



COLORADO
**Colorado Water
Conservation Board**
Department of Natural Resources

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Jared Polis, Governor

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TO: Colorado Water Conservation Board Members
FROM: Amy Ostdiek
DATE: September 15, 2021
SUBJECT: Agenda Item 18: Demand Management Feasibility Investigation Update

Staff recommendation:

Staff recommends that the Board adopt the Demand Management decision-making roadmap attached hereto as Exhibit B.

Background:

Following the Demand Management workshop held on August 18, 2021, staff has edited the Decision-Making Roadmap as shown in the attached redlined document (Exhibit A). These edits are intended to track board discussion at the August workshop. A clean version is attached as Exhibit B for potential Board action.

The item for potential Board action is intended to be a high-level roadmap outlining the Board's decision-making process. Importantly, this process is aimed at analyzing the issue of feasibility of a potential Demand Management program. It is not intended to establish or design a program. This decision-making roadmap is intended to be iterative and flexible, and may be adjusted as needed.

A number of materials have been provided to support the Board's decision-making process, including but not limited to the materials supporting the exercises discussed at the August workshop. Similarly, these materials are not intended to indicate how a program should be designed, but rather to support Board discussion and decision-making on whether Demand Management is achievable and worthwhile from Colorado's perspective. Specifically, these tabletop exercises were designed to show a strawman concept of the elements of monitoring & verification and environmental considerations. These exercises are intended to assist the Board in determining whether these elements of a Demand Management program may be technically achievable from Colorado's perspective.

In considering the decision-making roadmap and the strawman / tabletop exercise materials, the Board may wish to provide input to staff on:

- (1) Whether the Decision-Making Roadmap adequately captures the major milestones and appropriate timing of board decision-making, and what additional edits may be desired before the Board is prepared to adopt it.



- (2) The effectiveness of the strawman / tabletop exercise and related materials in facilitating Board discussion and supporting the decision-making process and any outstanding questions relating to these materials, noting that these materials are designed to be living documents that may be adjusted and expanded upon as the Board deems helpful.

Additional background information regarding the feasibility investigation to date and resources available to support Board decision making is below.

General Demand Management Background

The Upper Basin States of the Colorado River Basin are currently investigating the feasibility of a potential Demand Management program. Demand Management is the concept of temporary, voluntary, and compensated reductions in consumptive use. The Demand Management Storage Agreement, one element of the 2019 Drought Contingency Plan (DCP), provides the authorization for the Upper Division States to store water created pursuant to a Demand Management program in Lake Powell. The water would only be used for Compact compliance purposes at the direction of the Upper Colorado River Commission. Whether a program is established and how such a program would operate are still open questions. Each Upper Division State must make an initial determination that Demand Management is feasible before moving forward with creating a potential program.

The mission of the Colorado Water Conservation Board is to conserve, develop, protect, and manage Colorado's water for present and future generations. In carrying out this mission, CWCB is the agency authorized to determine whether Demand Management is feasible for Colorado. Following adoption of the DCP in March 2019 and after significant discussion by the Board and key stakeholders, the CWCB Board adopted the 2019 Work Plan to help guide the initial stage of the feasibility investigation. This work was focused on identifying key threshold issues associated with a potential Demand Management program. Pursuant to the 2019 Work Plan, staff convened workgroups that met throughout the 2019-2020 Fiscal Year. Staff provided regular updates to the Board and received guidance and input throughout the implementation of the 2019 Work Plan. A summary of work completed pursuant to the 2019 Work Plan is available in the July 2020 update to the Board.

Following Board discussion through workshops and Board meetings, the Board adopted the Step II Work Plan in November 2020. In this Work Plan, the Board directed staff to develop a framework of a Demand Management program, to be used to generate discussion about potential Demand Management program design and a range of potential implementation options. Staff developed the draft framework in early 2021, then engaged a wide range of stakeholders to solicit feedback on the framework, including through workshops, updates, and other outreach as detailed in the Step II Work Plan. Staff has provided regular updates to the Board throughout implementation of the Step II Work Plan.

