



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

1313 Sherman Street, Room 718
Denver, CO 80203

P (303) 866-3441
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Jared Polis, Governor
Dan Gibbs, DNR Executive Director
Lauren Ris, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Kirk Russell, P.E., Finance Section Chief

DATE: September 18, 2024 Board Meeting

AGENDA ITEM: 7. Arkansas Valley Conduit Update

Introduction (This is for information only and no action is necessary)

Members of the Southeast Colorado Water Conservancy District will be providing an update on the project and the use of the CWCB's \$30M Projects Bill Grant and the \$90M CWCB Loan that were approved by the Board in November 2019 (HB20-1403) and November 2022 (SB23-177).

Board Approvals are attached.





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Colorado Water Conservation Board

Department of Natural Resources
1313 Sherman Street, Room 718
Denver, CO 80203

November 29, 2019

James Broderick, Executive Director
Southeastern Colorado Water Conservancy District
31717 United Avenue
Pueblo, CO 81001

Re: Arkansas Valley Conduit - Funding Package

Dear Mr. Broderick:

I am pleased to inform you that on November 20, 2019, the CWCB unanimously supported a \$100 million funding package to assist in the design and construction of the Arkansas Valley Conduit and to include it in CWCB's annual Water Projects Bill. As you are aware, all of CWCB's cash funds must be appropriated by the General Assembly. The 2020 Projects Bill will be considered by the General Assembly in the spring of 2020 for final approval.

The funding package includes a \$10 million Non-Reimbursable Investment (grant) and a \$90 million loan to the District to help bring a clean water supply to the communities along the Arkansas River.

I have attached a copy of the updated Board memo dated November 20, 2019 that includes the Board's approval.

On behalf of the Board, the Department of Natural Resources, and the State of Colorado, I would like to thank you for your continued efforts to advance this extremely important water project.

Sincerely,

Kirk Russell, P.E., Chief
Finance Section

Attachment: Updated Board Memo





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Jared Polis, Governor

Dan Gibbs, DNR Executive Director

Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Kirk Russell, P.E., Finance Section Chief *KLR*

DATE: November 20-21, 2019 Board Meeting (Updated November 20, 2019)

AGENDA ITEM: 12d. 2020 Projects Bill
Southeastern Colorado Water Conservancy District - Arkansas Valley Conduit
Funding Package

Introduction

In 2006, the CWCB approved a \$60.6 million loan to the Southeastern Colorado Water Conservancy District - Water Activity Enterprise (District) to provide the non-federal share of funding for the Arkansas Valley Conduit (AVC) project. (2006 Board Memo attached). Approval was subsequently given by the Legislature in SB07-122. That authorization was modified in SB09-125 to extend the expiration date to July 1, 2019. The District is requesting a renewed funding authorization from the CWCB. The District and the Bureau of Reclamation (Reclamation) have made significant advancements over the last ten years and the District is now requesting a \$100 million funding package from the CWCB for the non-federal cost share of the project.

The AVC is a 130-mile long water supply pipeline project extending from Pueblo Reservoir to the City of Lamar. It will utilize the existing Pueblo Board of Water Works infrastructure to convey water to the east edge of Pueblo. From there, a proposed pipeline will deliver domestic water to rural communities along the Arkansas River. The current cost estimate for the AVC is about \$600 million (April 2016 price levels), which is double the estimate in 2006 when the original CWCB loan was approved.

The District applied for a \$20 million grant through CWCB's Non-Reimbursable Investment (NRI) application process in August 2019. The application was reviewed at the Finance Committee meeting in September 2019. Staff indicated to the Committee that \$10 million is available at this time. The Committee recognized the importance and timing of the AVC project and requested a formal presentation by the District to the Board for further consideration. See attached Project Data Sheet for a location map and Project Summary Handout.

Staff Recommendation (Board approved Staff Recommendation November 20, 2019)

Staff recommends the Board include a \$100,000,000 funding package in the 2020 Projects Bill for consideration by the Bill sponsors. The funding package includes a \$90,000,000 loan and a \$10,000,000 Non-Reimbursable Investment to the Southeastern Colorado Water Conservancy District, acting by and through its Water Activity Enterprise for costs related to the Arkansas Valley Conduit Project from the Severance Tax Perpetual Base Fund.

