



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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John Hickenlooper, Governor

Mike King, DNR Executive Director

James Eklund, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Ted Kowalski, Chief, Interstate, Federal & Water Information Section
Suzanne Sellers, Interstate, Federal & Water Information Section
Meg Dickey-Griffith, Interstate, Federal & Water Information Section

DATE: March 18-19, 2015 Board Meeting

CONSENT AGENDA: 2. Colorado River Storage Project Act Memorandum of Agreement
Review and Approval of Criteria and Guidelines

Background:

In 2011, the Upper Division Colorado River Basin States (Colorado, Wyoming, Utah, and New Mexico), the United States Bureau of Reclamation (BOR), the United States Department of Energy Western Area Power Administration, and the Colorado River Energy Distributors Association signed a Memorandum of Agreement (MOA) that authorizes the use of the Upper Colorado River Basin Fund (UCRB Fund) to further the purposes of the 1956 Colorado River Storage Project (CRSP) Act (Public Law 485) through Fiscal Year (FY) 2025. Under the MOA, the UCRB Fund is estimated to make an average of \$11.5 Million in revenues available annually through September 30, 2025, in which Colorado projects would potentially receive approximately 46% of those revenues.

At the January Board meeting, the CWCB Staff presented proposed criteria and guidelines to assist the CWCB in identifying, recommending and prioritizing projects for use of the UCRB funds within Colorado. The CWCB staff has now incorporated Board comments into the attached criteria and guidelines for final approval by the Board. Attached is a clean version of the updated criteria and guidelines and a redline copy to show the updates.

Staff recommendation:

Staff recommends that the Board approve the attached Upper Colorado River Basin Fund Memorandum of Agreement, Criteria and Guidelines for Prioritization of Projects within Colorado.





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Proposed Upper Colorado River Basin Fund Memorandum of Agreement Criteria and Guidelines for Prioritization of Projects within Colorado

Background

In 2011, the Upper Division Colorado River Basin States (Colorado, Wyoming, Utah, and New Mexico), the United States Bureau of Reclamation (BOR), the United States Department of Energy Western Area Power Administration, and the Colorado River Energy Distributors Association signed a Memorandum of Agreement (MOA) that authorizes the use of the Upper Colorado River Basin Fund (UCRB Fund) to further the purposes of the 1956 Colorado River Storage Project (CRSP) Act (Public Law 485) through Fiscal Year (FY) 2025. The UCRB Fund is comprised of funds appropriated from the US Treasury for capital projects, as well as proceeds from sales of hydroelectric power, transmission services and municipal and industrial (M&I) water service sales. The 2011 MOA authorized uses for operation, maintenance, and replacement (OM&R) projects on CRSP facilities, among other specified purposes. To utilize these UCRB Funds, each state is tasked with annually recommending and prioritizing eligible expanded or extraordinary OM&R projects following the process prescribed by the MOA. To identify projects related to CRSP facilities that meet MOA criteria, the BOR developed a planning report for the CWCB's use.

Introduction and Purpose

Because the currently identified projects exceed the amount of funds available, the CWCB instructed the Staff to develop general criteria and guidelines to help in the prioritization and use of these funds. The purpose of these criteria and guidelines is to assist the CWCB in identifying, recommending, and prioritizing these and future projects in use of these UCRB funds.

Overview of the Fund Eligibility Requirements and Project Application Process

To be eligible for UCRB Funds, a project must further the purposes of CRSP Act through expanded or extraordinary OM&R and other activities for existing CRSP Initial Units or CRSP projects. The following is a list of activities that will be considered for funding as further described in the MOA:

- Replacements, additions and extraordinary maintenance
- Water conservation activities
- Environmental compliance activities
- Stream gaging
- Consumptive use analysis
- Salinity projects in the Upper Colorado River Basin



Upper Colorado River Basin Fund Memorandum of Agreement
Criteria and Guidelines for Prioritization of Projects within Colorado
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The MOA provides that BOR, upon request and using MOA funds, may provide technical and administrative support to identify and implement projects that would qualify for use of MOA revenues. As indicated above, the BOR, through its planning report, identified a long list of possible projects in Colorado for use of these funds. A list of these projects may be found in “Colorado River Storage Project Memorandum of Agreement Planning Report for the State of Colorado” by the Bureau of Reclamation dated August 2014. The planning report further classifies these projects as already approved proposals, proposed expanded or extraordinary OM&R activities, and proposed routine or other OM&R items (non-eligible). BOR considers extraordinary OM&R items to be major nonrecurring items as opposed to routine OM&R items. BOR contends that MOA revenues cannot be used for new construction; such as items that would increase water storage capacity (e.g., new storage reservoirs or the raising of a dam) or expand a delivery system (e.g., new canals). BOR also does not consider routine OM&R items to be eligible for funding under the MOA. In their evaluation, BOR also considers whether a project is eligible for funding from other sources. While the CWCB may not agree with BOR’s interpretation of what constitutes appropriate projects under the MOA, the CWCB is not bound by BOR’s interpretation. However, the CWCB will consider BOR’s position as it develops and submits proposed project applications and as it prioritizes approved projects.

