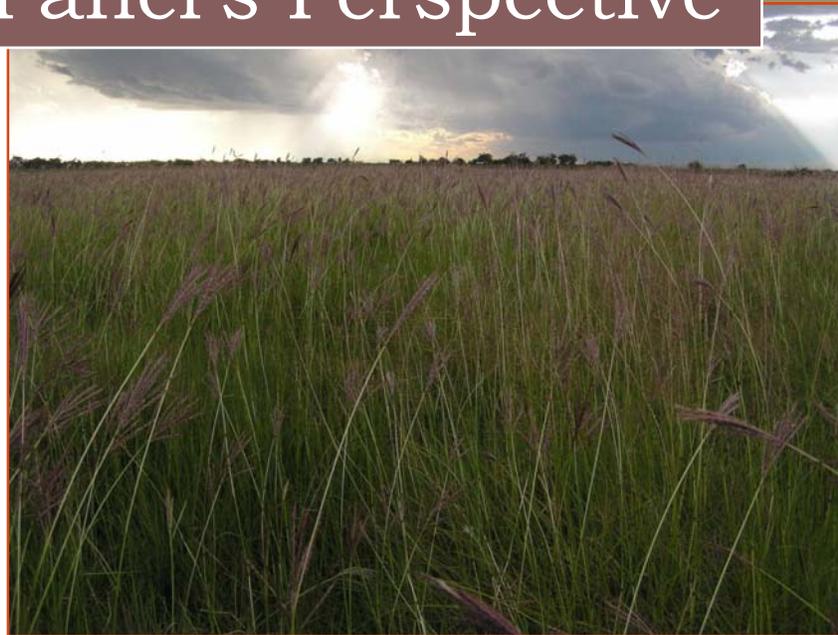


The Future of Colorado Agricultural Water: A Panel's Perspective

Responses to the
Arkansas Basin
Roundtable's Report:
*Considerations for
Agricultural to Urban
Water Transfers*



A Panel of State Water Leaders
Colorado Water Congress
January 2009

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The Future of Colorado Agricultural Water

Responses to the Arkansas Basin Roundtable's Report: *Considerations for Agricultural to Urban Water Transfers*

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Panel Members

- ▶ Peter Binney, Black and Veatch, formerly Aurora Water
- ▶ Robert Sakata, Sakata Farms
- ▶ Don Schwindt, Family Farm Alliance
- ▶ John Stulp, Colorado Commissioner of Agriculture
- ▶ Ray Wright, Rio Grande Water Conservation District

Facilitated by

- ▶ MaryLou Smith, Aqua Engineering, Inc.

Introduction by

- ▶ Gary Barber, Chair, Arkansas Basin Roundtable

Background

By now, most water savvy Coloradans know that the Statewide Water Supply Initiative (SWSI) projected a significant gap between water demand and supply by the year 2030. Most folks expect that ag to urban water transfers will fill some significant portion of the gap. Major state water groups like the Interbasin Compact Committee (IBCC) and Colorado Water Conservation Board (CWCB) are addressing the issue. The IBCC spent a good portion of a recent meeting discussing the topic, and a CWCB grant program is funding projects to demonstrate how such transfers can be done without permanent damage to agriculture.

A committee of the Arkansas Basin Roundtable made up of urban and agricultural representatives recently released a report, ***Considerations for Ag to Urban Water Transfers*** which presents guidelines to be taken into account if and when water is transferred from agriculture.

Given all this interest in ag to urban transfers, the time seemed ripe to stage a lively dialogue on the subject. Colorado Water Institute Director Reagan Waskom asked MaryLou Smith from Aqua Engineering to organize and facilitate a panel of state water leaders to respond to the Arkansas Basin Roundtable report at the Colorado Water Congress 2009 Annual Convention. MaryLou was the facilitator of the Arkansas Basin committee which spent two years working through issues to come to the consensus their report details. She secured a commitment from water leaders to serve on

the Colorado Water Congress panel and asked them to prepare their responses in writing ahead of time in order to jumpstart the dialogue. Each panel member had the benefit of reading the others' responses in advance of the panel dialogue. This document compiles panel members' written responses and summarizes their dialogue.

Where do we go next? The topic of ag to urban water transfers will continue to be a critical topic in Colorado. We hope this accounting of the panel's perspective will be useful to those studying the issue.

DOWNLOAD THE ARKANSAS BASIN
ROUNDTABLE REPORT AT
WWW.IBCC.STATE.CO.US.

Roundtable Response to the Report: Three Primary Points of View

Since the committee presented its report to the Arkansas Basin Roundtable in November, 2008, the Roundtable itself has been actively engaging in dialogue about it.

Most roundtable member points of view center around one of the following:

These guidelines for ag to urban transfers should be the basis for some sort of regulatory approach. Otherwise we are only giving lip service to the **rights of third parties**, such as rural communities, who are affected by these transfers.

The guidelines are fine, but they should remain just that—guidelines. Nothing should come between **willing buyer, willing seller** when it comes to transfer of water from agriculture.

Transfers are going to happen, and these guidelines are important for raising the consciousness about the effects on agriculture and rural communities. However, rather than promote or fight transfers, we should turn our attention now to how we could come up with **incentives for agriculture to keep water in the valley**. What creative approaches could be considered?

Three members of the roundtable, each promoting one of these points of view, were asked to express their view point in writing. The following pieces are their responses.

Roundtable Responses to the Report

Concerns About Agriculture-to-Urban Water Transfers From Third-Party Interests

By Jane Rawlings
Arkansas Basin Roundtable

The Arkansas Basin Roundtable's Water Transfers report suggests creating a template for proposed ag-to-urban transfers that, among other things, would take into account the interests of third parties. These third parties are many and varied < ditch owners, farmers and ranchers, towns people, counties, school districts, business and industry employers, taxpayers and citizens whose families have a real stake in decisions that potentially adversely affect their local economies, quality of life and prospects for the future.

Page 5 of the Water Transfers report includes the statement: "Every effort should be made to include potentially interested parties at the earliest possible date in order to identify, in as comprehensive a fashion as possible, the nature of information to be assessed and shared; the positive and negative impacts, real or perceived, of the transfer proposed; mitigation options; and coordination opportunities."

The stated objective is admirable. However, there is no incentive under current law or practice to open the dialogue to any third party, except the few who may have water rights that could be damaged and, therefore, have standing to be represented in Water Court.

For this laudable objective to have meaning, the state ought to adopt legislation and/or regulations to enforce the provisions of the template. Without enforcement, interested third parties will have no more influence on ag-to-urban water transfer terms and conditions than they do now under the present Water Court system.

State Commissioner of Agriculture John Stulp is quoted in the Roundtable report as saying: "What was the motive behind your developing this template?" The Transfer Committee's response was, "We wanted to come up with guidelines that could be voluntarily used to help protect rural communities and third parties from negative impacts of such transfers."

