

**South Platte Basin Roundtable Meeting
Tuesday, January 10, 2012
Chilson Center Facility
Loveland, Colorado
4 pm – 8 pm.**

Please contact Lisa McVicker at mcvicker1@q.com with any changes or corrections.

Members present:

Harold Evans calls the meeting to order at 4:25pm; Jim Yahn is not present tonight due to a family tragedy.

Joe Frank offers comments on the tragic situation for the family and community.

Standard Reports

--IBCC Report: Mike Shimmin and Eric Wilkinson: IBCC meeting on November 30, 2011. Shimmin brings attention to annual reports on WSRA and IBCC annual report; both reports available on cwcb website. Shimmin distributes: 1) Summary of IBCC meeting and 2) summary on Portfolio tool. Shimmin notes observations of other Roundtables; i.e.: CO River Basin realized that with no new water development and seeing the dryup on the eastern slope, Roundtable concluded that this was not acceptable; hence, see how roundtable process has moved discussion forward across the State. Risk Assessment Analysis is focus of new discussion: how can we take on projects and find new water that is acceptable to Western Slope and entire State. Only four basins have plunged into Portfolio. Dialogue moving to another level as to what does not work with buy-and-dry—where are differences and how can we resolve issue for both farmers and cities as far as alternatives to buy-and-dry ag; next meeting: Feb 21, 1-5, in Denver; place to be announced.

Eric: Risk management is to address the concerns of many water users surrounding the development of CO River Water; not just a West slope issue. West slope is concerned that if there is delivery demand to lower basin states or to eastern slope, the burden and risks: Risk management discussion: how can additional CO River entitlement be developed in CO and how can the ramifications of doing so be addressed. CWCB addressed this at their November meeting; decision was that instead of moving forward to Phase 2 of CO River Water Availability Study—Risk Management study to see what it would take to make people more comfortable with options. Motion was put forth to use \$2million such that the Risk Management Study would be followed with Phase 2 of the study; clarification will come forth in January 2012 CWCB meeting. Wilkinson does not feel that there can be consensus on how to move forward with CO River Water Availability study until the Risk Management study is done.

RE: IBCC study: appeared to be surprise to Staff that IBCC wanted to wait to move forward on Portfolio studies. Enough concern that adequate time had not been given to basin roundtables to fully discuss and develop their portfolios that consensus was to wait to move forward on portfolios until late April or early May in terms of how to move forward with the Portfolio process.

RE: report on nonconsumptive meeting held in October; no consumptive needs subcommittee wants each roundtable to identify one no consumptive project to move forward. Concern is that nonconsumptive projects are not bee; want to identify segments of streams that can be part of a statewide plan.

Also, discussion of revised WSRA criteria for 2012; CWCB adopted this in the November meeting; IBCC adopted these criteria. Changes include split between the basin roundtable and statewide: 64% to statewide funds, and 36% to basin roundtables. This change comes because of an added provision that states that for statewide basin roundtables—basin roundtables must support at least 5% for a statewide

projects. Support from roundtables needed for statewide applications. Also, added that the fact that the funding for WSRA is more robust for statewide funds: twice a year approval for statewide funds—March and September. Must submit application 60 days before the March and September date.

Also, re: How to push WSRA into a combination of grants and loans: CWCB loan added to the WSRA grant process. A few examples exist: Ft Morgan and Lake Durango for example.

Shimmin: Add agenda item for high efficiency toilet legislation that has raised debate. Likely that this will be introduced during the session. Conservation subcommittee is looking for support for this.

Harold Evans: We will put this on our agenda under ballot initiatives for discussion.

--CWCB report: Eric Wilkinson:

Since November roundtable meeting: November 13-16 meeting in Berthoud; discussion of CO River Water Agreement; have already discussed most of the issues vis a vis risk management above.

CO River Cooperative Agreement: focused on participation of CO River Water Conservation Board vis a vis protection of water that goes through Moffat Tunnel. How to enhance quality.

Nov 15 & 16: CWCB Board Meeting: Summary of points of interest to Roundtable:

--instream flow issues with Denver Agreements

--Wild and Scenic designation which involved application for instream water rights: priority: July 31, 2011 no later than Dec 31 2011; want additional decree from Moffat tunnel for this water to be more senior—must move through water court.