CWCB Criteria and Guidelines for Prioritization of Eligible Projects within Colorado

The CWCB Staff will use the following criteria and guidelines to prioritize eligible and approved projects and make recommendations to BOR for use of UCRB Funds. However, it should be noted that a project does not have to meet all of the criteria to be recommended or considered a high priority. The criteria below are not listed in any order of importance or priority, but rather the criteria will be considered as a whole on a case by case basis.

1. Water Supply - The degree to which the project increases and or conserves water supply for the Colorado River System, including, but not limited to, projects relating to water efficiency improvements, augmentation, weather modification, and/or tamarisk removal.
2. Safety - The degree to which the project addresses facility safety issues and decreases potential risk to people, property, and the environment.
3. Water Quality - The degree to which the project addresses issues of water quality and watershed health or provides targeted substance (e.g. salt and selenium) removal or control in the Colorado River System.
4. Water Information - The degree to which the project improves the availability of, and access to, water information and provides data to the State of Colorado and water managers for improved water management decisions.
5. Operational Efficiency - The degree to which the project improves the efficiency of the water monitoring, control and management facilities and related operational effectiveness.
6. Cost Sharing - The level of matching funds and opportunity for cost sharing and leveraging amongst project sponsors. The extent, and to what degree, the project has the support of other interested stakeholders or government, as demonstrated by dedicated resources, including in-kind resources and cash resources.
7. Timeline - The length of time needed to implement the project (i.e., projects should be able to be completed within the life of the MOA).
8. Replicable - The degree to which the resources, expertise, and conditions associated with the project can be replicated, or applied to, other Colorado River Basin locations.

Upper Colorado River Basin Fund Memorandum of Agreement
Criteria and Guidelines for Prioritization of Projects within Colorado
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9. Local Prioritization - The level to which the project addresses urgent and prioritized community needs as indicated and supported by local water managers.
10. Equitable Balance - The degree to which the projects are balanced amongst qualifying MOA project areas. Projects should adequately and equitably represent the water management needs, and conservation opportunities, in the qualifying areas of the Colorado River System within Colorado.
11. Endangered Species - Whether the project will assist in, and not impair in any way, the recovery of endangered species or species of concern.
12. Beneficial use - Whether, and to what degree, the project would enhance the ability of Colorado to protect existing uses and to fully develop and place to consumptive beneficial use its Colorado River compact entitlements.
13. Maximum use - Whether, and to what degree, the project would promote maximum utilization of the waters of the State.

Prioritization and Recommendation Process

Project proponents must propose projects to the CWCB according to the annual schedule, on the forms required by the Bureau of Reclamation. Currently, the applications are due on a “RAX form” and they are due to the CWCB Staff in mid-June, for the federal fiscal year that begins approximately 16 months later (i.e. in June 2014, the proposals were submitted for projects that start in October, 2015 or “FY2016”). A copy of the current blank RAX form is attached to these criteria and guidelines. Although not explicitly stated on the RAX form, the project descriptions must also include a purpose, detailed projected cost estimate, a timetable for commencement and completion, and a showing that the project is viable (relates to a CRSP facility, provides efficiencies, cost savings or improvements).

Since 2011, many CRSP project participants have expressed interest in applying for funds for qualifying projects, either directly (e.g., Dolores Water Conservancy District), or indirectly under the auspices of the Colorado River Water Conservation District (“CRWCD”) or the Southwestern Water Conservation District (“SWWCD”). The CRWCD and SWWCD have been particularly helpful in developing projects for funding under this MOA.

Each year, if funding is available, the CWCB will solicit recommendations for new projects from the CRWCD, SWWCD, CRSP project participants, and other stakeholders if appropriate. The CWCB staff will choose whether to submit proposals to the BOR based on consistency with the criteria under the MOA, and on available funds. Submittal by the CWCB of a proposed project to the BOR, and subsequent approval by the BOR, do not guarantee that the project proponent will receive funding, as funding will be subject to availability and subsequent prioritization on an annual basis. The CWCB staff will report to the Board annually on this program.

For example, once BOR approves a project application, additional prioritization by the CWCB Staff may be necessary each fiscal year to assure appropriate prioritization of the spending of funds. After conferring with CRSP participants and Colorado's Commissioner on the Upper Colorado River Commission, the CWCB Staff will maintain and make available a prioritization list for on-going and current fiscal year projects. Similar consultation will occur if the list of priorities or the level of funding needs to be modified during the year.

Proposed Upper Colorado River Basin Fund Memorandum of Agreement Criteria and Guidelines for Prioritization of Projects within Colorado

Background

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Introduction and Purpose

Because the currently identified projects exceed the amount of funds available, the CWCB instructed the Staff to develop general criteria and guidelines to help in the prioritization and use of these funds. The purpose of these criteria and guidelines is to assist the CWCB in identifying, recommending, and prioritizing these and future projects in use of these UCRB funds.

