



S O U T H E A S T E R N C O L O R A D O

Water Conservancy District

"Your investment in water"

April 9, 2024

For Immediate Release

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FOR IMMEDIATE RELEASE

Southeastern Board: Aurora water purchase violates 2003 Agreement

The impending purchase of an Otero County farming operation by the city of Aurora violates the 2003 Intergovernmental agreement between the Southeastern Colorado Water Conservancy District and Aurora, according to a resolution passed unanimously Tuesday, April 9, 2024 by the District's Board of Directors.

The action came after Marshall Brown, General Manager of Aurora Water explained details of the purchase and Aurora's interpretation of the IGA to the Southeastern Board.

Aurora intends to spend \$80.4 million to buy 5,200 acres of land and the water used to irrigate 4,806 acres. Most of the water used to irrigate the land is through Catlin Ditch shares, along with other water rights in the Arkansas Valley.

Aurora would use the water three years out of every 10 and lease water back to a farming company, C&A Companies, in seven years out of every 10. Brown stressed that Aurora wants to keep farming alive in the Arkansas Valley.

Southeastern claims the sale violates an IGA signed in 2003 that cleared the way for Aurora to use Fryingpan-Arkansas Project facilities to move water out of the Arkansas River basin into the South Platte River basin under a 40-year contract with the Bureau of Reclamation. The IGA also is the foundation for a series of other agreements over the next eight years with other major water providers in the Arkansas basin, including Colorado Springs Utilities, Pueblo Water, the Lower Arkansas Valley Water Conservancy District, Fountain, the Upper Arkansas Water Conservancy District and Fountain.

The major points made in the resolution include:

- The central purpose of the 2003 IGA is to prevent Aurora from purchasing any additional agricultural water rights and permanently transferring those rights out of the basin for permanent use.

- The provision in the agreement to transfer water when Aurora’s storage is below 60 percent refers to storage that was available in 2003, rather than additional storage Aurora may have gained since then or is contemplating building.
- The purchase of additional Arkansas River basin water rights to transfer out of the basin for municipal use in Aurora violates the 2003 IGA, and the Board urges Aurora to refrain from or cease all violations.
- The 2003 IGA is a foundational and beneficial document for the Arkansas River basin and in order to maintain regional cooperation and relationships with water rights owners and entities within the basin, both the District and Aurora must remain in compliance with the IGA.

The 2003 IGA was written following Aurora’s second purchase of Rocky Ford Ditch shares and required payments of \$25.5 million to the Southeastern District over 40 years as compensation for the loss of agricultural land. It also allows Aurora to lease water in dry years, and only when Aurora’s reservoirs are less than 60 percent full – so-called “Category 2” water.

During a question-and-answer session, Southeastern Board members sparred with Brown over several topics, including whether Aurora would be willing to put conservation easements on its farmland to assure that irrigation would occur in perpetuity, how Aurora would account for the 60 percent storage requirement, if agricultural conservation and rotating fallowing would be used and why Aurora believes the current IGA has limited its ability to move water.

For the most part, those questions were left unresolved, and Brown indicated Aurora is open to more negotiations.

Southeastern Board President Bill Long reminded Brown of the importance of the 2003 IGA: “We have taxpayers who have been part of the District since 1958. ... It was this basin who developed the project for the people of this basin. We have people asking, ‘Why are we diverting water out of our basin to build houses in Northern Colorado?’ So, we have issues in this basin we have to work through. The Project absolutely is not being utilized for what its original purpose is for. ... This Board will comply with the IGA and defend the IGA on behalf of our constituents, and our view of the agreement may be a bit different than yours.”



SOUTHEASTERN COLORADO

Water Conservancy District

"Your investment in water"

RESOLUTION – NO. 2024 – 03D

April 9, 2024

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT
CONCERNING THE 2003 INTERGOVERNMENTAL AGREEMENT WITH THE CITY
OF AURORA**

WHEREAS, the Southeastern Colorado Water Conservancy District (the "District") and the City of Aurora acting by and through its Utility Enterprise ("Aurora") entered into an Intergovernmental Agreement in October 2003 ("2003 IGA"); and

WHEREAS, the 2003 IGA settled substantial litigation between the parties and contains terms and conditions allowing Aurora's use of Fryingpan-Arkansas Project facilities to deliver water for use in its municipal system in exchange for Aurora's agreement to restrict its future purchase of water rights to permanently transfer such water out of the Arkansas River Basin; and

WHEREAS, the 2003 IGA states that Aurora will not divert any of its leased water from the Arkansas River Basin for use in its municipal system when its "total system wide reservoir storage is above sixty percent (60%) of present capacity on March 15th of any given year"; and

WHEREAS, the District and Aurora negotiated the terms of the 2003 IGA with the understanding that its terms are intended to protect future agricultural water ownership and use in the Arkansas River Basin; and

WHEREAS, the 2003 IGA has helped foster the relationships between water rights owners in the Arkansas River Basin and provided the foundation for subsequent agreements involving Aurora and other entities in the Arkansas River Basin, including the November 2003 Intergovernmental Agreement between Aurora and the Upper Arkansas Water Conservancy District; the May 2004 Intergovernmental Agreement between Aurora, the District, the Cities of Colorado Springs, Pueblo, and Fountain, and the Board of Water Works of Pueblo; and the 2011 Intergovernmental Agreement between Aurora and the Lower Arkansas Valley Water Conservancy District.

NOW, THEREFORE, BE IT RESOLVED that:

1. The District Board reaffirms its understanding that a central purpose of the 2003 IGA is to prevent Aurora from purchasing any additional agricultural water rights and permanently transferring those water rights out of the Arkansas River Basin for municipal use.
2. The District Board reaffirms its understanding that the storage capacity restriction of the 2003 IGA refers to sixty percent of Aurora's total storage capacity in existence at the time the IGA was executed in 2003.

3. The District Board believes that Aurora's purchase at this time of additional Arkansas River Basin water rights for transfer out of the basin would violate the 2003 IGA, and the Board urges Aurora to refrain from or cease all such violations.
4. The District Board believes and reaffirms that the 2003 IGA is a foundational and beneficial document for the Arkansas River Basin, and that for the benefit of maintaining regional cooperation and relationships between water rights owners and entities in the Basin, both the District and Aurora must remain in compliance with the terms, conditions, and goals of the 2003 IGA.

Approved and adopted at the special Board of Directors meeting, Tuesday, April 9, 2024.



Secretary



President

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