



COLORADO WATER CONSERVATION BOARD



WATER SUPPLY RESERVE ACCOUNT APPLICATION FORM

Today's Date: January 5, 2015

Phase II, Repurposing of Water Supply for Multiple Beneficial Use

Name of Water Activity/Project

Lower Arkansas Valley Water Conservancy District

Name of Applicant

Arkansas Basin

Amount from Statewide Account:

\$275,000

Amount from Basin Account(s):

\$25,000

Total WSRA Funds Requested:

\$300,000

Approving Basin Roundtable(s)

(If multiple basins specify amounts in parentheses.)

FEIN: 48-1298144

Application Content

Application Instructions	page 2
Part I – Description of the Applicant	page 3
Part II – Description of the Water Activity	page 5
Part III – Threshold and Evaluation Criteria	page 7
Part IV – Required Supporting Material	
Water Rights, Availability, and Sustainability	page 10
Related Studies	page 10
Signature Page	page 12

Required Exhibits

- A. Statement of Work, Budget, and Schedule
- B. Project Map
- C. As Needed (i.e. letters of support, photos, maps, etc.)

Appendices – Reference Material

- 1. Program Information
- 2. Insurance Requirements
- 3. WSRA Standard Contract Information (Required for Projects Over \$100,000)
- 4. W-9 Form (Required for All Projects Prior to Contracting)

Water Supply Reserve Account – Application Form

Revised October 2013

Instructions

To receive funding from the Water Supply Reserve Account (WSRA), a proposed water activity must be approved by the local Basin Roundtable **AND** the Colorado Water Conservation Board (CWCBC). The process for Basin Roundtable consideration and approval is outlined in materials in Appendix 1.

Once approved by the local Basin Roundtable, the applicant should submit this application **with a detailed statement of work including budget and schedule as Exhibit A** to CWCBC staff by the application deadline.

WSRA applications are due with the roundtable letter of support 60 calendar days prior to the bi-monthly Board meeting at which it will be considered. Board meetings are held in January, March, May, July, September, and November. Meeting details, including scheduled dates, agendas, etc. are posted on the CWCBC website at: <http://cwcb.state.co.us> Applications to the WSRA Basin Account are considered at every board meeting, while applications to the WSRA Statewide Account are only considered at the March and September board meetings.

When completing this application, the applicant should refer to the WSRA Criteria and Guidelines available at: <http://cwcb.state.co.us/LoansGrants/water-supply-reserve-account-grants/Documents/WSRACriteriaGuidelines.pdf>. In addition, the applicant should also refer to the [Supplemental Scoring Matrix](#) applied to Evaluation Criteria Tiers 1-3 for Statewide Account requests .

The application, statement of work, budget, and schedule **must be submitted in electronic format** (Microsoft Word or text-enabled PDF are preferred) and can be emailed or mailed on a disk to:

Craig Godbout - WSRA Application
Colorado Water Conservation Board
1313 Sherman St., Room 721
Denver, CO 80203
Craig.godbout@state.co.us

If you have questions or need additional assistance, please contact Craig Godbout at: 303-866-3441 x3210 or craig.godbout@state.co.us.

Water Supply Reserve Account – Application Form

Revised October 2013

Part I. - Description of the Applicant (Project Sponsor or Owner);

1.	Applicant Name(s):	Lower Arkansas Valley Water Conservancy District		
	Mailing address:	801 Swink Avenue Rocky Ford, CO 81067		
	FEIN #:	48-1298144		
	Primary Contact:	Jay Winner	Position/Title:	General Manager
	Email:	jwinner@centurytel.net		
	Phone Numbers:	Cell: 719-469-8935	Office:	719-254-5115
	Alternate Contact:	Brenda Fillmore	Position/Title:	Finance/Water
	Email:	Bfillmore13@centurytel.net		
	Phone Numbers:	Cell:	Office:	719-254-5155