Voluntary compliance is not good enough, especially when one party has the resources and power to outgun the others. The truly paramount issue is the actual outcome of the

suggested template process. Commissioner Stulp went to the heart of the matter when he asked the committee: "Is there a limitation on how much ag water we should allow to be transferred, and if so how can that be affected in reality?" That's the key question in all of this.

Commissioner Stulp warned the Committee, "Even if those transferring were required to pay attention to your guidelines, we could still lose all agriculture." The commissioner cited, as a potential example, the proposed Super Ditch in the Lower Arkansas Valley. The plan is to limit rotational fallowing of productive farm land to 25 to 30 percent. He questioned whether there is any guarantee the remaining 70 to 75 percent will stay in irrigated agriculture. In John Stulp's words, "How can we keep that portion from gradually getting carved out, so we don't get down to 0 percent available for ag production?"

It is possible, if the state has the wisdom and foresight to do it, to formulate a public policy that virtually guarantees the desired protections of irrigated agriculture in Colorado. Take the Super Ditch, for example. The organizers have stated their intention of going into Water Court for a decree to enforce the water lease-land fallowing program they envision. That decree and the proposed Super Ditch bylaws both could limit fallowing to, say, 25 percent, and leases to short-term annual contracts. For long-term protection, there could be a "supermajority" requirement of, say, 75 percent of the shareholders for a vote to change the bylaws.

Leases must not have the ultimate effect of buy and dry. Irrigated agriculture and the small rural communities that depend on it are worth saving in Colorado. David Carlson of Resource Analysis Inc. is quoted as a Committee adviser in the report: "What is the contribution ag land makes to the environment? What about the social web of ranchers, farmers and rural communities < the cultural part?"

Dr. Carlson told the Committee he long has recognized that as the population grows, it would be good for Colorado to keep its wealth of agriculture. He also said it's not just a matter of the percentage of land involved, either: "In reality, the most productive land gets taken for its water instead of those poor lands."

Appreciating what the professionals John Stulp and David Carlson have said on the subject, the inescapable conclusion is that any ag-to-urban water transfer template must be measured by desirable results, not a blind adherence to a process that ultimately yields only negative impacts for agriculture.

We need positive enforceable public policy committed to the preservation of water for irrigated agriculture and for the future of rural communities in our state. These water transfer guidelines are perhaps a start, but publishing this document changes nothing.

Needed: Creative Incentives for Agriculture to Keep Water in the Valley

By Reeves Brown
Arkansas Basin Roundtable

The report "*Considerations for Ag to Urban Water Transfers*" began out of concern by some members of the Arkansas Basin Roundtable for the future economic viability of the rural communities in the lower Ark River basin. Most agreed that the water in the river represented the foundation upon which the communities of the valley could build their future and without it that the future looked bleak. Water alone is simply that critical! The likely continued out-of-basin transfers of our river's sustaining resource needed to be dealt with.

The effort was then engaged over the next 2 years with help from many informed and knowledgeable individuals to discover a solution to this threat to our future. The resulting document is excellent for emphasizing the effects of transfers on the broader community and providing a guide to minimize their negative effects.

However because water rights are property rights, the question still remains: what can be done to minimize or eliminate Arkansas River water from leaving the Arkansas Valley? This water, being the absolute essential, irreplaceable resource that it is, whether for irrigated ag, potential industrial or other economic development and/or the urban use supporting that development, deserves a new effort of appreciation rather than to be allowed to follow the traditional path to the highest dollar regardless of the negative consequences of the affected valley communities.

I believe the effort to find these new options to offer willing sellers to choose from rather than selling out of basin must use new enthusiastic creativity from a wide source both geographically and philosophically. The discovery process certainly might not yield what we would hope, but we must try.

The prior use doctrine and private ownership of a water right are both pillars of our state water law and, of course, need to be honored during this search for new ideas. Recent public surveys by pollster Floyd Ciruli indicate that the public is very supportive of irrigated agriculture (hence basin ownership) and this current attitude should be helpful in formulating new approaches or tools to fix water to a farm or basin of origin in perpetuity. The intent of this effort would be to offer water rights owners wanting to sell their water several more options than we now have that would allow ownership of the water to remain in the region rather than being sold out of the valley. This concept surely is worth our concentrated attention before our river valleys become dry washes and ghost towns.

Thoughts About Considerations for Agricultural to Urban Water Transfers

By Tom Brubaker
Arkansas Basin Roundtable

On page 57 of *Considerations for Agriculture to Urban Water Transfers* under In Closing the report stated “The committee generally favors voluntary use of the guidelines rather than their being adopted as state or local mandates.”

For the Arkansas Basin Roundtable to take any other position would be contrary to the letter of House Bill 05-1177 which authorized the roundtable process. The law reads **“37-75-102. Water rights - protections.** (1) IT IS THE POLICY OF THE GENERAL ASSEMBLY THAT THE CURRENT SYSTEM OF ALLOCATING WATER WITHIN COLORADO SHALL NOT BE SUSPENDED, ABROGATED, OR OTHERWISE IMPAIRED BY THIS ARTICLE. NOTHING IN THIS ARTICLE SHALL BE INTERPRETED TO REPEAL OR IN ANY MANNER AMEND THE EXISTING WATER RIGHTS ADJUDICATION SYSTEM. THE GENERAL ASSEMBLY AFFIRMS THE STATE CONSTITUTION’S RECOGNITION OF WATER RIGHTS AS A PRIVATE USUFRUCTUARY PROPERTY RIGHT, AND THIS ARTICLE IS NOT INTENDED TO RESTRICT THAT ABILITY OF THE HOLDER OF A WATER RIGHT TO USE OR TO DISPOSE OF THAT WATER RIGHT IN ANY MANNER PERMITTED UNDER COLORADO LAW.”

There is a significant number of members of the Arkansas Basin Roundtable who feel that agriculture along the Arkansas river can be saved by stopping water transfers, therefore the goal of the roundtable should be to stop all transfers. That argument seems to ignore the realities of the agricultural economy.

The agricultural economy of the middle Arkansas valley has been in transition for many years. Farmers have had to be more productive in order to be profitable. Farms have gotten larger and farm equipment has gotten bigger (more productive). As a result of the lack of field labor, some truck farming has been replaced with feed crop production which can be mechanically harvested. Both of these trends have resulted in fewer agricultural workers impacting the communities. To say that stopping transfers will stop this kind of economic shift defies logic. Even if guaranteed investment returns by farmers were in place, increased technology might cause local economies to suffer because of further reduced employment.

Water transfers have added significant value to the water rights in the middle part of the valley. In most cases more than doubling the value of the land. In some cases the added equity for the value of the water has provided the farmer with collateral to continue financing his operation. In some cases that “water equity” is the only value the farmer

has left after a lifetime of work. The somewhat free market has set these values because of the action of a willing buyer and a willing seller. That is how our economy works.

If all water transfers are stopped or if the process is affected negatively by the introduction of third party interests, who have no legal standing, then the value of those water rights will be diminished, if not completely lost. That would further impact the economy of the middle part of the valley.