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Colorado” by the Bureau of Reclamation dated August 2014. ~~—The Staff provided this Report to the Board at the November 2014 Board meeting.~~ The planning report further classifies these projects as already approved proposals, proposed expanded or extraordinary OM&R activities, and proposed routine or other OM&R items (non-eligible). BOR considers extraordinary OM&R items to be major nonrecurring items as opposed to routine OM&R items. BOR contends that MOA revenues cannot be used for new construction; such as items that would increase water storage capacity (e.g., new storage reservoirs or the raising of a dam) or expand a delivery system (e.g., new canals). BOR also does not consider routine OM&R items to be eligible for funding under the MOA. In their evaluation, BOR also considers whether a project is eligible for funding from other sources. While the CWCB may not agree with BOR’s interpretation of what constitutes appropriate projects under the MOA, ~~not is~~ the CWCB is not bound by BOR’s interpretation. ~~;~~ However, the CWCB will consider ~~the~~ BOR’s position as it develops and submits proposed project applications and as it prioritizes approved projects.

CWCB Criteria and Guidelines for Prioritization of Eligible Projects within Colorado

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7. Timeline - The length of time needed to implement the project (i.e., projects should be able to be completed within the life of the MOA).
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12. Beneficial use - Whether, and to what degree, the project would enhance the ability of Colorado to protect existing uses and to fully develop and place to consumptive beneficial use its Colorado River compact entitlements.
- ~~13. Maximum use - Whether, and to what degree, the project would promote maximum utilization of the waters of the State.~~
- ~~14. 13. Cost sharing - The extent, and to what degree, the project has the support of other interest stakeholders or government, as demonstrated by dedicated resources, including in-kind resources and cash resources.~~

Prioritization and Recommendation Process

Project proponents must propose projects to the CWCB according to the annual schedule, on the forms required by the Bureau of Reclamation. Currently, the applications are due on a "RAX form" and they are due to the CWCB Staff in mid-June, for the federal fiscal year that begins approximately 16 months later (i.e. in June 2014, the proposals were submitted for projects that start in October, 2015⁵⁶ or "FY2016"). A copy of the current blank RAX form is attached to these criteria and guidelines. Although not explicitly stated on the RAX form, ~~the~~ the project descriptions must also include a purpose, detailed projected cost estimate, a timetable for commencement and completion, and a showing that the project is viable (relates to a CRSP facility, provides efficiencies, cost savings or improvements).

Since 2011, many CRSP project participants have expressed ~~The CWCB has received~~ interest in applying for funds for qualifying projects, either directly - from many CRSP project participants (e.g., Dolores Water Conservancy District), or indirectly under the auspices of and the Colorado River Water Conservation District ("CRWCD") or, and the Southwestern Water Conservation District ("SWWCD"), and the Colorado Parks and Wildlife ("CPW") ~~have made requests on behalf of their constituents.~~ The CRWCD and SWWCD have been particularly helpful in developing projects for funding under this MOA.

Each year, if funding is available, the CWCB will solicit recommendations for new projects from the CRWCD, SWWCD, CRSP project participants, and CWP and other stakeholders if appropriate. The CWCB staff will choose whether to submit proposals to the BOR based on their ability to demonstrate that they meet consistency with the criteria under the MOA, and based on available funds remaining. ~~The~~ the submittal by the CWCB of a proposed project to the BOR, and ~~the~~ subsequent approval by the BOR, does not guarantee that the project proponent will receive ~~the~~ funding, as that funding will also be subject to availability and subsequent prioritization on an annual basis, as the funds become available. The CWCB staff will report to the Board annually on this program.

For example, once BOR approves a project application, ~~there may need to be~~ additional prioritization by the CWCB Staff may be necessary, each fiscal year, to assure ~~that~~ appropriate prioritization of the spending of funds occurs. ~~Thus, a~~ After conferring with ~~SWWCD, CRWCD~~ CRSP participants and Colorado's Commissioner on the Upper Colorado

River Commission, the CWCB Staff will maintain and make available, a prioritization list for on-going and current fiscal year projects. ~~Depending upon funding availability and related issues, the CWCB Staff may recommend amendment of the prioritization list, after subsequent consultation with SWWCD, CRWCD, and Colorado's Commissioner on the Upper Colorado River Commission. In addition, if there are increases, cost overruns, or adjustments in annual allocations, it is recognized that the Staff may authorize increased project funding or adjustments of project funding after conferring with SWWCD, CRWCD, and Colorado's Commissioner on the Upper Colorado River Commission.~~ Similar consultation will occur if the list of priorities or the level of funding needs to be modified during the year.

[BOR RAX Form]

Project Name

PROPOSED PROJECT JUSTIFICATION

Item/Activity:

State:

Project Manager:

State's Point of Contact:

Federal Project or Program:

Legislative Authority:

Origination Date:

Revision Date:

Estimated Cost:

Project Type:

Description of Item:

Construction/Installation Schedule:

Condition:

Cost Effectiveness: Not applicable

Benefits:

Alternatives Considered:

Recommended Alternative:

Impacts if Schedule Delayed:

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