Condition of approval:

The District shall submit a completed Loan Feasibility Study for final CWCB loan approval which will establish the loan terms. The District will also submit a NRI (grant) disbursement plan for CWCB approval prior to entering into a contract for this funding package.



Borrower - Southeastern Colorado Water Conservancy District

The District was created under Colorado law on April 29, 1958, for the purpose of developing and administering the Fryingpan-Arkansas (Fry-Ark) Project. The District includes parts of nine counties, and extends along the Arkansas River from Buena Vista to Lamar, and along Fountain Creek from Colorado Springs to Pueblo. It makes supplemental water available to approximately 280,600 acres of irrigated land, as well as municipal and domestic water suppliers, and the District's approximately 860,000 constituents. The District is the agency responsible for repayment of the reimbursable costs of the Fry-Ark Project and is responsible for administering the distribution of water obtained through that project. The initial repayment obligation of the District was \$132 million, with a maturity date of 2032. The remaining balance as of June of 2019 is \$17 million, with an annual payment of about \$1.4 million. Revenues to meet the annual payments are provided by property taxes. Property tax revenues are about \$8.1 million per year out of an approximate total annual budget of \$22.6 million. The District has a 15-member Board of Directors, appointed by the State District Court system and serving 4-year terms. The Fountain Valley Authority is a separate entity and was responsible for the pipeline constructed to deliver water to Colorado Springs and the surrounding area.

The District Enterprise - In 1995, the District created the Water Activity Enterprise as a separate and distinct business activity from the District's governmental activities, and specifically to administer the sale and management of water, including the Fry-Ark Project return flows. The Enterprise is the sponsoring agency for the AVC project, and is acting as the oversight agency for the District and the AVC participants. The Enterprise itself has no taxing authority, but will function as the business entity to handle the process leading up to and the actual construction of the conduit. The Enterprise will also be responsible for collecting revenue from participants and paying the debt service on the CWCB loan.

Background

The Fry-Ark Project (Project) was authorized in 1962. The primary purpose of the Project is to provide transmountain water for municipalities, towns, water companies and irrigation companies in the Arkansas River basin. The Project includes dams, reservoirs, tunnels, pipelines and diversion structures. Most project features were constructed between 1964 and 1982. By law, the construction cost of the Project must be repaid by project beneficiaries.

The Project authorization includes two municipal pipelines. As originally authorized, the entire construction cost of both pipelines was to be repaid to Reclamation over 50 years with interest. The Fountain Valley Pipeline was completed in 1985 and provides water to the large and growing communities of Colorado Springs, Fountain, Security, Widefield and Stratmoor Hills in El Paso County. Those communities are repaying 100 percent of this pipeline's cost. The AVC will serve 40 communities in five counties east of Pueblo, but has not been built because participants have not had the ability to repay 100 percent of the AVC's construction costs as required in the original Project authorization.

In 2000, at the request of Otero County participants, the District initiated new studies of the AVC. This study found that the AVC participants still could not afford to repay 100 percent of the construction cost of the AVC as required by Federal law.

Federal legislation in 2009 (Public Law 111-11) provided a mechanism to apply revenues from excess capacity contracts for storage of non-Project water to assist in both construction and repayment of the AVC, including the 35 percent local cost share.

Loan Feasibility Study

The District originally provided a preliminary feasibility study in 2006. This study has been updated, however, it remains in a "preliminary" status and will require the submittal of a final version when the District returns to the CWCB for final approval of the loan and disbursement of NRI funds. Staff will work with the District to update the feasibility study to include at a minimum:

- Federal funding appropriation for the project costs
- Institutional questions pertaining to project design, ownership, and operation of the AVC
- Project schedule, permitting, design, construction
- Final Financial Program -including Participant Funding Agreements
- Disbursements of the NRI funding as it pertains to the overall project

In accordance with the CWCB Financial Policy #2 (Feasibility Study), the CWCB, pursuant to Section 37-122-60 CRS requires that "all projects have a completed feasibility study prior to loan consideration by the Board. In those cases where it is impractical to complete the study prior to Board approval and/or General Assembly authorization, the Board may consider a conditional approval. This approval shall be conditioned upon completion of a feasibility study in accordance with CWCB guidelines by a specified date. In no case will a CWCB loan contract be executed without a completed feasibility study.

