

**South Platte Basin Roundtable**  
**April 8, 2014**  
**Southwest Weld County Building**  
**4209 Weld County Rd. 24½**  
**Longmont, Colorado**

Present: Mike Shimmin (At-Large); Jim Yahn (At-Large); Stephen Larson (Broomfield); Lisa McVicker (Center of Colorado Conservancy District); Frank Eckhardt (Central Colorado WCD); Kevin Lusk (El Paso County); Larry Ross (Elbert County); Connie McLain (Gilpin County); Rich Belt (Industrial Rep); Jeffrey Boring (Larimer County); Larry Howard (Larimer Muni); John Stencil (Legislative Appointment); Jim Hall (Local Domestic Water Provider); Joe Frank (Lower South Platte WCD); Mike Applegate (Northern Colorado WCD); Mike Brazell (Park County); Greg Kernohan (Recreational Rep); Bruce Gerk (Sedgwick Muni); Sean Cronin (St. Vrain and Left Hand WCD); Lynda James (Upper South Platte WCD); Sean Conway (Weld County); Harold Evans (Weld County Municipal)

*Chairman Cronin began the meeting at 4:15*

**I. Welcome and Introductions**

**II. Agenda**

Doug Kemper, representing the Colorado Water Congress, asked that the agenda item he was to present, agenda item 4 - Legislative Updates, be moved up to the beginning of the meeting due to the limited amount of time available to attend the meeting.

Agenda item 5a - WSRA Applications was postponed and therefore not brought before the Roundtable; the allocated 20 minutes for that item was moved to item 5e - IBCC Updates and therefore 30 minutes were allocated to Jim Yahn and Eric Wilkinson for the presentation of their updates.

Agenda Item 6a – Statewide Basin Summit Update was mistitled and adjusted to the correct title of “Statewide Water Plan Update.”

Agenda Item 9b – CWCB Meeting was incorrectly posted as April 21-22 and was adjusted to the correct dates of May 21 and 22.

**IV. Legislative Updates**

Doug Kemper took the floor and made a presentation regarding bills the Colorado Water Congress (CWC) had been tracking. Kemper identified HB 1002, 1005, and a new senate bill—SB 179; all had to do with response to the September 2013 flood. Kemper stated that the CWC had been opposed to HB 1228 and SB 772. SB 147 would be coming out the week of April 7-13 and HB 1332 would be coming up that week as well. Kemper also stated that there had been a lot of controversy on those final bills. SB 115 had generated a lot of controversy and as a result the Basin Implementation Plans (BIPs) would have to go through a little more public process. According to Kemper, about 250 people had been tracking all of the legislation tracked by the

CWC (as part of CWC tracking). The CWC had also published the statuses and summaries of bills on their website and would continue to do so.

Joe Frank asked if any of the proposed amendments to HB 1026 had been solidified, to which Andy Fischer replied “no,” they had not been. However, Fischer then stated that the Lower Arkansas Water Conservancy District wanted to tighten requirements that water could only be used in alternative transfer method (ATM) practices.

Doug Kemper stated there were eight notable ballot initiatives and began with some background [reiterated here]. In January of 2013, the Colorado Water Stewardship Project (CWSP) was created with the intent of tracking initiatives and raising awareness. Built into the CWSP was a strategic advisory group. The Project could not be a campaign committee and could not encourage voters to do or not do anything. The Project’s purpose has been to track litigation related to initiatives.

Initiative 75\* - right to local self-government. Local government would be able to pass laws including those able to restrict any type of activity within their jurisdiction, and local governments would be able to pass laws that could not be superseded or restricted by federal or international law. “Rights” had not yet been presented in clearly defined terms.

Initiative 76\* - recall of local and state officers. The basic premise would be to encourage the accountability of local government with the goal of greatly expanding the public’s ability to recall any official, regardless of their appointment as an elected or non-elected officer.

\*At the time of the April SPBRT meeting, both Initiatives 75 and 76 had gone through title board and had their titles set.

Initiative 89 – intended to deal with the definition of the phrase “environmental rights” that would implement a public trust doctrine. The initiative could lead to the determination that all waters would be considered the property of the public and, in that end, curtailed and any decree reopened.

