

**Interbasin Compact Committee Meeting
December 4, 2013
Denver, CO**

Attendees

IBCC

Mike Allnutt (by phone)
Rick Brinkman
Stan Cazier
Carlyle Currier (by phone)
Jeris Danielson
Jeff Devere
T. Wright Dickinson
Rep. Randy Fischer
Steve Harris

Taylor Hawes
Melinda Kassen
Eric Kuhn
Jim Lochhead
Olen Lund
Kevin McBride
Peter Nichols
John Rich
Travis Smith (also CWCB)
Joe Stibrich

John Stulp
Wayne Vanderschuere
Steve Vandiver (by phone)
Marc Waage
Bruce Whitehead
Eric Wilkinson
Jay Winner
Jim Yahn (by phone)

Colorado Water Conservation Board (CWCB)

Jay Gallagher (by phone) Alan Hamel (by phone) John McClow

Participating Staff

Heather Bergman (Peak Facilitation Group) James Eklund (CWCB)
Jacob Bornstein (CWCB) Ted Kowalski (CWCB)
Becky Mitchell (CWCB) Dick Wolfe (DWR)

Next Steps

CWCB Staff	Send one-page summary of Upper/Lower Basin Working Group deliberations to IBCC members (John McClow will provide this summary).
Jacob Bornstein	Draft statements about nonconsumptive and agricultural gaps for review and discussion by Carlyle Currier, T. Wright Dickinson, Taylor Hawes, Olen Lund, and Bruce Whitehead. After language is approved by this group, provide it to the IBCC in advance of the February meeting.
IBCC Members	Present Risk Management Statement Draft (attached) to basin roundtable members for review. Send feedback to staff by February 7, 2014.
IBCC Members	Present revised new supply language (attached) to basin roundtable members for review. Send feedback to staff by February 7, 2014.
IBCC Members	Send comments or suggestions about proposed lawn conservation legislation to Steve Harris (steve@durangowater.com), Bruce Whitehead (brucew@southwesternwater.org), or Chris Treese (ctreese@crwcd.org).

Welcome

John Stulp welcomed the group and provided an overview of the day's proposed agenda.

Additional introductory remarks are summarized below.

- Two new CWCBC staff have joined the Water Planning Section: Craig Godbout and Brent Newman. The IBCC and basin roundtable members can expect to get to know these new staff members further in the coming months as they participate in basin roundtable meetings and planning efforts.
- The work of IBCC members prior to the meeting in a paired discussion exercise is appreciated.
- The new supply discussion involves work on many individual components. It will be important to work on these components individually as well as to put them together into a cohesive set of recommendations for presentation to the CWCBC Board.

Risk Management Presentations

John McClow, Colorado Commissioner of the Upper Colorado River Commission, presented a history of the Colorado River Compact and provided insight into the potential role of curtailment in risk management discussions. His presentation is available [here](#); key points are highlighted below.

- A key article in the 1922 Colorado River Compact states that the Upper Basin States will not deplete flows below an aggregate of 75 million acre-feet (maf) over a 10-year average. This is not a delivery obligation; it is a non-depletion obligation.
- The Upper Colorado Basin Compact of 1948 states that in the event of Compact curtailment, the Upper Colorado River Commission will determine how the curtailment is administered.
- Inflows to Lake Powell have been low for the last 13 years. As a result of this long period of dry years, and the fact that the Lower Basin's mainstem consumptive uses (9.6 maf) are more than the Upper Basin delivers in a "normal" year (8.23 maf), the lake levels at both Lake Powell and Lake Mead are declining. The Interim Shortage and Surplus Guidelines and Coordinated Reservoir Operations Guidelines were established in 2007. The Guidelines set forth rules for operating both Lake Powell and Lake Mead. In 2014, releases from Lake Powell to Lake Mead will be reduced for the first time to 7.48 maf.
- While Compact compliance is an important issue for water supply planning in Colorado, the potential of not meeting the non-depletion obligation of 75 million af over a 10-year average is unlikely. At the end of 13 dry years, Colorado's 10-year average is currently 90,829 af. Even in a worst-case scenario, curtailment prior to the 2015 deadline for the Colorado Water Plan (CWP) is an impossibility. It is therefore not advisable to focus on the details of a potential curtailment when developing the CWP.
- Karen Kwon, Colorado Assistant Attorney General, has issued a memorandum outlining issues that would need to be resolved before Upper Basin States could be placed into non-compliance status. These issues are complex, and the memorandum supports the argument that talking about curtailment during the next year or two is perhaps less relevant than addressing physical water shortage risks.

