



SOUTHEASTERN COLORADO

Water Conservancy District

"Your investment in water"

March 10, 2023

TO: Agricultural Water Entities within the confines of the Southeastern Colorado Water Conservancy District

FROM: Garrett Markus, P.E., Water Resources Engineer

SUBJECT: Allocation of 2023 Agricultural Fryingpan-Arkansas Project Water Return Flows

In accordance with the District's Water Allocation Principles, contract with the United States Bureau of Reclamation (BOR) including the Reclamation Reform Act ("RRA"), Operating Principles, the Policy Concerning the Sale of Return Flows from Project Water, and appropriate Colorado water laws, the Colorado Water Conservancy Act, and Water Activity Enterprise Act, the Board of the Southeastern Colorado Water Conservancy District, by and through its Water Activity Enterprise ("District") does hereby notify you of your opportunity to apply to purchase Project Water return flows (Return Flows). Return Flows are required to be supplemental only to adjudicated waters used within the confines of the District boundaries.

Requests to purchase Return Flows must be received by 4:00 p.m. Friday, April 14, 2023.

Purchase and payment for Return Flows will be made in accordance with the enclosed **2023 AGRICULTURAL RETURN FLOW SALES PROCESS**. Delivery of Return Flows will be made in accordance with your approved plan for augmentation or substitute supply plan, and the **2023 AGRICULTURAL RETURN FLOW SALES PROCESS**.

Any and all waters purchased are subject to all terms and conditions of the Contract between the Southeastern Colorado Water Conservancy District and the United States, Reclamation law, including the Reclamation Reform Act (RRA), and any applicable Reclamation policies, including any policy regarding the use of Reclamation water or facilities for activities prohibited by the Controlled Substance Act of 1970, in effect for 2023. Submission of an application for Return Flows constitutes acceptance of the price for Return Flows set forth in the **2023 AGRICULTURAL RETURN FLOW SALES PROCESS**, and of all the terms and conditions of the "Policy Concerning Sale of Return Flows from Fryingpan-Arkansas Project Water." If you need to review a copy of any of these documents, please contact the District at (719) 948-2400 or go to www.secwcd.org, click on "Water Management", then "The Allocation of Fryingpan-Arkansas Project Water & Project Water Return Flows", and select "Project Water Return Flow Allocation" at the bottom of the page.

It is the intent of the Board of Directors that entities which do not buy Return Flows in any single year will not be precluded from doing so in the future, and will not be subject to prejudice thereby in the Board's review of the applications.

APPLICATIONS MUST BE RECEIVED BY 4:00 P.M. FRIDAY, APRIL 14, 2023

**SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT
2023 AGRICULTURAL RETURN FLOW SALES PROCESS**

Applicants will submit to the Southeastern Colorado Water Conservancy District (“District”), acting by and through its Water Activity Enterprise, their total annual request for Fryingpan-Arkansas Project Water return flows (Return Flows) to be used for replacement. The request must also contain monthly estimates of amounts of Return Flows required.

The District will estimate the total Return Flows available from the 2023 Project Water allocation and determine the maximum amount of Return Flows available for sale to each plan. Allocations will be made based on the District’s “Allocation Principles” and the “Policy Concerning the Sale of Return Flows from Project Water.”

Agricultural Return Flows allocated by the District are allocated on a time forward basis. This means that the District’s allocation of Return Flows is based upon projected Project Water deliveries to agricultural entities. The lagged Return Flows from the application of agricultural Project Water in a given year will be similar to the lagged depletions created by agricultural well pumping in that same year. Therefore, the post-plan depletions from well pumping will be replaced by the lagged return flows from ditch irrigation with Project Water in the same year as the pumping depletions.

Purchasers are required to pay for the first half (½) of their total purchase upon notification by the District of the amount of Return Flows approved. The rate for Return Flows is \$13.25 per acre-foot, which includes \$12.00 per acre-foot for Project Water Return Flows, a \$0.50 per acre-foot for the Safety of Dams (SOD) surcharge and \$0.75 per acre-foot Environmental Stewardship Surcharge (ESS) or any adjustment the Board of Directors adopt. On or before July 14, 2023 purchasers must pay for the second half (½) of their total purchase, or any portion of the remaining amount required by their plan. Monthly maximum amounts of Return Flows available for plans that choose to pay for only a portion of their remaining Return Flows shall be reduced proportionally. Return Flows not paid for on or before July 14, 2023 will become available for sale to other users.

