

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER

Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589



Roy Roemer
Governor

James S. Lochhead
Executive Director

Hal D. Simpson
State Engineer

February 24, 1995

POLICY MEMORANDUM 95-1

SUBJECT: ACCEPTANCE OF 25-YEAR LEASE AUGMENTATION SUPPLIES

Basis for policy

The Bureau of Reclamation has stated that all new contracts for augmentation water will only be on a 25-year lease with no guaranteed option to renew. Existing leases that come up for renewal will also only be given the same 25-year lease option. The State Engineer is very concerned about this short term lease period in that it places a great burden on the water users and our office in our attempts to ensure a reliable supply of augmentation water, especially when dealing with domestic uses.

Various entities have been in negotiations with the Bureau in an attempt to lengthen the contract period and the State Engineer supports those efforts. The State Engineer believes that it is critical to obtain long-term augmentation supplies to ensure viable domestic and municipal type uses and to protect the vested water rights of others.

However, the Bureau appears determined to make the 25 year contract policy a reality. Therefore, the need for policy by the State Engineer is required.

This policy becomes effective immediately and can only be modified or revoked in writing.

Policy

1. Water Court

The State Engineer will accept 25-year Bureau of Reclamation contracts as a source of augmentation water until such time as efforts to increase the contract length and/or renewal options are successful. In order to accept such a supply, all decrees for augmentation plans with this type of contract must include the following language:

"The state engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights pursuant to section 37-92-305(8), C.R.S. (1990). Further, the applicant and

its assigns understand that the lease supply is only for a period of 25 years and if such lease should expire, fail to be renewed, is terminated, or an alternative sufficient source of replacement water is not included in this decree by proper amendment prior to such expiration, curtailment of all out-of-priority diversions will occur."

2. Subdivision Review

If a subdivision review is before the State Engineer that proposes to depend on a 25-year lease of Bureau of Reclamation water for its augmentation supply, the State Engineer will clearly inform the County of his concern over the supply and state that while we accept the supply, it is the state's position that if the lease should expire, fail to be renewed, be terminated, or an alternative sufficient source of replacement water is not obtained prior to expiration of the lease, curtailment of all out-of-priority diversions will occur. Furthermore, a legal entity should be established to represent the homeowners such as a water district or homeowners association.

Dated the 27th day of February, 1995



Hal D. Simpson
State Engineer