

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: May 13, 2015

Board Item: II-A-9

**Non-Potable Replacement Water Lease Agreement with Suncor Energy
Contract #15973A**

Action by Consent

Action

Information

Summary:

The Board provides potable water to Suncor Energy (USA) Inc., (“Suncor”) for its refinery operations located on Brighton Boulevard in Adams County under a July 13, 2011 potable water lease agreement (“Potable Lease”). Suncor’s Potable Lease, like all potable water leases, provides that Suncor may not make “a succession of uses” of the water as defined under Colorado water law. Suncor may, however, reuse water within its Contract Service Area consistent with the Board’s conservation programs. In 2012, Suncor filed an augmentation plan in Water Court to replace out-of-priority depletions from tributary wells located at the Suncor refinery. Suncor proposed to reuse return flows from the potable water served by the Board after it has been discharged to Sand Creek. Denver Water opposed the augmentation plan because Suncor’s proposed reuse of potable water return flows outside of Suncor’s Contract Service Area is inconsistent with the terms of the Potable Lease.

The proposed non-potable replacement water lease agreement (“Non-potable Lease”) resolves Denver Water’s objections. Under the Non-potable Lease:

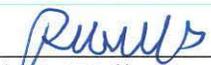
- (1) The Board will provide non-potable water to replace Suncor’s depletions, to be delivered at various locations on the South Platte above the calling right. The return flows from Suncor’s use of potable water served by Board may be used to replace well depletions.
- (2) The volume of non-potable replacement water provided will count toward Suncor’s treated water volumetric cap under the Potable Lease. If the combined volume of potable water and non-potable replacement water used by Suncor exceeds the volumetric cap, Suncor must pay System Development Charges (“SDCs”) to increase its volumetric cap.

Recommendation:

It is recommended that the Board approve the Non-potable Replacement Water Lease Agreement with Suncor.

Approvals:

Respectfully submitted,



 Patricia L. Wells
 General Counsel



 James S. Lochhead
 CEO/Manager



 David L. Little
 Director of Planning