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From: **Rein - DNR, Kevin** <kevin.rein@state.co.us>
Date: Mon, Nov 19, 2018 at 9:31 AM
Subject: 2020 Decennial Abandonment, Pre-Compact Water Rights, Colorado River Basin
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Bob, Alan, Erin, and Rob,

In recent months, we've had continued discussion of the 2020 Decennial Abandonment. I know your staff is in the process of reviewing an initial list of water rights and is investigating the identified rights for further consideration for the final list we will publish in 2020. There is one part of the process that I want to advise you on before we get further in the process - that is the question of "Pre-Compact" water rights (water rights on the Colorado River or any of its tributaries in Division 4, 5, 6, or 7, with an appropriation date earlier than June 25, 1929, the date the Colorado River compact was made effective under the Boulder Canyon Act), and their inclusion on the list.

As you know, in 2010, Dick made a decision to remove Pre-Compact water rights from the abandonment list. At the time, we were uncertain about the value to Colorado of these water rights should we find ourselves administering a compact call on the Colorado River. I believe that was the proper approach. After that decision, we developed a level of confidence that, even if we were to abandon Pre-Compact water rights, the amount of water associated with those rights could still benefit Colorado during a compact call. However, recent court decisions have cast some doubt for us to consider when evaluating that question.

It is undeniable that Pre-Compact water rights have value to Colorado that goes beyond the value to the individual water user. Since the nature of the Pre-Compact water rights is unique in Colorado when it comes to administration of the Colorado River compact, and in recognition of the fact that the value of the rights could benefit all water users in Colorado, as opposed to only the owner of the water right, I will ask that you direct your staff to do no further investigation of Pre-Compact water rights and to not include them in the Division Engineers Proposed Abandonment list for 2020. To give your staff clear direction, you can use the following:

"Due to our current understanding of the nature of Pre-Compact water rights and the value they may give all Colorado water users as Colorado takes steps to maintain compliance on the Colorado River compact, we will not include Pre-Compact water rights on the abandonment list

for 2020."

If you have questions about this, please pick give me a call.

Kevin

Kevin G. Rein
State Engineer, Director

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