

**Colorado Water Congress
2020 Policies**

FEDERAL POLICIES

I. PROTECTION OF STATE WATER INTERESTS

The Colorado Water Congress:

- A. Opposes any proposed federal law and any administrative action that would impede or impair the allocation and beneficial use of the waters of the State of Colorado, pursuant to the laws of the state and rights established thereunder.
- B. Supports adoption of clarifying provisions in all environmental legislation that recognizes the importance of water use and development to the economic well-being of the West, and reconfirms that state law shall control and determine the allocation of all water use within the states.
- C. Supports adoption and implementation of policies by Congress and federal agencies that reinforce local land use decision making authority, and avoids federal intrusions into state and local control of water resources.

II. SAFE DRINKING WATER

The Colorado Water Congress supports the continuing effort to keep drinking water safe, and state and federal action that:

- A. Supports safe drinking water programs and protection of public health.
- B. Supports reasonable regulations calculated to encourage safe drinking water, including standard-setting for contaminants that considers local conditions in assessing health risks.
- C. Re-examines Safe Drinking Water Act (SDWA) regulations where the costs of meeting such regulations outweigh the benefits of the regulation.
- D. Ensures that no contaminant level is established or standard adopted unless it is based on proven science, including generally-accepted statistical methods.
- E. Appropriates federal money to the state safe drinking water revolving loan fund for the purposes and goals of the program developed pursuant to the SDWA.
- F. Encourages the Environmental Protection Agency (EPA) to authorize the use of the State Revolving Fund for the purchase of water rights and the rehabilitation of dams and reservoirs as eligible activities.

III. CLEAN WATER ACT REAUTHORIZATION

The Colorado Water Congress supports congressional and administrative actions that incorporate the following principles in their authorization of the Clean Water Act:

- A. Federal jurisdiction over waters continues to be based upon a Commerce Clause connection, and not be expanded under amendments to, or administrative interpretations of, the Act.
- B. No provision of the Act or any agency interpretation thereof shall abrogate or impair states' water allocation systems nor impair water rights allocated under state law.

- C. The transfer of water from one water body to another water body for a beneficial use, without it being subjected to an intervening industrial, municipal, or commercial use, does not require the issuance of a point source discharge permit.
- D. The appropriate means for the control of nonpoint sources of pollution is the use of reasonable, voluntary, best management practices, as identified and adopted by the states pursuant to the provisions of §319 of the Clean Water Act.
- E. With reference to §494 of the Clean Water Act:
 - a. Accepts local determinations of water project purpose and need.
 - b. Analysis of practicable alternatives allows offsets for environmental mitigation and considers project benefits in determining the least environmentally damaging alternative.
 - c. EPA does not have authority to veto permits issued under this section.
- F. Federal review of water quality standards or of state triennial review or permit decisions does not constitute a 'federal action' requiring consultation under the Endangered Species Act.
- G. Adoption of classifications and standards is allowed, based upon site specific conditions, with specific reference to ambient and unique conditions found in the arid west.
- H. Funding for the state water pollution control revolving loan fund is continued to accomplish the goals and purposes thereof.
- I. State-established water quality standards and other state actions taken pursuant to the provisions of the Clean Water Act, including the identification of impaired waters and the establishment of Total Maximum Daily Loads (TMDLs), are presumed to be in compliance with the Act.
- J. So long as herbicides and pesticides are approved for use under Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and utilized in accordance with label directions, it is acknowledged that it is not necessary to obtain a National Pollutant Discharge Elimination System (NPDES) permit for vector control or the control of weeds or other aquatic nuisances in reservoirs or along ditches or other similar water bodies where such chemicals may enter the water.