Purchasers may deviate from their estimated monthly Return Flow requirements. However, plans may not exceed the monthly maximum amount of Return Flows available for their plan as determined by the District, unless otherwise approved by the District. Return Flow purchases may not exceed the monthly maximums as set by the District unless additional Return Flows are available as determined by the District. Any additional Return Flows needed above the initial allocation must be purchased and paid for in full before being credited to the purchaser. Purchasers assume all risk associated when deviations from estimated monthly requirements for Return Flows by a plan result in such plan not being able to use all of their Return Flows purchased. The District does not guarantee to make up Return Flow shortfalls.

**APPLICATIONS MUST BE RECEIVED BY 4:00 P.M. FRIDAY,
APRIL 14, 2023**

**SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT
APPLICATION FOR 2023 AGRICULTURAL FRYINGPAN-ARKANSAS PROJECT
WATER RETURN FLOWS**

TO: Southeastern Colorado Water Conservancy District Board of Directors, acting by and through its Water Activity Enterprise (“District”):

We/I, the _____, hereby request _____ acre-feet of Fryingpan-Arkansas Project Water return flows (Return Flows) in the May 2023 allocation. We/I understand the Board of Directors of the District will allocate and sell available Return Flows as equitably as possible, based upon the merits of each application. Return Flows will be delivered in accordance with, and we accept the terms and conditions of the District “Policy Concerning Sale of Return Flows from Project Water,” and the letter from the District dated March 10, 2023, which accompanied this application.

In support of our request, and to comply with the need for information by the Board to meet the terms and conditions of their contract with the BOR (including the Reclamation Reform Act), Operating Principles, the District “Policy Concerning Sale of Return Flows from Project Water,” and we/I acknowledge that Return Flows are required to be supplemental only to adjudicated waters and used only within the confines of the District boundaries. We submit the following information (attach additional information if necessary):

For Return Flows allocated, we/I agree to pay \$13.25 per acre-foot, which includes \$12.00 per acre-foot for Project Water Return Flows, a \$0.50 per acre-foot for the Safety of Dams (SOD) surcharge and a \$0.75 per acre-foot Environmental Stewardship Surcharge (ESS) or any adjustment the Board of Directors adopt. We/I will pay in accordance with the terms of the District’s letter dated March 1, 2023, which accompanied this application, and before use. This request to purchase Return Flows may be in addition to our 2022 request for Project Water, as provided in Paragraph (11) ALLOCATION PRINCIPLES-FINDINGS, DETERMINATIONS, AND RESOLUTIONS.

If supplementary information, including compliance forms for the Reclamation Reform Act (RRA), is required regarding our request, we agree to supply any additional information as requested by the District. We acknowledge that not delivering Project Water in accordance with the entity’s Commingling Plan may result in a requirement by the Bureau of Reclamation that the entity pay an Administrative Fee Bill and/or the Full Cost Rate for Fryingpan-Arkansas Project Water delivered to ineligible lands.

By signing this application, we acknowledge the District, owns the Return Flows from Fryingpan-Arkansas Project Water, and that the District has maintained dominion and control over these Return Flows and has the right to sell these Return Flows. We acknowledge the District has not abandoned its rights to use and sell return flows from Fryingpan-Arkansas Project Water. We agree not to assert the District has lost dominion or control over, or has abandoned or surrendered, the return flows from Fryingpan-Arkansas Project Water.

**APPLICATIONS MUST BE RECEIVED BY 4:0 P.M. FRIDAY,
APRIL 14, 2023**

The District Board will estimate the amount of Return Flows available for sale in a given year. The District Board may request a purchaser to provide accurate information from which to estimate the amount, timing, and location of Return Flows of the request.

Please do *not* send payment until notified of the amount of water approved by the District.

PLEASE ANSWER ALL APPROPRIATE BLANKS

Did you provide a list of your Members/Shareholders to the District when requested in 2022?

YES _____ NO _____

The following is information we feel should be considered by the Board of Directors in their evaluation of our request, and to set out our unusual circumstances involving our entity (attach additional pages, if necessary).

This information will be used to send Project Water applications and other correspondence to you.

Authorized Agent Address City State Zip

Authorized Agent, Title email Phone

Billing Address: This information will be used to invoice you for Project Water and all other SECWCD billings. If you do not fill this portion out, we will default to the above information.

Billing Contact Address City State Zip

email Phone

APPLICATIONS MUST BE RECEIVED BY 4:00 P.M. FRIDAY, APRIL 14, 2023