A number of questions arise. Do state and local governments have the ethical and moral right to deny property owners a significant portion of the value of their holdings by stopping the exercise of their legal rights? Is it right for the majority of the population that does not own water rights to pass legislation that takes away the rights of the minority that do own water rights by stopping or impeding the legal process currently in place? Do local communities have a right to expect to maintain their current tax base and economy without regard to economic reality?

Some water right owners are frustrated with the position of many in the valley that something must be done to save "our" water when in fact it is their water. The goal of saving or improving agriculture and the economies of the middle Arkansas valley is laudable but to do it by taking away the property rights of the water owners is unfair.

To paraphrase one member of the Water Transfer Guidelines Committee "Is the farm economy bad because the water is being sold or is the water being sold because the farm economy is bad?"

Panel Members' Written Responses to the Report

Directions to Panel

The panel was asked, “With which of these roundtable responses are you most closely aligned? Why? Does your response combine any of these, or do you have a completely different response?” They were told that in formulating their response to the committee’s report, they might choose to be an idealist or a realist—to promote an approach that protects agriculture and rural economies or prioritizes the needs of growing communities. Most likely, they were told, your response will contain elements other than water transfer, including:

- Urban growth strategies/urban water conservation
- Protection of water rights holders
- Rural economic development
- Legal and institutional changes
- Land use/water supply planning integration

Here are their responses:

Municipal Perspectives on Water Source Development and the Role of Agricultural Transfers

By Peter D. Binney, PE
Director of Sustainable Planning
Black & Veatch, Denver, Colorado

As a part of ongoing leadership on State-wide water planning, the Colorado Water Conservation Board has supported various efforts including the development of Guidelines Related to Agriculture to Urban Water Transfers. A working committee of the Arkansas Roundtable has prepared a report describing considerations for rural areas to take into account as they look to participate in water right transfers proposals. A series of Guidelines have been described as considerations for rural interests who are not directly involved in a Water Court proceeding. The considerations are represented as a method to provide structure and process for rural third parties to incorporate into a broad response to protect rural economies against potential adverse effects resulting from diminished agricultural activity.

To make these overall efforts productive, it is recommended that water rights holders, municipalities and other stakeholders must also be involved in any dialogue regarding the current water rights transfer process. It is also noted, that the issues of sustaining rural economies is far larger than this one aspect of creating revenue streams for local communities and a broader discussion of those issues with the state is required. The issues of bio-diversity and environmental values beyond purely economic considerations will also be a factor.

Urban and Rural Areas are Interconnected by Water Issues

It is often represented that urban areas will primarily meet their future water needs for growing populations at the expense of agricultural areas by drying up irrigated acreage. This suggests that rural economies will be decimated at the expense of urban growth. This exaggerated view of how Colorado's water future will evolve is highly improbable because of demand management, the availability of more practical and lower cost options, the operational requirements and physical infrastructure needs for a municipal water system as well as the institutional barriers. There are expected to be limited additional agricultural transfers in areas close to developing urban areas (Larimer and Weld Counties in the South Platte as well as Pueblo and Otero Counties in the Arkansas and perhaps some energy-related impacts in the Colorado/ Yampa River western counties) but the potential is not pervasive across the State. The majority of agricultural uses will never be presented with the opportunity to capitalize their water rights through a transfer to an urban or industrial user.

Urban/Rural Water Cooperation

There is an existing and natural symbiosis between urban and rural water users that has long benefited both parties. This has occurred when reusable return flows were allocated by cities such as Aurora to alluvial well producers on the South Platte for augmentation and continued farming during recent drought years. It also occurred when the City of Aurora allocated significant funds to the Rocky Ford School District in lieu of unavailable State funds. The rotational fallowing program initiated by Aurora and the High Line Canal Company proved to be highly successful as a short-term supplemental supply for the cities during drought years and a significant revenue source to those farmers who participated – approximately \$5 million per year over two years was paid to farmers not to grow forage crops. City payments for drip irrigation systems reduced consumptive uses by agriculture and made additional water available while increasing crop production. Cooperative programs along Big Dry Creek and within the Northern Colorado Water Conservancy District also closely link urban and rural water users. These are just some examples of cities working cooperatively with farmers so the representation of this as a “win-lose” proposition is unfortunate and out of context.

Colorado has become highly dependent on the tax and fee production of urban areas (more than 2/3 of the state's tax base is generated in the metropolitan Denver area).

Agriculture, while an \$18 billion per year industry counting tertiary economies, represents just 1.5% of the Gross State Product so its net ability to support the future economic recovery and growth is limited. Rural Colorado is an important part of the fabric of the State, however, and the numerous attributes including with living streams, open vistas and wildlife corridors must be protected. The ability to overcome current deficits and meet the future needs of the State's social, education and related services will be primarily driven by supporting a healthy and growing urban economy. Rural Colorado will benefit directly from healthy cities so it is not in their interests to contribute to a compromised urban water setting.

The State is expected to manage the future of its water resources through cooperation and collaboration. ***The development of the Guidelines is seen to be a worthwhile exercise in education and awareness of the breadth of interconnected issues as much as it is in developing the templates for consideration of the effects of a transfer.***

Responses to Specific Questions Posted by State

In preparation for today's discussion, the moderator has asked the panelists to consider how the Guidelines might be carried forward. Three options ranging from:

1. A highly regulated approach with governmental intervention, to
2. A free market, status quo option, to
3. An increased consciousness approach to facilitate the transfers while minimizing consequential effects to rural economies.

As a prior water utility manager with considerable experience in developing new sources of water and in a range of agricultural and municipal transactions, I lean towards the third option and against the first option.

It is unrealistic to link the limited number of agricultural to municipal water transfers that will occur as having a major revenue benefit to rural economies when considering the other factors affecting those areas and the options available to municipal water providers. While no market or valuation is available to suggest what additional costs may be accepted through a transfer, it is instructive to consider parametrically what the market may be able to support and the resulting financial "windfall" that could come to a rural area. The historic size of agricultural transfers in the Arkansas River has been several hundred acre feet with a small number in the range of 3000 – 5000 acre-feet. For the sake of discussion, consider a transaction of 1000 acre feet and a consequent additional cost of \$1000 per acre-feet being added to an urban tap to pay for third party effects i.e. a tap might increase from \$25,000 to \$26,000. This would result in a payment of one million dollars to a rural area – is that enough to make a difference to a rural economy? Probably not. Let's consider the reverse situation where a rural area may consider a need of \$50,000,000 being "enough". On that same 1000 acre-foot transfer,

this would result in an addition of \$25,000 per urban tap or a total cost per connection of \$50,000 in many urban areas. This represents about 25% of the average cost of a house under current conditions and would lead to a major impediment to urban growth and no transfer of benefit to the rural areas because nothing would happen. Obviously the economics do not work out for anyone's benefit. The relief sought by rural economies is not going to come from exacting higher costs from urban growth so likely there is a middle point and other players/ funding sources who have not yet been identified will have to be involved in rural economic issues.

