



COLORADO
Colorado Water Conservation Board
Department of Natural Resources

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TO: Colorado Water Conservation Board Members

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

DATE: November 20-21, 2019 Board Meeting

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. (2008 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 new pipeline will deliver domestic water to the 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 by staff and the Finance Committee in September 2019. The CWCB recognizes the importance and timing of the project however, staff indicated that only \$10 million is available at this time. The Committee directed staff to continue to work with the District and requested a formal presentation at this Board meeting for further consideration. See attached Project Data Sheet for a location map and Project summary.

Staff Recommendation

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 conditional \$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 must submit a completed Loan Feasibility Study for final CWCB approval of a loan and receive approval of a grant disbursement plan prior to entering into a contract for any part of this funding package.



Borrower - Southeast 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 amount 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 responsible for a 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, and collecting from participants and payment of the loan with the CWCB.

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 District is the agency responsible for repayment.

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 Reclamation 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 but not limited to:

- 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, 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, 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 Bureau of Reclamation (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 Reclamation 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 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 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 the support for the project from Reclamation and the Colorado congressional delegation. 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 legislative process for a \$100 million funding package for the AVC.

cc: James Broderick, Executive Director, Southeast Colorado Water Conservancy District
Jennifer Mele, Colorado Attorney General's Office

Attachment: Water Project Loan Program - Project Data Sheet