



**COLORADO**

**Colorado Water  
Conservation Board**

Department of Natural Resources

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**TO:** Colorado Water Conservation Board Members  
**FROM:** Amy Ostdiek and Michelle Garrison  
**DATE:** March 15, 2023  
**SUBJECT:** Agenda Item 9: System Conservation Pilot Program

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### Staff Recommendation:

**Staff recommends the Board approve the Upper Colorado River Commission's System Conservation Pilot Program Projects as Water Conservation Projects subject to C.R.S. §§ 37-92-103(2) and 37-92-305(3)(c).**

In June 2022, the Commissioner of the Bureau of Reclamation called on the Colorado River Basin States to create a plan to conserve an additional 2-4 million acre-feet of water above efforts already underway, in an effort to protect critical infrastructure at Lake Powell and Lake Mead. In July 2022, the Upper Division States responded with a Five-Point Plan, while recognizing that we were not the cause of the crisis and had limited options to respond due to ongoing and deep hydrologic and legal water shortages, coupled with depleted storage.

One component of this plan is reauthorization of the System Conservation Pilot Program (SCPP). This program entails temporary, voluntary, and compensated reductions in consumptive use across the Upper Basin for the purpose of mitigating the impacts of drought in the Upper Colorado River Basin. The SCPP was reauthorized by Congress, and a Request for Proposals was released in December 2022. Applications were accepted through March 1, 2023.

The SCPP will be administered by the Upper Colorado River Commission (UCRC) pursuant to a funding agreement executed on January 6, 2023, between the UCRC and the Department of the Interior through the Bureau of Reclamation. Part of the agreement includes a "Facilitation Exhibit" which describes how the UCRC will implement the funding agreement with Reclamation. The funding agreement requires that the proposed projects are to be selected based on criteria that shall be set by the UCRC. The criteria for the selection of pilot projects are set forth in the Facilitation Exhibit.

The funding agreement also includes a template implementation agreement that will be entered into between the UCRC and each participating water user after approval by the UCRC and Reclamation of a pilot project. The implementation agreement must be consistent with the terms of the funding agreement.

Under these agreements, the UCRC will grant final approval to projects for participation in the SCPP pursuant to criteria set by the UCRC.



Relevant to the concepts that the Pilot Program will explore, C.R.S. § 37-92-305(3)(c) provides that, except in Water Division 7, historical consumptive use in a change of water rights may not be reduced as the result of participation in a water conservation program approved by a state agency.<sup>1</sup>

In addition, Section 37-92-103(2) defines abandonment of a water right such that any period of non-use of a water right shall be tolled if that water right is participating in “a water conservation program approved by a state agency...”

Thus, the CWCB Staff seeks to have the CWCB affirm that any projects participating in the SCPP are participating in a state-approved water conservation program.

Applications are currently under review by the UCRC to determine completeness and seek any missing or incomplete information, and to assess proposed conservation activities. Staff anticipates this preliminary review process will conclude by March 13, 2023, at which point CWCB Staff will provide the Board with a summary of the potential projects for CWCB approval pursuant to C.R.S §§ 37-92-103(2) and 305(3)(c) for final decision-making by the UCRC.

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<sup>1</sup> C.R.S. § 37-92-305(3)(c):

(c) In determining the amount of historical consumptive use for a water right in division 1, 2, 3, 4, 5, or 6, the water judge shall not consider any decrease in use resulting from the following:

- (I) The land on which the water from the water right has been historically applied is enrolled under a federal land conservation program; or
- (II) The nonuse or decrease in use of the water from the water right by its owner for a maximum of five years in any consecutive ten-year period as a result of participation in:
  - (A) A water conservation program, including a pilot program, approved in advance by a water conservation district, water district, water authority, or water conservancy district for lands that are within the entity's jurisdictional boundaries or by a state agency with explicit statutory jurisdiction over water conservation or water rights;
  - (B) A water conservation program, including a pilot program, established through formal written action or ordinance by a water district, water authority, or municipality or its municipal water supplier for lands that are within the entity's jurisdictional boundaries;
  - (C) An approved land following program as provided by law in order to conserve water or to provide water for compact compliance; or
  - (D) A water banking program as provided by law.



