

## Looking for gold in water projects

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Somewhere in the murky depths of Colorado water, a pot of gold lurks.

There have been plenty of private-interest attempts to wrest it free with the development of private water projects to serve growing municipal needs. Few have reached the finish line.

Private efforts intensified about 30 years ago, after President Jimmy Carter's "hit list" stopped construction of 18 western dams. They picked up steam in the 1990s, as the state's population growth drove the need for more water. With drought conditions and uncertainty about climate change, proposals have mushroomed in the past decade.

The latest plan was fleshed out last week by GP Water Group, a Littleton-based company that wants to move water from rights it owns on the Lamar Canal to El Paso and Elbert counties — and possibly points north in the future.

Its \$340 million proposal would divert the water 150 miles from where it was traditionally used, possibly out of the Arkansas River basin.

"Private enterprise has got to pull the sled," Karl Nyquist, GP Water chief executive, said. He touts both municipal and agricultural benefits of the project he is proposing. "But nothing is done in the private sector without an idea of making money."

Nyquist and his business partner, P. David Pretzler, saw the need for developing a private water project because of rising tap fees on their construction projects. They're not the first to sense an opportunity.

Nyquist said the up-front costs of developing a large project can be too much for a growing community to afford. There is a competitive market for new sources of water as cities that rely on the Denver Basin aquifers slowly tap it out.

GP Water quietly bought up shares of water in the Lower Arkansas Valley for nine years before deciding to make its move.

It's not that unusual.

### Early development

Most of Colorado's early water development occurred in the private sector, with the development of privately owned or mutual irrigation companies in the late 19th century. The primary involvement of government was the judicial branch, enforcing the Colorado Constitution's instructions that new water rights can't injure old ones.

But the capital costs of digging ditches, building reservoirs or even drilling tunnels through mountains were largely paid by private interests.

That changed as cities got larger or projects covered more regional interests.

The Colorado-Big Thompson and Fryingpan-Arkansas projects involved state planning and federal money. They took years and hundreds of millions of dollars to develop while serving regional agricultural and municipal needs. Those projects also accounted for the needs of larger communities, providing compensatory storage for the basins where water was removed and national benefits like recreation or power generation.

At the same time, the state's largest municipal water providers — Denver, Pueblo, Colorado Springs and Aurora — were hunting far and wide for their own additional water resources. While many cooperative arrangements were reached, the transfers too often resulted in decimation of the areas of origin — witness Crowley County in the Arkansas River basin or Grand County in the Colorado River basin.

### Private water hunters

In the 1980s, a new breed of water hunters emerged, attempting to put together package deals to serve broad general needs that were anticipated as Colorado grew.

The most visible was American Water Development Inc., which announced a plan to tap into the deep aquifer below the Rio Grande basin — the driest area of the state — and bring billions of gallons of water annually over the mountains into the Denver area. The project went down the drain when a Water Court judge ruled the water was a tributary to other sources, and not a source unconnected with the river and the shallow aquifer of the San Luis Valley.

The project remained attractive to a former opponent, rancher Gary Boyce of Crestone, who tried to keep it moving for nearly 10 years.

In the Gunnison River basin, Dave Miller of Palmer Lake began promoting a high-altitude reservoir that would serve every basin in Colorado. Arapahoe County bought the project from Miller, but lost a court battle to build it. Miller bought it back, and continues to tirelessly promote it in a slightly altered form, although state water leaders have not embraced the proposal.

The latest grand vision for the state has been the Flaming Gorge pipeline, which would bring water from the Green River and Flaming Gorge Reservoir in Wyoming to Colorado's Front Range. First proposed by Fort Collins entrepreneur Aaron Million, the project has gotten attention from water users in Douglas and Arapahoe counties, as well as the state's basin roundtables. The process also has dragged on longer than Million originally envisioned and drawn fire from environmental groups.

## Arkansas Valley

In the Arkansas Valley, some private plans succeeded while others failed.

In the 1980s, Resource Investment Group bought shares on the Rocky Ford Ditch in Otero County when they became available and sold them to Aurora. Meanwhile, Foxley Cattle Co. bought shares of the Colorado Canal in Crowley County and later sold them to Colorado Springs. In both cases, large blocks of water became available after the demise of sugar beet plants.

Those were relatively short turn-arounds, however, compared to what has happened since.

Colorado Interstate Gas attempted to buy a controlling interest in the Fort Lyon Canal, the largest in the Arkansas Valley, in the early 1990s, but pulled out when it could not find enough willing sellers.

High Plains A&M continued to pursue Fort Lyon water, however, and eventually owned or controlled about 40 percent of the ditch. After obtaining permission from the ditch company to take the water "in rotation" in 2003, the investors were shot down in Water Court in 2004 because their plan to market water all over Eastern Colorado was ruled as speculative.

After the Colorado Supreme Court upheld the ruling, High Plains sold its shares on the ditch in 2006 to Pure Cycle, a Thornton company with water rights and contracts in Arapahoe County. The company has continued farming as it weighs its options for marketing the water.

Tri-State Generation and Transmission Association was successful in buying half of the Amity Canal in 2007, after openly soliciting water shares in the area for two years. Unlike some other proposals, the company intends to use the vast amount of water it gained in the local area for power generation.

The Arkansas Valley Super Ditch, while sponsored and organized by the Lower Arkansas Valley Water Conservancy District, is also a private enterprise. Its board members are water rights holders who have banded together in an effort to sell water through leases while retaining the water rights.

### A state perspective

At a state Roundtable Summit in Denver last March, former State Engineer Jeris Danielson, who has worked as a consultant for both Boyce and Million, asked Gov. John Hickenlooper if there is a place for private development of state water projects.

"We have to be careful bringing in private capital as part of the solution," Hickenlooper answered. "I don't have a problem with bringing private capital into the picture, but we need to make sure their goals line up with the state's goals."

Nyquist said GP Water intends to comply with that goal, offering to run it through a template of potential impacts from water transfers on third parties. The document was developed through two years of work by a committee of the Arkansas Basin Roundtable as a way to identify problems down the road in water deals, but has never been put into use.

"In all of our projects, if we can work with all of the stakeholders, we have a better chance to find a win-win solution," Nyquist said, in explaining why GP wants to use it.

State officials are taking a wait-and-see approach to private projects, watching projects like Flaming Gorge and the newly announced GP plans cautiously.

"I think the jury's still out," said Alan Hamel, a member of the Colorado Water Conservation Board and executive director of the Pueblo Board of Water Works. "In recent years, it has become harder to develop a large water project unless you're a big water provider."

Hamel said there could be a place for the private sector in filling state water needs, but like Hickenlooper he urges caution.

"The unincorporated areas are struggling with coming up with a way to replace non-renewable groundwater assets," Hamel said. "The Flaming Gorge Task Force is a way to flush out the issues. I think, before we're done, there have to be some public-private partnerships."