IV. CLEAN WATER ACT IMPLEMENTATION

The Colorado Water Congress supports the implementation of the Clean Water Act by state and federal agencies that:

- A. Acts in a manner consistent with interstate compacts and state water allocation procedures and rights decreed thereunder;
- B. Recognizes that hydrologic modifications should not be considered pollutants or pollution;
- C. Uses sound science, risk assessment principles, and cost/benefit analysis in program implementation;
- D. Acknowledges that Endangered Species Act §7 consultation requirements are not triggered by the issuance of a discharge permit, the adoption of state water quality standards, or the review of existing standards by the EPA;
- E. Honors states' authority in the adoption of designated uses and criteria based upon site specific stream conditions;
- F. Encourages continued federal funding of the state water pollution control revolving loan fund;
- G. Does not abrogate or impair states' water allocation systems nor impair water rights allocated under state law; and
- H. Recognizes that the transport of water from one water body to another water body does not constitute the addition of pollutants from a point source.

V. FEDERALLY IMPOSED FLOW REQUIREMENTS

The Colorado Water Congress supports the following:

- A. Clarification by Congress and the courts that federal agencies have no authority to demand or require the bypass of decreed water, or to acquire any in stream flow, or otherwise interfere in any way with decreed and beneficial uses of water in Colorado.
- B. Not using Colorado Water Conservation Board in-stream flow appropriation as the basis for the imposition of a flow below a reservoir in excess of the reservoir's release requirement as established in accordance with state water law.

VI. WILD AND SCENIC RIVERS

The Colorado Water Congress supports amendments to the Wild and Scenic Rivers Act to achieve the following:

- A. Require concurrence of the legislature in the state in which the river segment to receive designation as Wild and Scenic is located.
- B. Assure that the Wild and Scenic Rivers Act does not interfere with present or future beneficial uses of water or water rights allocated by the state.
- C. Place a three-year limit on the amount of time an agency has to conduct a Wild and Scenic study of a river and make a recommendation to Congress.
- D. Place a three-year limit, beginning on the date Congress receives a Wild and Scenic recommendation, for Congress to formally approve a recommended Wild and Scenic designation. Should Congress not act in the three-year time period, the river will no longer be managed by federal agencies as if it had received Wild and Scenic river designation.

VII. WILDERNESS AND FEDERAL RESERVED WATER RIGHTS

The Colorado Water Congress opposes:

- A. Legislation that would create additional wilderness, national conservation, or national recreation areas, national wildlife or other federal reservations of land in the State of Colorado, unless it disclaims federal reserved water rights or otherwise accommodates, and pays due deference to, the water needs and interests of all Colorado citizens.
- B. Any attempt to affirm wilderness reserved water rights.
- C. Any designation of downstream wilderness unless there is adequate assurance of protection of upstream water rights and of reasonably foreseeable water needs wherever they may arise.

VIII. ENDANGERED SPECIES ACT REAUTHORIZATION

The Colorado Water Congress supports balanced legislation reasonably protective of endangered species and their habitats. Any reauthorization of the Endangered Species Act or administrative reforms should incorporate the following concepts:

- A. Actions and policies that protect habitat and recover species, while providing a measure of certainty to property owners, should be encouraged, including those which provide for incentives prior to species listing.

- B. Sound scientific data and scientific peer review should be required to support species listings, critical habitat designations and biological opinions.
- C. Listing and habitat decisions should be made in consultation with all stakeholders and should provide information regarding the basis for listing.
- D. The economic and social consequences of listing, and recovery and other alternatives to listing, should be considered.
- E. Any instream flows to preserve the natural environment to a reasonable degree, including flows for endangered species, must be obtained pursuant to state law and held by the Colorado Water Conservation Board.
- F. Only after all issues noted in A, B, C, D of this section are all satisfactorily met, should, as an action of last resort, any taking of a water right be considered. Any taking of water rights must be accompanied by fair and timely compensation.
- G. Future species recovery programs should be primarily paid for by the federal government with cost-sharing arrangements and not by individual states or project proponents.
- H. Mandate the establishment of criteria for species recovery, including identified species recovery numbers.
- I. If a species cannot be recovered within a reasonable time, with prudent effort, in an area of critical habitat, then that area should be removed from the critical habitat designation.
- J. Critical habitat designation should be subject to the National Environmental Policy Act (NEPA) review process.
- K. All directly affected parties should have standing to challenge actions taken under the Act.
- L. The U.S. Fish and Wildlife Service should defer to local determinations in the development and approval of Habitat Conservation Plans (HCP's).