## **System Conservation Pilot Program - Attachment 1**

March 15, 2023 Update

*Preliminary and Subject to Change*

### **Summary of Proposals Received**

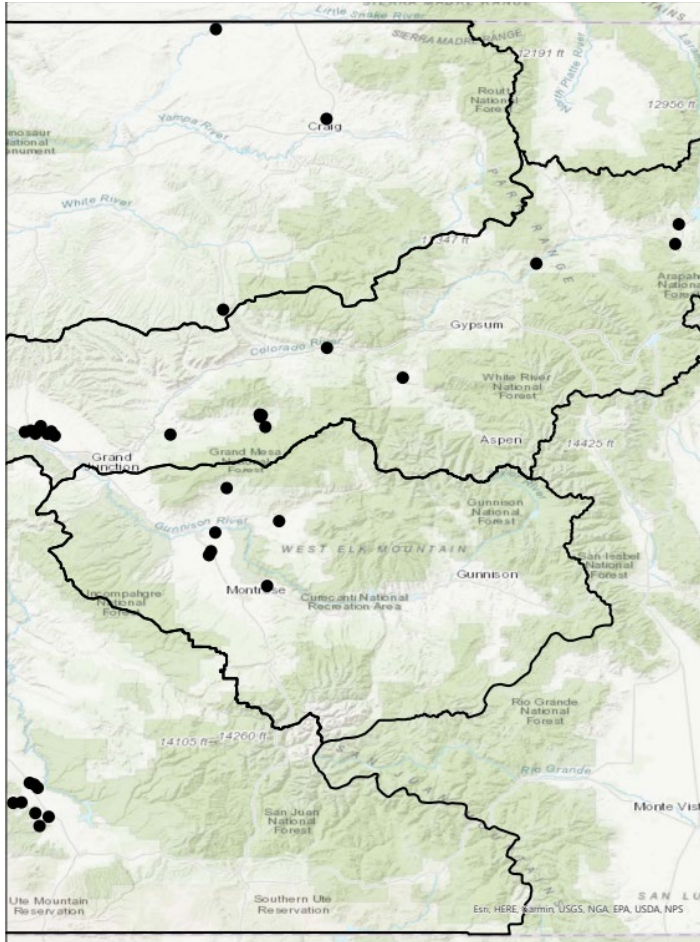
For the System Conservation Pilot Program 2023, the UCRC received 36 complete and responsive Colorado project proposals totaling 5,480 acres and 8,334 acre-feet of estimated conserved consumptive use. Below is a table summarizing the project proposals by basin.

<b>Basin</b>	<b># Projects</b>	<b>Proposed Participating Acreage</b>	<b>Proposed Estimated Conserved Consumptive Use</b>
<b>Yampa</b>	2	208	109
<b>White</b>	1	183	180
<b>Upper Colorado</b>	3	1,381	1,185
<b>Lower Colorado</b>	14	2,457	5,326
<b>Gunnison</b>	8	445	744
<b>San Juan/Dolores</b>	8	807	791
<b>Total<sup>1</sup></b>	<b>36</b>	<b>5,480</b>	<b>8,334</b>

Below is a map showing general locations of these projects.

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<sup>1</sup> This table includes only proposals occurring exclusively in Colorado and does not include the Little Snake proposal (CO\_WY\_01 in the spreadsheet below).



Of these 36 proposals, 19 propose full-season fallowing. Two proposals include foregoing late-season reservoir water. One proponent proposed a large-scale project to administer participation (capped at 1,000 total acres) on a lottery basis. Nine projects include partial season irrigation, which for many would mean only irrigating in the fall to establish lower water use crops for subsequent years. Eight projects would replace alfalfa with lower water use, drought-resistant annual grasses. Of the 36 proposals, 21 include irrigated fields within larger ditch companies. Fifteen have water rights that are not under a formal ditch company.

Saved water in this program becomes “system water” and does not include shepherding downstream of the participant’s point of diversion. Irrigation water will either be diverted at the ditch headgate and then “spilled” at some point down-ditch or will be bypassed at the headgate to ensure it is not available to non-participating ditch users. Proposals provide operating plans and general verification plans. Final verification plans will be included in the project contract. For many projects, verification will simply be ensuring that the land does not receive water - either via site visits or from satellite imagery. UCRC’s consultants will perform any necessary verification.

## **Updated SCPP Process Timeline**

- December 13, 2022: Pre-Solicitation Notice with 02/01/2023 deadline
- January 19, 2023: Deadline extended to March 1, 2023
- March 1, 2023: 88 proposals received across the Upper Basin
- Next Steps:
  - Identify projects for preparation of draft Implementation Agreement with Verification Plan
  - Draft Implementation Agreements
  - Early April target for execution

**Proposals Meeting UCRC Criteria based on Preliminary Analysis**

Below is a summary of proposals deemed complete and meeting the criteria established by the UCRC based on preliminary review by staff of the Upper Division States. These projects are under further consideration for approval by the UCRC. If additional proposals are completed and/or deemed appropriate for UCRC consideration pursuant to the criteria, staff will return to the Board to seek approval of those projects pursuant to C.R.S. §§ 37-92-103(2) and 37-92-305(3)(c).