--Division 1: only instream flows: North Clear Creek and many in Laramie Basin in Grey Wolf Wilderness area; approval of nonreimbursables from legislatures: include satellite monitoring system, watershed restoration fund, and flood and drought response fund; also South Platte groundwater data collection appropriation of \$100,000 to look at ground water levels in South Platte—multiple interested parties. Projects Bill: \$1million: tamarisk program: \$2million appropriated for CO River Water Availability/Risk Management Study.

Discussion of grant for Rio Grande Cooperative Project and CO Parks and Wildlife to look at combination of loan and grant to look at Rio Grande Compact problems and projects for Parks and Wildlife.

Reservoir to address compliance on La Plata and additional appropriation for alternatives to ag transfers: currently at \$4million to study these alternatives.

Request for innovation of instream flow segment on North Fork Pine Creek (trib to Poudre)—

Approval of alternative ag transfer grant in upper Arkansas

--No WSRA applications for South Platte.

--Discussion of Water 2012 and celebration of 75th anniversary.

CWCB will produce a history book and board meetings will be moved around state to help celebrate the year of water; in May, board meeting will be held in Glenwood to help celebrate CO River Water Conservancy District. In September, meeting to celebrate

Update on Flaming Gorge exploration committee.

Wilkinson notes that his term expires the end of February and that he will not apply. Governor has stated he will hold people to 2 terms; he encourages others to serve on Board.

Exceptional staff with CWCB and the relationships that are built are very rewarding.

Expresses appreciation for having the opportunity to having served. Wilkinson has served 12 years.

Applause of appreciation to Eric Wilkinson.

Harold Evans: Reminds us that Eric is one of our 2 IBCC representatives. Bylaws state that the IBCC members do not need to be voting members on the Roundtable but that the IBCC rep must either own water rights or be an agent of an entity that owns water rights.

Harold points out that Eric can continue to be our rep on the IBCC if he is willing to continue. Eric automatically qualifies.

Eric would be glad to continue.

Bert Weaver: Any action needed?

Harold Evans: Perhaps the time to reaffirm the appointment of Eric and Mike at the time we reappoint officers.

Harold Evans: Has submitted his application for the South Platte rep to the CWCB and would be willing to serve as appointed. Harold reiterates his appreciation to Eric Wilkinson for service.

--Legislative Report: Dianne Hoppe: Legislature convenes tomorrow; in addition to the 5 bills that came out of interim water resource committee—nine other bills that have been identified that are likely to be introduced. One by Steve King which prohibits Water Quality Committee to adopt nutrient studies. No drafts yet available. These will be available on line. Rep. Fisher concerns grey water and the authorization of the use of grey water. Might be similar to the grey water bill that was turned down. Also, low flow toilet bill: Sen Schwartz may be interested in carrying this. Another one concerns pharmaceutical disposal. No sponsor identified yet. Water Power Development Authority has indicated that annual revolving loan fund for pollution control. Rep Sonnenberg considering introducing a bill vis a vis wells in the area of Benet and Eastern Arapahoe County. City of Thornton talking to Sen Hodge about its attention to seek a bill for change of diversions. Jennifer Gimbel indicated that the projects bill for CSCB will go forward (see above for summary). Possibly another bill will be the oil and gas bill and impacts on water quality. Some hesitation to sharing bills has something to do with redistricting. For current session, same legislators in place. As was discussed earlier: re: two initiatives have come forward about Public Trust Initiatives. One of these will be on the Sec of State's website.

Harold Evans: These are on agenda for later tonight.

Dianne: Water facilities within Forest Service Boundaries: discussion coming up about this vis a vis roadless rule.

Julio Iterria: Oil and gas bill: any rumors about further legislation?

Dianne: Only know about Rep. Ludgers bill.

Jim Ford: Bill to prohibit Water Control Commission from adopting nutrient standards?

Don Amendt: Two seats are changing on Senate Ag committee. Will disseminate this information.