The majority of Colorado's water is expected to remain in agriculture (approximately 90% of the water that is diverted and consumed) for the foreseeable future based on relative demands for water, the costs and availability of alternative water sources, the geography and location of water in the State and public policy. The cities, which consume less than 5% of the State's water, do not have unlimited access to funds because of public acceptance of the cost of water at the tap. Urban water agencies and local councils will strive to minimize the cost of service while providing an adequate level of service – they will develop less costly and timely solutions and it is proposed that the majority of those needs will be met through demand management, conjunctive use, potable and non-potable water reclamation and water system integration. New source supplies will come from a limited number of trans-basin diversions and agricultural transfers but they will be to a lesser amount than is conventionally considered to be likely. The value of water reclamation of previously developed water sources is typically under-valued in current projections.

The guidelines and associated reporting recognize the intrinsic and important role that water plays in rural areas, especially in terms of the agricultural economy and its exposure to multiple stresses that go far beyond the actions of individual farmers and water transfers. It does not describe related issues of:

- individual choice and preference of the water rights holders (expected to maximize their own returns and profits);
- crop prices and variability
- weather conditions;
- efficiency of farming methods (most of the state's agriculture is using low-efficiency flood irrigation techniques);
- competition for crops from ethanol or other non-food producing activities;
- removal of lands to conservation easements or other non-producing status including fallowing and drying of marginal lands;
- subsidies through the Farm Bill and other programs;
- availability and cost of labor or other commodities including fuel, seed, fertilizer etc.;
- tax laws and their significant impacts on farm families including estate provisions;

- ▶ social issues including generational continuation of farming;
- ▶ the economics and debt for new farmers trying to capitalize land and equipment purchases;
- ▶ other reasons why businesses choose whether or not to locate in rural areas such as availability of services including schooling, health care etc.

Existing Regulatory Protections

Current state law regarding water rights transfers as well as state and federal environmental regulations provide many protections but it is generally acknowledged that transfers between river basins or from agriculture to municipal/ industrial or non-consumptive uses has an effect on the area of origin. The State of Colorado is, however, faced with a dilemma. Growth forecasts for population and future economic well-being require water and sanitation services in urban areas to be significantly increased over their current capabilities. There is little to no unappropriated waters in the State that can meet those additional municipal needs. Projections of the impacts of climate change on the State's water resources may further compromise the yields of existing water systems. It is considered that climate change will have a more dramatic effect on water management issues than will population growth.

This question of how the State will meet its future water needs is complex and from a municipal water practitioner standpoint, is not as reliable or as effective as it will need to be. While the Appropriation Doctrine provides some instruction through case law, it does not provide direction or guidance on how future water supply needs will be met or broader interests protected beyond those of the individual water rights owners.

Approaches That Will be Considered by Municipal Water Providers

Municipal water providers will consider multiple approaches to meeting their future water supply needs in addition to, and often before, transfers of agricultural water. These will include:

- ▶ Demand management including multiple approaches to water conservation, reduction of the community water footprint required through land use planning of their future communities.
- ▶ Making more effective use of previously developed water sources. These approaches will include non-potable water reclamation, planned indirect potable water reclamation, constructing new and strategically located reservoirs to reduce peak pumping and seasonal transfer requirements, conjunctive use of surface and ground water resources, integration of sub-regional systems, re-regulation of existing facilities and water rights.
- ▶ New water governance and agencies will likely develop to address regional water issues and the macro-economics of building new facilities.

- Limited inter-basin transfers of West Slope water to augment current sources.
- Limited agricultural transfers in very specific geographic areas which can be developed for urban use through exchanges or direct piping;

Agricultural water transfers are not a single panacea and the vast majority of Colorado's agricultural water will never have the opportunity to participate in an urban transfer. To the extent that transfers from irrigated areas do occur to Front Range cities, it is felt that this market will primarily be limited to water rights in Larimer, Weld, Pueblo and Otero Counties in the coming decades. It may well be that agricultural economies are driven more significantly by other factors and that placing a severance tax on a water transfer has no consequential benefit to the rural economy, as described previously. If the core question is sustaining rural economies then one set of answers will be arrived at. But as noted in the report, the State itself sees fewer options for rural economic development. If the core question is preventing agricultural to urban water transfers, then another set of answers will be established and individual water rights holders will have to address the diminution of their value with their representatives.

Municipalities will be constrained in the costs they can incur through the transfer process by locally imposed controls on water fees and rates. There is not an unlimited ability to add third party costs to facilitate transfers. This could become a state policy issue if water service to urban areas and urban-centric economies is compromised for lack of water availability.

As demonstrated by the recent drought and the responses of urban water providers, there are vulnerabilities to meeting the current water needs of much of the State's population. Those water agencies did, however, take a strong and necessary lead in water conservation and developing the increased efficiencies of their water systems. The State's planning efforts through SWSI have described the future water needs of a growing population, primarily along the Front Range, as well as a growing energy sector on the West Slope. This growth will place a major additional water demand on the State's over-appropriated waters and increase the need to develop major new water supply projects and to re-allocate the historic uses of water.

The current economic crisis demonstrates that the urban areas and current underpinnings of the State's economy are at greater risk than those popularly represented as being unique to rural Colorado. Unfortunately, we cannot disaggregate the cause and effects for sub-regional areas of the State. Long-term solutions will lie in all groups finding common ground and not fomenting dissension or dogmatic positions. Other states and countries will benefit from a divisive approach and this would be to Colorado's detriment.

Standing of Third Parties?

Since Statehood, Colorado has embraced the Appropriation Doctrine for administering its water rights and the water transfer process. As noted, the Doctrine does protect the interests of senior water rights holders. More recently, the Water Courts have considered the ability of the applicant to develop such water for beneficial use by showing they can acquire all necessary permits and demonstrated the economic feasibility of constructing and operating the facilities. The Guidelines suggest an active role by non-water rights holders in this process and also considered regulatory as well as possibly legislative mandated participation.

The Guidelines are a good work in that they have brought together interests who have now been exposed to the complexities of rural and urban economies and represent a compilation of potential issues that could occur, but are often discussed in the Water Court process. Throughout the report, though, is the theme of rural economies and how urban areas should contribute to the welfare of the rural areas. These would represent additional costs to the transacting parties and would result in lower returns to the water rights holders or increased costs to the city or industry or could become a deal-stopper.

Some areas that are not seen to be addressed:

- There is no recognition of the standards by which the parties would be held;
- How much is enough in terms of adding transaction costs;
- Whether meeting some standard would result in support by rural third parties for the transaction to occur;
- What standing is given to the third parties and what conduct should they exhibit as an adjunct to the transacting parties;
- Is there equal consideration given to all transactions such as removing irrigated farm land to a conservation easement (should some of the tax benefits be assigned to the county?);
- Would similar philosophies be applied to all businesses such as a seed plant or an ethanol plant or an implement dealer who may make a decision to relocate from a rural area with resulting job loss or sales tax reductions? What is unique about a water transfer as provided for by the State and why should it be treated differently?

