



July 24, 2013

Mr. Greg Trainor
Public Works & Utilities Director
City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

Dear Greg:

Subject: Cooperative Water Lease Agreement

Enclosed, for your records, is a fully executed original of the above referenced agreement between the City of Grand Junction and Northern Water. Additionally, we are enclosing a copy of the Concurrence signed July 23, 2013, by the Bureau of Reclamation.

If you have any questions, please do not hesitate to contact me at (970) 622-2204.

Sincerely,



Rebecca Morris
Administrative Support Specialist/Contracts Coordinator

rdm

Enclosure

cc: Kristin Bailey/Bennett Raley

COOPERATIVE WATER LEASE AGREEMENT

This Cooperative Water Lease Agreement ("Lease Agreement") is made and entered into as of the last date of execution of the Parties, is by and between the Northern Colorado Water Conservancy District, whose address is 220 Water Avenue, Berthoud, Colorado 80513 ("Northern Water"), and the City of Grand Junction, whose address is 250 North 5th Street, Grand Junction, Colorado 81501 ("Grand Junction") (individually a "Party" and collectively the "Parties").

RECITALS

1. Northern Water has 5,412.5 acre feet of Colorado-Big Thompson Project Water ("5412 Water") that it desires to lease to Grand Junction for non-consumptive municipal-recreation uses in and adjacent to the reach of the Colorado River extending from the existing locations of the Grand Valley Irrigation Company Diversion Dam to the Loma Boat Ramp ("Authorized Uses").
2. Grand Junction desires to lease the 5,412 Water from Northern Water for the Authorized Uses.
3. The purpose of this Lease Agreement is to provide the 5,412 Water to Grand Junction for the Authorized Uses in a manner that will also augment flows to contribute to the recovery of endangered Colorado River fish species.
4. The Colorado River Recovery Program (Recovery Program) was established and signed in 1988 by Reclamation, Western Area Power Administration, the U.S. Fish and Wildlife Service (Service), and the States of Colorado, Utah and Wyoming for the recovery of four endangered native fish species in the Upper Colorado River.
5. The reach of the Colorado River in the Grand Valley from its confluence with the Gunnison River upstream 15 miles to the Grand Valley Irrigation Company diversion dam (15 Mile Reach) has been designated by the Recovery Implementation Program (RIP) as critical habitat for two of the endangered fish covered by the RIP.
6. In 1999 the Service issued a Final Programmatic Biological Opinion (PBO) covering the operations and water depletions of existing projects. One of the action items listed in the PBO and in the Recovery Implementation Program Recovery Action Plan (RIP RAP) is the enhancement of flows in the 15 Mile Reach in a manner that does not interfere with or adversely affect the yield of upstream water supply projects.
7. Grand Junction is working to improve and planning to further improve the Colorado River between Palisade and Fruita, and Grand Junction is agreeable to entering into this Lease Agreement to enhance recreational uses and indirectly enhance flows for the endangered fish in the Colorado River in the 15 Mile Reach as described in the March 2012 Environmental Assessment for this aspect of the RIP RAP.

8. The Parties understand that, while the enhanced flows are made available for municipal-recreation uses they are also supportive of the mutual benefits to other purposes including endangered fish species habitat enhancement in the 15 Mile Reach.

AGREEMENT

9. Lease of Water. Northern Water hereby leases to Grand Junction, and Grand Junction hereby leases from Northern Water, 5,412.5 acre-feet of water annually for the Authorized Uses. No lease, sale, donation, transfer, exchange, or other disposition of any of the 5,412 Water provided pursuant to this Lease Agreement may be made by Grand Junction without the written consent of Northern Water.
10. Consideration for Water. Grand Junction shall not pay Northern Water for the 5,412 Water. Northern Water's consideration for the 5,412 Water is that Grand Junction lease of the 5,412 Water will achieve other important objectives of Northern Water. The Parties acknowledge and agree that the consideration is adequate and supports the making and enforcement of this Agreement.
11. Term of Agreement. This Lease Agreement shall be perpetual, and shall survive regardless of the status of the endangered fish in the Upper Colorado River or the status of the RIP RAP.
12. Water Delivery. The 5,412 Water shall be delivered to the Colorado River at the downstream end of the outlet of Granby Dam upon the mutual agreement of Northern and Grand Junction. The 5,412 Water shall be delivered at a minimum rate of 20 cfs and a maximum rate of 100 cfs, unless otherwise agreed to by the Parties. Grand Junction shall place the 5,412 Water to beneficial use for the Authorized Uses after deduction of transit losses as determined by the Division Engineer for Water Division 5. Water shall only be delivered by Northern Water for beneficial use for the Authorized Uses. Grand Junction shall not divert the 5,412 Water from the Colorado River at any point above the downstream terminus of the 15 Mile Reach. The Parties anticipate that the release pattern will depend on the type of hydrologic year (dry or average or wet) and targeted stream flow in the Colorado River downstream of Granby Reservoir during late summer and early fall. The Parties will meet with other interested parties each spring to discuss a recommended release pattern for the 5,412 Water.
13. Water Measurement. Northern Water shall be responsible for measuring the 5,412 Water at the point of delivery to the Colorado River at the downstream end of the outlet of Granby Dam at the time that it is delivered.
14. Water Quality. The Parties expressly recognize and agree that the 5,412 Water is non-potable and is not intended for human or animal consumption. Northern Water makes no warranty or representation to Grand Junction regarding the quality of the 5,412 Water.
15. Force Majeure. Northern Water's obligation to deliver the 5,412 Water shall be limited to the Water Delivery point identified in Paragraph 12 of this Lease Agreement. Northern

Water's obligation to deliver the 5,412 Water is further limited by the physical and legal availability of water in Granby Reservoir and the actual capacity of the Granby Reservoir Outlet Works. In the event that Colorado state law or water administration changes in the future so that the 5,412 Water cannot be delivered as contemplated by this Lease Agreement, the Parties shall meet and confer and seek in good faith to develop new arrangements to accomplish the purposes of this Lease Agreement.