Harold Evans: Spring issue of Rock Talk: Spring 2011 issue from CO Geological Survey: about Niobara Formation; excellent information on fracking and formations. Niobara 5000 ft down and overlaid with thick shale level. Much misunderstanding of this issue. Highly recommended.

Joe Frank: Senator John and Senator Carroll will be new Ag Committee members.

--Education Report:

Sean Cronin: Exhibit is ready to start hitting the road. Exhibit is on display for the Roundtable. Poster that is displayed is the Water 2012 poster. This Roundtable decided to buy our own exhibit and we express appreciation to Chris Crouse with Clear Creek Watershed Foundation for funding the exhibit. This has been purchased specifically by Water 2012 effort. List of places being compiled—library or museum—this can be made available for local library or museum. We can rotate wherever we would like and make it available to wherever we want it. List is circulated. Education committee has added places. If lots of enthusiasm, we can borrow from Water 2012. Any event – put email and Sean will contact.

The South Platte Forum, held next October, they have requested that the Roundtable be a sponsor. Part of getting an approved education action plan is that we are recipient of \$1,800.

Harold Evans: When is due date for sponsorship for South Platte Forum—due date and amount? Please advise by April meeting.

Bert Weaver express appreciation to Chris Crouse with Clear Creek Watershed Foundation for funding the display.

Sean: Value of Water Campaign: Eric Hecox: Roadmap document prepared.

PEPO workgroup conference call scheduled for Jan 11 to finalize display and to summarize the March 1 summit agenda.

John Stencil: In terms of utilizing the 2/3rd display or the back side—is there a way that we could disseminate SWASI 2010 information?

Sean: Common school of thought is that we should not count on the back side; right now we are developing the 1/3rd panel. We would have to fund this and develop this. We currently have the \$1800 available for us. Nothing in the works right now to develop any additional material.

Chris Crouse: See some more of the detail with some proposed options. Also, note that even if the display is against the wall, we could have information sheets, laminated for instance, and have those available on the table. So options outside of display. Also, note that anywhere it goes, any time we decide to add material we can also just get our message out in a simpler way as well.

Sean: Options available—say if Lower South Platte and Joe wanted to add information to that during his use of the display surely could do that. Another component: there will be some effort on roundtable members to get this from point to point. We could use library courier service that is statewide.

--Nonconsumptive: Bob Streeter: Representatives from IBCC have given report; see item 3 on IBCC summary. Nonconsumptive needs will proceed with the several steps.

Main thing is to urge Roundtable to look at list and see directives and to encourage new membership on the team; now: Larry Howard has left and Greg K. and Nature Conservancy is on it—Sean has agreed to serve. Anyone else with interest, please join. Larry Howard is a good example of how a water provider can add insight.

-- Phreatophyte: Bob Streeter: We will get active if there is \$\$.

--Alternative Ag Transfer Methods:

Joe Frank: Groundwater issues and ag transfer will work together.

Harold Evans: Colorado Ag Water Alliance meeting at the Ranch; good speakers.

Joe Frank: Lunch time speaker from CSU—Rick Knight-- did an excellent job of tying together the environmental benefits of agriculture.

Bob Streeter: This might be one of the charges to the education committee: how to package water development and environmental benefits.

DISCUSSIONS:

--Recent Ballot Initiatives

--Joe Frank: Two public trust initiatives have been proposed; in Senate process; Title Board decides whether the measure will go forward. Public Trust Doctrine: is the use of water within the best interest of the public.

See Doug Kemper's email dated January 5:

If these initiatives pass, every water right in the state will be subject to reconsideration as to whether it is in the public's interests. Discharges that are found to cause harm to the natural environment will also be subject to reexamination. Anyone could travel through private property to access the public's waters (all water in CO) as long as they stay within the natural high water line.

Eric Wilkinson: Any water rights are subservient to public trust. It also allows public access to all stream courses as long as below natural high water line. Initiative 3 and 45 include this. Allows any citizen of the state of CO to bring suit to find enforcement of this.

Bert Weaver: How would one determine the natural high water level?

Eric: The initiative says nothing of these.

