

Arkansas Basin Roundtable
Meeting of November 11, 2009, Veteran's Day
Meeting Notes

Roundtable Business

Chairman Barber called the meeting to order at 12:40 pm.

Wayne Vanderschuere made a few comments regarding Veteran's Day. Although the Treaty of Versailles was signed on June 28th, it was nearly seven months until Armistice; which was on the 11th hour of the 11th day of the 11th month. This marked the cessation of World War I. President Eisenhower made the proclamation that this would be Veteran's Day, a day to honor veterans of all branches of military service. Wayne asked all veterans who had served to stand up, then asked all families of veterans to stand and join them, then asked all who knew a veteran to stand up. Wayne then asked for a moment of silent prayer for those vets standing in harms way for us today, and for the veterans that we've lost in the past. The moment of silence ended with the Pledge of Allegiance.

Members and visitors introduced themselves. Twenty six (26) members were present, sufficient for a quorum. The agenda was reviewed.

A motion was made by Tom Verquer and seconded by Jim Broderick to approve the minutes of the October meeting. The motion passed unanimously.

CWCB/IBCC Reports

Danielson, Winner, Vanderschuere, Dils, Doherty

The next meeting is December 2nd. Still looking for comments on population and demographics reports.

Presentations

Mark Pihfer - Navigable Water Issue – Oberstar/Feingold Cleanwater Act Legislation

This controversial bill would amend the Clean Water Act and would redefine the definition of "jurisdictional" waters.

What are jurisdictional waters?

- Impacts ability to build infrastructure
- Impacts historical irrigation practices
- Impacts ability to build storage, especially on federal lands
- Increases need for NPDES permits

I. Perceived Concerns

- A. Impact of SWANCC and Rapanos decisions
- B. EPA and Corps of Engineers interpretive guidance
- C. Reach of federal jurisdiction (headwater streams, ephemeral and effluent dependent streams, certain isolated waterbodies)

II. Oberstar Legislation (HR 2421)

- A. Potentially problematic provisions
 - 1. Certain Congressional "findings"
 - 2. Defining "waters of the US" to encompass "all intrastate waters" without limitation
 - 3. Modifying an historical definition of "water of the US" so as to sweep in "activities affecting these waters"
 - 4. Extending federal jurisdiction of such waters "to the fullest extent these waters...are subject to the legislative power of Congress under the Constitution."
- B. Findings include reference to:
 - "Any part of an aquatic system" that may be interconnected with surface waters, potentially including "groundwater"
 - Certain ephemeral and seasonal streams (depending on how defined)
 - The "draining" of wetlands
 - Source water protection areas (as compared to waterbodies therein)
 - Bird watching, photography and general recreational activities

- Bird and wildlife protection under treaties
 - The protection of federal "land"
 - Flood control activities
- C. Strikes phrase "navigable waters" in each place it appears in the Act.
- D. Defines waters of the US to be:
- The term "waters of the US" means all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and their tributaries, including lakes, rivers, streams (including intermittent streams), mud flats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing to the fullest extent that these waters, or activities affecting these waters are subject to the legislative power of Congress under the Constitution.
- III. April, 2008 Committee Hearing
1. Opponents of the Bill: "If this legislation is enacted, the world as we know it will end."
 2. Supporters of the Bill: "unless this legislation is enacted, there will be no clean water left in the United States."
 3. Chairman Oberstar: "Is a compromise possible?"
- IV. Baucus Senate Amendments
- Delete the "all activities affecting" language
 - Delete the "all powers of Congress under the Constitution" language
 - Use the federal regulatory definition of "waters of the United States."
- V. "Compromise" Provisions
- Delete or modify findings
 - Insert exemption for irrigated lands
 - Insert exemption for man-made conveyances
 - Clarify "savings clause"
 - Add sections 101(g) and 510 language to savings clause
- VI. "Incremental Steps" on House Side
- Removed "all activities affecting" language
 - Improved findings, e.g. eliminated reference to wetlands draining
 - Expanded language on prior converted cropland and waste treatment system exemptions
 - Removed "all powers" language, but inverted reference to three constitutional provisions.
 - Requested reliance on "report language"

Discussion

Projects and Methods to meet the needs of the Arkansas Basin

Gary Barber presented the statistical results from IPP ranking as viable, bearable and equitable. He will include some analysis of these statistics in the final "Methods to Meet Our Needs" report. The Roundtable can continue to analyze these figures in 2010, breaking out sub-groups to test the general results.

Roundtable members discussed the final reports.

Public Comment: Ken Weber questioned the accuracy of Colorado Ag values chart for Otero & Crowley Counties. This chart is from the Colorado Department of Agriculture. Production agriculture vs. irrigated agriculture. Economic productivity is the measure.

2010 Meeting Schedule/Events

What do we do in 2010?