Next Steps

- I. The Guidelines are one part of the discussion and similar thought should be given to the needs and expectations of both the water rights holders and the municipalities or industries who may be acquiring agricultural water as a

part of their future water source portfolios. The State, through CWCB, would be an appropriate facilitator of that multi-party discussion.

2. It needs to be confirmed that agricultural transfers are sanctioned at the State level and then the terms and conditions of acceptable transactions further described. There are not unlimited dollars available in the municipal or energy sector, the issues of rural economies are multi-faceted and far beyond the abilities of any one user to address. There are many current water rights holders who may choose to capitalize their assets and sell water rights to cities or industries as a personal initiative. The complexity of the issue needs to be considered and the Guidelines need to either be more prescriptive with an assured outcome or advisory but without providing a veto power to third parties.
3. There should be recognition that there are limited areas of the state that will participate in urban- agricultural transfers and the exchange potential or infrastructure needs to be in place with assured access to either periodic leases of water or buy and dry options. More specificity in what will and will not be supported in the policy arena needs to be developed to allow financing and establishing the reliability of long-term river basin operations. This issue will not be resolved on a piece-meal basis and it would be helpful to the State and interested parties to provide granularity to what is too often a battle of semantics and positions. Core water supply infrastructure that allows for the delivery of transferred or fallowed agriculture water should be identified and used as a part of regional water supply systems. There are two major facilities in the South Platte that could form the core of a system, one nearing construction start-up in the Arkansas Valley and other proposals at the concept or permitting stage. This then identifies areas of potential influence where an agricultural to municipal transfer is likely to occur and water rights will be valued accordingly. In other areas, valuations will be tied to agricultural pricing.
4. Continue the education and awareness process that is obviously a cornerstone of the dialogue that occurred in the Arkansas.
 - We are primarily an agriculture-driven water management system in this state - no matter what we do in urban areas, that fact will not change;
 - We primarily make money off cattle and grow hay and corn and wheat to support feedlots and not supermarkets,
 - We have more of agriculture in non-irrigated acreage than under irrigation,
 - The vast majority of dollar-producing agriculture is in corporate farming and not family farms,

- Colorado has become an urban-centric state (along with all other Western states) in terms of population growth and economic well-being. Our future competitiveness and being able to support the numerous funding needs of the state from transportation to education at all levels to social services to health care to tourism to urban and rural economic development will come from a balanced and effective solution to meeting the water needs of the cities. This will be achieved through a re-balancing and selective re-allocation of our current uses and approaches to water management. As Detroit is now finding out, there are other states and nations who are more than ready to benefit from an ineffectual state response to providing timely and cost effective solutions to the Water Conundrum.

Municipal Perspectives on Water Source Development and the Role of Agricultural Transfers

By Ray Wright

Rio Grande Water Conservation District

Colorado is an ever-changing place, and the Colorado of yesteryear is already a memory as changes in technology, transportation, and expectations have permanently altered her people and landscapes. While once decaying ghost towns such as Aspen, Telluride, and Crested Butte found a rebirth in winter sports and leisure, others such as Stunner and Animas Forks are all but forgotten. Similarly, in the farming lands of the state, many once prosperous towns have dwindled with the change. Agriculture has changed as well, with fewer, larger farms, bigger equipment, less labor, and greater mobility to the point where it no longer supports every town that needs to lie within a day's wagon ride. Just as the miners created camp followers when the lode played out, the farmers have disappointed the communities that grew up with great optimism around their efforts.

The movement of water from irrigated lands to distant places is cast as a villain to rural agricultural communities, but in fact, it is simply another symptom of the change that began decades ago. It is neither good nor bad, but it has very real consequences on those who want to continue to live and have a secure future in the marginalized flat areas of Colorado. I do not expect that regulatory or legislative approaches to forcing water to remain in irrigated agriculture will be the answer to reversing this change because we cannot realistically expect to repeal the laws of economics. We cannot expect a farmer to remain in agriculture only to squander his life's savings.

Some areas of rural Colorado that have depended on an agricultural economy have not been successful in attracting alternative economic engines to their communities as the marketplace has changed. It is unrealistic to expect that La Junta will soon be transformed into the next Telluride. Rural economic health is driven by good jobs, and

they are scarce in many places in the state. On the other hand, many of these communities have good schools, affordable housing, access to health care, and other amenities that make them desirable places to live if jobs were available. In attempting to maximize its use of resources the State of Colorado should attempt to encourage some of its expected population growth to occur in areas where population and economic growth have been in decline.

Perhaps the most logical way to do this is to promote ways for the irrigated agriculture that remains to be more profitable, specifically growing higher-value crops that create more employment. Many barriers exist that stifle such entrepreneurship, including access to labor, reporting requirements, food safety regulations, and liability. Small farmers do not have the resources to hire an HR director, a compliance officer, a safety coordinator, and a WPA administrator. A thorough review by the state of the regulatory environment that stifles producers from pursuing these higher-value crops might result in a more positive environment to create new crops and value-added facilities for their processing, without the necessity of the quantity of capital available only to large agribusiness.

Outsourcing has been a hot topic for the United States as jobs leave for foreign countries. It might take on a more benevolent tone if Colorado businesses found it profitable to outsource jobs to the rural areas of this state instead. While a few dozen jobs are hardly noticeable in a metropolitan area, that same number can be significant in a small town. The community college system could be enlisted to work with employers in designing programs to train these remote employees.

Like the states of New England that send their residents commuting to New York daily, a system of commuter trains would encourage residency beyond driving distance of Denver. This would support remote communities and reduce strain on an overloaded highway system, and it would bring rural residents to the Metro area for its amenities. Why should the services that rural Colorado already has be abandoned only to be re-created on virgin land within commuting distance of Denver?

Rural Colorado has much to offer from investment made in better times, but it needs jobs and population to reverse the trends caused by changes in its traditional agricultural base. If it is considered as a valuable asset to the state and included in the plans to handle an influx of millions of people over the next few decades, it will welcome that change and the opportunity it affords. If, however, it is ignored and left alone in its decline, the state will feel an increasing burden to provide basic services to areas that are economically unable to provide for themselves.

It is, perhaps, unfortunate that the control of the water rights upon which everyone depends is in the hands of so few. That is unlikely to change, but Colorado as a whole will be sacrificing valuable assets forever if it doesn't assist rural communities in creating

new, sustainable economic futures to replace the agriculture that was forced to abandon them.

Response to *Considerations for Ag to Urban Water Transfers*

By John R. Stulp
Colorado Commissioner of Agriculture

The saying goes, “If you keep doing what you’ve always done, you’ll keep getting what you’ve always gotten.”

So it is with water transfers from agriculture to urban uses. A statewide default policy that relies on profitability in the agricultural sector as its sole effort to keep water in ag production will fail to preserve Colorado’s diverse and bountiful irrigated agricultural sector. More must be done. The Arkansas Basin Roundtable has done a commendable service to the state by exploring this issue and publishing ***Considerations for Ag to Urban Water Transfers***.