Mike Shimmin: From an attorney's perspective, part of what makes this scary, in some western states, this public trust has been part of their water law for more than 100 years—CA. So statutes and case law have helped define this. In CO, we have never had a public trust doctrine. CO Supreme Court has specifically held that the water allocation doctrine is the priority doctrine defined by the Constitution. Therefore these initiatives are riding on a blank state. The public trust doctrine does not exist in CO and it will take litigation to figure that out. The Public Trust Doctrine is very general, broad right that says that the public's trust is a right that supersedes private property rights that exist by appropriation doctrine. Many other specific issues also raised in these initiatives: language in one of these could eliminate all consumptive uses of water because the language says the water must be returned without diminution—also huge water quality issues, because it could establish a nondegradation standard...for every water user that uses the water, the water must be returned unchanged to the stream. These are immense questions—it could redo our entire water rights structure but we don't know how because it is not defined. This really could be the full employment act for lawyers. I have always thought that we have 120 years of very good water law on the books and lots of questions have been answered; these initiatives have the risk of erasing everything we thought we knew. A doctrine that precedes and supersedes everything we thought we knew.

Harold: Colorado Water Congress website has the initiatives; also CO Water Congress is going to appeal the action taking by the CO Title Board. Contact Doug Kemper for information. Any other water entity can contribute to fighting this.

Joe Frank: Summary: Initiative 45: Right to divert ... "return the water unimpaired"—quantity or quality—

Harold Evans: Dangerous initiative because on the surface sounds appealing; but must present a counter argument.

Eric W.: Conducive to 15 second soundbites.

John Stencil: Not enough signatures yet?

Harold Evans: No, not yet.

Sean: Management of new recreation areas...Parks and Wildlife must find interest here.

John Stencil: Can we take a position on something like this?

Harold: Yes.

Janet Bell: When will the elected officials who will have to deal with this be aware?

McVicker:

Bruce: Could the roundtable issue a standard letter that we could present to our constituents?

Bert Weaver: Maybe the education committee might be able to add to the discussion, especially in terms of

Mike Shimmin: One of the questions is process—time lines short. Once it is on the ballot, cannot use public monies to fight it. Now it is already too late to influence that at this point. If they survive both title setting and the Supreme Court review, then go for petition...and only on ballot once they get enough signatures. So most folks don't take action against these until they are on the ballot. When do you call the forces out? Can't start too early. My suggestion is that we should wait and see how this plays out. Now, if any of our entities can help the CO Water Congress to help fund the appeal, best to contribute now. Not many issues to appeal to the Supreme Court: single subject.

Todd D.: Did the one that got through—did this have the public trust and access?

Joe Frank: #3 got through—right to have access.

Mike Shimmin: Possible that the Supreme Court will turn it down. So, best to help Water Congress fight the process now.

--Possible representation on Metro roundtable

Todd D.: One seat on Metro that could be a nonvoting member of the South Platte. Also, as we work through the Portfolios and start developing these, we should consider some Metro/South Platte Roundtable meetings. Would happen to help coordinate these.

McVicker: Tom Cech

Mike Shimmin: Would like to table this and to put out a memo in one page and ask for volunteers to submit applications if they are willing.

Harold Evans: Good idea.

Todd will work with Jim.

Janet Bell: Metro meets tomorrow; should we relay that message?

Harold: Yes, please relay that message.

--Combining Alternative Ag Transfer Method Subcommittee and Groundwater Subcommittee to discuss groundwater to discuss groundwater issues on South Platte

Joe Frank: Over last 3 years, increasing groundwater levels across South Platte Basin. Increasing issues and discussion; John Stulp convening meeting. Interconnection of groundwater and South Platte was focus in earlier years. We did have a groundwater subcommittee in the early years; looked principally at using the aquifer for storage. Now would like to reconvene that committee with the Alt Ag Transfer committee together because the issues affecting both are interconnected. Opines that if we had water supplies in some areas, we could maintain the return flows in the river and at the same time utilize the aquifer. Difficulty is that wells do not have an immediate impact on the river. Lag depletion issue must be a focus. Lots of facts, misinterpretation...thus, need to focus on facts, monitoring, We can work with the group that John Stulp has put together and that we can be a catalyst for moving discussion forward.

