury” in a court water decree. These agreements take mitigation to a higher plane; one in which not only prevention of injury is addressed but preservation and enhancement of the resource for future uses within the basin of origin.

At the outset the impacts of the change and transfer of these water rights were defined and agreed to by the negotiators. Annual consumptive use (the amount that could legally be changed and transferred from the basin) on the combined water rights was reduced by 1650 acre-feet (more than ½ Billion Gallons). This amount represents “saved water” that historically was not available for use by the Upper Arkansas District’s water users. By comparison the City of Salida’s Harrington Ditch water rights yield a consumptive use of 578 acre-feet per year on average; less than half of the amount of “saved water”. Historically this water was never available to water users in this area.

UAWCD and SECWCD argued that although Aurora would agree to leave some water (1650 acre feet) in the basin still this did not address the potential damages from the transfer of the remaining water. Compensatory measures needed to be instituted to deal with that potential damage. The result was agreements that change the timing and methods of transfer. Aurora agreed to contributions of water and storage to eliminate the negative impacts of water transfers in dry years. Two storage “pools” were developed in which water is stored for use in dry years to remove the 1874 call of the Rocky Ford Ditch. This action will make available for use in the Upper Arkansas Basin as much as 600 cubic feet per second of water (391 Million Gallons per day). These two storage pools (a total of 4500 acre feet) will also be available for use by the Water District. This allows the Water District to enhance the size of the “pools” in wet years and enlarge the amount of “saved water” during dry years.

Restrictions on future use of Arkansas Valley resources were also written into the agreements:

1. Aurora may not purchase a water right from the Arkansas Valley for 40 years
2. The total amount that may be removed in any year is 54,000 acre feet.
 - a. 50 percent of this water **originates outside the Arkansas Basin.**
 - b. Presently the remainder comes from the present and past water purchases in the Arkansas Basin.
 - c. To meet this pipeline capacity the balance must come from temporary leases approximately 8300 acre feet.
3. Temporary leases are limited to a maximum per year of 10,000 acre feet
4. Temporary leases can only be executed for 3 years out of each 10 year period

5. Temporary leases can only be executed when Aurora's storage capacity is below 60 percent and must be used to improve their storage capacity (not for immediate use)
6. Use of temporary leases requires implementation of an "Increasing Block Rate Structure" for Aurora's water users to encourage conservation.
7. Use of temporary leases requires implementation of mandatory outdoor water restrictions on Aurora's water users.

Due to restrictions on the timing and amounts of "Exchange", Aurora will not be able to move its Lower Arkansas water rights except by "trading" (Contract Exchange) for trans-basin (not Arkansas River Water) water from storage. This will eliminate damaging effects upon native water flow in the Upper Arkansas Basin. Essentially more than 60 percent of water removed from the basin by Aurora will originate in the Colorado River Basin when including temporary leases.

Aurora also entered into an agreement for reuse of its existing water supplies to meet its future needs. In this agreement Aurora will be required to "enhance and enlarge" its reuse (recycling of water) efforts to meet future demands. These efforts must reduce its demands on out-of-basin sources for water before it can attempt to claim water rights in the Arkansas Basin after 2043.

These agreements require the formation of a Regional Resource Group comprised of the negotiating entities and will include other Arkansas Valley entities to develop procedures for enhancing and protecting the Arkansas Valley water resources.

The agreements mark a dramatic departure from past practices in mitigation to a basin of origin. More than ever the citizens and water users of the State will be called upon to develop policies that address preservation of water resources to meet future needs. To that end these agreements will set the template for other basins to follow.