



Arkansas Basin Roundtable

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ROUNDTABLE MEETING NOTES

January 11, 2017 – Pueblo Community College, GPA Cafeteria

Roundtable Business

Sandy White called the meeting to order at 12:30 pm. Members and visitors introduced themselves. Thirty three (33) members were present. There are 38 active roundtable members at this time.

Approval of Minutes of November

A motion to approve the minutes of November 2016 was made, seconded, and passed unanimously.

Public Comment - none

Executive Committee Report – Sandy White

- The new Conflict of Interest amendment to the Bylaws will be on the February agenda for adoption. Comments to Sandy and Al Tucker.
- Alan Hamel presented a plaque to Jay Winner, thanking him for his work on the Needs Assessment Committee and as IBCC Representative. Jay is an original roundtable member, and Alan thanked him for his 10 years of service.

IBCC Report – John Stulp, Jeris Danielson, Terry Scanga

Jeris – The IBCC met in December. It was a joint meeting with the Colorado Ag Water Alliance. The topic was Alternative Transfer Methods (ATMs).

John Stulp – Around 175 people attended the joint IBCC meeting, which was composed of five panels, including producers involved in successful ATMs, ATM project participants, and the environmental and recreation community. We discussed legal ramifications and other obstacles, stakeholder concerns, how to streamline and make ATMs more mainstream, as well as steps going forward. We broke into sessions that reported back to the group, and used polling methods. Several other ATM events have been held around the state, and data gathered will be collated by Mary Lou Smith.

- Environmental Defense Fund has produced a report “A Review of Alternative Transfer Mechanisms for Front Range Municipalities”
- Catlin Canal ATM project was highlighted

CWCB Report – Alan Hamel, John Stulp

Alan – The Confluence Newsletter has an overview of the November CWCB meeting. There was an update on progress of the Colorado Water Plan, which was approved a year ago. The next meeting will be held January 23 and 24, coinciding with the Colorado Water Congress. There will be two Arkansas Basin items on the agenda: a Huerfano Augmentation Project housekeeping item, and a loan for the Chilcott Ditch Company for a siphon replacement. The ArkDSS has had four responses to the RFP for the next phase, which centers on surface water modeling. We hope to have a vendor under contract by late February. Alan thanked John Stulp for attending last night’s Bessemer Ditch meeting.

John Stulp – The Confluence Newsletter also includes an IBCC update. CWCB staff is working with DWR on Criteria/Guidelines for HB1228: Ag Protection Water Right Transfer Mechanism. The SWSI consultation team has been identified. It’s a technical report. John also spoke about funding. Bridge funding is still included in the



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Projects Bill, and if approved, will be available as of July 1, 2017. A statewide financial advisory group is meeting to talk about getting a more sustainable funding stream in place. Possibilities include a container fee or water tap fees based on use. Either of these would take a statewide initiative for putting them in place. SWSI will reach out to the roundtables throughout the process.

Q&A:

Jay- Will this version of SWSI look at infrastructure, and the gap caused by water loss due to infrastructure needs?

John - This SWSI will include new parameters including climate change, ag and industry gaps, and conservation efforts. If you are a municipal or county official, please bring things (including infrastructure) up to SWSI consultants when they contact you.

Jim B asked about efficiency criteria within conservation efforts, and about the movement of water between distribution systems, as will occur with the Conduit.

John - One of the things that came out of the ATM discussion was infrastructure to move and store that water. Also, oil and gas folks have extensive pipe systems to move water around for their use that may become available later for use by other water systems.

Nonconsumptive Committee – SeEtta Moss

SeEtta met with ARWC and Gary Barber in December, talking about priorities moving forward.

PEPO/ARBWF – Jean Van Pelt/Chelsey Nutter

- Funding Series has been developed.
- New website: www.pepoarkbasin.com. Funding information is available on this new website.
- Workshop, February 21st: Water Quality in the Lower Arkansas Valley. February 21, 9:00 am – 4:00 pm, at Otero Junior College. No fee to attend, and lunch will be provided. Sign up at www.Coloradowater.org
- Voluntary flow management program will be a highlight of the Education to Action program.
- Each year, PEPO intends to support or initiate a new water festival. This year's new festival will be a Children's Water Festival in Colorado Springs, involving SD11 6th graders.
- CFWE grant app was approved, resulting in a library of 100 Citizen Guides. There are 10 different guides. Take one home and bring it back or keep.
- ARBWF is in planning stages. Working on final draft of the program. The Forum will be held in Colorado Springs, at Hotel Elegante. RT members will be invited to the Decision/Policy Maker Dinner on April 25th. The forum will be held April 26 and 27. Meet the Gap is the theme. Defining the gap, discussing and showcasing projects that address the gap. www.arbwf.org
- Plea for sponsorship of the ARBWF.