16. Default. Each and every term and condition hereof shall be deemed to be a material element of this Lease Agreement. In the event either Party should fail or refuse to perform according to the material terms of this Lease Agreement, such Party may be declared in default thereof by the other Party by a written notice.
17. Remedies. In the event a Party has been declared in default hereof, such defaulting Party shall be allowed a period of 5 days within which to correct, or commence correcting, said default. In the event that the default has not been corrected or begun to be corrected, or the defaulting Party has ceased to pursue the correction with due diligence, the Party declaring default may elect to (a) terminate the Lease Agreement; (b) treat the Lease Agreement as continuing and require specific performance; or (c) avail itself of any other remedy at law or equity. In the event of a termination of this Lease Agreement for any reason, Northern Water shall use its best efforts to enter into another contractual arrangement that will result in the delivery of the 5,412 Water to the 15 Mile Reach for beneficial use in accordance with applicable law.
18. Laws, Regulations and Permits. Each Party shall comply with all applicable federal, state and local codes, statutes, rules, regulations, ordinances, permits and orders in its operations under this Lease Agreement.
19. No Third Party Beneficiary. This Lease Agreement is intended to benefit only the Parties hereto, and no other person or entity is intended by the Parties hereto to be a third party beneficiary of this Lease Agreement.
20. Notice. All notices required to be given under this Lease Agreement shall be in writing, and shall be deemed to have been duly given (a) when delivered to the other Party to whom addressed, or (b) upon receipt when sent by United States mail, postage prepaid, as certified or registered mail, properly addressed as follows, or (c) upon confirmation when sent by facsimile transmission and receipt is confirmed by return facsimile transmission:

If to the Northern Water:

Northern Colorado Water Conservancy District
220 Water Avenue
Berthoud, Colorado 80513
Telephone: 970-532-7700
Fax: 970-532-0942
Attention: Eric Wilkinson, General Manager

If to Grand Junction:

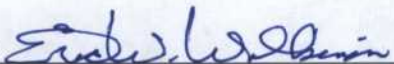
City of Grand Junction
250 North 5th Street
Grand Junction, Colorado 81501
Telephone: 970-244-1564
Fax: 970-256-4022
Attention: Greg Trainor, Public Works & Utilities Director

or to such other persons or addresses as the foregoing addressees may have designated by written notice.

21. Entire Agreement. This Lease Agreement constitutes the entire agreement between the Northern Water and Grand Junction regarding the subject matter hereof and replaces all prior written or oral agreements and understandings. It may be altered, amended, or repealed only by a duly executed written instrument.
22. Governing Law. This Lease Agreement shall be interpreted in accordance with, and be governed by, applicable Colorado or federal law.
23. Severability. If any provision of this Lease Agreement shall be held invalid or unenforceable, the remainder of this Lease Agreement shall not be affected thereby, and there shall be deemed substituted for the affected provision, a valid and enforceable provision as similar as possible to the affected provision.
24. Headings for Convenience. The headings and captions in this Lease Agreement are for convenience only and shall not be considered in interpreting the provisions hereof.

IN WITNESS WHEREOF, the Parties have executed this Lease Agreement as of the last day and year written below.

NORTHERN COLORADO WATER CONSERVANCY
DISTRICT

By: 
Title: GENERAL MANAGER
Date: 07/23/13

CITY OF GRAND JUNCTION
By: 
Title: City Manager
Date: 6/27/13

1. The United States hereby concurs with this Lease Agreement.
2. As the owner of Granby Reservoir and the Colorado-Big Thompson Project, the United States, Department of the Interior, Bureau of Reclamation ("Reclamation"), hereby concurs with this Lease Agreement among the Northern Colorado Water Conservancy District (District) and the City of Grand Junction.
3. Reclamation hereby confirms its determination that the Lease Agreement is consistent with all applicable legal authority and maintains the appropriate balance amongst all parties having interests in Colorado-Big Thompson Project operations required by Senate Document No. 80 and the 1938 Repayment Contract and the Blue River Decrees.
4. In the event that any change of applicable authorities frustrates the purpose of this water Lease Agreement, Reclamation and the District will meet and confer with all interested parties to develop an alternative.
5. This Concurrence is in addition to, and shall not modify or amend, the 1938 Repayment Contract in any respect. This Concurrence shall not be a basis for any direct or indirect interpretation or construction of any provision of the 1938 Repayment Contract for any purpose. This Concurrence does not establish any factual or legal precedent, concession, or determination by the District or the United States. The United States and the District do not, by virtue of this Concurrence, waive or relinquish any legal or factual position.
6. The United States shall receive a copy of any notice pursuant to Paragraph 20. Any such notice shall be mailed to:

United States Department of the Interior
Bureau of Reclamation
Great Plains Region
P.O. Box 36900
Billings, Mt 59107-6900
Attn: Regional Director

On behalf of the:
Bureau of Reclamation:

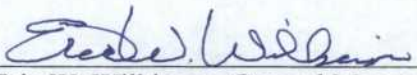


Michael J. Ryan, Regional Director

July 23, 2013

Date

and
**Northern Colorado Water
Conservancy District**



Eric W. Wilkinson, General Manager

July 23, 2013

Date