Perhaps it is first necessary to make the case for preserving irrigated agriculture in Colorado. After all, if all the irrigated land in the Arkansas and South Platte basins were suddenly gone, there would still be an abundance of food in grocery stores throughout the metro area. The meat case would still offer high quality beef, lamb, poultry and the like. The vegetable and fruit cases would still be stocked. In fact, most consumers would likely not know the difference.

But there would be a difference. Consumer trends are clear: there is a growing demand for locally produced food. Some consumers look for locally grown food because they want the freshest food possible. Others want to connect to the grower him or herself to lend support for their local agricultural industry. Still others look for food choices without a large carbon footprint. We witness this trend in the proliferation of local “food policy councils” around the state. These councils promote locally produced food for local schools, local farmers’ markets and community agricultural projects. Public opinion surveys conducted by Colorado State University on behalf of the Colorado Department of Agriculture repeatedly demonstrate that consumers, when given the opportunity, prefer locally grown food over that which is imported.

In addition, irrigated agriculture contributes to Colorado’s quality of life in ways that are difficult to quantify but are very real. It is part of Colorado’s landscape, culture and overall sense of place, if you will.

The Statewide Water Availability Study has given us all a glimpse into the future, and without affirmative action to the contrary, that future doesn’t include a robust irrigated agricultural economy. That is, if we keep doing what we’ve always done. The numbers speak for themselves: perhaps a quarter of a million acres may be lost in the South Platte Basin, and 40,000 to 70,000 more in the Arkansas.

Is Colorado at a point where, collectively, we say, “Enough is enough!”? Perhaps it is time to start looking at some things we can do that won't deliver the same results we've been getting. For starters, I'm willing to look at some prescriptive statewide requirements for water saving landscapes for new residential and commercial areas and incentives or even specified statutory timelines for public and private landscapes to replace high water consumptive landscaping. We should approve planned unit residential development permits contingent on requirements for external landscapes that use little to no irrigation.

I would suggest it is time to look at domestic water rate increases that escalate over a period of five to ten years that steer homeowners to reduce the size of their irrigated lawns and convert that landscape to water-saving plantings. Steps such as these could at least postpone future demands on converting agricultural water to urban uses.

Irrigated agriculture as an industry has to step up as well. Canal and ditch companies should begin to develop mechanisms to act collectively to preserve the irrigated agriculture in their area. I believe there is a role for conservation easements that keep not only the land in agriculture but the water as well. Funding for such undertakings could come from open space programs such as GOCO or county open space programs.

Is there a role for counties to employ their House Bill 1041 land use planning powers to preserve a core agricultural economy? That would be a dramatic step, and it would take considerable local support and could require compensating irrigators who have lost that lucrative market for their water.

When ag water transfers are conducted, the transfers should withhold a portion of the transferred consumptive use sufficient to establish a permanent ground cover on farmlands that are to be retired, thus assuring that the problems seen in the Lower Arkansas are not repeated.

Finally, it has to be said that water development projects must be given a fair hearing and no longer be disregarded as uniformly and patently beyond acceptance because of any environmental impacts they might involve. Projects such as the Green River pump back proposal or even larger scale projects that might import water from river basins outside Colorado's borders should be considered. We should not be afraid to think big when Colorado's irrigated agricultural economy hangs in the balance.

Response to the Report, *Considerations for Ag to Urban Water Transfers*

By Don Schwindt

My Background

- first generation farmer, starting in 1975
- have served on several local water boards, Colorado Water Conservation Board, Family Farm Alliance Board
- live and farm in a community completely served by transbasin diverted water
- ag to urban transfers are not a serious issue in my community
- the environment provides the greatest challenge to our transbasin diverted water supply
- in spite of being quite isolated, statewide, and beyond, water issues are critical to our water future and will shape how much water we use, and where that use will occur

My Response

You outlined three basic responses to the guidelines suggested in the report, and asked which response I was most aligned with. We need to make it easier for ag water rights holders to keep water in agriculture and rural communities. All of the water in our state (and the western US) is presently being used by one of the three competing demands for that water: agriculture, urban, or the environment. None of it is being wasted, or not used. As priorities within each of those uses shift, or expand, we need to find ways to keep the ag supply from being used as the only or easiest reservoir to tap to fulfill larger demands in other sectors. This is what I understood folks to be saying in the report when they talked about “leveling the playing field.” So I think that leveling the field needs to be the goal. It will take an array of tools to achieve that goal. A regulatory approach based on the guidelines outlined in the report may be what is needed in the Arkansas basin, but I would find it difficult to support that approach statewide. The regulatory approach can have unintended consequences, and can be subject to abuse. The Family Farm Alliance has consistently advocated for a streamlined approach to regulation, particularly in the realm of increasing water storage, as a critical tool. We have the choice of leveling the field by making every contemplated change climb ever higher mountains, or adding some hills while lowering some mountains. I think we need to be very honest in our view of the expected outcomes as we debate the alternatives that might be doable. If the Arkansas Basin concludes that the regulatory approach is the only way to make sure the guidelines are appropriately utilized, I will support that approach. Since we are dealing with the need to make some serious changes to the status quo, we need to tailor solutions specifically to smaller, more localized areas, rather than attempting to first find the more global solution.

Critical Thoughts

I thought that I would next emphasize thoughts from the report that I think are critical to the debate. Principles, beliefs and observations are expressed in the order they came up in the report.

“We believe the Colorado we want must honor both its rural and its urban heritage and continually plan for the future.” There are many ways to express the importance and substance behind this statement. There is more to this than just the third party impacts expressly described in the report. How does this nation protect its national security need by keeping a home grown food supply? What are the cultural needs to keep the critical mass of a land and people base to provide for that supply? What values are there in rural America that have a greater impact than just the third party impact described in the report?

I appreciated the whole discussion raised in the “Basic Premises” section of the report.

The report stated that the authors did not speculate on the template becoming the basis of some sort of regulation. I would offer the thought that they should specifically explore that option in an Arkansas basin only kind of format. Innovative and workable solutions can be more easily accommodated in a smaller community, even if it takes state legislation to implement. The result could be a template that could be more specifically adapted to other basins or regions of the state later. Major change is often done best in incremental steps, and I think we are talking about necessary major change with this issue.

The discussions with each advisor raised important critical issues. Steve Witte and the concept of who can represent the public was key. Could it be the counties and their 1041 powers?