Jacob Bornstein, CWCB, gave a presentation on the scenario planning and adaptive management work that staff and IBCC members have developed over the last few years. The presentation is available [here](#); key points are highlighted below.

- Scenario planning differs from traditional planning by not choosing a “most likely” future. Instead, scenario planning examines a wide range of potential futures and relies on adaptive management to provide flexible responses in the face of uncertainty.
- Three main drivers will determine future water scenarios in Colorado: water demand, water supplies, and social values. How these drivers will change and develop over time is unknown.
- Portfolios and scenarios were developed and combined by basin roundtables, the IBCC, and CWCB staff to inform a No/Low Regrets Action Plan. No/low regrets actions represent a first step in the adaptive management process and will need to be carried out regardless of which future scenario unfolds. After no/low regrets actions are implemented, further steps may be required if water demand grows or water supplies shrink. If we are in a weak economy scenario with 20th century observed hydrology, no/low regrets actions could prove to be sufficient. However, they will not be sufficient in medium and high demand scenarios.
- If only 50% of no/low regrets actions are implemented, more controversial measures will need to occur sooner (e.g., transmountain diversions, more aggressive conservation measures, higher rates of agricultural transfers).
- A conceptual agreement on new supply will be an important component of the No/Low Regrets Action Plan and will encompass many topics in addition to risk management.

Ted Kowalski, CWCB, provided an overview of the Colorado River Basin Water Supply and Demand Study (Basin Study) and shared information about actions that have been taken in light of the Basin Study’s findings. The presentation is available [here](#); key points are highlighted below.

- The Basin Study used a scenario-planning approach to explore strategies to address projected water supply and demand imbalances that will affect the Colorado River Basin.
- The Basin Study determined that there is a very small risk of a deficit at Lee Ferry in the next 15-20 years. However, population growth and other key drivers such as energy use could change this reality in the long term.
- The adoption of the 2007 Interim Guidelines and the Basin Study prompted action among a variety of players. These actions include:
 - Cloud seeding and tamarisk removal activities in the Upper Basin States, funded by the Lower Basin States
 - Establishment of working groups focusing on municipal and industrial (M&I) conservation and reuse efforts, agricultural transfers and conservation, and environmental and recreational flows
 - An Upper Basin States effort examining water banking strategies to reduce risks of deficiencies at Lee Ferry. (A Colorado water banking group is working in tandem with these efforts to explore technical opportunities and constraints.)
 - An Upper Basin States working group exploring how compliance would occur in the case of Compact curtailment and to determine how to best work together to avoid this scenario. (CWCB is working in tandem with this group to explore

compliance in the context of Colorado-specific options for minimizing the risk of curtailment.)

Following these presentations on risk management, John McClow provided an overview of an Upper/Lower Basin States Working Group that has been preparing contingency plans for potential reservoir shortages at Lake Powell and Lake Mead. Highlights are presented below:

- While the risk of not meeting non-depletion obligations at Lake Powell over a 10-year average is low, storage levels at Lake Powell present a potentially immediate concern. If drought continues into the 2014-2020 timeframe, there is a risk that water levels at Lake Powell will drop to an elevation at which there would not be enough head to turn power-generating turbines (3490 feet). There is a different, but similar risk at Lake Mead, where the water level at Lake Mead could drop below the intakes for the City of Las Vegas.
- Because the federal government would almost certainly intervene if power generation or water supply infrastructure was jeopardized at these reservoirs, Upper and Lower Basin States convened an “outside-the-box” working group of water experts to explore strategies and methods to prepare for a potentially continuing drought. This group is not predicting a critical drop in reservoir levels but rather preparing contingency plans if this does become a serious risk. The goal is to keep contingency plans in the hands of the basin states.
- The Upper Basin States Working Group identified three potential strategies for managing the risk of critically low reservoir levels in the Upper Basin: augmentation (e.g., cloud seeding), enhanced flexibility in releases from upstream reservoirs (e.g., Flaming Gorge), and demand management. There are a number of options for managing risk in the Lower Basin, including demand management, that are being considered as well. While demand management will be a key strategy for the Lower Basin States, the Upper Basin States will focus on options to move water from Colorado River Storage Protection Act (CRSPA) reservoirs to Lake Powell and will only introduce voluntary demand management strategies in the near term (e.g., voluntary fallowing in conjunction with water banking).

