STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol
Denver, Colorado 80203
Phone (303) 866-2471
Fax (303) 866-2003

John W. Hickenlooper
Governor

June 5, 2014

The Honorable Colorado Senate
Sixty-ninth General Assembly
State Capitol Building
Denver, Colorado 80203

Dear Colleagues:

After careful consideration, today at 10:41 am I vetoed Senate Bill 14-023, "Concerning an authorization of the voluntary transfer of water efficiency savings to the Colorado Water Conservation Board for instream use purposes in water divisions that include lands west of the continental divide." This letter sets forth my reasons for vetoing the legislation. The bill and this letter are being filed today with the Secretary of State in accordance with Article IV, Section 11 of the Colorado Constitution.

This decision was not easy; it was a close call. That is because the bill's goals are important for our water future and we appreciate and honor the thousands of hours that went into crafting this legislation. Despite these efforts, there was a breakdown in consensus toward the end of the legislative session that divided the water community and, in our view, would make implementation of the policy more difficult.

So this veto is not intended to stop this legislation from ever becoming law; it is, rather, intended to build on the collaborative process that led to its passage in the General Assembly this year, in order to return next year with legislation that has broader support by water users in our state. This bill already has a good cross section of support from various interests, including sportsmen, conservationists, and some in the agricultural community. Unfortunately, and despite the best efforts of the bill's sponsors, important questions remain about how best to expand the state's instream flow program without creating injury or cost to downstream users, principally in agriculture.

Given the General Assembly's painstaking efforts to build consensus around Colorado's Water Plan, we are concerned that this legislation may have the unintended consequence of polarizing stakeholders where we are trying to foster collaboration and consensus. This is unfortunate, because the goals of the bill and the motives of the bill's sponsors are laudable. We ought to do all that we can to encourage conservation of water resources and keep more water in our streams and rivers for water quality purposes, but this has to be done in ways that respect our long tradition of prior appropriation and prevent injury to downstream users. This is why we are

supportive of a targeted pilot program that would meet those goals. In addition, it will help preserve broad stakeholder consensus across basins on how to carefully introduce changes to our water law.

There can be no doubt that greater efficiency is critical to Colorado's water future and we support SB 14-023's intention and overarching approach to encourage efficient practices. Encouraging efficient practices can be accomplished without the perception of, or actually result in, (1) injury to other water users, (2) infringing upon fundamental tenants of Colorado water law, or (3) additional unnecessary expense in the water court process. While the bill's specific language may provide protections against these results, water users have expressed concerns that the bill may instead present these unintended outcomes.

We believe that more good work by people of good faith and commitment to shared goals can get Colorado a better result. The concepts contained in this legislation will be more successful if there is broad support among all those affected.

While SB 14-023 fell short of addressing concerns raised by critical agricultural and water conservation interests, we specifically applaud Representative Becker and Senator Schwartz's efforts to move this critical discussion forward. Legislation implicating Colorado water rights deserves thorough scrutiny and input from all impacted parties. In this instance, where the bill only addressed water law on the Western Slope, the Colorado River Water Conservation District cautioned that this bill would result in unintended consequences. Specifically, some agricultural interests believe that SB 14-023 will cause injury to intervening water rights holders in the effected reach of the stream and add to the burden of water court costs for farmers and ranchers. All stakeholders and partners must be actively engaged in a robust and thorough process to ensure good water outcomes and good water law.

We have directed the Colorado Department of Natural Resources and the Colorado Water Conservation Board to work with legislators on a pilot concept in preparation for the next legislative session that addresses concerns raised by opponents of this legislation.

Making the topic of this legislation an administration priority next year would give us an opportunity to re-engage stakeholders who have concerns about SB 14-023, and build a broader base of support for passage next year. If I am re-elected by Colorado's voters to a second term, my administration will be committed to pursuing bipartisan resolution of this important issue.

Sincerely,

Governor John Hickenlooper