Project Description

The AVC begins at Pueblo Reservoir about 5 miles west of Pueblo and continues in an easterly direction along the Arkansas River for approximately 130 miles to City of Lamar. The conduit will be gravity flow and the size will vary from 30" to 16" when it reaches Lamar. The conduit will make deliveries of water to entities along the way.

Reclamation completed an Environmental Impact Study on AVC in 2013, and issued a Record of Decision in 2014. The route at that time avoided construction through Pueblo by pumping water to a tank south of Pueblo, where it would flow by gravity to the communities to the east.

In 2017, the District approached Reclamation with an alternative proposal to deliver water to AVC at the eastern edge of the Pueblo Board of Water Works' existing system, eliminating the need to build new water lines around Pueblo. This will save about 10 years in construction time, and reduce total project cost. Subsequent discussions over the next two years among Reclamation, the District and Pueblo Water confirmed that this alignment for the AVC is feasible.

Because the current cost estimate is based on feasibility level design, it includes a 42 percent contingency in the estimate as required by Reclamation cost-estimating guidelines. The total AVC project cost is estimated at \$600 million.

Financial Considerations (Provided by District)

Historically, Reclamation's congressional appropriations have fully funded all costs required to construct a project. The local project sponsors then repaid those construction costs in accordance with Federal law (typically over 40 or 50 years, and with interest in the case of M&I water supplies) and bore 100 percent of operation and maintenance costs. This is the model used for the Project features constructed to date.

While there is no federal statute that requires a non-federal cost share to build the AVC, the political, and the financial, reality is that a non-federal contribution toward design and construction is necessary for the project to move forward.

What is included in statute is an authorization for the project to be built "subject to appropriation." The AVC has received congressional appropriations for environmental, planning, and preliminary design work since the 2009 amendment, but no funding request was included in the Administration's budget requests for FY19/20. Since the administration's budget process is developed outside of public view, the District does not know if the President's budget request for FY20/21 includes funding for the AVC until it is released next February.

The District is operating in a federal appropriations process that bans congressionally directed spending, more commonly known as earmarks. Absent earmarks, a project's future is wholly dependent upon support from the Administration.

The Office of Management and Budget (OMB) makes the final determination of the Administration's budget requests for specific projects. OMB's actions have demonstrated emphatically that it does not regard water resource development as a federal responsibility and that state and local entities should be funding such projects. It is likely that this philosophy was behind much of the recent cost-sharing Federal legislation noted above.

OMB has repeatedly demonstrated this philosophy in their largely inadequate budget requests for congressionally authorized rural water projects. Unlike AVC, however, the authorizing legislation for most of these rural water projects includes a requirement for significant up-front, non-federal financing. OMB has consistently demanded this local funding be secured before including a request for Federal funding in the President's budget request.

It is this political and fiscal reality that brings the District to the CWCB for significant financial support. It is clear to the District, to Colorado's congressional delegation and to Reclamation that construction of the AVC is dependent on a significant contribution of non-federal dollars.

AVC is nearing the point where construction can begin, but without a clear and defined path for a non-federal contribution, it is unlikely that the Administration will include funding in its FY20/21 budget request to be released in February 2020.

Given the work the District has done to reduce the scope of the project (e.g. using existing infrastructure to convey project water to the east side of Pueblo), the District's intention is to seek federal funding or financing from EPA and/or USDA, and support for the project from Reclamation and the Colorado congressional delegation. (See attached Congressional support letter to Interior Secretary David Bernhardt) The District believes there is a narrow window of opportunity to finally begin the flow

of substantive federal funding for construction via Reclamation's budget. The District believes securing significant non-federal funding and/or financing during this legislative session is critical to its ability to take advantage of this window of opportunity.