The extremely critical issue of the environmental benefits of irrigated agriculture was touched on in several of the panels of advisors, both Ramsey, Flack, and White, and Gates, Edelman, and Nimmo. In my view this is a critical piece of the west wide debate on competing demands for the finite resource that has not received the deserved attention to date. I live in an area where the Dolores Project recently doubled the irrigated acreage of our community by building a new delivery system that is extremely water efficient to lands that had never been irrigated before. The lack of a new water dependent environment in the new area compared to the century old “waste water” environment is vivid. We have had as high as a 96% water delivery rate to sprinkler irrigated fields in our new system. That means that virtually all of the water goes to crop consumptive use, with none left over to develop the normal habitats that we have learned to associate with irrigated agriculture. That irrigated agriculture “waste water” environment has a broad set of values that are appreciated by people, including even positive ESA contributions in places. Our public needs to debate what kind of

environment it wants in its future more thoroughly. Montezuma Valley residents might gladly choose some cottonwood trees, tall wheat grass, and irrigation seepage wetlands over threatened fish species in the Dolores River. They might also choose that habitat for their home sites over the lands available adjacent to the newly developed water efficient Dolores Project lands. Even when the debate is over how to best serve a “natural environment,” the fight is over which competing human management scheme can best implement a human vision.

When Jennifer Gimble suggested that the PROCESS was the biggest accomplishment of the group, does that mean we should try and find a way to institutionalize the process instead of the template?

I would agree with Commissioner John Stulp when he challenged the group to answer the question: “Is there a limitation on how much ag water we should allow to be transferred, and if so how can that be affected in reality? We need to keep ag as a significant component of our economy and our use of water. We need to maintain a baseline of ag for rural communities. What is that baseline? It will be specific to each community.” I think it is vital that we find a way all over the west to answer that question, and then find ways to develop policies to address the answers.

I appreciated the issues raised by the groups discussions with David Carlson. The common sense goals he advocated for were described as needing a “radically different approach.” In my view we need to find ways to move in the directions he advocated, even if it takes radical change.

Mark Smith's discussion highlighted some of the values associated with the Super Ditch approach.

The water-tied-to-the-land issue coupled with differences in other states raises other possible examples to look to find ways to level the playing field. These issues were raised in the discussions with the CSU advisors.

Tools Needed

As I said earlier, an array of tools are needed to change from the status quo, which has the ag water supply west wide targeted as the reservoir for expansion of both the urban and environmental water demands. To a large degree we are afforded the luxury of that perspective because of the success of our forefathers in managing mother nature's fluctuating hydrographs with water storage. I will shotgun a few thoughts that could have bearing on some other tools that should be a part of the ways we try to level the field.

Better management of the resource can always be part of the solution. Management requires flexibility (and trial and error.) More regulation usually reduces flexibility. The

three competing demands on water have not done a very good job of creating the opportunity for flexible management.

More storage is still a critical piece of the answer. Finding the dollars within the state for creation of new storage for water for the environment could be a very helpful way to level the field.

We need to be concerned that our demand does not get so hardened that a drought can devastate our society. The environment and agriculture can both recover from an insufficient supply easier than homes. As we look to the future, we can tie that fact to mother nature's expected long term drought cycles. We need to find ways to implement interruptible supply and lease agreements between cities and ag, and cities and the environment. The guidelines articulated in the report are helpful in developing these solutions.

We need to look to successful models for the institutional framework for designing solutions to problems associated with these competing demands. The 1977 drought in my community caused the irrigators to retain enough storage in their minimal supply buckets to provide for the local municipal need with no legal framework underlying that decision. The Upper and Lower Basins of the Colorado River have made major strides in agreements on both surplus and shortage criteria in recent years. These are both examples, from each end of the spectrum, of having a known quantity of a finite resource being useful in finding a path to accommodation. The better job we can do of supplying real numbers to the debate about our future supply, the better chance we have of creating real answers. Is it possible for our state to allocate its water supply to ag, urban, and the environment in some form of a compact? Could we answer John Stulp's question to the Arkansas Basin Roundtable Water Transfer Guidelines Committee about a baseline ag water supply for rural communities, with a basin by basin answer around the state, and then find a way to implement those answers?

Response

By Robert Sakata
Sakata Farms

I have been blessed, born and raised on a farm, although farming has not always been my way of life. After graduating high school I imagined that there had to be an easier way of earning a living rather than raising vegetables and I knew from friends raising livestock that it surely wasn't in raising animals either. So I ventured off to college and ended up in Los Angeles. It took me maybe longer than most people to realize that if a person can earn a living farming there isn't a more fulfilling way of life. The art of providing the food and fiber that we all need from the graciousness of mother earth provides rewards that eclipse the limits that a simple paycheck can provide. To wake up long before most of my city brethren, not to have to worry if my shirt is wrinkled or if my socks are

matching, and to be able to watch the sun rise as it begins its life giving warmth, bathing the swaying crops, waking from a night sprinkled with millions of stars suspended effortlessly above. To be greeted by each day with new challenges and always reminded that you are really surrounded by the miracle of life. To go home muddy, covered with fragments of the fertile soil mixed with life giving water that you so carefully nurtured knowing they are the basis of your way of life, and tired physically knowing that your snoring is a sign that your mind is at ease with the accomplishments of the day. There are few other occupations that are so blessed with the opportunity to literally cultivate life on a daily basis.

So what does this have to do with the template for evaluating ag to urban water transfers? Nothing and yet everything. I carried the document with me for a couple of weeks and as I read and re-read it I often found myself getting a head ache, becoming so frustrated that I would have to put it down. The template so carefully tries to incorporate all of the variables that might have a role in water transfers and I realized how much time, energy and effort must have been spent looking into all aspects of the document, and it was only after I stopped and looked into my own heart did I realize how difficult a task this is. The paragraph above is only a brief synopsis of “my story” but for each and every farmer and rancher across Colorado there are unique life stories that reflect that farming is not really an occupation but truly a lifestyle. A key point is that it's a lifestyle that most of us have freely chosen and one that is as difficult to quantify as the numerous variables associated with the transfer of a water right.

In vegetable farming we face many challenges over which we have little control. There have been countless times that I stood at the edge of an entire field that was totally destroyed by a hail storm, or watched helplessly as the wind literally shredded the foliage from the soil and although painful, I just started again. I guess what frustrated me more than anything about the template is that it reminded me about the amount of time, money and energy that I am now spending trying to protect my way of life from things that I am supposed to have control over, like water. One example is our local ditch company's budget has skyrocketed due to legal fees merely to monitor change cases in order to protect our water rights. The template, as thorough as it was, was equally frustrating because it brought to light the many aspects of water transfers. I often wonder how the present landscape would have looked if agriculture would have had the insight and resources to challenge the many change cases over the past 25 years.

A friend of mine once said that she was frustrated because every time she found the meaning of life they changed it. Change is difficult and now farming in the shadow of the Denver metropolitan area I feel torn because no matter how much we may idolize the past we can't go back. Here in the South Platte basin, unlike the Arkansas basin, along with the challenges of losing water rights comes the potential for urban development. The part of me that wants to keep farming and is struggling to protect my way of life

sees the merits of having regulations requiring transfers to take into account the aspects considered by the template. The part of me that appreciates the freedom of choice that has allowed us to succeed in farming sees the potential of more regulatory controls as another moving target creating excessive burdens that a free market may be able to find an equitable solution to.

