

AMENDMENT NO. 1 TO 2021  
AGREEMENT NOT TO CALL IN CERTAIN CIRCUMSTANCES

THIS AMENDMENT NO. 1 (Amendment) TO 2021 AGREEMENT NOT TO CALL IN CERTAIN CIRCUMSTANCES, is by and between the Ouray County Board of County Commissioners (Ouray County), Ouray County Water Users Association (OCWUA), Tri-County Water Conservancy District (Tri-County), Colorado River Water Conservation District (CRWCD), Uncompahgre Valley Water Users' Association (Association), and the United States of America, Bureau of Reclamation. The effective date of this Amendment shall be the date of the last party's signature to this Amendment, which shall be specified on the following signature page.

This Amendment supersedes and amends Page 1, Paragraph 1 of the Agreement (introductory paragraph), to now read as follows:

This agreement is made by and among the Board of County Commissioners of Ouray County, Colorado; Ouray County Water Users Association; Tri-County Water Conservancy District; and Colorado River Water Conservation District (hereafter Applicants) and Uncompahgre Valley Water Users Association (hereafter Association). The parties expressly agree and acknowledge the United States of America, Bureau of Reclamation, shall be an additional party to this agreement.

All other terms not inconsistent in the Agreement remain in full effect, and this Amendment supersedes all prior negotiations.

The Agreement is attached hereto, and incorporated as though set forth fully herein.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Amendment, which may be executed in counterparts, electronically or otherwise.

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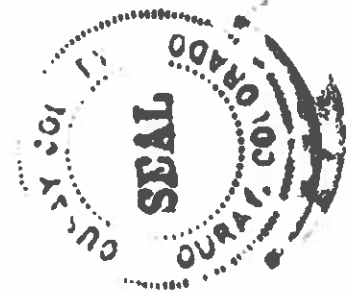
OURAY COUNTY BOARD OF COUNTY COMMISSIONERS:

By: JR Ni  
Jake Niece, Chair

Date: 4/25/2023

ATTEST:

Harlan Thompson  
By: Harlan Thompson, Deputy Clerk of the Board



OURAY COUNTY WATER USERS' ASSOCIATION

By: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name & Title: \_\_\_\_\_

COLORADO RIVER WATER CONSERVATION DISTRICT

By: \_\_\_\_\_  
Andy Mueller, General Manager Andy Mueller

Date: 04/28/2023

TRI-COUNTY WATER CONSERVANCY DISTRICT

By: \_\_\_\_\_  
Wayne Schieldt, President

Date: \_\_\_\_\_

UNCOMPAHGRE VALLEY WATER USERS' ASSOCIATION

By: Steve Pope  
Steve Pope, Manager

Date: 7.6.23

UNITED STATES OF AMERICA

By: \_\_\_\_\_  
Ed Warner, Western Colorado Area Manager  
Bureau of Reclamation  
Interior Region 7 – Upper Colorado River Basin

Date: \_\_\_\_\_

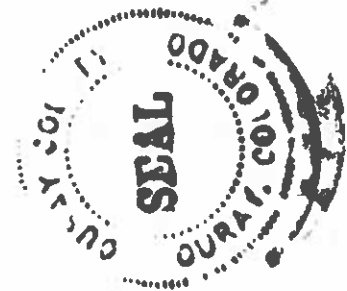
OURAY COUNTY BOARD OF COUNTY COMMISSIONERS:

By: JR Ni  
Jake Niece, Chair

Date: 4/25/2023

ATTEST:

Harlan Thompson  
By: Harlan Thompson, Deputy Clerk of the Board



OURAY COUNTY WATER USERS' ASSOCIATION

By: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name & Title: \_\_\_\_\_

COLORADO RIVER WATER CONSERVATION DISTRICT

By: \_\_\_\_\_  
Andy Mueller, General Manager

Date: \_\_\_\_\_

TRI-COUNTY WATER CONSERVANCY DISTRICT

By: Wayne Scheldt  
Wayne Scheldt, President

Date: 5-10-23

UNCOMPAHGRE VALLEY WATER USERS' ASSOCIATION

By: \_\_\_\_\_  
Steve Pope, Manager

Date: \_\_\_\_\_

UNITED STATES OF AMERICA

By: Ed Warner  
Ed Warner, Western Colorado Area Manager  
Bureau of Reclamation  
Interior Region 7 – Upper Colorado River Basin

