



**COLORADO**  
Colorado Water  
Conservation Board  
Department of Natural Resources

1313 Sherman Street  
Denver, CO 80203

P (303) 866-3441  
F (303) 866-4474

John Hickenlooper, Governor

Mike King, DNR Executive Director

James Eklund, CWCB Director

**TO: Colorado Water Conservation Board Members**

**FROM: Tim Feehan, P.E., Deputy Director  
Resource Management**

**DATE: January 25-26, 2016 Board Meeting**

**AGENDA ITEM: 20a – CWCB’s 2016 Project Bill  
Animas-La Plata Project - Statutory Authority**

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### **Introduction**

The CWCB has been actively involved in the Animas-La Plata Project (A-LP) for decades and in 2013 entered into a purchase agreement with the Bureau of Reclamation (Bureau) to acquire its 10,440 acre-feet of water allocation in the Project. Since that time, the State has been actively participating in the Project under the terms and conditions of its purchase agreement with the Bureau and the “Intergovernmental Agreement Establishing the Animas-La Plata Project Operation and Maintenance Association.”

The CWCB’s statutory authority to purchase water or to sell or lease water or land, as well as other authorities specifically for A-LP, were originally defined under section 39-29-109 (1)(a)(VIII) (A)(B)(C)(D) and (E). Though CWCB has the authority under section 37-60-119 and 37-60-120 to hold security interests, enter into agreements, and own property or water, the complexity of A-LP warranted specific language in section 39-29-109 to clearly define the Board’s authority as a A-LP project beneficiary. Unfortunately, those authorities under subparagraph VIII within section 39-29-109 (1)(a), were repealed on July 1, 2015.

### **Discussion**

In many cases, statutory language is repealed for various projects after the project has been funded and constructed. In the case of A-LP Project, however, the transferring of funds and the construction of the Project did not end the State’s involvement in the Project, given its purchase agreement with the Bureau and its long term investment and ownership in the Project. Having a repeal clause within section 39-29-109 (1)(a) was an oversight, given that the statutory authority language under section 39-29-109 (1)(a) (VIII) needed to remain in place for as long as the State continues to be part of A-LP.

To address this issue, it is recommended that new statutory language be drafted in section 37-60-120.2 that clearly defines the CWCB’s authority in A-LP. The suggested statutory authority language is summarized below:

“Notwithstanding any other law, including section 24-30-1303, and given that thirty six million dollar has been authorized and appropriated and a purchased agreement has been executed with the United States Bureau of Reclamation to acquire all of the State’s water allocation in the Animas-La Plata Project and that the State is a participating member of the Animas-La Plata Operation, Maintenance and Replacement Association, and in order to support and provide long-term water supplies for the area and to fully utilize the State’s water allocation in the Animas-La Plata Project, in coordination with the United States Bureau of Reclamation and the other



participating project beneficiaries, the Department of Natural Resources, acting by and through the Colorado Water Conservation Board, shall have the authority to contract with and allocate water to local entities and water providers,; to receive and expend proceeds from the sale or lease of water and land, and any other activities that effectuate the purpose of the acquired project water; to undertake operations, maintenance and replacement costs, to pay the costs of storage or other necessary expenses; and to otherwise implement the purpose of this paragraph and to fully utilize the water and storage acquired. The CWCB Board is also authorized to undertake such action as necessary to lease, sublease, exchange, sell, assign, or otherwise effectuate the use of the project water acquired. The State Treasurer shall credit all proceeds received under this paragraph and the interest earned from investments of those proceeds to the Colorado Water Conservation Board Construction Fund created in section 37-60-121 (1)(a), C.R.S. and all such moneys are continuously appropriated and remain available for the designated purposes until they are fully expended. In the event of a conflict between the application of State or Federal law or rules, including chapter 3 of the state fiscal rules in existence as of June 7, 2010, federal law and rules shall apply.”

### **Recommendation**

The Staff recommends the Board approve the Animas-La Plata Project statutory authority language identified above under section 37-60-120.2 for inclusion into the Colorado Water Conservation Board’s 2016 Projects Bill, for consideration and approval by the General Assembly.