John Stencil: Not sure of who is on each of these committees and open up request for interest; Joe is willing to convene meeting before our April meeting.

Harold: Bylaws vis a vis: Subcommittees: Roundtable has ability to establish subcommittees ...no direction per process. If we already have two subcommittees—sounds like we need to reconstitute these committees with plan of meeting between now and next Roundtable meeting. John Stulp's group will be meeting in February. Anyone opposed to addressing these issues. Chair declares consensus for Joe to proceed.

Dinner is ready. We will approach Portfolio tool after dinner. Flaming Gorge?

Eric Wilkinson can give brief summary after dinner.

Flaming Gorge: Janet Bell and Eric Wilkinson

Met in December; another meeting in Silverthorne on Thursday; some points of discussion:

--how to fill seats associated with Ag, Rec and Environmental; Ag: letter written to CO Ag Water Alliance asking for an appointment; likewise with a letter to the Rec and Environmental community asking for appointments from each to the committee: 2 from Rec, 2 from environmental, 1 from ag.

--went through list of protocol for conducting meetings;

--went through list of issues that had been developed in 4 different areas concerning the project;

--schedule of 6 meetings starting this January through June—will occur throughout the State; the March meeting will take place at the Statewide Summit.

Janet Bell: Impressed that it was clearly announced that this serves as a Pilot for other projects that are also being proposed; a manner to do an exploratory exercise; operate by consensus emphasized; super

majority required to move anything forward; focus on protocol illustrates how the process will move forward. Meetings open to public; also request to Roundtables to look at issues and to add any issues that any Roundtable thinks needs to be added.

High efficiency toilet legislation: Mike Shimmin: Letter that IBCC sent to the Governors a year ago identified some short term conservation goals as things we should do now; the IBCC conservation committee working towards that; this issue was not generated by the IBCC subcommittee, per se; but Senator Schwartz—member of IBCC—decided to bring this forward. IBCC statement to the governors was broader than this bill; suggested amendments to indoor plumbing code—suggested a change for all water use appliances inside the house and to speed up the conversion; this bill only deals with toilets—no other appliances. The IBCC subcommittee had discussed if it should take a position on the bill or make a recommendation to the legislature. But before the IBCC takes a position, decided that we need input from the Roundtables. Timing is a little off because at this point there is not a bill, although there was a draft bill but this has not been emailed to Roundtable members. Anticipate additional information within the next week; therefore, tonight wanted to brief the background and figure out how to get Roundtable input.

Topic: “Passive conservation”—in entire SWASI process, it was assumed that all appliances would be converted sometime in the next 30-40 years. Conversion to be done by 2040—but no assumption as to time period. This assumption was made to reduce demand; therefore the savings are in all of the demand projections. Many say that there does not need to be a law because it will happen in free market. Denver Water is projecting 20,000 acft of savings—that translates to ag dryup. So, Shimmin is asking the CWCB staff to frame the issue in terms of what would happen if the bill goes through and the time line. Thus to try to get back debate about government regulation vs simple water conservation we need this info. Perhaps we need a meeting in Feb to discuss this and the portfolio tool. Without a meeting, we need to do this by email. We will email the memo and then you need to email back our individual feedback so that Shimmin and Wilkinson are prepared to report to the IBCC.

February meeting?

Portfolio Tool:

Todd D.: The question of the February meeting also arises here. Some basin roundtables have put together specific portfolio development suggestions. One approach that has been effective is to have a webinar with Roundtable members. Conference call while someone is at their own computer. Can work through portfolios that each basin has developed and describing those—these will serve as topics of conversation.

Todd D. asking for participation for webinars and then debriefing in February. We have met at UNC; we have done some breakout sessions. But a focused webinar seems to be a good approach.

Joe Frank: What are key dates for portfolio?

Todd D.: We are putting a memo together to describe what each roundtable has done; then will bring those to the IBCC meeting on May 31 in order to provide a more detailed analysis for the IBCC to look at commonalities. Average of 3 portfolios per basin.

McVicker: Comments on how to do conference call and webinar.