Discussion

- The group posed questions about the proposed action to move more water into Lake Powell from upstream reservoirs, specifically about whether this approach would result in periodic smaller releases, or less-frequent, large releases. A further question was asked about how much time these releases could buy at Lake Powell. John McClow clarified that releases would be balanced over time and that models suggest these releases could provide more than a year of enhanced water supplies at Lake Powell.
- Some group members had questions about what actions the Lower Basin States would be taking to address potential reservoir shortages. John McClow explained that the Lower Basin States are dealing with a structural deficit and that they are currently overdrawing the system. Therefore, their efforts are focused on reducing their withdrawals. While details about their methods to achieve this are not currently available, it is positive that they are talking about these measures.
- A group member asked whether the efforts of the Upper/Lower Basin States Working Group would be overruling or undermining the 1922 Colorado River Compact. John McClow confirmed that the Working Group established early on that while they would

focus on “outside-the-box” thinking, they would work within the framework of the 1922 Compact and the Law of the River.

- A group member requested a progress update on the construction of a third outlet at Lake Mead. Eric Kuhn stated that progress was being made on the outlet, but that it is a misconception that pumping can occur from the bottom of the reservoir. The current pumping system will still require a minimum level of 1000 feet.
- A group member asked for details about the proposed timeline for demand management measures in the Upper Basin States. John McCLOW clarified that any future demand management measures would need to occur through consultation with water users and providers and not through a top-down process.

Risk Management Statement Draft

The group discussed a Risk Management Statement Draft (Statement Draft) sponsored by John McCLOW at the West Slope Basin Roundtable Caucus. The Statement Draft is focused on removing Compact curtailment from near-term risk management discussions that will inform the CWP, and instead acknowledging that any new transbasin diversion and related package of projects would need to consider risk related to a number of hydrology related issues. Approval was sought for the “Statement of Principle” and “Moving Forward” sections of the Statement Draft. The Statement Draft is attached here; highlights from the IBCC discussion are highlighted below.

- Several group members commended the authors of the Statement Draft for providing clarity and a good path forward. However, many also stated that they would need to bring the Statement Draft back to their basin roundtables for discussion prior to giving their approval of it.
- Some group members agreed with an assertion in the Statement Draft that hydrologic risk is a critical component of risk management that will need to be addressed in discussions about new supply. Some group members pointed out that West Slope basin roundtable members will continue to have concerns about the risks of new supply development, even if curtailment is not considered.
- A group member had questions about the process for discussing risk management and new supply into the future. Staff clarified that the IBCC had agreed to a preliminary schedule of discussions about new supply at a previous meeting, but that this schedule could be modified as needed moving forward. Another group member pointed out that the schedule of new supply discussion topics may need to be modified if the Statement Draft is approved by basin roundtable members.

IBCC members indicated that they are currently favorably inclined toward the “Statement of Principle” and “Moving Forward” language in the Statement Draft (below), but additional consultation with their roundtables and constituents is necessary before they can come to an official IBCC agreement on the document. IBCC members agreed to consult with their respective roundtables and constituents in the next two months and report back to the IBCC at the February meeting. (Written feedback on the language is due to IBCC members by February 7, 2014.)

Statement of Principle

Future supply of Colorado River water is highly variable and uncertain; therefore,

any proponent of a "New Supply" project from the Colorado River Basin must accept the risk of a shortage of supply, however the shortage occurs, including compact compliance; strictly adhere to the prior appropriation doctrine, and protect existing water uses and communities from adverse impacts resulting from the New Supply project.

Moving Forward

By "New Supply," we mean any new transmountain diversion beyond those already contemplated under the Colorado Cooperative Agreement, Windy Gap Firming Project IGA, and Eagle River MOU. Because "New Supply," risk management and compact curtailment are inextricably intertwined and involve complex issues that cannot be resolved in time to be fully addressed in the 2015 Colorado Water Plan, the Plan should move the "New Supply" discussion forward by defining a process to resolve those issues and refrain from either endorsing or precluding any "New Supply" project.

Lawn Conservation and WaterSense Fixture Legislative Proposals

Steve Harris presented an overview of proposed legislation he is developing in partnership with Bruce Whitehead and Chris Treese. The proposed legislation has received support in concept from the Southwest Basin Roundtable and the Colorado Basin Roundtable and is expected to be brought to the 2014 legislative session by Senator Ellen Roberts. Highlights of the proposed legislation are summarized below.