2. Eligible entities for WSRA funds include the following. What type of entity is the Applicant?

- ☐ Public (Government) – municipalities, enterprises, counties, and State of Colorado agencies. Federal agencies are encouraged to work with local entities and the local entity should be the grant recipient. Federal agencies are eligible, but only if they can make a compelling case for why a local partner cannot be the grant recipient.
- ☒ Public (Districts) – authorities, Title 32/special districts, (conservancy, conservation, and irrigation districts), and water activity enterprises.
- ☐ Private Incorporated – mutual ditch companies, homeowners associations, corporations.
- ☐ Private individuals, partnerships, and sole proprietors are eligible for funding from the Basin Accounts but not for funding from the Statewide Account.
- ☐ Non-governmental organizations – broadly defined as any organization that is not part of the government.

Water Supply Reserve Account – Application Form

Revised October 2013

3. Provide a brief description of your organization

The Lower Arkansas Valley Water Conservancy District (LAVWCD) is a water conservancy district established in 2002 pursuant to Colorado law, C.R.S. § 37-45-101 et seq. The Lower Ark District's mission is to acquire, retain and conserve water resources within the Lower Arkansas River; to encourage the use of such water for the socio-economic benefit of the District citizens; and to participate in water-related projects that will embody thoughtful conservation, responsible growth, and beneficial water usage within the Lower Arkansas Valley. As such, this includes promoting and protecting agriculture in the Lower Arkansas Basin.

4. If the Contracting Entity is different than the Applicant (Project Sponsor or Owner) please describe the Contracting Entity here.

The Lower Ark District formed a Water Activity Enterprise in 2003 to manage the District's water assets and provide services to the District on a reimbursable basis. The Lower Arkansas Valley Water Enterprise Fund will be the contracting entity for this project.

5. Successful applicants will have to execute a contract with the CWCB prior to beginning work on the portion of the project funded by the WSRA grant. In order to expedite the contracting process the CWCB has established a standard contract with provisions the applicant must adhere to. A link to this standard contract is included in Appendix 3. Please review this contract and check the appropriate box.

☒ The Applicant will be able to contract with the CWCB using the Standard Contract

☐ The Applicant has reviewed the standard contract and has some questions/issues/concerns. Please be aware that any deviation from the standard contract could result in a significant delay between grant approval and the funds being available.

6. The Tax Payer Bill of Rights (TABOR) may limit the amount of grant money an entity can receive. Please describe any relevant TABOR issues that may affect the applicant.

LAVWCD's property tax levy is exempt from TABOR pursuant to the election that formed the district in 2002.

Water Supply Reserve Account – Application Form

Revised October 2013

Part II. - Description of the Water Activity/Project

1. What is the primary purpose of this grant application? (Please check only one)

☐ Nonconsumptive (Environmental or Recreational)

☐ Agricultural

☐ Municipal/Industrial

☐ Needs Assessment

☐ Education

☒ Other Explain:

2. If you feel this project addresses multiple purposes please explain.

Water rights being purchased are decreed for any beneficial use. They will be stored in Lake Henry and Lake Meredith, providing environmental and recreational use. When needed, they will benefit agriculture by being used for augmentation replacement for Rule 10 and Rule 14 plans, as well as for replacement water for lease/fallowing projects. After the Arkansas Valley Conduit is complete, they can be used when water is short for the conduit, benefitting municipal/industrial users.