IX. RECOVERY IMPLEMENTATION PROGRAMS

The Colorado Water Congress:

- A. Supports continued appropriations by Congress and state legislatures in Colorado, Wyoming, Utah, and New Mexico for endangered fish recovery implementation plans for the Upper Colorado River and San Juan River Basins.
- B. Supports the efforts of the Upper Colorado River and San Juan River Basin recovery implementation programs to recover endangered fish in those basins while water development proceeds in accordance with federal and state laws and interstate compacts.
- C. Supports implementation of an aggressive and comprehensive program by the Colorado Parks and Wildlife Commission to reduce adverse impacts to endangered fish caused by non-native fish species in Colorado.

X. COLORADO RIVER OPERATIONS

The Colorado Water Congress:

- A. Opposes any change to the law of the Colorado River or modification of the operation of the Glen Canyon Dam in any manner that would limit the ability of the Upper Colorado River Basin to use its full Colorado River Compact apportionment.
- B. Opposes operations at Glen Canyon Dam that reduce power production, resulting in reduced power revenue in the Colorado River Basin Fund, or increased cost of power.

- C. Supports the State of Colorado’s commitment to fully protect in perpetuity, the Upper Basin’s apportionment of the use of water under the Colorado River Compact, Colorado’s apportionment and use of water under the Upper Colorado River Basin Compact and to ensure that consumptive use by the lower basin states does not exceed their apportionment under the Colorado River Compact.
- D. Expects the State of Colorado to work cooperatively and proactively with water supply entities, federal agencies, and other relevant stakeholders in all studies of water availability under the Colorado River Compact and the Upper Colorado River Basin Compact.
- E. Expects the State of Colorado to work cooperatively with all stakeholders in consideration of options available, should a Colorado River Compact deficit be declared or deemed imminent.
- F. Supports voluntary programs designed to forestall or ameliorate the impacts of current and projected water shortages.

XI. DAM REMOVAL

The Colorado Water Congress opposes any effort to breach or remove Colorado River Storage Project dams or drain associated reservoirs.

XII. ENVIRONMENTAL IMPACT STATEMENT DELAY

The Colorado Water Congress expects all federal, state and local agencies involved in the preparation or review of environmental impact statements relating to water resource development projects to accelerate and coordinate the preparation and review of any necessary environmental impact statement.

XIII. CLIMATE VARIABILITY

Should state, local, or federal agencies adopt adaptive management programs in response to sound scientific findings on climate variability impacts, the Colorado Water Congress supports actions that:

- A. Recognize and respect interstate compact water allocations and delivery obligations.
- B. Encourage the use of storage and other risk response measures identified by water purveyors to foster the future reliability of water supplies.
- C. Acknowledge the need to interpret or modify guidance and regulations in a manner that appropriately responds to new hydrologic and temperature conditions and their impact on the environment.

XIV. PROTECTION OF SOUND SCIENCE AS IT RELATES TO WATER RESOURCE MANAGEMENT

The Colorado Water Congress:

- A. Recognizes the importance of continuing to collect robust data on stream flows, snowpack, groundwater, precipitation, and water quality, and to continue to maintain and improve the collection and analysis tools for water supply management and administration, public safety, economic development, infrastructure planning and environmental commitments.

- B. Supports legislation and appropriations that provide sufficient funding for the maintenance, development, uninterrupted operation, technical refinement, improvement and efficient use of existing and new data collection systems and analysis tools.
- C. Supports data collection and scientific research needed to develop programs that reduce disaster impacts and enhance the sustainability of our communities, our economies, and our ecosystems.
- D. Encourages its members, the legislature, and the Colorado Water Conservation Board to allocate the financial resources necessary to continue all current data collection and monitoring systems and to develop new systems as needed to provide the up-to-date data upon which the water community relies.