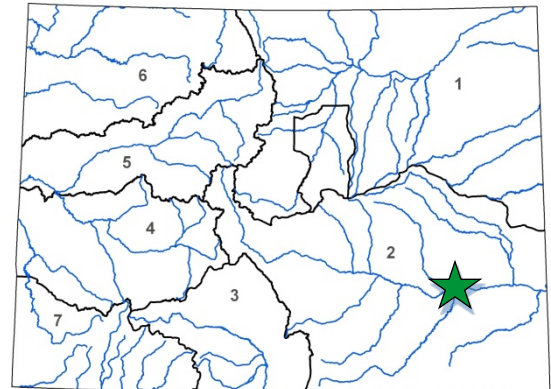
Therefore, the District is requesting support from the State of Colorado through the CWCB and the legislative process for a \$100 million funding package for the AVC. (See attached Governor Polis support letter to Senator Crowder)

cc: Bill Long, Board President, Southeastern Colorado Water Conservancy District
James Broderick, Executive Director, Southeastern Colorado Water Conservancy District

Attachment: Water Project Loan Program - Project Data Sheet
Arkansas Valley Conduit - Summary Handout, February 25, 2019
Congressional support letter to Interior Secretary David Bernhardt, October 11, 2019
Governor Polis support letter to Senator Crowder, August 30, 2019
Original CWCB Board Memo, November 6, 2006

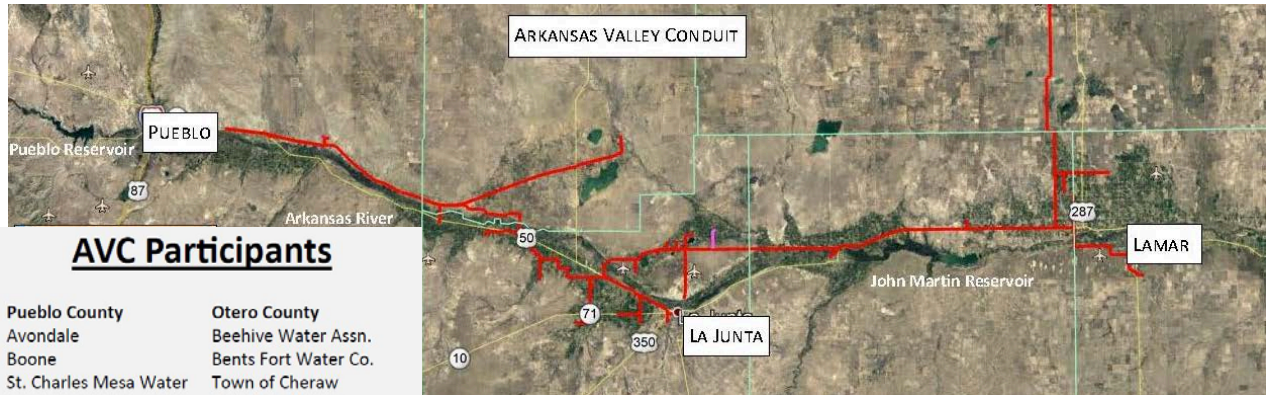


L O A N D E T A I L S	
Project Cost:	\$600,000,000
CWCB Loan-Grant Package:	\$100,000,000
Loan Term and Interest Rate:	TBD
Funding Source:	Severance Tax Perpetual Base Fund
B O R R O W E R T Y P E	
Agriculture	Municipal
0%	100% Low - TBD% Mid -0% High
	Commercial
	0%
P R O J E C T D E T A I L S	
Project Type:	Water Supply System
Average Annual Diversions:	N/A



The Arkansas Valley Conduit was authorized by Congress in 1962 as part of the Fryingpan-Arkansas Project (Project), but was never built because local communities could not afford the cost. In 2000, the Southeastern Colorado Water Conservancy District, working with people in six Lower Arkansas Valley counties, renewed planning efforts for the AVC. In 2009, new federal legislation (PL 111-11) reauthorized construction of the AVC, with a 65 percent federal share, and 35 percent local share. The legislation also allows miscellaneous revenues from the Project to fund and repay construction costs. The Bureau of Reclamation issued an Environmental Impact Statement in 2013, and a Record of Decision in 2014.