3. Is this project primarily a study or implementation of a water activity/project? (Please check only one)

☐ Study ☒ Implementation

4. To catalog measurable results achieved with WSRA funds can you provide any of the following numbers?

New Storage Created (acre-feet)

New Annual Water Supplies Developed, Consumptive or Nonconsumptive (acre-feet)

Existing Storage Preserved or Enhanced (acre-feet)

Length of Stream Restored or Protected (linear feet)

Length of Pipe/Canal Built or Improved (linear feet)

Efficiency Savings (acre-feet/year OR dollars/year – **circle one**)

Area of Restored or Preserved Habitat (acres)

☒ Other -- Explain:

Water Supply Reserve Account – Application Form

Revised October 2013

4. To help us map WSRA projects please include a map (Exhibit B) and provide the general coordinates below:

Latitude: 38° 3' 19.21"N

Longitude: 103° 43' 15.16"W

(office)

5. Please provide an overview/summary of the proposed water activity (no more than one page). Include a description of the overall water activity and specifically what the WSRA funding will be used for. A full **Statement of Work** with a detailed budget and schedule is required as **Exhibit A** of this application.

As a whole, this water activity is a purchase of a total of 558 paired Colorado Canal and Lake Henry/Lake Meredith water shares. Said shares are decreed for any beneficial use. These shares represent 442 acre/feet per year in average historic consumptive use.

The purchase has been divided into two phases. The first phase is the purchase of 408.6 paired shares; 126.6 of Colorado Canal/Lake Henry shares, and 282 of Colorado Canal/Lake Meredith shares. This phase is being preliminarily funded with a bridge loan, but long-term funding is being sought from the Colorado Water Conservation Board, making this project a grant/loan combination. The loan has been pre-qualified by the CWCB.

The phase contemplated in this application, Phase II, is the purchase of 149.4 paired Colorado Canal/Lake Henry shares. The shares are currently being used for industrial purposes by Ordway Cattle Feeders, LLC. The purchase of these shares frees them up for a variety of beneficial uses, including recreation and environment, agricultural, and municipal/industrial use. These shares represent 152.39 acre/feet per year of average historical consumptive use.

The use of this water will be broadened again, and will become available for many types of beneficial use.

- Water will be stored in Lake Henry, and will benefit the environment and recreational uses such as fishing and boating.
- The water will also be available to help meet the growing augmentation gap; for Rule 10 and Rule 14 Plans. It will also address the double-counting of municipal return flows, an issue addressed in the draft Arkansas Basin Implementation Plan (BIP), as quoted below:

“The mandates of the 1996 ruling in the lawsuit Kansas v. Colorado are primary drivers in water administration throughout the basin. Groundwater pumping, whether for greater agricultural efficiency or for community potable supply systems, requires replacement of depletions. The demand for “augmentation” is increasing while the main source of augmentation supply (fully-consumable municipal effluent) is pledged to meet municipal growth. Previous estimates of the municipal supply gap missed this double count of water: its current use for agricultural and its future use for municipal growth.”

- Another possible use of the water is replacement of return flows for lease/fallowing projects.
- After the Arkansas Valley Conduit is constructed, the water may also be used for municipal/industrial uses in dry years.

Water Supply Reserve Account – Application Form

Revised October 2013

Part III. – Threshold and Evaluation Criteria

1. Describe how the water activity meets these **Threshold Criteria**. (Detailed in Part 3 of the Water Supply Reserve Account Criteria and Guidelines.)

- a) The water activity is consistent with Section 37-75-102 Colorado Revised Statutes.¹

The project will not supersede, abrogate, or otherwise impair the State's current system of allocating water within Colorado nor does it in any manner repeal or amend the existing water rights adjudication system. The project does not affect the State Constitution's recognition of water rights as a private usufructuary property right nor is it intended to restrict the ability of the holder of a water right to use or to dispose of that water right in any manner permitted under Colorado law.

- b) The water activity was approved by the Arkansas Basin Roundtable by consensus at their January 14th, 2015 meeting.

- c) The water activity meets the provisions of Section 37-75-104(2), Colorado Revised Statutes.² The Basin Roundtable Chairs shall include in their approval letters for particular WSRA grant applications a description of how the water activity will assist in meeting the water supply needs identified in the basin roundtable's consumptive and/or non-consumptive needs assessments.