Additionally, during this time the literature review was completed pursuant to Board guidance both through the 2019 Work Plan and pursuant to the Step II Work Plan direction to “[a]nalyze and learn from existing, ongoing, and/or new programs and projects.” The completed literature review was provided with the July 2021 Board materials. The process was designed to collect information to inform the Board's discussion and process for the Demand Management Feasibility Investigation in July 2021 and beyond.



Status Update on Implementation of Step II Work Plan

The framework was released in March 2021, and from March - June 2021, staff conducted public outreach regarding the framework, including:

- *Six workgroup meetings:* Staff conducting meetings with six of the workgroups previously convened pursuant to the 2019 Work Plan to receive input on whether workgroup members' input is adequately captured in the framework.
- *Nine Basin Roundtable meetings:* Staff presented to and requested input from the nine Basin Roundtables.
- *IBCC meetings and input:* Staff presented to the Interbasin Compact Committee on the framework and solicited specific input on the Framework. Staff plans to facilitate continued discussion at the October IBCC meeting.
- *Three public workshops:* Staff hosted three public workshops to receive input on the framework, each focused on specific subject matters.
- *Public listening session:* Staff hosted a public listening session to receive additional input on the framework.
- *EngageCWCB Survey:* Staff developed an informational website and a survey soliciting feedback on the framework.
- *Demand Management informational video (to be released):* Staff worked with a consultant to develop an informational video regarding Demand Management to reach those who may be interested but have been unable to attend previous meetings or may not otherwise be involved in the discussion at this time. This yet-to-be-released video directs viewers to CWCB's website for more information and to learn how to engage.
- *Additional presentations as requested:* In addition to the above-referenced items, staff also presented the framework and provided opportunities for discussion and input upon request.
- *Written input:* Staff also invited written comments relating to the framework.

All input received on the Framework was provided with the July 2021 Board meeting materials.

Additionally, throughout this process, staff has worked with a team of consultants to achieve the following public outreach and engagement tasks, pursuant to the Step II Work Plan:

- Developed a communications toolkit designed to assist Demand Management messaging, provided electronically to the Board members previously.
- Developed strategies to make better use of various communications networks, including but not limited to social media, improved graphics and informational documents, and use of informational videos.
- Developed a database of stakeholders who have provided input, attended meetings, or otherwise shown interest in the Demand Management Feasibility Investigation, which will be used going forward to distribute information and solicit feedback on the ongoing feasibility investigation.
- Ongoing and continued engagement with Tribal Nations regarding Demand Management and the Framework on a sovereign-to-sovereign basis.



Context for Decision Making

In the Step II Work Plan, the Board adopted a lens through which to make decisions relating to Demand Management feasibility. The Work Plan breaks the feasibility question into three sub-questions:

- (1) ***Achievability:*** The focus of this inquiry is whether it is technically possible to achieve a functioning Demand Management program within Colorado, and contemplates questions such as whether it is possible to verify and track water conservation, whether there are mechanisms available to track environmental benefits and impacts, whether it is possible to develop an appropriately robust outreach plan for a potential Demand Management program, and whether a funding source may be available.
- (2) ***Worthwhile for Colorado:*** The focus of this inquiry is whether - even if a program is technically achievable - it is worthwhile from Colorado's perspective. The scope of this question includes whether a Demand Management program may be established in a way that is proportional and equitable and avoids or mitigates unacceptable adverse impacts within the state.
- (3) ***Advisability:*** The focus of this inquiry is whether it is advisable for Colorado to make a feasibility determination within the broader context of Colorado River issues and strategy. This is a determination that will likely incorporate input from other states and the Upper Colorado River Commission, and therefore will be an evolving analysis. Given the quickly changing circumstances and ongoing investigation by the Upper Colorado River Commission, this determination would likely be made at the point in time after the first two questions are considered.

Roadmap for decision-making

Within this context, the purpose of this agenda item is to further discuss a potential roadmap for Board decision making to assist the Board in progressing in the Demand Management feasibility investigation. Staff suggests that the Board adopt the decision-making roadmap attached as Exhibit B, as edited to reflect input received from Board members. As shown in this roadmap, staff suggests the questions relating to achievability be considered first, followed by questions relating to whether a Demand Management program may be worthwhile from Colorado's perspective, noting that answers to the "achievability" questions may help to frame and inform the analysis of whether Demand Management may be advisable.