L O C A T I O N	
County:	Pueblo, Crowley, Otero, Bent, Prowers
Water Source:	Arkansas River
Drainage Basin:	Arkansas
Division:	2
District:	14



AVC Participants

Pueblo County	Otero County
Avondale	Beehive Water Assn.
Boone	Bents Fort Water Co.
St. Charles Mesa Water	Town of Cheraw
	East End Water Assn.
Crowley County	Eureka Water Co.
96 Pipeline Company	Fayette Water Assn.
Crowley County Water	Fowler
Association	Hancock Inc.
Crowley	Hilltop Water Co.
Olney Springs	Holbrook Center Soft
Ordway	Water
Sugar City	Homestead Improvement
	La Junta
Bent County	Manzanola
Hasty Water Company	Newdale-Grand Valley
Las Animas	North Holbrook Water
McClave Water	Patterson Valley
Association	Riverside Water Co.
	Rocky Ford
Prowers County	South Side Water Assn.
Lamar	South Swink Water Co.
May Valley Water Assn.	Swink
Wiley	Valley Water Co.
	Vroman
Kiowa County	West Grand Valley Water
Eads	West Holbrook Water

The project will deliver clean drinking water to 50,000 people in 40 communities in southeastern Colorado. Domestic wells in the Arkansas River watershed east of Pueblo are contaminated by naturally occurring radioactive materials and high levels of salinity, nitrates and selenium. Both the primary treatment of water, and the disposal of bi-products such as brine are driving up costs for water providers, and some communities are unable to meet basic water-quality standards.



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Dan Gibbs, DNR Executive Director

Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board

FROM: Kirk Russell, Section Chief
Finance Section

DATE: November 16-17, 2022 Board Meeting

ITEM: 15b. 2023 Projects Bill - Non-Reimbursable Project Investment
(7) Southeast Colorado Water Conservancy District - Arkansas Valley Conduit

Staff Recommendation

Staff recommends the Board approve the transfer of \$20,000,000 from the Severance Tax Perpetual Base Fund to the Construction Fund to fund the design and construction of the Arkansas Valley Conduit delivery lines and spurs and inclusion in the 2023 Projects Bill for appropriation. The funding will be made available to Otero County for its intended use by the Southeastern Colorado Water Conservancy District

Staff also recommends the Board approve a modification to HB20-1403 Section 17. Frying Pan-Arkansas project loan authorization - transfer & appropriation paragraphs to replace the Southeastern Colorado Water Conservancy District with Otero County as the recipient of the \$10M grant.

Introduction & Discussion

In the 2020 CWCB Projects Bill (HB20-1403) the Southeastern Colorado Water Conservancy District (District) was awarded a \$90M loan and a \$10M grant to assist the District in providing the local cost share of the Arkansas Valley Conduit (AVC). This additional \$20M will increase the grant portion of the funding package to \$30M for a total Loan/Grant funding package of \$120M.

The Arkansas Valley Conduit Project is a 130-mile water delivery pipeline (trunk line) that begins in Pueblo County at the eastern end of the Pueblo Board of Water Works system. In addition to the trunk line, there are approximately 100 miles of spur and delivery lines that deliver AVC water from the trunk line to a point where the AVC participants receive the water.

The AVC is being constructed to address water supply and quality issues in the Lower Arkansas Valley east of Pueblo. The AVC will serve up to 39 separate water systems (AVC participants) and an estimated 50,000 people by providing supplemental drinking water. Water will be conveyed from Pueblo Reservoir, treated by Pueblo Water, and transmitted by Pueblo Water to the AVC connection point at 36th Lane and U.S. Highway 50. An injection site located about 4 miles east of the connection point will remove the ammonia from the chloramine water treatment process used by Pueblo water to allow the AVC participants to receive the filtered water into their systems. AVC water will be disinfected by each AVC participant after each delivery point.