¹ 37-75-102. Water rights - protections. (1) It is the policy of the General Assembly that the current system of allocating water within Colorado shall not be superseded, abrogated, or otherwise impaired by this article. Nothing in this article shall be interpreted to repeal or in any manner amend the existing water rights adjudication system. The General Assembly affirms the state constitution's recognition of water rights as a private usufructuary property right, and this article is not intended to restrict the ability of the holder of a water right to use or to dispose of that water right in any manner permitted under Colorado law. (2) The General Assembly affirms the protections for contractual and property rights recognized by the contract and takings protections under the state constitution and related statutes. This article shall not be implemented in any way that would diminish, impair, or cause injury to any property or contractual right created by intergovernmental agreements, contracts, stipulations among parties to water cases, terms and conditions in water decrees, or any other similar document related to the allocation or use of water. This article shall not be construed to supersede, abrogate, or cause injury to vested water rights or decreed conditional water rights. The General Assembly affirms that this article does not impair, limit, or otherwise affect the rights of persons or entities to enter into agreements, contracts, or memoranda of understanding with other persons or entities relating to the appropriation, movement, or use of water under other provisions of law.

² 37-75-104 (2)(c). Using data and information from the Statewide Water Supply Initiative and other appropriate sources and in cooperation with the on-going Statewide Water Supply Initiative, develop a basin-wide consumptive and nonconsumptive water supply needs assessment, conduct an analysis of available unappropriated waters within the basin, and propose projects or methods, both structural and nonstructural, for meeting those needs and utilizing those unappropriated waters where appropriate. Basin Roundtables shall actively seek the input and advice of affected local governments, water providers, and other interested stakeholders and persons in establishing its needs assessment, and shall propose projects or methods for meeting those needs. Recommendations from this assessment shall be forwarded to the Interbasin Compact Committee and other basin roundtables for analysis and consideration after the General Assembly has approved the Interbasin Compact Charter.

Water Supply Reserve Account – Application Form

Revised October 2013

- d) Matching Requirement: For requests from the **Statewide Fund**, the applicants will be required to demonstrate a **25 percent** (or greater) match of the total grant request from the other sources, including by not limited to Basin Funds. A minimum match of 5% of the total grant amount shall be from Basin funds. A minimum match of 5% of the total grant amount must come from the applicant or 3rd party sources. Sources of matching funds include but are not limited to Basin Funds, in-kind services, funding from other sources, and/or direct cash match. Past expenditures directly related to the project may be considered as matching funds if the expenditures occurred within 9 months of the date the contract or purchase order between the applicant and the State of Colorado is executed. Please describe the source(s) of matching funds. (NOTE: These matching funds should also be reflected in your Detailed Budget in **Exhibit A** of this application)

FUNDING SUMMARY: PHASE I & II	Phase I	Phase II	
LAVWCD funds	\$ 48,000	\$ 1,194,000	
Basin Grant funds		\$ 25,000	
Statewide Grant funds		\$ 275,000	
WSRA Loan	\$ 2,535,000		
Totals:	\$ 2,583,000	\$ 1,494,000	\$ 4,077,000

2. For Applications that include a request for funds from the **Statewide Account**, describe how the water activity/project meets all applicable **Evaluation Criteria**. (Detailed in Part 3 of the Water Supply Reserve Account Criteria and Guidelines and repeated below.) Projects will be assessed on how well they meet the Evaluation Criteria. **Please attach additional pages as necessary.**

Evaluation Criteria – the following criteria will be utilized to further evaluate the merits of the water activity proposed for funding from the Statewide Account. In evaluation of proposed water activities, preference will be given to projects that meet one or more criteria from each of the three “tiers” or categories. Each “tier” is grouped in level of importance. For instance, projects that meet Tier 1 criteria will outweigh projects that only meet Tier 3 criteria. The applicant should also refer to the Supplemental Scoring Matrix applied to Evaluation Criteria Tiers 1-3 for Statewide Account requests. WSRA grant requests for projects that may qualify for loans through the CWCB loan program will receive preference in the Statewide Evaluation Criteria if the grant request is part of a CWCB loan/WSRA grant package. For these CWCB loan/WSRA grant packages, the applicant must have a CWCB loan/WSRA grant ratio of 1:1 or higher. Preference will be given to those with a higher loan/grant ratio.