Bud Elliott – getting tired of watching the whole group get older. Our tool could use further evaluation. Discuss consequences of doing or not doing some of the projects. Look at some things that may still come, such as Poncha Springs project.

Pete Dawson – thanks for the report. Would like to talk about the Tamarisk in the SE corner of Baca County – about whether that is in the Arkansas Basin.

Chris Haga – thanked Gary. The Roundtable has created two terrific documents. Humbled and proud to be involved in a project that was supported by the roundtable and then was rated very high on the report.

Mike Stiehl – would like to take the Ag to Urban Transfers document to other roundtables and discuss it. He would like to see more presentations and also more updates on legislation.

Jane Rawlings – would like to see some reports on some of the proposed industrial uses that are in the planning stages. Colorado Energy Park for example.

Keith Hood – Would like to see breakdowns from different groups and they ranked things differently. He would like to see the ranking differences by members who have the river running through their area vs. members who produce water that runs to the river.

Dan Henrichs – Also would like to see breakdowns into sub-groups.

Jonathon Fox – He would like to explore more viable alternatives to water transfers from Ag to municipalities.

Tom Verquer – Thanked Gary. He would like to consider phreatophyte removal, including partial removal of native phreatophyte as a new water source.

Tom Brubaker – Would like to have a presentation by folks that own Ag water rights to speak about the value of buy & dry.

Mark Pihfer – would like to see the Ag to Urban report used. The South Platte RT is developing a business plan for leasing/fallowing, involving several different agencies. Mary Lou is getting another group together for a new effort regarding the Colorado River Basin, involving larger entities than the roundtables. Looking at what has worked and what has not worked along the Colorado River in other states; working to apply the lessons learned in Colorado.

Jim Broderick – would like to try applying the trade-off model to some projects in our area. Thinks that the State needs to bring it to the Basin level. The dialogue is valuable; he would hate to see the dialogue stop. The RT needs to keep talking.

Gary Barber – If there are presentations you'd like to see, keep bringing them up to the Roundtable.

Alan Hamel – Agrees that it's important to continue to meet, and have quality presentations to continue the education process. The State is at a crucial point regarding the Colorado River Availability Study.

Jeris Danielson – Jim Martin, new DNR Director. Let's get him to come talk to us. Will have a draft Colorado River Water Availability Report. Have a presentation on that. Jeris would like to see as many joint RT meetings as possible.

SeEtta Moss – Non-consumptive needs have been somewhat left out still. Waiting on quantification, then will be coming back to the RT with request for funding of non-consumptive needs projects.

Jay Winner – thinks that we should fix our water problems internally. Continue meeting. Take the top 5 IPP & Method projects and insert them into the state's model. Create a better relationship between Ag and municipalities.

Tom Young – Thanks the RT for supporting the Upper Ark. Mentioned the water budget study that will look at where the water goes that lands on the mountains.

Reed Dils – would like to see an update on funded projects that are not yet completed. How climate change will affect the Colorado River Water Availability Study is scary. More water will be required for growing, and less water will be available. Keep pressing for projects that bring the two sides of the Divide together. Need to try to manage for the future.

Lissa Pinello – would like to see us engage with the Roundtables on the Western Slope. The DSS is going to be very important. Need to be involved and support that project.

James Fernandez – the City of Trinidad is a typical, traditional water purchaser. They have no other option but to buy and dry. Small towns are more in survival mode. They don't buy water that they don't need yet. He would like to see a municipal conservation project.

Lawrence Sena – Ag to Urban water transfers – continue the process.

Reeves Brown – Need to prevent water from leaving our basin. Turn up some new options. Fortifying the valleys future, but limiting the gap – making sure it doesn't get bigger.

Kevin Karney – Joint Roundtable meetings, also important to hear from more Ag users. Explanation of counties that have 1041s.

Dennis Giese – The premise is to identify projects that would close the gap. How do the top projects close the gap? Before we go to the Western Slope for water, we need to demonstrate we've done everything we can in our own basin. The Upper Arkansas River recreation creates \$55 million each year. Have to look at that economic benefit.

Henry Schnable – Look at the disparity between the price of water to municipalities and the profitability of Ag. Mentioned the 1400 acre Tamarisk project. There are still issues about how much water it really creates.

Wayne Vanderschuere – Thanks for the report. Need to continue meeting. Outreach to other roundtables. Keeping track of state and national activities. Get the trade-off model for our basin.

No December Meeting

Review of the January Agenda

Meeting adjourned 3:00 pm.

Respectfully submitted,
Jay Winner

Links:

Arkansas Basin Water Forum	www.abwf.org
CWCB	http://cwc.state.co.us/
Fountain Creek Watershed	www.fountain-crk.org
IBCC	http://ibcc.state.co.us
Colorado River Water Availability Study	http://cwc.state.co.us/
Ag to Urban Water Transfers Report	www.secwcd.org
Colorado Water Trust	www.coloradowatertrust.org