

STATE OF COLORADO

Colorado Water Conservation Board

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Tim Feehan, Deputy Director, Resource Management

DATE: January 17, 2014

SUBJECT: **Agenda Item 13, January 27-28, 2014 Board Meeting**
Finance/Interstate, Federal and Water Information Section
Animas-La Plata (A-LP) Project Update

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

Jennifer L. Gimbel
CWCB Director

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 is anticipated to be complete by the fall of 2014. In our purchase contract with the Bureau, executed in June of 2012, \$25.5 million was estimated as the State's final construction cost for its project water allocation. Current Bureau estimates indicate no adjustment to that number will be necessary.

Durango Pumping Plant Credit (DPP)

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 DPP resides. The Bureau agreed that some portion of the land's value will be credited back to the State through its repayment contract for the water purchase, as well as the cost of the appraisal, when a final value for the land has been determined. The final appraisal report for the land has been completed and has been forwarded to the Bureau for their initial internal review. We are anticipating having resolution on this issue by the March 2014 Board meeting.

Retained Jurisdiction

In December of 2012, the parties to the Tribal Decrees filed a motion to extend retained jurisdiction to August of 2013, which the court approved. In addition to completing the water administration document for A-LP (Protocol), all involved parties also agreed to a stipulation that defines the limits of project water diversions, either through pumping or non-stored allocation for the Tribes. Based on these documents, on August of 2013 the State Engineer's Office (SEO) and the Attorney General's Office (AGO) agreed to release retained jurisdiction on the Project.

Lake Nighthorse Recreation

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, but operated and maintained by the Association, the Bureau would be the responsible entity in executing an annexation agreement with the City.

For the past year the Association Members, Bureau, and the City have been working through issues associated with annexation, extent of recreational amenities, tribal cultural resources, Bruno Treaty (hunting and fishing), police enforcement, liability and others. Discussions have been lengthy and difficult at times, but significant progress has been made. The recreational master plan developed for the lake and surrounding lands was used as a guidance document in developing a scaled down initial phase recreation plan, summarized below:

- Boating (CWCB provided a \$700k grant to construct the existing boat ramp).
- Overflow parking beyond parking currently provided at the boat ramp (30 spaces)
- Swim beach.
- Limited day-use, to include trails.
- Entrance facility
- Boat check station (mussel inspection)
- City and County police protection.
- Reduced annexation footprint that would only encompass amenities and areas of use, and not the entire property.

The Bureau is currently providing final comments to the annexation and lease agreements to the City for review. The modified recreation plan will require an Environmental Assessment (EA) review and approval by the Bureau, which could delay opening the facility to recreation until the spring of 2015. The Department of Natural Resources, Executive Director's Office (EDO) will be sending the Bureau a letter requesting an expeditious EA review and approval process to get the facility open to recreation by the summer of 2014.

Due Diligence Proceedings

For the past three years the Association Members, SEO, and the Southwest Water Conservation District (District) have been discussing what water is sufficient to provide the Project with a sustainable long term water supply. The District currently holds the water rights to the Project (600 cfs), which was based on the larger A-LP Project that included irrigation. The scaled down Project was modeled around the project participants' water allocations (M&I use only), stored versus non-stored allocations, demand and the hydrology of the basin. Based on the modeling by the Bureau, the current Project is based on 280 cfs, which the capacity of the DPP was designed around, in conjunction with a separate 35 cfs average annual non-stored allocation to the New Mexico participants.

Discussions have been around this fundamental question "Is 280 cfs a sufficient water supply for the Project?" To assist in answering this question, the San Juan Water Commission, the Ute Mountain Ute Tribe and the Southern Ute Tribe, retained the services of Erin Wilson, Consulting Engineer, to model the Project. Erin's modeling efforts, based on a 40-year hydrology window, and assuming that all participants could either store or take their project water allocation from the river, evaluated 280 cfs to

600 cfs in available water supplies and examined how the reservoir might operate under those supplies. After significant discussion and debate over the pros and cons of the various water supplies modeled, it was generally agreed that 450 cfs would provide the Project with a dependable, sustainable, long term water supply. Though all sides did not necessarily agree with each other's assumptions, reasons or need behind the 450 cfs, we did, however, agree to proceed forward in having the 450 cfs transferred to the Association under certain terms and conditions.

One of the specific conditions identified by the District prior to the transfer of 450 cfs, was that the Association members support the District in its upcoming Due Diligence Case, on their entire 600 cfs conditional water right. Given disagreements between SEO, the San Juan Water Commission and the District, over the future administration of the non-stored allocation to the New Mexico participants, the San Juan Water Commission and La Plata Conservancy District (in New Mexico) filed a statement of opposition in the District's Due Diligence proceedings. Based on that, the District has informed the Association that any water transfer discussions are on hold until after the Due Diligence Proceedings.

Operations and Maintenance

In April of 2013 the Project was officially transferred to the Association for operation and maintenance (O&M). CWCW made its first, full year O&M payment on its 10,460 AF water allocation in September of 2013, in the amount of \$126,778 or \$12.12/AF. September 15th of each year is when the State's O&M payment will be due.