Tier 1: Promoting Collaboration/Cooperation and Meeting Water Management Goals and Identified Water Needs

- The water activity addresses multiple needs or issues, including consumptive and/or non-consumptive needs, or the needs and issues of multiple interests or multiple basins.
- The number and types of entities represented in the application and the degree to which the activity will promote cooperation and collaboration among traditional consumptive water interests and/or non-consumptive interests, and if applicable, the degree to which the water activity is effective in addressing intrabasin or interbasin needs or issues.

Water Supply Reserve Account – Application Form

Revised October 2013

- c. The water activity helps implement projects and processes identified as helping meet Colorado’s future water needs, and/or addresses the gap areas between available water supply and future need as identified in SWSI or a roundtable’s basin-wide water needs assessment.
 - Because this water is decreed for any beneficial use, and will be available for lease to multiple users, it addresses multiple needs, consumptive and non-consumptive needs, and multiple interests. It restores the possibility of multiple uses to water that was being used by an industrial user.
 - This project addresses an environmental/recreational gap, in that water will be stored in Lake Henry until needed elsewhere, increasing water levels in a chronically low reservoir that used to be enjoyed by wildlife and recreational users alike. These uses may be restored, although an exact measurement is not possible. This need, in general, was identified in the Arkansas BIP.
 - This project will address the “double” agricultural gap caused by an increased need for augmentation and the double-counting of municipal return flows as current supply for Ag and future supply for Ag *and* M/I, as mentioned above.
 - The water will also be available for municipal/industrial uses, trades, and exchanges, adding flexibility and stability to the region’s water supply system, especially after the Arkansas Valley Conduit is constructed. The water holds a very senior exchange right.
 - This water activity addresses intrabasin needs and positively affects interbasin needs as well. Water is available to multiple users for varied uses.
 - A major use of the water will be for augmentation required by Rule 10 and Rule 14 Plans, addressing critical compact issues, and meeting this growing need. This intra-basin need is articulated in the BIP, Section 1.0, page 16.
 - Another future use of the water will be as replacement of return flows for lease/fallowing projects.

Tier 2: Facilitating Water Activity Implementation

- d. Funding from this Account will reduce the uncertainty that the water activity will be implemented. For this criterion the applicant should discuss how receiving funding from the Account will make a significant difference in the implementation of the water activity (i.e., how will receiving funding enable the water activity to move forward or the inability obtaining funding elsewhere).
- e. The amount of matching funds provided by the applicant via direct contributions, demonstrable in-kind contributions, and/or other sources demonstrates a significant & appropriate commitment to the project.
 - Grant funding from this account, complementing the associated loan application of \$2,535,000, assures that this water activity may proceed in a timely manner. The purchase and broadening of use of this stock, while limiting the up-front costs, ensures its viability and affordability to future users. Grant funding constitutes less than 8% of the combined project, but greatly assists the up-front funding required.
 - The applicant will be funding over 79% of this grant project, and over 90% of the combined project, through matching and loan funds.

Tier 3: The Water Activity Addresses Other Issues of Statewide Value and Maximizes Benefits

- f. The water activity helps sustain agriculture & open space, or meets environmental or recreational needs.

