

# **SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT**

## **ALLOCATION PRINCIPLES**

### **FINDINGS, DETERMINATIONS AND RESOLUTIONS**

The Board of Directors of the Southeastern Colorado Water Conservancy District in regular meeting assembled hereby finds and determines:

1: The total Project Water supply of the Fryingpan-Arkansas Project available for allocations as estimated by the Bureau of Reclamation's Computer Operation Study No. 40051, including an estimated evaporation charge prorated equally to all storage rights, is 80,400 acre-feet, of which 56,900 acre-feet are waters imported from the Colorado River and its tributaries, and 23,500 acre-feet are storable flood flows of the Arkansas River and its tributaries. None of the Winter Water storage Project Waters are considered Project Waters.

2: The quantities in Finding 1 above are premised upon the completion of the Fryingpan-Arkansas Project as now authorized by Congress and under average ordinary operating conditions. The Board recognizes that there is no floor under importation's from the Colorado River, and there is a ceiling of 120,000 acre-feet from which there must be deducted internal Project uses, evaporation and transit losses. The storable flood flows on the Arkansas River may vary from 0 acre-feet to a full Pueblo Reservoir in any one-year.

3: The Fryingpan-Arkansas Project must be operated and its waters must be allocated consistent with the requirements of the Statues of the United States, the State of Colorado, the Repayment Contracts between the United States and the Southeastern Colorado Water Conservancy District, and the Operating Principles, all as amended in the past or future. The Fryingpan-Arkansas Project was authorized by Public Law 87-590, 87<sup>th</sup> Congress, J.R. 2206, August 16, 1962, and Section 3(a) thereof requires the Project to be operated in accordance with the Operating Principles adopted by the State of Colorado on December 9, 1960, and reproduced in House Document 130, 87<sup>th</sup> Congress. Section 13 of said Operating Principles specifies:

13. The Project will be operated in such a manner that those in Eastern Colorado using Project Water imported from the Colorado River Basin for domestic purposes shall have preference over those claiming or using water for any other purpose.

4: The Board find that within the limits of said requirements, the basis of equitable allocation of Project Waters is premised upon need for such waters and the availability thereof, with consideration being given to population, taxable property, irrigated acreage and economy, and to that end has allocated such waters on an annual basis ever since waters have been available to said District under the Interim Contract. Said Fryingpan-Arkansas Project was designed to furnish supplemental water. All entities served by said Project and within the boundaries of said District, whether political subdivisions, irrigation entities or others, should in the future continue to endeavor to procure all possible additional water supplies.

5: Municipal entities must construct pipelines, treatment plants and other facilities requiring expenditures of large sums. In order to finance and construct the same, it is essential that such facilities be designed to definite capacity, and it must be known by the entities to be served thereby what proportions of Fryingpan-Arkansas Project Water will be available for use in such facilities.

6: All political subdivisions within the boundaries of the District, including all cities, towns, water districts private water companies, water associations and entities not served by the Fountain Valley Pipeline have the fundamental right to be treated in the same manner in Fryingpan-Arkansas Project municipal water allocations.

7: The preference clause in said Operating Principles preferring "domestic" over other uses of water imported from the Colorado River does not mean that all municipal uses are domestic. Domestic use on a farm ranks equally with domestic use in a city or town.

8: This Board has given consideration to the Black & Veatch reports on the Fountain Valley Pipeline captioned "Report on Fountain Valley Pipeline" and "Report on Arkansas Valley Conduit", and has also given appropriate weight to the potential needs of all cities and towns, as well as the needs of irrigation in the Arkansas Valley within the boundaries of said Southeastern Colorado Water Conservancy District.

9: The Board finds that no Fryingpan-Arkansas Project Water is available for industry, or other non agricultural uses, except via municipal service, until the requirements of domestic and irrigation uses have been satisfied. Any and all industrial requirements must be satisfied out of municipal allocations.

10: It is impossible to foresee or to fulfill the ultimate requirements of any or all entities, be they cities, towns, water districts or whatever form, for all time.

11: Return flows from Project Water allocations to entities served thereby should be made available, where physically possible, on the first right of refusal basis (but not for resale outside the entities) to the respective cities and towns so served on the basis of water which they acquire from the Project.

12: It is imperative that this District now allocate municipal waters.

13: Municipal growth is certain to continue and the demands of cities and towns for waters will continuously increase.

14: Municipal and domestic facilities require enormous investments, and the municipalities which will derive their water by said means are entitled to the same assurance that the Fryingpan-Arkansas Project had when it initiated the Fryingpan-Arkansas Project; namely, once the facility is built, its minimum proportionate supply of water is assured, subject only to annual variations in Project Water supply. Any allocation for municipal or irrigation uses must be based on a percentage of the total annual Fryingpan-Arkansas Project Water supply.

