



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

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DATE: November 15-16, 2017 Board Meeting

AGENDA ITEM: #12. Request for Water Acquisition Pilot Program

Introduction

As part of the CWCB's instream flow (ISF) water acquisition program, the CWCB staff, in partnership with the Colorado Water Trust (CWT), plans to pilot a strategic approach to ISF water acquisitions using a public outreach process similar to the one currently used for new appropriations. The Request for Water Acquisition Pilot Program (Program) is intended to accomplish several goals:

- to inform water right owners about voluntary, market-based opportunities to sell or lease their rights to benefit rivers in need;
- to proactively invite voluntary water right offers for ISF use from willing water rights owners;
- to provide a user-friendly mechanism for water rights owners to investigate working with CWCB and CWT on ISF acquisitions;
- to streamline transaction processes and utilization of resources;
- to facilitate implementation of Colorado's Water Plan objectives; and
- to add flows to river segments in need while coordinating with agricultural and other uses.

The Program will be a voluntary program open to all water right owners, including agricultural, municipal, industrial, or other users. Transaction types may include temporary transactions to be exercised only for a limited period of time, longer term contracts extending for 10+ years, or permanent donations or purchases of water rights. Flow restoration projects can also include flexible approaches to use such as a split season use of water between irrigation and ISF use in a single year, or enrollment of a water right in a water conservation program authorized by section 37-92-305(3)(c), C.R.S. to enable decreased use of the water right without impacting its historical consumptive use record. The latter approach would not require CWCB involvement.

Staff Recommendation

This is an informational item with no Board action required. Staff would appreciate receiving input from the Board on the pilot program.



Discussion

The CWCB staff and CWT plan to launch the Program on January 24, 2018 at the annual Instream Flow Workshop held in conjunction with the Colorado Water Congress's Annual Convention. staff and CWT will give an overview of how the CWCB acquires water, water rights, and interests in water for ISF use, and explain the Program and how water rights owners can participate. Topics covered will include the Program's timeline, stream restoration and transaction tools available, and what information a water rights owner needs to provide to initiate participation in the Program. Prior to the Program launch, CWT and CWCB may perform some public outreach on the Program to basin roundtables or other stakeholder groups.

Program Operation

CWT has developed a draft "Request for Water Acquisitions, 2018 Pilot Program, Water Rights Preliminary Offer Form" (Offer Form). To initiate participation in the 2018 Pilot Program, a water rights owner must submit a completed Offer Form by March 31, 2018. The Offer Form asks for basic information about the water right being offered and presents options for transaction type preferences. The Offer Form states that submission of the Offer Form will initiate a free, confidential review of the subject water right(s) by CWT staff to determine the potential for streamflow restoration benefits that could result from use of the subject water right, with an emphasis on maintaining confidentiality. After CWT's initial analysis, CWT will contact the offeror to discuss potential opportunities and to request approval to conduct additional technical analyses and to consult with necessary entities, including the CWCB. During the more detailed review process, CWT and CWCB staff would consult on whether use of the water could result in meaningful benefits to a stream reach, and on costs and benefits of particular proposals.

Once a path forward has been outlined and agreed to by all parties, CWT and CWCB will proceed to obtain the necessary approvals from the CWCB Board, the water court, administrative approval by DWR, or other approval processes that would allow ISF use of the water under Colorado water law. After appropriate approvals are obtained, CWCB staff and CWT will coordinate on managing, recording, and accounting for the ISF use of the water, both in CWCB's records and in DWR's official water use records.

Anticipated Program Impact

This pilot program will require additional CWCB staff time to process additional water offered into the ISF acquisitions program. However, establishing a deadline for submittal of offers of water will enable staff and the CWT to coordinate under a set timeline to prioritize potential ISF acquisitions for maximum benefits to Colorado's streams. Bolstering the ISF acquisition program through active and on-going conversations with water users will help the CWCB ISF Program further its mission and contribute to achieving the goals of Colorado's Water Plan. Staff anticipates that this Program will positively impact Colorado streams in need while offering voluntary market-based alternatives to individual water rights owners around the state.