Initiative 103 - public trust resources proposal. The premise of the initiative was the natural resources of the state would be held in trust and the local and state governments would act as trustees. A significant issue of the initiative was the boundaries were unknown and those definitions would need to be defined through the court system. The initiative also contained a unique provision wherein anyone found to be manipulating data for corporate profit would be subject to criminal prosecution.

A brief discussion ensued between Sean Conway and Doug Kemper regarding the status of the public trust initiative and although it was clarified that the initiative was still active, Conway stated that Weld County had already passed a resolution to oppose that initiative and encouraged other members of the Roundtable to act similarly.

\*[www.coloradowaterstewardship.com](http://www.coloradowaterstewardship.com) is the Colorado Water Congress – Colorado Water Stewardship Project website

As a final note, Kemper clarified that the CWC had been planning to work on a toolkit and a list of guidelines for action on initiatives.

### **III Basin Implementation Plan**

#### *a. Study Process and Communication Plan Update*

Blaine Dwyer, after introducing his team, identified July 31 as the final draft date for the BIP. As of the April 8 meeting, Dwyer stated that the Roundtable was nearly complete wrapping up the “Updating the Gap,” “IPPs [Identified Planned Projects]” and “Programs” sections, was halfway through the “Projects” and “Methods” sections, and was about 70% through the initial draft of the BIP. The chief area of concern, according to Dwyer, was updating the IPPs.

Laurel Stradjuhar discussed the fourth of five outreach meetings, which was held in Fairplay, CO, had 65 attendees, and was the most attended outreach meeting at that time. Overall, West Sage had 46 survey respondents in Fairplay who identified “the environment” as the first most important water value with “agriculture” as the second most important value. Stradjuhar also reported that the majority of those who had responded to the survey felt the Basin Roundtables (BRTs) had been working to create balanced BIPs. Overall, Stradjuhar reported that respondents had a wide variety of responses to BIPs and suggested-water-actions.

Britta Strother took the floor next to present an overview of the online meeting tool, but first notified the Roundtable that the consultants had been planning to attend the Republican River Water Conservancy District (WCD) meeting on Thursday, April 10<sup>th</sup>. Strother presented “good results” in web-tool use and suggested the results indicated the Roundtables were directing a lot of traffic to the site; comments on the website, however, had been sparse.

#### *b. Status Report*

Blaine Dwyer stated that he felt useful input was beginning to pick-up and come in. He went on to report that Chapter 1 of the Basin Implementation Plan started as Goals and Measurable Outcomes (GMOs), “which are now in Section 1 of Chapter 1, but now includes things like basin description.” Dwyer clarified the due date for submitting comments was April 7th (the Monday before the April Roundtable meeting). “Some of the comments include the stated need for more graphics and consistency in grammar and tone. Comments stated that more [information] needed to be included on the Denver aquifer.” Dwyer also reported that in regards to language related to Colorado River supplies, or “new supply” [note: “new supply” is not restricted to trans-basin diversions originating in the Colorado River Basin], “this is an area that will be getting edited on July 30<sup>th</sup>” [Dwyer here is suggesting that “new supply” will be one of the final BIP content elements to be edited, presumably due to the highly contentious nature of the topic]. “Lots of comments came in saying that the BIP should contain language relating to water quality. The focus should be more focused on water supply. HDR had not planned on reissuing Chapter 1 so the next time the Roundtable would see it would be in the next larger draft. HDR plans to get Sections 2, 3, and 4 to the Roundtable by the last week of April. The purpose there is to take the technical memos and convert them into chapter material. HDR plans to distill and condense input from each group into a single package so it can be easily presented, distributed and viewed.”

Matt Cook then took the floor to address the Roundtable on the topic of Task 400 - Updating the Gap Analysis. On the "Agricultural Needs and ATMs [Alternative Transfer Methods]" tech memo, the overarching comments focused on additional solutions to reduce agricultural dry up. The Roundtable briefly discussed potential obstacles to ATMs and Cook stated that ATM grant programs would be updated. Several Roundtable members suggested that HDR include other watersheds such as the Big Thompson, the Cache La Poudre, the St. Vrain, etc.; someone suggested including other watershed health programs such as CUSP, Aurora Water, Vail Associated, etc., as well. Cook added they the report reflected updated pine beetle information because respondents wanted additional information incorporated into the BIP. Cook presented information showing conservation comments focused on updating Conservation plans, water budget rate structures, and linkages between IPPs and a future gap, and including info on the tradeoffs of switching to reuse. His presentation also showed reuse comments focused on the ability of reuses to help solve local water issues and the need for further discussions revolving around the positives and negatives of reuse.