The AVC was authorized by the Fryingpan-Arkansas Project Act (Fry-Ark Project) of 1962 but was not constructed because of the participant's inability to pay 100 percent of the construction costs. The Fry-Ark Project was amended in 2009 to provide 65 percent federal funding. Construction funding was approved by Congress in 2020.

The trunk line of the AVC is being designed and constructed by the Bureau of Reclamation using federal appropriations. The trunk line starts as a 30-inch diameter pipeline in Pueblo County and gradually reduces in diameter as it moves east until it finishes as a 16-inch diameter pipeline at Lamar. The trunk line is estimated to be 90 percent of total AVC construction costs.

The District signed a Fiscal Agent Intergovernmental Agreement with Otero County to accept grants in the amount approved, which is beyond the District's capability to accept state grants under TABOR limits.

It is anticipated that the CWCB's \$30M grant funding would be used to cover a portion of the design and construction of the spur and delivery lines of the AVC Project which are non-federal cost share components of the AVC Project.

This includes:

- The remaining design costs of the AVC spur and delivery lines. The District's Enterprise has secured funding through the American Rescue Plan Act of 2021 to design a portion of the AVC delivery lines from counties and incorporated cities or towns. The total estimated cost of these designs is \$8M. ARPA funds will cover \$2M of that cost, leaving the CWCB grant to cover \$6M. The current goal is to complete the design of these lines by the end of 2024.
- The AVC spur lines are those that serve multiple participants and therefore the design and construction costs are difficult to attribute to a single water system. These spur lines are located in Otero County (west of Manzanola, south of Rocky Ford, the La Junta water system, Beehive/Cheraw and East End/South Side) and in Prowers County (Wiley, May Valley and Eads). The spur lines alone are estimated to cost approximately \$35 million. The two largest spur lines, the La Junta and Eads spurs, total \$26.6 million, which are expected to be constructed by the end of 2028.

All the remaining construction costs for AVC spur lines and delivery lines will likely be financed with CWCB loans and constructed on a schedule that will allow for delivery of water to each community as quickly as possible. This may include spur and delivery lines completing construction prior to the trunk line reaching those communities. The current goal is to have all of the spur and delivery lines constructed by the end of 2028.

The repayment of the CWCB loans will be a responsibility of all AVC participants on a pro rata basis. In cases where other funding, such as ARPA funds, will be used, additional CWCB funding may still be required, but at a decreased amount.



The Arkansas Valley Conduit was authorized by Congress in 1962 as part of the Fryingpan-Arkansas Project (Project), but was never built because local communities could not afford the cost. In 2000, the Southeastern Colorado Water Conservancy District, working with people in six Lower Arkansas Valley counties, renewed planning efforts for the AVC. In 2009, new federal legislation (PL 111-11) reauthorized construction of the AVC, with a 65 percent federal share, and 35 percent local share. The legislation also allows miscellaneous revenues from the Project to fund and repay construction costs. The Bureau of Reclamation issued an Environmental Impact Statement in 2013, and a Record of Decision in 2014.

P R O J E C T D E T A I L S	
Project Cost:	\$600,000,000
NRI Funding Request:	\$20,000,000
Funding Source:	SevTax PBF transfer to CF
Project Type:	Infrastructure
Type of Grantee:	Conservancy District

L O C A T I O N	
Benefits:	Pueblo, Crowley, Otero, Bent, Kiowa, Prowers Counties
Water Source:	Arkansas River
Drainage Basin:	Arkansas

The project will deliver clean drinking water to 50,000 people in 40 communities in southeastern Colorado. Domestic wells in the Arkansas River watershed east of Pueblo are contaminated by naturally occurring radioactive materials and high levels of salinity, nitrates and selenium.

These funds, along with the \$10M provided in HB20-1403, will be used to cover design and construction of the spur and delivery lines. \$8M is needed to perform the design. \$2M has been secured through the American Rescue Plan Act of 2021 to design some of the AVC delivery lines from counties and incorporated cities or towns. The current goal is to complete the design these lines by the end of 2024. \$35M is needed for construction of the spur lines that are necessary to serve multiple participants and cannot be attributed to a single water system. Goal to complete this construction by end of 2028.