**WHEREFORE, IT IS HEREBY RESOLVED:**

- A. There is hereby allocated for the useful life of the Project a minimum of 51% of the annual Project Water supply to municipal and domestic use.
- B. The minimum of 51% allocated to municipal and domestic use is hereby divided as follows:
  - 1. Fountain Valley Pipeline; no less than 25 percent of the annual Project Water supply, estimated to be an average of 20,100 acre-feet;
  - 2. Arkansas Valley cities, towns, and entities lying east of Pueblo; no less than 12 percent of the annual Project Water supply, estimated to be an average annual of 9,643 acre-feet;
  - 3. Pueblo; no less than 10 percent of the annual Project Water supply, estimated to be an average annual of 8,040 acre-feet;
  - 4. Arkansas Valley Cities, towns, and entities lying west of Pueblo; no less than 4 percent of the annual Project Water supply, estimated to be an average annual of 3,200 acre-feet.
- C. In making these allocations, the Board acknowledges that it is unlikely that any entity receiving municipal and domestic water will require its minimum allocation for a number of years; their demand will gradually increase, and in the interim each of such municipal and domestic water users shall annually, on or before April 1 of each year, advise the Board of its anticipated demand; if such full demand is not asserted for many years, such will not constitute an abandonment of this allocation and such undemanded water may, during such time be allocated first to municipal and domestic users by the Board consistent with Paragraphs B.1, B.2, B.3, and B.4 hereof. Entities named in any one of said paragraphs shall have the first option to purchase such unused portion allocated in that year. If not so purchased, allocated water remaining unsold may thereafter be offered to any other users on such basis as the Board of Directors may then determine. There shall be no credit for water not demanded.
- D. Said allocations are premised upon the utilization of carryover storage space in Project reservoirs, in an amount not less than a total of 159,000 acre-feet capacity, of which the Fountain Valley Pipeline may use not less than 78,000 acre-feet; Arkansas Valley cities, towns, and entities lying east of Pueblo, not less than 37,400 acre-feet; Pueblo not less than 31,200 acre-feet; Arkansas Valley cities, towns, and entities lying west of Pueblo, not less than 12,400 acre-feet.
- E. Carryover storage space for all municipal and domestic purposes shall not be less than 159,000 acre-feet in any one year. This storage limitation may periodically be revised by the Board of Directors of the District; provided that any revision

shall never reduce municipal and domestic carryover storage space to less than the amount as then determined by the Bureau of Reclamation required for annual delivery of the allotted volumes of water to which municipal and domestic users are entitled by reason of this resolution. Carryover storage for municipal and domestic purposes shall be subject to appropriate evaporation and transportation charges and water stored in carryover space shall not be subject to reallocation.

- F. Irrigation waters will, subject to the pleasure of the Board of Directors of the District, be allocated on an annual basis of need.
- G. This allocation of water for municipal and domestic purposes is made on the express condition that there will not be any decrease in the 51% allocated to municipal and domestic use and any increase in municipal and domestic allocations shall only occur if agricultural irrigated acreage on which Project Water has been used, is removed from irrigation in which event the amount of Project Water previously allocated to such acreage shall be allocated to other non-irrigation uses. The Southeastern Colorado Water Conservancy District Board shall consider the requests of all non-agricultural users in any reallocation of this supply. That no entity shall be prevented from requesting annual adjustment in its allocations of water from the Project within the parameters referred to in Introductory paragraphs 3 and 4.
- H. Allocation of 51% of Project Water to municipal and domestic use at this time represents a fair division of water, taking into account the social and economic value of agriculture. However, it is recognized that the Fryngpan-Arkansas Project is intended to provide a supplemental, not primary supply of irrigation water. Therefore, as irrigation water, which is a primary supply of irrigation water, is converted to a non-agricultural use, the amount of Project Water allocated to irrigation should be proportionately reduced and allocated to non-agricultural use.
- I. These Principles will be implemented by appropriate contracts between the District and the entities under said facility desiring Project Waters.
- J. Catastrophes, public emergencies, force major events unforeseeable, shall be dealt with as an exception to these Principles of Allocation as long as such emergency need exists, and the District and all contracting entities will pledge themselves to mutually cooperative in resolving such a crisis if and when it occurs.
- K. These Principles and any contract to implement the same shall be confirmed by final judgment in a declaratory judgment proceeding to be initiated by the District as promptly as possible

**ADOPTED AT A REGULAR SCHEDULED MEETING, NOVEMBER 29, 1979.**