

# DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: September 25, 2013

Board Item: 2-A-1

## **Climax Settlement Agreement and Amendment to 1995 Settlement Agreement Contract # 15126A and Contract # 15126B**

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Action by Consent

Action

Information

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Signatories to the proposed Colorado River Cooperative Agreement (“CRCA”) agreed in Article V to resolve long-standing disputes regarding the proper administration of water rights under the Blue River Decree, including water rights of Green Mountain Reservoir and Powerplant, which are senior to Dillon Reservoir and the Roberts Tunnel. Those disputes are addressed in the Green Mountain Reservoir Administrative Protocol (“Protocol”), as is to be implemented by the Protocol Agreement. The Board approved the Protocol Agreement at its February 27, 2013 meeting, subject to the Manager/CEO’s determination that any revisions needed to implement the Protocol are non-substantive.

Article III of the Protocol addresses disputes about the relationship between the Blue River Decree and Climax Molybdenum Company’s water rights that divert water at its mine located above Dillon Reservoir near Fremont Pass (“CA 1710 Rights”). Implementation of certain provisions of Article III necessitate that Climax and Denver Water enter into a separate agreement (“Settlement Agreement”) and amend an existing agreement (“1995 Settlement Agreement”). The attached Settlement Agreement (Contract # 15126A) provides for a reduction under the 1995 Settlement Agreement in the amount of water Denver Water must provide from Williams Fork Reservoir for use at Climax’s Henderson Mill from 2,200 acre feet to 1,600 acre feet annually. Also attached is the Amendment to 1995 Settlement Agreement (Contract # 15126B) providing for the reduction to 1,600 acre feet.

Under the Settlement Agreement, so long as the Henderson Mill remains in operation, Denver Water would store up to 600 acre feet of Climax’s Skylark Ranch water rights in Williams Fork Reservoir. Once stored, these Skylark Ranch rights would be released from Williams Fork Reservoir for the benefit of Climax in those years its CA 1710 Rights near Fremont Pass interfere with storage of water in Green Mountain Reservoir. Denver Water may use the Skylark Ranch rights during any year there is no such interference. Because Climax’s interference is expected to occur infrequently, Denver Water should be able to use the Skylark Ranch rights for its own uses in the vast majority of years. Further, with the 600 acre feet reduction in Denver Water’s annual commitment to Climax, Denver Water may plan on using this water to meet its service area demands now, rather than at some indefinite time in the future when the Henderson Mill ceases operation.

Recommendation:

It is recommended the Board approve the Settlement Agreement and the Amendment to 1995 Settlement Agreement.

**Approvals:**

Respectfully submitted,



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Patricia L. Wells  
General Counsel



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James S. Lochhead  
CEO/Manager



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David Little  
Director of Planning