

STATE OF COLORADO

Colorado Water Conservation Board

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

John W. Hickenlooper
Governor

FROM: Tim Feehan, Assistant Director

Mike King
DNR Executive Director

DATE: May 3, 2013

Jennifer L. Gimbel
CWCB Director

SUBJECT: **Agenda Item 9, May 14-15, 2013 Board Meeting**
Finance/Interstate, Federal and Water Information Section
Animas-La Plata (A-LP) Project Update

Staff Recommendation

This item is informational only and does not require Board action.

Discussion:

Project Water

On April 29, 2013, the CWCB transferred \$23,686,420 to the Bureau of Reclamation ("Bureau") to be credited towards its purchase of the State's water allocation in A-LP. This leaves a remaining balance of \$346,054 for the State to acquire its full water allocation of 10,460 acre feet. The Bureau is still working on its final cost allocation for the Project, which could slightly adjust the State's final balance. CWCB staff is still working with the Bureau to receive credit for the 46 acres that the State transferred for the Project's use, and on which the Durango Pumping Plant (DPP) resides. The Bureau agreed that some portion of the land's value will be credited back to the State through its purchase contract, when a final value for the land has been determined.

Durango Pumping Plant Credit (DPP)

The Bureau has provided CWCB with a Statement of Work, which is the first step in starting the federal appraisal process on the DPP. Love Appraisals, out of Cortez, Colorado will be conducting the appraisal, which should be completed in draft form by August of 2013. The final approved value of the 46 acres associated with the DPP will be credited back to CWCB through the State's repayment contract for the water purchase, as well as the cost of the appraisal.

Retained Jurisdiction

The Attorney General's Office (AGO), State Engineer's Office (SEO), and staff continue to work with the Ute Tribes in reaching an agreement on retained jurisdiction. In December of 2012, the parties filed a motion to extend retained jurisdiction to August of 2013, which the court approved. All

involved parties are currently working on a stipulation that defines the limit of project water diversions, either through pumping or non-stored allocation. Upon the development of an agreed stipulation by all parties, the SEO and AGO have agreed to release retained jurisdiction on A-LP after August 13, 2013.

Lake Nighthorse Recreation

For the past year the City of Durango (City) has been working on finalizing its recreation plan on and around Lake Nighthorse. The City is recommending that the area be annexed to the City to allow it to provide police and emergency support. Given that the land is owned by the Bureau and operated, but maintained by the Association, the Bureau would be the responsible entity in executing an annexation agreement with the City.

A number of project participants have expressed concerns over the City's recreation annexation requirement. On April 30, 2013, the Association met again to discuss in more detail the City's recreation plan and issues related around annexation. The main issue associated with annexation is future expansion of project facilities and impacts to the Tribal hunting and fishing rights under the Bruno Act. At the meeting, the City did suggest wording within the lease agreement that would address certain Association member's concerns over future expansion of project facilities. The City also stated that it was its legal position that the Bruno Act would supersede any State or local regulations. The City and the Association are planning to meet sometime in early June to resume discussions on recreation.

Transfer of Project from Construction to Operations and Maintenance

The operations and maintenance of the Project was officially transferred from the Bureau to the Association on April 1, 2013. There are three main issues that still need to be addressed that have been identified within the Transfer Agreement as a requirement for the Bureau to resolve. They are the design and operation of the diversion structure gates at the river, the coating of the pumps, and release of non-native fish from the reservoir. The three issues are of significant concern to the Association, which will be carefully monitored by the Association's General Manager to ensure they are adequately resolved.

In March of 2013, the State made its payment for its share of the Project's operation and maintenance fixed costs for a 6-month period, at a cost of \$61,580. The State's next operation and maintenance payment will be due in October 2013.