Water Supply Reserve Account – Application Form

Revised October 2013

- g. The water activity assists in the administration of compact-entitled waters or addresses problems related to compact entitled waters and compact compliance and the degree to which the activity promotes maximum utilization of state waters.
 - h. The water activity assists in the recovery of threatened and endangered wildlife species or Colorado State species of concern.
 - i. The water activity provides a high level of benefit to Colorado in relationship to the amount of funds requested.
 - j. The water activity is complimentary to or assists in the implementation of other CWCB programs.
- This activity does help sustain agriculture, by providing a means for augmentation as required by Rule 10 and Rule 14 Plans, at the same time addressing a problem related to compact compliance.
 - It also helps meet environmental and recreational needs.
 - It restores multiple beneficial use to water being used only for industrial use, maximizing utilization of state waters.
 - This activity can assist in the implementation of CWCB's Lease/Fallowing Pilot Project program, providing replacement water for fallowed lands.
 - The purchase keeps the use of these shares in the Arkansas Basin, available to Agriculture, preventing Ag dry-up, meeting statewide and basin values and goals. This water will benefit multiple users, furthering collaborative efforts such as Rule 10 and Rule 14 Plans.

Water Supply Reserve Account – Application Form

Revised October 2013

Part IV. – Required Supporting Material

1. **Water Rights, Availability, and Sustainability** – This information is needed to assess the viability of the water project or activity. Please provide a description of the water supply source to be utilized, or the water body to be affected by, the water activity. This should include a description of applicable water rights, and water rights issues, and the name/location of water bodies affected by the water activity.

The combined project is 558 paired shares of Colorado Canal and Lake Henry or Lake Meredith storage rights. Phase II, the grant project, is 149.4 paired Colorado Canal and Lake Henry shares. Appendix B is a list and description of the shares to be purchased. Lake Henry and Lake Meredith are located in Crowley County, near the town of Ordway, Colorado.

2. Please provide a brief narrative of any related studies or permitting issues.

n/a

3. Statement of Work, Detailed Budget, and Project Schedule

The statement of work will form the basis for the contract between the Applicant and the State of Colorado. In short, the Applicant is agreeing to undertake the work for the compensation outlined in the statement of work and budget, and in return, the State of Colorado is receiving the deliverables/products specified. **Please note that costs incurred prior to execution of a contract or purchase order are not subject to reimbursement.** All WSRA funds are disbursed on a reimbursement basis after review invoices and appropriate backup material.

Please provide a detailed statement of work using the template in Exhibit A. Additional sections or modifications may be included as necessary. Please define all acronyms and include page numbers.

See Exhibit A.

REPORTING AND FINAL DELIVERABLE

Reporting: The applicant shall provide the CWCB a progress report every 6 months, beginning from the date of the executed contract. The progress report shall describe the completion or partial completion of the tasks identified in the statement of work including a description of any major issues that have occurred and any corrective action taken to address these issues.

Final Deliverable: At completion of the project, the applicant shall provide the CWCB a final report that summarizes the project and documents how the project was completed. This report may contain photographs, summaries of meetings and engineering reports/designs.

PAYMENT

Payment will be made based on actual expenditures and invoicing by the applicant. Invoices from any other entity (i.e. subcontractors) cannot be processed by the State. The request for payment must include a description of the work accomplished by major task, and estimate of the percent completion for individual tasks and the entire water activity in relation to the percentage of budget spent, identification of any major issues and proposed or implemented corrective actions. The last 10 percent of the entire water activity budget will be withheld until final project/water activity documentation is completed. All products, data and information developed as a result of this grant must be provided to the CWCB in hard copy and electronic format as part of the project documentation. This information will in turn be made widely available to Basin Roundtables and the general public and help promote the development of a common technical platform.

Water Supply Reserve Account – Application Form

Revised October 2013

The above statements are true to the best of my knowledge:

Signature of Applicant:

Print Applicant's Name: R Jay Winner

Project Title: Phase II, Repurposing of water supply for Multiple Beneficial Use

Date: 1-30-15

Return an electronic version (hardcopy may also be submitted) of this application to:

Craig Godbout – WSRA Application
Colorado Water Conservation Board
1313 Sherman St., Room 721
Denver, CO 80203
303-866-3441, ext. 3210 (office)
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