Matt Cook went on to report that 45 respondents had replied to the questionnaire regarding IPPs, representing roughly 38% of all IPPs. "We [HDR] are still awaiting responses from several large providers. The completed data sheets represent approximately 60% of the overall South Platte and Metro IPP yield." Cook clarified that of the 350,000 acre-foot gap in Colorado, 240,000 acre-feet is between the South Platte and Metro. Cook also clarified the purpose of the South Platte Basin Roundtable (SPBRT) Conservation Strategy, which "is for the SPBRT to develop an M&I [municipal and industrial] conservation strategy for SPBRT providers. Jim Hall brought municipalities together to discuss their service areas and their water budgets in four specific categories. The goal is to have the tech memo completed before the May [Roundtable] meeting."

Jim Hall mentioned there was a good mix of domestic and municipal suppliers.

Harold Evans stated the basic premise was to use the same format as was already at use in the similar Metro whitepaper, but to use numbers specific to the South Platte. The basic separation between the South Platte and the Metro, according to Evans, was "lifestyle differences."

Laurel Stradjuhar took the floor to present the environmental and recreational update. She reported the update to focus-area mapping would include areas that had been improved since the SWSI 2010 focus area mapping. According to Laurel, the water quality tech memo would be provided to Roundtable members with a survey. Comments from the non-consumptive sub-committee had been received and West Sage was working with HDR to combine annotated outlines and coordinate drafting of BIP chapters and subsections. They are working on identifying specific measurable outcomes and a path forward for identifying possible projects and locations. Furthermore, while a methodology would help identify the existing gap, the methodology for environmental and recreational measurable outcomes was a big focus. Stream segments proved to be the most basic associations for multiple components of their methodology.

Laurel Stradjuhar showed a descriptive cartoon that explained how a focus area (habitat area) was defined by a series of segments. She pointed out that attribute areas are smaller than segments and may be within or extend beyond the segment area. The projects and methods to protect species come from the NCNA database. The protections included in-stream flow protections, stewardship plans, etc., things that were already in place. The goal was to work with environmental/recreational groups that would pay for a revision of the diversion or HG structure to include bypass for fish or recreation. West Sage argued they did not feel that they

would have enough time or resources to complete their environmental and recreational study before the draft BIP's submission deadline.

Steve Malers clarified that a lot of the issues in discussion were highly localized and ditch companies weren't always or necessarily interested in the public knowing that fish are located at or near the ditch head gates.

Mike Brazell spoke to the public perception of the gap and the confusion over which gap had been chosen, liberal, middle, conservative, etc. and Bornstein responded that there had been no choice, projections appeared to stand solid and those are the numbers that had been used. Clarification was made via discussion that the 350,000 acre-foot gap would be the median range.

#### **IV. Committee Updates**

##### *a. WSRA (Kernohan)*

There were no significant updates or questions regarding the WSRA.

##### *b. Groundwater Sub-Committee (Joe Frank)*

Joe Frank stated the purpose of the update was to follow up on HB 1278. HB 1332 was proposed legislation and would be updated by rep Andy Fischer (chair of House Agriculture Committee). Andy Fischer then addressed the Roundtable, stating the time frame for the legislative session did not coincide and there would be a timing issue with trying to get something done during 2014. He stated the Bill would be heard before several legislative committees on April 14th. Andy Jones took the floor representing Central Colorado WCD on HB 1332. Jones argued that his organization was seeking to harmonize proposals that could be worked together. According to Jones, "the basic findings of a study show that groundwater levels have been rising in the South Platte since 2002, 89% of well levels are rising. Pre-2002 there was a groundwater issue that needed to be addressed, but recent projects since 2002 have overshot the target and now there is too much augmentation. Groundwater levels and growth/reduction rates are not equal: there are different levels across the basin. A change has occurred in the SP call regime, there have been an increasing number of days of call. The Water Institute recommended several things that the bill was built on. Several solutions have been developed to the abundance of groundwater. [Representative] Fischer introduced 1332 and a series of public meetings ensued; the bill has since been prioritized and items of urgent importance have been repackaged as the current bill."