Needs Assessment Committee

New leadership: Jack Goble and Chelsey Nutter are co-chairs, and Brett Gracely is vice-chair.

A Grant Submission Process & Schedule has been created and distributed. Your comments to Chelsey.

Grant Application: Catlin Recharge Demonstration Project. (see presentation)

The committee met Monday and heard a grant application from the Colorado Water Protective and Development Association (CWPDA) and Catlin Augmentation Association (CAA). The committee recommends approval.



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Statewide request: \$45,000
Basin request: \$5,000
Matching funds: \$45,000

After presentation, this application moved forward by roundtable consensus.

Arkansas River Watershed Collaborative – Mark Shea

A Draft 2017 Operating Plan has been sent to roundtable members/interested parties, and will also be on the website. Please get comments to Mark and Carol. Some tasks are not yet funded, some are already funded by WSRA funds, and some by other funding streams. The plan includes deciding on a long-term structure for the collaborative. Please spend some time with the plan over the next month, and it will be an action item next month. A report on WSRA grant funding of ARWC will be given in February as well.

BIP Coordinator – Gary Barber

The project list is available on our website. Gary highlighted three projects:

1. USGS/Water Smart Grant Opportunity – for a drought response program in FY 2017. Because of the Hayden Pass, Junkins, and Beulah Hill Fire, all caused or exacerbated by long-term drought, the risk of devastating debris flows that would affect water quality is extremely high in surrounding areas. This grant would help to fund USGS gauges to measure flow and water quality in real time within the Upper Arkansas River basin, the mainstem, and Pueblo Dam. Data would be available for an emergency warning network downstream of burn areas. Data would also feed into an updated USGS SIR5056, addressing hydrodynamics and water quality in Pueblo Reservoir. A stakeholder water quality collaborative would be formed.
2. Purgatoire – Picketwire Ditch Headgate project – working with stakeholders to expand this project to include recreation and environmental components.
3. Fremont County Flood Impact issues – working with Tim Payne and Fremont County representatives.

Phase II: Joint West Slope Roundtable Risk Study – Brett Gracely, Seth Clayton, Jim Broderick, Alan Hamel

Seth Clayton reported that the group had a webinar this morning. In October we got notice asking for roundtable participation in Phase 2 of the study. We first said yes, but changed our minds, realizing that because the study ties in with the Colorado River Upper Basin Drought Contingency Plan, it's important for this project to have statewide consensus, not just west slope study. They have now asked the state to step in and coordinate the project. CWCB led today's webinar that included both west and east slope roundtables. The west slope folks asked for specific issues with the scope of work. East slope folks will provide those specific concerns next.

BREAK

PROGRAM

Arkansas River Compact: Rules and Current Issues – David Robbins, Dan Steuer, Steve Witte, Bill Tyner, Steve Miller (see presentation at www.arkansasbasin.com)

Dave - Compacts go all the way back to the original thirteen colonies. They are approved by the state legislatures involved, then by federal legislation. They are a law of the states and federal government, and they are a contract which is not unilaterally modifiable. The Supreme Court has stated many times that it will not modify the terms of a contract, and they view compacts as contracts. If they must be changed, the compact itself must be renegotiated.



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Dan Steuer – Assistant Attorney General – Federal and Interstate Water Unit

Please do look for this presentation on our website. Dan discussed specific articles of note, court cases and their ramifications, and ended with current compact-related issues, as follows:

