



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Lauren Ris, Deputy Director
Kirk Russell, Finance Section Chief

DATE: July 21-22, 2021

AGENDA ITEM: 24. Chatfield Settlement Agreements

Recommendation:

Staff recommends that the Board approve the terms for settlement agreements with Central Colorado Water Conservancy District (Central), Centennial Water and Sanitation District (Centennial), and Colorado Parks and Wildlife contingent on the approval of the parties respective Boards and on the Chatfield Reallocation Project Participants resolving payment of OMRRR&R for the project's Environmental Pool.

Background:

In early 2020, a lawsuit was threatened over CWCB, CPW and Central's interpretation of the 122.2 Fish, Wildlife and Recreation Mitigation Plan and the Chatfield Reservoir Management Agreement alleging that the two documents prohibit the Environmental Pool from filling more than 1,000 AF of the 2,100 Environmental Pool with Central's 1983 water right. The 122.2 Fish, Wildlife and Recreation Mitigation Plan, adopted by the Parks and Wildlife Commission and the CWCB Board in 2014, establishes a 1,600 AF environmental pool as part of the mitigation requirements for the Project's environmental impacts. The Chatfield Reservoir Management Agreement, signed by all of the Project participants, expands the capacity of the Environmental Pool up to 2,100 AF.

CWCB and CPW staff along with representation by the Attorney General's Office have been negotiating settlement terms with Central and Centennial over the past 1.5 years and have reached the following terms for agreements.

Settlement Terms Summary:

Central Water Conservancy District Agreement

1. Central will convey to CWCB/CPW 1,000 AF of its 1983 water right decreed for storage in Chatfield Reservoir for use in the Project's Environmental Pool.
2. CWCB/CPW will be entitled to the 3rd filling priority using Central's '83 water right.



3. All storage and carryover will be consistent with current reservoir administration requirements and controlled by the Chatfield Reservoir Management Agreement. The Environmental Pool may not hold any more than 1,000 AF of Central's '83 right at any one time.
4. Central will be compensated in the form of a discount on its purchase of additional reallocated space in Chatfield Reservoir from CWCB and shall not pay any of the OMRRR&R on the 1,000 AF of space that may be filled by Central's '83 water right. The discount will be in the form of 264 AF conveyed to Central in exchange for the 1,000 AF of Central's '83 water right.
5. CWCB will agree that Central will not be charged any of the OMRR&R on 1,000 AF of the Environmental Pool and will only pay its pro-rata percent of OMRRR&R on the remaining 600 AF of the 2,100 AF Environmental Pool.
6. Central will purchase 736 AF of Reallocated Space from CWCB at a price of \$8,300.97 per AF. Central will have the option to purchase the remaining 634 AF of space and would finance that purchase with a loan from the CWCB, or the CWCB would also be free to sell that space to another entity at any time.
7. Central's agreement is contingent upon reaching an agreement among all Project Participants related to OMRRR&R for the 1,600 AF Environmental Pool.
8. This settlement agreement will not modify the Chatfield Reservoir Management Agreement or the 122.2 Fish, Wildlife and Recreation Mitigation Plan.

Centennial Water and Sanitation District Agreement

1. Centennial will convey to CWCB/CPW 2,100 AF of its 1984 water right decreed for storage in Chatfield Reservoir for use in the Project's Environmental Pool.
2. CWCB/CPW will be entitled to fill up to 1,000 AF of the Environmental Pool before Centennial may fill space it owns using its 1984 water right. The first 1,000 AF of the Environmental Pool may fill with either Central's 1983 water right or Centennial's 1984 water right, but no more than 1,000 AF may fill before Centennial may fill its space using its 1984 water right.
3. CWCB/CPW will be entitled to fill the remaining 1,100 AF of the Environmental Pool using Centennial's 1984 water right after Centennial has filled the space it owns with its 1984 water right.
4. All storage and carryover will be consistent with current reservoir administration requirements and controlled by the Chatfield Reservoir Management Agreement. The Environmental Pool may not hold any more than 1,000 AF of Central's '83 right at any one time.
5. Centennial will not receive any monetary compensation for its 1984 water right to fill the Environmental Pool.
6. CWCB will not seek to make Centennial responsible for paying any part of the annual OMRRR&R costs for the Environmental Pool.
7. This settlement agreement will not modify the Chatfield Reservoir Management Agreement or the 122.2 Fish, Wildlife and Recreation Mitigation Plan.