Colorado Water Conservation Board
Exhibit A: DRAFT Demand Management Decision-Making Roadmap - Redlined
~~August-September~~ 2021
Working Draft

ACHIEVABILITY?		
Monitoring & Verification	Decision	Timeframe <u>for Decision-Making Process</u>
<p>Is it technically possible to monitor and verify conserved consumptive use within Colorado for a potential Demand Management program?</p> <ul style="list-style-type: none"> • Monitoring & Verification elements for all projects <ul style="list-style-type: none"> ○ Measure water returned to stream ○ Analyze conserved consumptive use ○ Maintain return flows ○ Coordinate environmental and other benefits • Additional potential elements <ul style="list-style-type: none"> ○ Estimate residual field consumptive use ○ <u>Identify mechanisms to prevent injury</u> 	YES NO	<u>Begin¹ Nov</u> Sept. 2021
Environmental Considerations	Decision	Timeframe
<p>Is it technically possible to track and monitor potential environmental impacts and benefits?</p> <ul style="list-style-type: none"> • Consider potential environmental benefits and impacts • Assess net benefit or impact • Incorporate strategies to incentivize benefits, including potential leveraging of other programs • Implement strategies to avoid or mitigate negative impacts 	YES NO	<u>Begin Nov</u> Sept. 2021
Education & Outreach	Decision	Timeframe
<p>Is it possible to develop an outreach plan for a Demand Management program?</p> <ul style="list-style-type: none"> • Engage broad audiences through a water education program • Inform the program through stakeholder engagement 	YES NO	<u>Begin</u> Nov. 2021

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<ul style="list-style-type: none"> • Ensure participation through program marketing 		
Funding	Decision	Timeframe
<p>Given the above determinations, is it possible to secure a funding source to pay for a potential Demand Management program?</p> <ul style="list-style-type: none"> • <u>Identify potential federal funding sources, including but not limited to funds available through the federal Bipartisan Infrastructure Bill.</u> • <u>Identify potential state funding sources, including but not limited to funds available through implementation of Proposition DD.</u> • <u>Identify a range of potential costs of a Demand Management program, including payments to participants, potential costs of mitigation of secondary impacts, costs of running a program, and other potential costs.</u> 	YES NO	<i>TBD: Pending Infrastructure Bill</i>
WORTHWHILE FOR COLORADO?		
Proportionality Considerations	Board Decision	Timeframe
<p>Can Colorado establish a Demand Management program that prioritizes avoidance of disproportionate negative economic or environmental impacts to any single subbasin or region within Colorado while protecting the legal rights of water rights holders, consistent with the Board’s November 2018 Support and Policy Statement?</p>	YES NO	<i>TBD: Begin Nov. 2021 (pending IBCC input to be received expected Oct. 2021)</i>
<u>Anti-Speculation Considerations</u>	<u>Board Decision</u>	<u>Timeframe</u>
<p><u>Can Colorado establish a Demand Management program that sufficiently addresses or does not further encourage speculation activities?</u></p>	<u>YES NO</u>	<i><u>Begin – Nov. 2021 (pending analysis of Anti-Speculation Workgroup report)</u></i>

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Analyses and Findings of UCRC and Other States	Board Decision	Timeframe
Based on information gained from the UCRC feasibility investigation and those ongoing in the other Upper Division States, would a Demand Management program be worthwhile from Colorado’s perspective?	YES NO	TBD: Investigations ongoing

ADVISABLE FROM COLORADO’S PERSPECTIVE?		
<p><i><u>This analysis will follow completion of the decision-making process above, and contemplates whether it would be advisable to make a feasibility finding given the broader Colorado River strategy.</u></i></p>		

ⁱ The appropriate timeline for decision points is not identified within this document, but will rather be considered as the analyses are underway. Dates noted within this document correlate with the time at which the Board is expected to have materials and information needed to conduct each analysis.

Colorado Water Conservation Board
 Exhibit B: Demand Management Decision-Making Roadmap
 September 2021

This document is subject change and is intended to outline an iterative, flexible process

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Anti-Speculation Considerations	Board Decision	Timeframe
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