# STATE OF COLORADO

## **Colorado Water Conservation Board**

**Department of Natural Resources** 

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TO:

FROM:



John W. Hickenlooper Governor

Mike King DNR Executive Director

Jennifer L. Gimbel CWCB Director

DATE: July 6, 2012

SUBJECT:Agenda Item 11, July 17-18, 2012 Board Meeting<br/>Finance/Interstate, Federal and Water Information Sections<br/>Animas-La Plata (A-LP) States Pool Allocation – Water Purchase Update

Colorado Water Conservation Board Members

Tim Feehan, P.E., Assistant Director

Ted Kowalski, Chief

#### **Staff Recommendation**

This item is informational only and does not require Board action

#### Discussion

Staff is pleased to inform you that the Purchase Contract between the State of Colorado (State) and the Bureau of Reclamation (Bureau) was fully executed on June 19, 2012. Pursuant to the terms of the Contract, the State made its initial \$12 million payment to the Bureau on June 20, 2012, which officially stopped any additional interest during construction (IDC) from accumulating. The State is now in an annual repayment contract with the Bureau, with its first annual payment being due on June 19, 2013.

Pursuant to the contract, no additional interest will be charged to the State from June 19, 2012 to the State's first payment, due on June 19, 2013. This allows State, without penalty, to establish and finalize the value of the 46-acre tract of land associated with the A-LP Durango Pumping Plant (DPP), which CWCB donated to the Project back in 2002. The value established and credited to the State will then be subtracted from the State's final contractual obligation.

As you are aware, there is currently an additional \$24M available in the Construction Fund to be used towards the purchase of A-LP water. It is not staff's intent to make annual payments, but rather to finalize the amount to be credited on the DPP, establish the amount of funds to remain in a long-term operation, maintenance, and replacement (OM&R) fund, and then make a final payment to the Bureau sometime before June 19, 2013. Depending on the amount credited for the DPP, and the amount of set-aside money for an OM&R fund, the State may be able to purchase all or a portion of its allocated pool of 10,440 acre feet. Staff will be working with the Board over the next few months to finalize the amount of water the State can purchase.

### Association

The State will become a member of the Association upon execution of its Contract with the Bureau and upon acceptance of the State's applicable contract provisions by the Association. As a courtesy, the State has provided copies of its executed Purchase Contract to all Association Members, and formally requested to the Association that it be considered for membership. The Association will be reviewing this request at its next Association meeting to be held on June 16, 2012.

Membership in the Association is addressed in Section 2.3 of the Intergovernmental Agreement establishing the Association (IGA), which defines the Members of the Association as the six parties who signed the IGA. The State's potential membership is specifically addressed in Section 2.3.1, stated below:

At the time of execution of this Agreement the State of Colorado has not exercised its statutory entitlements to acquire an interest in the ALP. If it acquires an interest of at least 780 acre feet of annual depletions (or 1,560 acre feet of supply) no later than when the Final Cost Allocation (as defined in the Enabling Law) has been completed then the State entity that owns the interest shall become a Party to this Agreement and a Member of the Association, subject to the Association acceptance of that entity's applicable contract provisions and the number of Members shall be enlarged to seven.

There are a number of issues currently being discussed among the Association, Southwestern Water Conservation District (District) and the State Engineers Office (SEO). These issues are summarized as follows:

- Engineering and Modeling
- Project Water
- Water Administration/Protocol
- Due Diligence

The CWCB, the Association, the District, and the SEO have set up a number of meetings over the next three months to discuss these issues and to come to an agreement on how to collectively move forward.