Central felt there were 4 specific items that needed immediate action. Jones argued the following: "of the pilot project applications for dewatering, pumped water could be returned to the river (typical dewatering use) and water could be used downstream by priority, dewatered water could be put into local ditch if the ditch diversion-amount was dually reduced—a potential beneficial use of dewatered-water on the condition that the local ditch reduce its diversion amount and the farmer(s) do not take delivery; the second item is an ongoing study of the alluvial aquifer of District 2 in order to develop a numerical groundwater model for the high-water area; the third item is a basin-wide monitoring well network; the fourth item would be to ask the Water Institute to facilitate stakeholder discussions regarding basin-wide management tactics for groundwater."

Mike Shimmin countered Jones' presentation stating that the 1278 bill did not use the word "emergency" and [the year] 2002 came at a critical time when groundwater levels were rising.

Shimmin felt that a long-term discussion would be necessary to navigate competing statistics and data regarding groundwater levels and historical groundwater trends. Shimmin also pointed out that wells in Districts 1, 2, and 64 had specific nuances that had directly influenced local groundwater levels. He also pointed out that a Basin Wide Management Authority was voted down by a State legislature appointed committee. Furthermore, Shimmin stated that he did not feel Reagan Waskom intended his report to be an action plan, but rather to stimulate discussion instead. His timeframe for a strategy based on HB 1332 did not see any action occurring until well after the BIP development unless it was built directly into the BIP; hitting the summer of 2015 would be the only other realistic alternative. Shimmin then identified 2 major camps in Colorado water legislation—those who wanted to protect the status quo and those who wanted to revamp processes and mandates.

Frank Eckhardt called into question the validity of Shimmin's information and recommended action be taken sooner rather than later. Jones then added that Shimmin's comments were referencing controversial elements that were no longer part of 1332. Jones felt that data needed to be collected sooner rather than later and lots in Weld County wanted to see immediate action [taken in 2014].

In response, Shimmin argued that he took issue with the beneficial use of well water as part of a dewatering plan and a basin-wide authority; he stated that the revised bill was more controversial and dangerous than the earlier draft. Shimmin also stated he was unclear what Reagan's reasons were for writing new components into a revised bill.

Joe Frank added that concerns had been raised over the level of detail and monitoring involved with putting well water into a ditch and other proposed solutions. Jones countered that details were up to the burden of the State Engineer via the applicant and the logic was to expedite approval of solutions. At that point Shimmin called into question the validity of Jones' talking points.

Sean Conway inquired as to the purpose of the 1332 and 1278 discussions and Chairman Cronin concurred. Conway argued that the 1278 study was approved by the legislation and was the impetus for coming to the table on the topic of groundwater levels. Shimmin responded saying that a study is not action, but informational grounds upon which action can be based.

*The Roundtable broke for dinner at 6:30 and reconvened at 6:55.*

*b. Groundwater Sub-Committee (cont'd)*

Andy Jones took the floor, stating that his purpose was to present the bill (1332) and answer questions, and review Mike Shimmin's proposal on 1278. He stated that Central generally supported the concept of having the Roundtable continue conversation of 1278 and would like to see it worked into the BIP. Jones also pointed out that the Roundtable should not take a position on the bill since it had not taken a position on any bill in the past. Central wanted to see a bill put into the BIP, but did not want to see the Roundtable take a position on the bill in discussion. Bruce Gerk then added to discussion on the topic; he spoke to the influence of past legislation on groundwater and the administration of wells. He spoke to the complexity of water issues basin wide and the difficulty of applying blanket regulations and processes since the Basin was not a uniform system. Additionally, Harold Evans took issue with Jones' statement that the revised report did not contain any controversial material. He argued that prior appropriation was not a perfect program, it was a reliable one and one that should be favored over the proposed bill. He reinforced the opinion that the Roundtable should not take a position

on the bill. Shimmin responded stating that he was not pushing the Roundtable to take a position, merely to incorporate one of the bills into the BIP.

**Mike Shimmin made a motion to accept his proposal and have HDR begin to write it into the BIP**

**Jim Yahn seconded**

Diane Hoppe asked if the Roundtable could pass a motion to accept Shimmin's proposal in concept, and she and Shimmin agreed that the proposal needed to be edited before it could be fully adopted. Andy Jones stated the Roundtable should take caution before adopting the proposal because it (the proposal) recommended a position on a piece of legislation. Discussion ensued as to where the proposal should be edited and how to best reflect the Roundtable's stance on the legislation. Doug Robotham added that there was a perception regarding the South Platte's inability to manage its aquifer.