- The goal of the legislation will be to stretch the amount of new residential development served by the permanent dry-up of irrigated agriculture.
- The legislation proposes that for new developments relying on permanent dry-up of irrigated lands as a water source, the amount of lawn grass on residential lots will be limited to 15% of the total aggregate area of all residential lots in the development.
- The legislation will not apply to parks or common areas, commercial areas, xeriscaping, or residential lots using raw water for irrigation.
- The legislation will allow developer or local government to determine how and where the 15% of lawn is distributed within a development, allowing some lots to have more lawn if others within the development have less.
- The legislation will not affect an irrigator's right to sell their water, existing residential lots, or existing decree change cases.
- The proposed legislation is intended to be complementary with proposed WaterSense fixture legislation; together, the two bills would provide both indoor and outdoor water conservation measures.
- Comments and suggestions about the proposed lawn conservation legislation can be sent directly to Steve Harris, Bruce Whitehead, or Chris Treese.

Greg Fisher and Chris Piper of Denver Water presented an overview of proposed legislation for the phasing in of WaterSense fixtures. The legislation has received support in concept from the Southwest Basin Roundtable and the Colorado Basin Roundtable, as well as several other water providers and organizations and is expected to be brought to the 2014 legislative session. Highlights of the proposed legislation are summarized below.

- The goal of the proposed legislation is to conserve water that would otherwise be drawn from agricultural transfers or new supply development.
- The proposed legislation will phase out inefficient lavatory faucets, showerheads, toilets, and urinals and replace them with WaterSense-certified fixtures.
- WaterSense fixtures will be similar in cost to inefficient fixtures and will receive independent verification of the fixtures' efficiency and performance levels.
- The proposed legislation plans to phase in the WaterSense fixtures over a period of 1-5 years, giving retailers time to sell existing inventory.
- It is anticipated that the proposed legislation will save up to 40,000 af of water per year by the year 2050.

Discussion

- Several group members commended both of the proposed legislative measures and pointed out the importance of conservation in relation to the other three legs of the stool.
- Some group members were supportive in concept about the proposed lawn conservation legislation but expressed concern about potential implications for water providers. In particular these group members highlighted the difficulty in distinguishing between new and old decree change cases in their water portfolios and the possibility that entire service areas could be affected.
- One group member stated that support for conservation measures in general may be difficult to achieve from their basin roundtable.

Review of IBCC New Supply Discussion Process

Prior to a discussion of new supply topics, Jacob Bornstein provided a review of the planned process to discuss new supply over the next eight months. Highlights are presented below.

- At the previous IBCC meeting, language about new supply based on previous IBCC efforts was compiled and presented. Electronic polling on this language revealed that a majority of group members believe substantial agreement had been reached for most new supply statements. However, the polling also revealed that for each new supply statement, at least a few participants believe more discussion is needed.
- Per IBCC request, the new supply statements were categorized by staff, and a schedule was developed for discussing these statements between now and August 2014.
- For this meeting, IBCC members were asked to discuss one statement with an assigned partner prior to the meeting. A total of two statements were discussed by IBCC members.
- IBCC members are expected to revise and adapt current language to make the statements acceptable to them and their constituents.
- IBCC members are also expected to revise and/or add to the proposed schedule of discussion topics as needed.
- Some components of the new supply discussion will occur among and between basin roundtable members.
- The goal of these discussions is to achieve IBCC consensus on revised language about new supply that will be integrated into a new supply conceptual agreement.

Sequencing of Strategies: Discussion

The following original language was discussed by IBCC discussion pairs prior to the meeting:

The gap, and therefore the amount of water that may be needed from new supply, should be minimized as much as possible by implementing the IPPs, conservation, and other portfolio elements defined in the No/Low Regrets Action Plan.

Discussion pairs presented their revised language to the group. Group members then discussed further revisions to the language that they will take back to their basin roundtables. Approval of the revised language is pending until basin roundtable members have provided input. The preliminary language that will be presented to the basin roundtables is attached. Highlights of the discussion are presented below.