STATE POLICIES

I. STATE WATER POLICIES & PRINCIPLES

The Colorado Water Congress:

- a. Supports Colorado's Constitution as the framework of state water policy and legislative policy.
- b. Opposes establishment of a public trust doctrine as the means of allocating and administering water in Colorado. Colorado's Prior Appropriation Doctrine has proven its ability to adapt, accommodate, protect, and balance water for consumptive use, recreation, and environmental purposes. The public trust doctrine conflicts with the prior appropriation doctrine and should be vigorously opposed both locally and statewide.

II. WATER RESOURCE PLANNING

The Colorado Water Congress:

- a. Opposes the use of water as a growth control tool.
- b. Supports efforts to meet the long-term demands of population growth with due regard to existing beneficial uses.
- c. Supports identification of sustainable water supplies for future growth.
- d. Supports the need for ongoing water planning efforts.

III. WATER CONSERVATION AND EFFICIENCY

The Colorado Water Congress:

- a. Supports water conservation planning and implementation by all water users.
- b. Supports efficient water use policies such as those identified in the Colorado Water Plan, as well as innovation by local and regional water users.

IV. WATER TRANSFERS

The Colorado Water Congress:

- a. Supports movement of water to places of beneficial use consistent with existing legal and free market principles.
- b. Supports collaborative water supply efforts that provide benefits to multiple parties, including contributing and receiving watersheds.
- c. Supports temporary water transfer methods that allow the maintenance of the original water use.

V. STATE AGENCIES

The Colorado Water Congress:

- a. Supports appointments to water related state boards and commissions, and confirmations thereof that are timely, statutorily sound, and result in the selection of well- qualified individuals.
- b. Supports sufficient appropriations and adequate revenue to permit the State of Colorado to continue water resources administration, protection, development, and water conservation planning.

VI. INFRASTRUCTURE, WATER PROJECTS, AND FUNDING

The Colorado Water Congress:

- a. Supports the development of cost effective and efficient permitting processes for water projects, both consumptive and non-consumptive.
- b. Supports legislation and appropriations that maximize the ability of water- funding entities, including the Colorado Water Conservation Board and Colorado Water Resources and Power Development Authority, to finance water projects.
- c. Opposes legislation or constitutional proposals that would negatively affect the fiscal stability of public water supply entities or their ability to finance water projects.

VII. INTERSTATE COMPACTS

The Colorado Water Congress:

- a. Supports protection of Colorado’s lawful share of water under its nine interstate water compacts, equitable apportionment decrees, and other interstate agreements.
- b. Supports collection and preservation of such data and other information as may be necessary to effectively determine and protect Colorado’s share of water under its compacts, equitable apportionment decrees, and other interstate agreements and compact apportionments.

VIII. THREATENED AND ENDANGERED SPECIES

The Colorado Water Congress:

- a. Supports funding and other efforts for the preservation of critical habitat and the reduction of adverse impacts on threatened and endangered species caused by non-native species.
- b. Supports the State of Colorado’s participation in federal endangered and threatened species cooperative agreements and recovery programs, and therefore supports continued funding for such programs as appropriate.
- c. Supports greater delegation of Endangered Species Act authority to the State of Colorado for resident species.

IX. CLIMATE VARIABILITY

The Colorado Water Congress:

- a. Supports state agencies’ work with water providers to ensure that water supply planning, infrastructure, and operational decisions are resilient to changing environmental conditions.
- b. Supports interstate compact water allocations and delivery obligations.
- c. Supports the use of storage and other risk response measures identified by water users to foster the future reliability of water supplies.
- d. Supports acknowledgment of, or the need to interpret or modify, guidance and regulations in such a manner that appropriately responds to new hydrologic and temperature conditions and their impact on the environment.