<b>Project Name</b>	<b>Location</b>	<b>Type of Project</b>	<b>Timeframe</b>	<b>Crop</b>	<b>Proposed Acreage</b>	<b>Proposed Estimated Conserved Consumptive Use</b>
CO_1 - Plateau Creek - Galloway	Mesa Creek trib to Plateau Creek	Deficit irrigation	April - June	Grass hay	101	96.7
CO_4 - Upper Colorado Granby - Orr	Upper Colorado	Full-Season Fallow	June - October	Grass hay	870	484.53
CO_7 - Upper Colorado Kremmling - Rahne	Upper Colorado	Full-Season Fallow	May - October	Grass hay/ Alfalfa	4.79	5.16
CO_8 - GVIC - Muhr	Colorado River - Grand Valley	Full-Season Fallow	April - October	Alfalfa/Corn/Small Grains	59.16	137.3
CO_12 - Uncompahgre	Uncompahgre - UVWUA	Full-Season Fallow	April 15 - October	Triticale and Corn	33.5	45.6

- Nauyokas						
CO_13 - Cimarron River - Epplesheimer	Cimarron River	Full-Season Fallow	April 15 - October 20	Alfalfa and Hay grass	125.1	274
CO_14 - Grand Valley - GVWUA -	Grand Valley	Combination	April - October	Varies	Max of 1000	Max of 3000
CO_15 - Dolores Project - Ives	Dolores Project	Crop Switching	May - November	Alfalfa to Multi- species forage	93.4	93.4
CO_16 - Dolores Project - Johnson	Dolores Project	Crop Switching	May - November	Alfalfa to Multi- species forage	128.66	149.25
CO_17 - Dolores Project - Mahaffrey	Dolores Project	Crop Switching	May - November	Alfalfa to Multi- species forage	173.05	131.23
CO_18 - Dolores Project - Neely	Dolores Project	Crop Switching	May - November	Alfalfa to Grass forage mix	125.8	144.67
CO_19 - Dolores Project - White	Dolores Project	Crop Switching	May - November	Alfalfa to Multi- species forage mix	46.64	24.25
CO_20 - Dolores Project - Oliver	Dolores Project	Crop Switching	May - November	Alfalfa to Multi- species forage		103

CO_21 - Dolores Project - C Neely	Dolores Project	Crop Switching	May - November	Alfalfa to Grass forage mix		45.3
CO_22 - Dolores Project- White	Dolores Project	Crop Switching	May - November	Alfalfa to Multi-species forage		99.7
CO_23 - GVIC - Tonozzi	Grand Valley Irrigation	Full-Season Fallow	April - October	Alfalfa	15	38.16
CO_26 - GVIC - BrenalFarms	Colorado River	Full-Season Fallow	April - October	Corn, Alfalfa rotation	15.84	38.1
CO_30 - Fortification Creek - Weaver	Fortification Creek	Full-Season Fallow	April 15 - August 31	Grass hay	31	66
CO_31 - GVIC - Baleztena	Colorado River	Full-Season Fallow	April through October	Alfalfa and Grass	30.5	71
CO_33 - Surface Creek - Schmalz	Surface and Kiser Creeks	Full-Season Fields and Partial-Season Fields	April 1 - October 15 (Full-Season) and April 1 to June 15 (Partial)	Alfalfa and Grass	133.3	153.2
CO_34 - Piceance Creek - Mtn Water	Piceance Creek	Full-Season Fallow	April 1 - October 31	Grass hay	183	186.9



CO_WY_1 - Little Snake <sup>2</sup>	Little Snake	Full-Season Fallow	April 1 - October 31	Grass hay	2631	4230.9
<b>Total</b>					<b>Up to 5,800.74</b>	<b>Up to 9,618.35</b>

The table above reflects preliminary proposal estimates that are still subject to change and to ongoing discussions between UCRC and project proponents to determine if the projects will be selected for final contracting between each of the proponents and the UCRC. Further, the table may include projects that may ultimately be denied by UCRC. Finally, some projects remain under preliminary review by UCRC's consultant and await additional information from project proponents. Summaries of these projects will be provided to the Board in the near future if preliminarily deemed appropriate for further review by UCRC.

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<sup>2</sup> This proposal includes acreage and proposed conserved consumptive use in both Wyoming and Colorado. Roughly 70% of the proposal is within Wyoming.