Current Compact-Related Issues

- Water quality: Kansas has expressed concerns over the quality of surface and ground water in Kansas
- The Compact does NOT address water quality and Colorado has no Compact obligation to meet any water quality standards
- However, Colorado's willingness to take actions that help improve water quality in Kansas has had an effect on Kansas's willingness to negotiate other issues.
- New "Colorado" storage account in John Martin Reservoir
- Currently being studied by LAVWCD with funding from the CWCB
- A new account would require the approval of Kansas (through ARCA)
- A new Colorado account in John Martin Reservoir would, among other things, help some water users comply with the Irrigation Improvement Rules, which require maintenance of historical return flows
- The account would also aid water users seeking to convert from flood irrigation to sprinklers or drip irrigation
- Converting to these more efficient forms of irrigation has a beneficial effect on water quality, which might encourage Kansas to agree to the new account
- John Martin Reservoir permanent pool: Colorado Department of Parks and Wildlife is seeking to ensure that the permanent pool remains filled in times of drought
- CPW, LAWMA, DWR, and Kansas are currently in negotiations regarding a permanent water source for the permanent pool
- Kansas approval, through ARCA, is required

Kansas Approval Required?

- As noted previously, Colorado water court is still the venue for determination of water rights, including how those rights may apply to Colorado's Compact obligations, and Kansas must seek relief in the Supreme Court if it believes it is injured by Colorado court determinations
- However, the Compact and associated authorities, such as the John Martin Reservoir Operating Plan and various decisions of the Special Master, may restrict Colorado water uses in a variety of ways, and proving "no injury" to a Colorado water court may not be sufficient to circumvent those restrictions.
- Where Kansas approval is required, a water user may need to do more than simply prove no injury.

Current Compact-Related Issues, cont.

- Some examples that require Kansas approval have already been discussed, such as the approval of a new storage account in John Martin Reservoir and the approval of a source of water for the permanent pool
- Another example: no "rights now decreed to the ditches of Colorado water district 67" may be transferred upstream of John Martin Reservoir without ARCA making findings of fact that the transfer will not result in a material depletion to usable flow. Compact Art. V.H.

PANEL DISCUSSION- Arkansas River Compact

Steve Witte – Division Engineer, State Engineer's Office.

Steve is responsible for maintaining compliance with the compact. An elected member of the Ark River Compact Administration. Steve manages the accounting and operation of John Martin Reservoir according to the 1980 Operating Plan. Duane Helton had the idea of formulating the principal elements of the operating plan, which



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allocated storage between the states on the basis of the 60/40 principal and put them into accounts. Could draw anytime, but allocation was ensured once it was put into the account, so that there wasn't always a race to empty the reservoir each spring.

"A reservoir is a time machine."

Steve Miller – CWCB Water Resources Specialist

The Arkansas River Compact Administration includes James Eklund and two citizens from the basin, in order to provide a connection between water users and administration. The CWCB funded some of the solutions to the rulings. The Advisory Committee negotiated what the rules would look like, including the efficiency rules.

Questions/Discussion:

- Offset account. The mechanism for tracking compliance is the HI model, run each year based on the amount of pumping and diversions and a number of other variables. It produces an accretion or depletion. That's an annual value, taken together with 10 other values. It's the total over a ten year period. We currently have an accretion, which means we're in compliance. How we keep from going negative: deliveries to the offset account. It works just like augmentation plans.
- Concern about EPA regulations affecting the compact. No, there may be federal regulations, but the compact does not obligate water quality. The EPA does have the capacity to enforce across-border water quality standards. "Usability" as stated in the compact does not address water quality, just quantity. The EPA operates under the Clean Water Act. They have the ability to impose new standards, and that fight would be in federal district court. Some of the water quality issues that Kansas has are self-imposed, by depleting the Ogallala Aquifer.
- When there is a credit at the state line, shouldn't we get water back from Kansas? The court saw that the HI model has errors and one year of data cannot be trusted. However, over 10 years, the HI data is proved to be accurate. Steve Witte strives to keep a credit balance to cover any possible deficits that might occur in other years. Rolling ten-year average.
- Has there ever been a compact between two states regarding groundwater? No. But the Republican River compact determined that the pumping of the Ogallala was depleting streamflows in the river. The Arkansas River is not over the Ogallala here. It starts further east. The Bear Creek Fault divides those areas.
- Colorado is the 38th state. We were a territory of Kansas before we were a state.

NEXT STEPS/LINKS

- Next Meeting – February 8th, 12:30 pm, Pueblo Community College, Ballroom
- Arkansas Basin Roundtable: www.arkansasbasin.com
- PEPO: www.pepoarkbasin.com
- Arkansas River Basin Water Forum: <http://www.arbwf.org/>
- CWCB: <http://cwcb.state.co.us/Pages/CWCBHome.aspx>
- Colorado Water Plan: <http://coloradowaterplan.com/>