Ed Warner  
2023.04.27 12:14:12 -06'00'

Date: \_\_\_\_\_

OURAY COUNTY BOARD OF COUNTY COMMISSIONERS:

By: JR Ni  
Jake Niece, Chair

Date: 4/25/2023

ATTEST:

Harlan Thompson  
By: Harlan Thompson, Deputy Clerk of the Board



OURAY COUNTY WATER USERS' ASSOCIATION

By: Jeff Lee  
Print Name & Title: Jeff Lee, President

Date: 4-27-2023

COLORADO RIVER WATER CONSERVATION DISTRICT

By: \_\_\_\_\_  
Andy Mueller, General Manager

Date: \_\_\_\_\_

TRI-COUNTY WATER CONSERVANCY DISTRICT

By: \_\_\_\_\_  
Wayne Schieldt, President

Date: \_\_\_\_\_

UNCOMPAHGRE VALLEY WATER USERS' ASSOCIATION

By: \_\_\_\_\_  
Steve Pope, Manager

Date: \_\_\_\_\_

UNITED STATES OF AMERICA

By: \_\_\_\_\_  
Ed Warner, Western Colorado Area Manager  
Bureau of Reclamation  
Interior Region 7 – Upper Colorado River Basin

Date: \_\_\_\_\_

**ATTACHMENT to follow: AGREEMENT  
NOT TO CALL IN CERTAIN CIRCUMSTANCES (ORIGINAL)**

## AGREEMENT NOT TO CALL IN CERTAIN CIRCUMSTANCES

This agreement is made by and among the Board of County Commissioners of Ouray County, Colorado; Ouray County Water Users Association; Tri-County Water Conservancy District; and Colorado River Water Conservation District (hereafter Applicants) and Uncompahgre Valley Water Users Association (hereafter Association).

### RECITAL

Applicants are the applicants in Case No. 2019CW3098, Water Division 4, Colorado. The Association filed a statement of opposition. The application seeks to confirm a water right for storage in Ridgway Reservoir. The stored water may come from the Cow Creek Pipeline to Ridgway Reservoir, from Ram's Horn Reservoir, or from re-allocation of other stored water. One of the uses for that stored water will be delivery to the Association for its irrigation users to augment or replace depletions resulting from diversions of water from the Uncompahgre River and its tributaries located in Ouray County which would otherwise be subject to a "call" by the senior water rights of Association. Herein the water right claimed in 2019CW3098 referred to as "the 2019 water right."

Applicants and Association seek to resolve the concerns and statement of opposition filed by Association, and this Agreement shall serve as a stipulation in 19CW3098 and agreement for a decree to be entered containing the following terms and conditions:

### AGREEMENT NOT TO CALL

1. At any time that the Applicants are forecast to deliver at least 3,000 AF of water pursuant to the 2019 right in Ridgway Reservoir from Rams Horn Reservoir, Cow Creek Pipeline to Ridgway Reservoir, or have contracted for or re-allocated 3,000 AF of water in Ridgway Reservoir, the Association agrees not to place a call on the Uncompahgre River for that season. As shown on Exhibit "A", 3,000 AF is the amount of depletion to the river that occurs above the Montrose and Delta Canal in a typical dry water year. Thus, the storage or delivery allotment fully compensates the stream for the upstream depletions. The forecast shall be agreed upon by Applicants and the Association. It may be revised as needed based on hydrologic conditions and actual storage.
2. Each year when water is forecast to be delivered pursuant to the 2019 water right in Ridgway Reservoir from Ram's Horn Reservoir, Cow Creek Pipeline to Ridgway Reservoir, or have contracted for or re-allocated storage water in Ridgway Reservoir, Applicants and Association will, in coordination with the Division Engineer, determine how much water will be available to be

released to the Association. The Applicants will then designate how much of the stored water is available for satisfying the Association's call and how much will be dedicated to other beneficial uses. The parties will meet within ten days after this designation is made, to determine when UVWUA may place a call in that season. The parties will negotiate in good faith but any final decision on the call date shall be made by UVWUA. Any available water as determined by the Division Engineer must be released for use by UVWUA prior to any stored water under UVWUA's existing water right.

