

Colorado Agriculture and Conservation
Reduced Diversion Guidelines
September 2013

These guidelines are the product of a joint effort between the Colorado Agricultural Water Alliance and Trout Unlimited, The Nature Conservancy, Environmental Defense Fund and Western Resource Advocates. Our expectation is that they will serve as guidance to inform the development of public policy, including legislation.

Definition

Reduced diversions of non-consumptive surface water to other non-consumptive uses between the point of diversion and historic point of return are the focus of this document

Irrigation efficiency improvements could result in these reduced diversions, which would benefit conservation objectives and agricultural operations through water savings. With these guidelines, we seek to define one of those primary benefits, which is derived from the non-consumptive portion of an adjudicated surface water right. Non-consumptive savings may be the result of reductions in the amount of water diverted by an irrigator due to increased efficiencies in the means of diversion, application, conveyance, storage or any other use reducing the need to divert a full decreed amount while retaining consumptive use.

- Water court is the appropriate venue to adjudicate permanent changes to the non-consumptive portion of a water right. A parallel administrative process for temporary changes may also be necessary.
- Non-injury is the standard against which such changes, permanent or temporary, would be evaluated. Appropriate due diligence submitted to the decision-making body is required to protect against injury. Opportunities for recourse against unforeseeable injuries that become apparent at a later date from non-consumptive changes may also be necessary.
- Non-consumptive change cases will function like traditional change cases. The changed non-consumptive portion will retain its priority date for the new use between the point of diversion and historical return.
- Non-consumptive changes will not reduce the total amount of water available below the historic point of return. However, these changes *may* affect the timing of water availability downstream. Parties seeking to gain credit for the reduced diversion amount would have to make provisions to avoid or mitigate injury to other users, including addressing the timing of water availability.
- Water resulting from a reduced diversion is not subject to abandonment to the extent that any reduction in non-consumptive use results from the implementation of agricultural efficiency measures.

Evaluation

These guidelines are offered to help resolve issues and demonstrate the value, methodology and applicability of reduced diversions to addressing both agricultural operations and natural resource

conservation objectives. It therefore may be desirable to also include mandated reporting requirements for purposes of evaluating the effectiveness of such an approach.

Relationship to other water-related discussions

In light of the IBCC and Basin Roundtable processes, and relating to the drafting of the Colorado Water Plan, along with parallel discussion within the Colorado Water Congress, it is our desire that these guidelines help provide sound guidance, set forth a model for addressing statewide resource challenges of mutual importance, and gain the support of those who are working toward cooperative solutions for the future of Colorado's water resources. We also hope that these guidelines will help develop policies and processes that will incentivize projects which facilitate agricultural water conservation opportunities, help secure related on-farm and on-ranch operational benefits, and enhance the productivity of consumptive use water.