- The group discussed providing additional clarification on the term “gap.” After discussion, the group agreed that this statement should focus on M&I gaps and that a separate statement will be prepared regarding nonconsumptive and agricultural water gaps. The term “gaps” as opposed to “gap” was used to refer to the heterogeneity of M&I water needs. A footnote was added to clarify the variability of M&I water gaps and to state that they occur primarily, but not exclusively, on the Front Range.
- Some group members believe more clarity is needed for the term “new supply” to determine whether or not it refers exclusively to transmountain diversions and/or Colorado River supplies. A footnote was added to the statement defining new supply; this definition may need further refinement from basin roundtable members.
- The group discussed defining identified projects and processes (IPPs) more clearly; additional language clarifying that IPPs are distinct from new supply was added to the original statement. This language may need further refinement after basin roundtable review.
- The group discussed potential language relating to sequencing of new supply discussions with reduction of the gap through other means. Some group members believe the word “implementation” should be used in the statement to express intent to develop a new supply project, while others are hesitant to imply that a new supply project implementation will be a certainty. The current language refers to discussion, evaluation, and *possible* implementation of a new supply component in coordination with other portfolio elements.

The IBCC ultimately agreed that the following language should be distributed to the roundtables for additional discussion:

The M&I gaps¹ should be reduced as much as possible (thereby reducing the amount of water that will be needed from agriculture and new supply from the Colorado River Basin²) by implementing the IPPs that are not “new supply,” municipal conservation and reuse, and other portfolio elements defined in the no/low regrets action plan. At the same time, discussion, evaluation, and possible

¹ The M&I gaps are primarily on the Front Range and vary by time, location, and amount.

² “New supply” is defined as any new transmountain diversion beyond those already contemplated under the Colorado Cooperative Agreement, Windy Gap Firing Project IGA, and Eagle River MOU.

implementation of the new supply component should continue in coordination with the other portfolio elements.

Allowing New Supply to Be Competitive with Agricultural Transfers: Discussion

The following original language was discussed by IBCC discussion pairs prior to the meeting:

Both West and East Slope agriculture should be preserved. Development of new supply should not be made more difficult than the transfer of agricultural water to municipal uses.

Discussion pairs presented their revised language to the group. Group members then discussed further revisions to the language that they will take back to their basin roundtables. Approval of the revised language is pending until basin roundtable members have provided input. The preliminary language that will be presented to the basin roundtables is attached. Highlights of the discussion are presented below.

- Several of the discussion pairs believe the reference to East Slope and West Slope agriculture was too limited and suggested language that conveyed the concept of statewide agriculture.
- One group member stated that the reference to “preserving” agriculture was confusing and instead suggested language about allowing agriculture to continue to exist.
- The group discussed the idea of new supply being inherently different and more difficult than agricultural transfers. Revised language focused on evaluating new supply on an equitable basis.
- A group member requested that language be inserted about continued dialogue on this subject within the IBCC.
- A group member suggested inserting language about environmental values to be considered when evaluating potential water supplies.
- Some group members suggested inserting a footnote referencing the Risk Management Statement Draft if it receives approval from basin roundtable members.
- The definition of new supply was discussed again in relation to this statement. Some group members believe that new supply should refer only to Colorado River supplies while other group members believe a broader definition should be used. Basin roundtable members may be asked to weigh in on this definition when evaluating the revised language.

The IBCC ultimately agreed that the following language should be distributed to the roundtables for additional discussion:

Colorado should promote viable and productive agriculture across the state, and agriculture should have the opportunity to exist statewide. Development of new supply should be evaluated on an equitable basis with the transfer of agricultural water to municipal uses, to the extent that the additional water supplies are available and those supplies can be developed³ without jeopardizing the certainty,

³ See Risk Management language above

reliability, and yield of already developed water supplies and environmental values. The IBCC should continue the dialogue about how to accomplish this.

Water Supply Reserve Account (WSRA) Criteria and Guidelines: Discussion

Becky Mitchell provided an overview of proposed changes to WSRA criteria and guidelines, touching on the following points:

- The following changes are proposed to the WSRA criteria and guidelines:
 1. Increase retention percentage from 5% to 10%
 2. Eliminate the 64%/36% statewide/basin account split to incentivize basin roundtables to award all available annual funds
 3. Grant staff the authority to remand basin account funds if they are not used within six months
- The goal of these revisions is to encourage recipients to begin working on projects in a timely manner, award available funds, and to provide final deliverables.
- Allocation through the next fiscal year will remain the same.
- The CWCB has approved the first and third revisions but is requiring further outreach regarding the second.

Group members supported the first and third revisions to WSRA criteria and guidelines and will wait for the recommendations of the CWCB/IBCC WSRA Criteria and Guidelines Committee to weigh in on the second revision.