Harold Evans: Portfolio seems to be a bit of a Trojan horse. Makes suggestions for webinar portfolio; have that group focus on a few portfolio suggestions and send these to the membership of the Roundtable; several keys: IPPs and Conservation; personally feels that we should do the same with conservation as Metro did—they came up with some good suggestions—this was done with paid staff for Denver Water or Aurora. We need to put something to put together for the Roundtable to react to.

Suggest that the June 28 memo be sent out to everyone: need to look at Conservation and success of IPPs; 2 approaches to IPPs: look at each IPP and put % success on each or look at a global view and put % on general success. Jim Hall and Harold Evans had worked this; I would suggest that what we would do pattern after Denver—they had one that was factored on climate change as well one that hit low/med/high.

Janet Bell: Has everyone here seen the Metro docs? Revisions have been made.

Harold: Good suggestion; send out what Metro conclusions; let our Roundtable respond. Metro put a 10% safety on demand numbers and said the passive savings have already gone to meeting the gap and any active savings will go to safety factor. Joint meeting with Metro and AK and Metro met with CO River—impressed with thoughtfulness of Metro and did some good work.

Todd D: Therefore, if everyone willing to participate in Webinar, subcommittee will participate—we will send out a memo and describe the elements in an easy-to-digest portfolio.

Bob Streeter: How soon can the webinar be put together?

Todd D: Two hours of time—as soon as possible.

Joe Frank: So the idea is to put two or three portfolios together to circulate to roundtable?

Harold: Yes, and get comments back to Todd by Feb. 15. Better option that Feb. meeting.

Todd D.: Will send out an email to ask for an RSVP for participating in the webinar and in circulating the email from Shimmin re: conservation and possible litigation.

Mike Shimmin: Notes caveat with ag dry-up and IPP. IPPS in most other basins are new projects except for Metro; it is this kind of dialogue that the Portfolio project goes forward. Suggests that we develop 2-4 portfolios to see the difference.

One other point on IBCC schedule: gathering input for March 1 summit that will take discussion to another level of detail; extended schedule out to use roundtable summit to educate each other on various views; March-May will have a chance to come back to work more on our portfolios and finish this work by the end of May and then IBCC can see final work on portfolio by June.

Next IBCC meeting is Feb 29, day before March summit, same place. Everyone welcome.

Sean: Are we supposed to have a discussion about funding for travel to March summit?

Todd: Contact Viola; first come first serve: prior appropriation. :)

Harold: This therefore works for our April meeting.

Harold: Another item of interest: Texas \$53 billion water roadmap for plan; perils of not paying for the state plan evident in state price tag—the 2002 version was at \$18 billion. Hence, we are not unique in grappling these issues. How to fund 26 new reservoirs.

Todd D.: Citizens billed a bond for \$6 billion..10%

Election of Executive Committee

Harold: Chair, First Vice Chair, Second Vice Chair, Recording Secretary and two IBCCs

Jim Yahn; Harold

Allyn Wind Makes motion to cast unanimous ballot to reelect Chair, First Vice Chari

Second.

Motion carries.

Does roundtable want to go on record for formal

Bob Streeter moves to

Bruce Gerk: seconds

Discussion: Gene Manuello—thought is that there might be someone else who is interested—is there anyone else who is interested?

McVicker expounds.

Discussion ensues.

Bruce Gerk: My support for Harold is based on his knowledge and willingness to stick up for us and cannot think of better qualified candidate. When Harold dedicates himself to something, he gets it done. I would stick with my position to write a letter of support.

Gene Manuello calls for question. Unanimous vote.

Harold makes statement about thinking about the time dedication. I feel that I can represent municipal interests because of Greeley water position but given that Weld County is in top 10 ag counties in the country, I have a good grasp of supporting ag and my understanding of rec and environment makes me realize how important that we must meld all of our interests. I feel that I can hopefully make a difference.

STATEWIDE ROUNDTABLE SUMMIT: MARCH 1, 2012; OMNIE INTERLOCKEN HOTEL IN BROOMFIELD

Meeting adjourned at 8:00 pm.

Next meeting: Southwest Weld County Building, Longmont, CO: Tuesday, April 10, 2012