3. In the event that Applicant is not forecasted to deliver at least 1,000 AF from Ram's Horn Reservoir and/or Cow Creek Pipeline to Ridgway Reservoir or have contracted for or re-allocated storage water in any given water year (November 1 through October 31), Association shall be free to place a call on the Uncompahgre River at its discretion pursuant to its priority water rights.
4. The Association will support Tri-County Water Conservancy District and the Board of County Commissioners of Ouray County, Colorado on any necessary contracting, leasing, or authorizations from the United States Bureau of Reclamation to develop the storage water allocation and supply as described above.
5. The Association does not intend to abandon, relinquish, or otherwise adversely affect in any manner all or any part of its water rights or their priorities. This agreement shall not be construed as such an abandonment.
6. This Agreement is between the parties hereto and is intended to provide generalized drought relief in the Uncompahgre River Basin. This agreement is not intended to benefit any entity other than the parties who sign below. The parties agree that this agreement shall not establish nor be asserted by the parties or other entities as precedent, nor is it intended to establish any precedent concerning any action or method of operation by any of the parties with respect to any future drought condition in the Uncompahgre River Basin.
7. This agreement may be terminated or amended only by written agreement of all parties.
8. This agreement shall be binding on the parties hereto and their respective successors and assigns. This is an agreement for performances of special services and may be enforced by an action for specific performance. This agreement is made and performed in Colorado and the laws of the State of Colorado shall be implied in the interpretation, execution and enforcement of this agreement.

9. This agreement with any exhibits hereto is a complete integration of all the understandings between the parties related to this matter. No prior or contemporaneous agreement between the parties or addition, deletion, or other amendment hereto shall have any force or effect whatsoever unless agreed to in writing.



Board of County Commissioners of Ouray County, Colorado

By: [Signature]

11-23-2021  
Date

Ouray County Water Users Association

By: [Signature]

12-7-2021  
Date

Tri-County Water Conservancy District

By: \_\_\_\_\_

\_\_\_\_\_  
Date

Colorado River Water Conservation District

By: Andrew A. Mueller, General Manager [Signature]

12/21/2021  
Date

Uncompahgre Valley Water Users Association

By: \_\_\_\_\_

\_\_\_\_\_  
Date

9. This agreement with any exhibits hereto is a complete integration of all the understandings between the parties related to this matter. No prior or contemporaneous agreement between the parties or addition, deletion, or other amendment hereto shall have any force or effect whatsoever unless agreed to in writing.

Board of County Commissioners of Ouray County, Colorado

By: \_\_\_\_\_

\_\_\_\_\_ Date

Ouray County Water Users Association

By: \_\_\_\_\_

\_\_\_\_\_ Date

Tri-County Water Conservancy District

By: Walter Schulte

12-8-21  
Date

Colorado River Water Conservation District

By: \_\_\_\_\_

\_\_\_\_\_ Date

Uncompahgre Valley Water Users Association

By: David Foster

12-1-2021  
Date

**Exhibit A**  
**Upper Uncompahgre Additional Water Depletions From a No M&D Call Scenario -**  
**Based on the 5 Driest Years from Modeling**

No Call Depletions in AF														
	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Total	
(1) Average Percent Depletion	0%	0%	0%	0%	0%	2%	9%	23%	29%	19%	17%	1%	3,000	
(2) Average of 5 Driest Year Depletion	0	0	0	0	0	72	265	696	859	582	497	29	3,000	
(3) Cumulative Depletion						72	337	1,033	1,892	2,474	2,971	3,000		

Row Notes:

- (1) Equals Average Monthly Depletion / Average Total (Based on the 5 Driest Years from Modeling)
- (2) Equals Row (1) monthly percent x Row (1) Total
- (3) Equals Row (3) previous month + Row (2) current month

Analysis was performed with the Gunnison StateMod Model used for the Technical Update to the Water Plan

- 1) Used the Baseline (current) data set without change (current demand, water rights, and operations)
- 2) Set all WD 68 direct flow water rights senior to the Montrose & Delta Senior Water Right. Did not change storage right priority in Ridgway Reservoir
- 3) Simulated the model for Water Year 1975 through 2013
- 4) Held Gunnison Tunnel/Taylor Park deliveries to M&D Constant
- 5) Annual depletions over 1975-2013 period average roughly 985 AF and maximum year 3,662 AF