



Colorado
Legislative
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MEMORANDUM

September 4, 2012

TO: Members of the Water Resources Review Committee

FROM: David Beaujon, Senior Analyst, 303-866-4781

SUBJECT: Colorado's Allocation of the Animas-La Plata Project

This memorandum provides information about Colorado's allotment of Animas-La Plata Project water. It describes state and federal laws that regulates how this water may be used, and it identifies appropriations made by the Colorado General Assembly to purchase this water. This issue will be discussed at the September 6, 2012, meeting of the Water Resources Review Committee.

Animas-La Plata Project

Overview. Completed in 2010, the Animas-La Plata Project (A-LP) consists of a pumping plant on the Animas River near Durango, a conveyance pipeline, and a 120,000 acre foot (AF) reservoir named Lake Nighthorse. The reservoir is currently full and waiting to begin water deliveries. Most of the project's \$500 million cost¹ will be paid by the federal government to resolve reserved water rights claims by the Ute Mountain Ute Tribe and the Southern Ute Tribe. Non-tribal beneficiaries will pay for the remainder of the project's cost. The project water rights date back to 1938, when the project was originally proposed to provide supplemental irrigation to 26,000 acres and new irrigation supplies for 60,000 acres in the La Plata River drainage in Colorado and New Mexico, as well as serve as a source of future domestic and municipal supplies. Due to potential impacts to endangered species in the San Juan River (the Razorback Sucker and Colorado Pike Minnow), the A-LP was downscaled in 2000 with a total storage amount of 120,000 AF, including an inactive pool of 30,000 AF to address nonconsumptive needs of conservation and recreation. The downscaled project was also limited to municipal and industrial (M&I) uses with nearly two-thirds of the statutory allocation belonging to the Indian tribes. Average annual depletions to the Animas River are limited to 57,100 AF.²

Beneficiaries of the A-LP. Seven entities will benefit directly from the A-LP: 1) Southern Ute Indian Tribe; 2) Ute Mountain Ute Tribe; 3) Animas-La Plata Water Conservancy District; 4) state of Colorado; 5) Navajo Nation; 6) San Juan Water Commission; and 7) La Plata Conservancy District. Table 1 identifies how much water each entity will receive from the project.

¹ALP Construction Cost Estimates - Report to the Secretary of the Interior, U.S. Bureau of Reclamation, November 2003.

²Colorado Ute Settlement Act Amendments of 2000 (Public Law 106-554).

Table 1
Animas-La Plata Project Water Allocation

Entity	Allocation (acre-feet)
Colorado Beneficiaries	
Southern Ute Indian Tribe	33,050
Ute Mountain Ute Tribe	33,050
State of Colorado	10,460
Animas-La Plata Water Conservancy District	5,200
Colorado subtotal	81,760
New Mexico Beneficiaries	
San Juan Water Commission	20,800
Navajo Nation	4,680
La Plata Conservancy District	1,560
New Mexico subtotal	27,040
Project Total	108,800

Source: Public Law 106-554

Operation of the A-LP. The project will be operated by the Animas-La Plata Operation, Maintenance, and Replacement Association representing the six project participants, with the possibility of the state of Colorado being the seventh member once it completes its option to purchase water in the project. Project water users will pay their proportionate share of the annual operation and maintenance costs of the project. Federal funding for recreation was removed from the downscaled project in 2000. However, the Animas-La Plata Water Conservancy District is developing a recreation plan for Lake Nighthorse and the surrounding area.

Use of Colorado's A-LP Allocation

Under the Colorado Ute Settlement Act Amendments of 2000, the state of Colorado is allotted 10,460 AF of water — or 5,230 AF of depletions — in the A-LP Project. In order to acquire this water, Colorado must either purchase this water directly or identify municipal and industrial water suppliers who are willing to purchase the state's allotment. The cost of Colorado's A-LP Project water is approximately \$3,550 per AF based on the repayment of capital costs and interest during construction (IDC), plus an estimated \$90,000 annually for operations and maintenance costs. The Colorado Water Conservation Board (CWCB) is currently negotiating with federal Bureau of Reclamation regarding the IDC and the amount of water to be purchased by the state.

Moneys appropriated to purchase Colorado's A-LP allotment. In 2010, the Colorado General Assembly appropriated \$12 million for three consecutive years, starting June 30, 2011, from the Perpetual Base Account of the Severance Tax Trust Fund for the purchase of the state of Colorado's allotment of A-LP Project water. The final payment was authorized in the 2012 CWCB Construction Fund bill.³

CWCB authority to dispose of Colorado's A-LP allotment. The 2010 law authorized the CWCB to:

- enter into a contract or other agreement with the U.S. Bureau of Reclamation to acquire all or a portion of Colorado's allocation of water in the A-LP;
- contract with and allocate water to local entities and water providers;
- receive and expend moneys from entities in repayment;
- undertake operations, maintenance, and replacement costs;
- pay the costs of storage or other necessary expenses;
- utilize the water acquired; and
- undertake such action as is necessary to lease, sublease, exchange, sell, assign, or otherwise effectuate the use of the project water acquired.⁴

Possible uses of Colorado's A-LP allotment. According to the CWCB, use of Colorado's allotment is limited by Colorado water law and water court decrees. In general, these laws limit use of the allotment within the Southwestern Water Conservation District boundaries that include Archuleta, Dolores, La Plata, Montezuma, San Juan, San Miguel, and parts of Hinsdale, Mineral, and Montrose Counties.

The CWCB is currently in preliminary negotiations with the La Plata Archuleta Water District to purchase part of the state's water allocation. According to the state's purchase agreement with the federal Bureau of Reclamation, the state cannot sell its project water for an amount greater than the original purchase price. The CWCB has indicated that it intends to have all future proceeds from the sale of water return to the CWCB Construction Fund to pay for future state water projects. The CWCB is also exploring the potential use of the state's allotment in a compact compliance water bank. This water could be released during water shortages to ensure that downstream states receive their Colorado River entitlements under the Colorado River Compact and related laws. Without this water, Colorado may be forced to curtail certain in-state diversions to satisfy the downstream state's water delivery obligations.

Animas-La Plata Water Conservancy District. Under the 2000 federal law, the Animas-La Plata Water Conservancy District is allotted 5,200 AF of water — or 2,600 AF of depletions — from the A-LP. In 2001, the district sold its allocation to the Colorado Water Resources and Power Development Authority for \$7,256,750. The authority also dedicated \$15 million for the development of water supply projects in the La Plata River Basin. The authority's moneys were obtained from a \$30 million appropriation from the CWCB Construction Fund in

³Senate Bill 12S-002

⁴Section 39-29-109 (2)(a)(VIII)(B), C.R.S.

1981.⁵ This law also created the Colorado Water Resources and Power Development Authority. In 2005, the city of Durango executed an agreement giving it the option to purchase 1,900 AF of A-LP water at a cost of \$1,051,175. The Animas-La Plata Water Conservancy District also paid the authority \$90,453 in earnest payment for 700 AF of depletions from the A-LP project. Both parties will be required to pay their remaining respective amounts upon completion of the project.

Long Hollow Reservoir project. In 2010, the Colorado Water Resources and Power Development Authority approved a \$19 million budget to design and construct the Long Hollow reservoir project in the La Plata River Basin to help Colorado satisfy its compact delivery obligations to New Mexico and to provide irrigation water to the La Plata Water Conservancy District. This project, which will have a storage capacity of 5,400 AF, is currently under construction.

⁵Senate Bill 81-019.