Discussion ensued regarding edit-suggestions for the proposal. Mike Applegate suggested striking the first two sentences of the proposal, as well as the last sentence. Sean Conway asked for clarification on the phrase "fully accomplish"; the solution was to remove "fully" from the language. Mike Shimmin proposed removing the first two sentences, the last sentence, and the word "fully" from the phrase "fully accomplish". Yahn ultimately amended his seconding of the motion on the terms the agreed upon changes were made to the language in the proposal. The majority supported the adoption of the proposal with revisions. Frank Eckhardt opposed the decision.

*c. Education Sub-Committee (Shneekloth)*

Joel Shneekloth stated he was revising the fact sheet to go out to each RT member regarding the rapid-education of those who do not know what the BIP was "all about." He went on to state that although he would be traveling for several days following the Roundtable meeting, he would return by the 25<sup>th</sup> and wanted to have the Roundtable submit their feedback to him by then. Deputy Recorder Matt Betz was asked to distribute the fact sheet to the Roundtable membership for comment.

*d. IBCC (Wilkinson)*

Eric Wilkinson addressed the discussion had at the February 18<sup>th</sup> IBCC meeting regarding the prioritization of "new supply" development. According to Wilkinson, issues were taken with the definition's limitation of "new supply" to trans-basin diversions (TBDs). He went on to state that discussion generally focused on the Colorado River Basin and the relationship to BIP definitions [in general, not in specific reference to the South Platte Basin BIP] of "new supply". Wilkinson then spoke to the perceptions on the West Slope regarding the East Slope's treatment of water from the West Slope and a firm commitment to a set yield. He presented the Colorado River Basin's consideration of parameters for TBDs and a plan designed to protect the basin and its compact compliances while protecting the diversion yield from future compact developments. Wilkinson's presentation ultimately revolved around West Slope and East Slope push and pull on water issues and resources, and the negotiation of assumptions, approaches, and resource developments.

Jim Yahn then briefly added to the presentation, applauding the progress the South Platte Basin Roundtable and IBCC have made, specifically on the development of TBDs.

After Yahn, Chairman Cronin spoke to the work the Executive Directors had done in regards to “new supply” and the ways that work had run parallel to the work of the IBCC.

At the request of Doug Robotham, Eric Wilkinson spoke to the values and intention of the Front Range Water Council and their desire to receive a commitment for future water supply, stating, “there is an understanding that the West Slope needs to be accommodated, but not necessarily in a preferential way.” He stressed the importance of adaptive management and the importance of East Slope diversions “doing no harm”. Wilkinson stated that no new projects would be passed without addressing environmental and recreational needs. Kevin Lusk then stated that local values and priorities would need to be considered in any high-level discussions.

Chairman Cronin addressed an issue where the Arkansas Basin Roundtable had made a statement that put the SPBRT in a difficult position to comment on the development of new supply, forcing the Executive Directors and the IBCC to respond; Roundtable comments followed, focusing on how the IBCC should handle the issue. Eric Wilkinson spoke to the progress that the IBCC had been making regarding new supply.

*e. CO Water Plan (Bornstein)*

Jacob Bornstein spoke to the progression of the BIP from a framework to a document with several chapters that have already been reviewed by the board. He invited Roundtable review and comment on the chapters that had already been drafted. Diane Hoppe added that the Board had committed to doing additional workshops up to once a month if necessary.

John Stulp addressed some of the nuances of each Basin and BIP, saying, “when we get to the draft, it is a starting point. It is not the end of the game.” Bornstein commented on how the State Water Plan would merely refer to BIP projects rather than stating them specifically, and would be designed to help each Basin implement their BIP. Matt Betz was then asked to distribute the available chapters of the State Water Plan to the Roundtable.

Diane Hoppe quickly presented on WSRA applications and the lack of funding available to devote to the applicants: “as a result of limited funds, members of the CWCB and IBCC have revised the approval parameters.” She stated that applicants who have proposed multiple uses score higher than those that don’t, as have projects that involve other basins (multi-basin projects). She presented information regarding the Youth Conservation Board of Weld County and their work on invasive species via funds donated by the SPBRT.

*Following a brief listing of the dates and time for upcoming meetings, the meeting adjourned at 8:30*