



SOUTHEASTERN COLORADO


# Water Conservancy District

*"Your investment in water"*

**DATE:** March 31, 2010

**TO:** Municipal Water Agencies within the confines of the Southeastern Colorado Water Conservancy District

**CC:** Board of Directors; Jim Broderick, Executive Director; Roy Vaughan, USBR; Steve Witte, Division Engineer; Burns, Figa & Will P.C.

**FROM:** Bob Hamilton, Director of Engineering & Resource Management 

**SUBJECT:** Allocation of 2010 Municipal Fry-Ark Project Water Return Flows

In accordance with the District's Water Allocation Principles, contract with the United States, Operating Principles, the Enterprise Policy Concerning the Sale of Return Flows from Project Water, and appropriate Colorado Water Laws, the Colorado Water Conservancy Act, and the Water Activity Enterprise Act, the Board of the District and Enterprise does hereby notify you of your opportunity to apply to purchase Fry-Ark Project water return flows (Return Flows) in 2010. Return Flows are required to be supplemental only to adjudicated waters and used only within the confines of the District boundaries.

**Requests to purchase return flows must be received by 4:30 p.m. Friday, April 23, 2010.** Return flow purchasers will be notified of their allocation on or about May 20, 2010.

Purchase and payment for return flows will be made in accordance with the enclosed **2010 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 **2010 RETURN FLOW SALES PROCESS**.

If return flows are not used by the specified dates, the allocations and sales will be canceled, and monies paid will be forfeited.

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 in effect for 2010. Submission of an application for return flows constitutes acceptance of the price for return flows set forth in the **2010 RETURN FLOW SALES PROCESS**, and of all the terms and conditions of the "Enterprise Policy Concerning the Sale of Return Flows from Fryingpan-Arkansas Project Water," which is available on request.

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.

# **SOUTHEASTERN COLORADO WATER ACTIVITY ENTERPRISE**

## **2010 MUNICIPAL RETURN FLOW SALES PROCESS**

Applicants will submit to the Enterprise their total annual request for Fryingpan-Arkansas Project water return flows (Return Flows) to be used for replacement, exchange, or other purposes (April 2010 - March 2011). The request must also contain monthly estimates of amounts of Return Flows required.

The Enterprise will estimate the total Return Flows available (April 2010 - March 2011), and determine the maximum amount of Return Flows available for sale to each plan for each month (April 2010 – March 2011). Allocations will be made based on the District's "Allocation Principles."

Purchasers are required to pay for the first half (½) of their total purchase upon notification by the Enterprise of the amount of Return Flows approved. The rate for Return Flows is \$6.50 per acre-foot, which includes a \$0.50 per acre-foot Southeastern Colorado Water Activity Enterprise (WAE) surcharge. On or before July 13, 2010 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 by July 13, 2010 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 Enterprise, unless otherwise approved by the Enterprise. Return Flow purchases may not exceed the monthly maximums as set by the Enterprise unless additional Return Flows are available as determined by the Enterprise. 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.

**Applications must be received by 4:30 p.m. Friday, April 23, 2010**

**SOUTHEASTERN COLORADO WATER ACTIVITY ENTERPRISE  
2010 MUNICIPAL FRYINGPAN-ARKANSAS PROJECT WATER RETURN FLOWS**

**APPLICATION for Municipal Usage**

**TO:** Board of Directors, Southeastern Colorado Water Activity Enterprise:

We/I, the \_\_\_\_\_, hereby request \_\_\_\_\_ acre-feet of Fryingpan-Arkansas Project water return flows (Return Flows) in the 2010 allocation. We/I understand the Board of Directors of the Enterprise will allocate, and sell available waters as equitably as possible, based upon the merits of each application. Waters will be delivered in accordance with, and we accept the terms & conditions of the Enterprise "Policy Concerning Sale of Return Flows from Project Water," and the notice from the Southeastern Colorado Water Activity Enterprise dated March 31, 2010 which accompanied this application.

In support of our request, and to comply with the need for information by the Board to meet the terms & conditions of their contract with the United States, Operating Principles, and the Enterprise Return Flow Sales Policy, we submit the following information:

We/I request an allocation of \_\_\_\_\_ acre-feet from the ENTERPRISE RETURN FLOW ACCOUNT. We/I request this allocation be made available on or about May 20, 2010. For Return Flows requested, we agree to pay \$6.50 per acre-foot, which includes an additional \$0.50 per acre-foot for the Southeastern Colorado Water Activity Enterprise (WAE) surcharge. We/I will pay in accordance with the terms of the District's notice dated March 31, 2010, which accompanied this application, and before use. This request to purchase Return Flows may be in addition to our 2010 request for Project water, as provided in Paragraph (11) ALLOCATION PRINCIPLES-FINDINGS, DETERMINATIONS, AND RESOLUTIONS. Return Flows must be used by April 1, 2011.

**(Please include a monthly use schedule with your application)**

In 2010 we will serve a population of \_\_\_\_\_. Census population is \_\_\_\_\_. Provide documentation if there is a noticeable difference in population serviced compared to census population.

Place of use is:

Pueblo \_\_\_\_\_ above Pueblo Res. \_\_\_\_\_ below Pueblo Res. \_\_\_\_\_ Fountain Valley \_\_\_\_\_.

**Please list all municipal and domestic entities that you represent on a separate page.**

Are you a member of a well users group such as AGUA, LAWMA or CWPDA?

YES \_\_\_\_\_ NO \_\_\_\_\_ If yes, please list the group \_\_\_\_\_

If yes, is this application for wells covered by the group's augmentation plan?

YES \_\_\_\_\_ NO \_\_\_\_\_

Other uses: \_\_\_\_\_.

If supplementary information is required regarding our request, we agree to supply additional information as requested by the District.

**Allocation Applications must be received by 4:30 p.m. Friday, April 23, 2010**

By signing this application, we acknowledge the Southeastern Colorado Water Conservancy District through the Southeastern Colorado Water Activity Enterprise owns the Return Flows from Fry-Ark 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.

The Southeastern Colorado Water Activity Enterprise Board will estimate the amount of return flows available for sale in a given year. The Enterprise Board may request a purchaser to provide accurate information from which to estimate the amount, timing, and location of return flows which the purchaser has requested.

As a municipal entity, do you wish to exercise your "First Right of Refusal" for the Return Flows generated by your use of Fryingpan-Arkansas Project water delivered from April 1, 2010 through March 31, 2011? YES \_\_\_\_\_ NO \_\_\_\_\_

If you are requesting to utilize Fryingpan-Arkansas Project water Return Flows that you generate under your "First Right of Refusal," you will be billed on a quarterly basis. This billing will be based on the amounts of measured and (where applicable) unmeasured Return Flows reported to the Southeastern and the Division Engineers office.

Please do not send payment until notified of the amount of water approved by the Board of Directors of the Southeastern Colorado Water Activity Enterprise.

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 in 2010 **(attach additional pages, if necessary.)**

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_____ Entity	_____ Address
_____ Contact	_____ City                      State      Zip
_____ Title of Contact	_____ Phone and Fax
_____ e-mail address	_____ Date

**Allocation Applications must be received by 4:30 p.m. Friday, April 23, 2010**