Water is being exported from our area, drying up parcels of land, creating operational challenges for our farm. Water is also being imported, treated, and then exported, leaving behind pollutants and creating a public relations challenge for the water provider. Municipalities are legally reusing more of their transbasin and changed water, leaving less in a system that used to benefit from those return flows. Can we really create the guidance, regulations or legislation appropriate for each unique case?

So where do we go from here? I would hope that we don't look for legislative solutions yet, because it seems like more often than not good intentions end up being a tangled web of complexities hindering the potential for creative solutions. Eventually there may be incentives that we may be able to look at. Ideas like tax credits for water developed within a watershed rather than exporting it, or the formation of watershed advisory councils looking at water quantity/quality management and planning in a holistic manner using tools like this template to evaluate changes and/or protection of water uses. Should we begin to look at the cost of moving water vs. the cost of moving development? Should water be moved to growth, or should growth go to where the water is? I would argue that part of the economic turmoil that we find ourselves in now is in part due to the unsustainable growth that municipalities have been engaged in. The Florida extension service evaluated the net return on investment and found that agriculture was actually better than urban development. It is often argued that the front range is the economic engine of the state of Colorado but it takes a lot of infrastructure to keep that engine running. The gross revenue from agricultural production may not be near as great as urban growth but the infrastructure costs to support it are also much less.

We are all probably familiar with the saying, "survival of the fittest". What we often overlook is another part of Darwin's theory that states that it is not the strongest of the species that survives, nor the most intelligent that survives, it is the one that is the most adaptable to change. The only constant is that things will always change and often the harder we fight change the harder the change will be. Director Sherman challenged the IBCC to envision what they would like Colorado to look like in the near future. As a farmer, part of a group that now makes up less than 2% of the state's population, questions like that scare me. Will the 98% of the population that are not farmers decide that they value bluegrass over broccoli, pavement over peas, iPods over onions? The necessity of increasing efficiency has driven vegetables like broccoli to be produced almost exclusively in California (85%) and Arizona (10%) but is centralized production the "best" approach to insure a safe and dependable food supply? As all aspects of water



use in Colorado become more efficient how well will we be able to cope with drought conditions? What responsibilities do I have as a water rights holder to engage the community if I want to sell that right? How many more attorneys and water engineers will I need to retain to protect, market or develop my water right? And once again I find myself getting a head ache contemplating the numerous variables and possible policy implications...

On-Site Panel Dialogue

Chairman Arkansas Basin Roundtable, Gary Barber

Background of the Committee

Roundtable received report. Accepted report. Has not yet adopted report.

Dialogue has revolved around the question “How should the guidelines be used?”

Now, we look forward to state dialogue

Facilitator, MaryLou Smith

Panel – How we set it up

Dialogue vs. Debate.

Move the ball forward on this issue

Will tell who they are, why the topic is important to them, basic points

Points Delivered

Commissioner Stulp

- Colorado Commissioner of Agriculture
- Advocacy role for agriculture.
- If we keep doing things the way we have, we will get the same results.
- Orderly transfer is good, but when is enough, enough?
- Demands for food, fiber, fuel will increase.
- What is agriculture going to look like if we don't have enough water?
- Consumer wants locally grown products.
- We need to look at making some tools available for communities, at county commissioner level, such as conservation easements, tying water to the land.
- Funding is always an issue.
- Statewide, we can make some decisions about tradeoffs such as food production vs. golf courses, parks.
- We are headed in the right direction, for instance Super Ditch instead of buy and dry of Crowley County.
- We have to take action today.
- Water storage is important, but has impacts. We need to weigh impacts on environment with people's needs.

Robert Sakata

- ▶ South Platte vegetable farmer
- ▶ Farming is 5% hard work and 95% the Good Lord blessing you with a harvest.
- ▶ God says: "I provided you with plenty of water. What are you doing with it?"
- ▶ 2% of the population is farmers.
- ▶ 2% of the water on the earth is freshwater.
- ▶ Farmers are a diminishing natural resource.
- ▶ Education/Research needed.
- ▶ Political philosophy: supportive of free market system. But thoughtful planning process is needed, too.
- ▶ Our farm is in the shadow of Denver.
- ▶ Not just a thirsty front range, but also a hungry front range.

Ray Wright

- ▶ Potato farmer in the San Luis Valley for 30 plus years.
- ▶ Completely reliant on irrigation to grow crops.
- ▶ Our rural towns are in decline.
- ▶ Number of farms, number of farmers is declining.
- ▶ Towns like Aspen and Telluride were in decline, but they found alternative economic engines.
- ▶ Traveling east on I-70 to Limon, what once were ambitious little towns are fast becoming ghost towns.
- ▶ It isn't so much about water.
- ▶ Regulatory approaches won't be successful because Coloradoans don't "break to lead" very well.
- ▶ We need more profitable agriculture per acre—bringing in more jobs, higher value.
- ▶ Regulatory environment is stifling to entrepreneurial ag producers.
- ▶ Labor, worker safety, reporting are all big issues for farmers.
- ▶ Colorado Dept. of Ag could take on the task of streamlining regulation.
- ▶ Outsource jobs to rural Colorado instead of to India. Community colleges could train people.
- ▶ Need good jobs with benefits if we want to see rural economic turnaround.
- ▶ Job service centers don't seem to have much available except local jobs.
- ▶ What if we had high speed commuter rail in rural areas to bring people to cities easily?
- ▶ From resource utilization standpoint, seems wasteful to give up perfectly good infrastructure in rural areas and start fresh in urban areas.
- ▶ Control of water rights upon which we all depend is in the hands of so few.
- ▶ We need to assist rural communities to come up with alternative economies.

Don Schwindt

- First generation farmer from Cortez.
- Chose farming because he wanted to, not because he grew up on a farm.
- Came to farming after graduating from Stanford University. So has a different perspective from some.
- Has made a good living at farming.
- Served on CWCB for nine years.
- On board of Family Farm Alliance—to preserve irrigated agriculture in the west.
- Ag lands disappearing at an alarming rate—national food security issue.
- I am a free market guy, but you have to have regulation, too.
- Ag to urban transfers not a serious issue in SW Colorado.
- We are a transbasin diverted community altogether. Without it, we would be a desert.
- National debate, Colorado debate will impact SW Colorado's water use.
- Keeping ag more viable by using an array of tools, appropriate to each community.
- Regulation might be appropriate in some areas.

Peter Binney

- Formerly director of Aurora Water.
- Now working internationally as a consultant.
- Colorado is a microcosm of what we are seeing all over the globe.
- More discipline to the debate here than in other parts of the world.
- The harshest criticism needs to go to municipalities.
- Water rights holders need to be brought into the dialogue--those who have vested interest in use of this water.
- Municipalities still have a naïve mentality about where the water is going to come from.
- Municipal land use planning is only retrospectively looking at water management, and that's naïve.
- State legislature not providing leadership on this issue.
- Roundtables needs to now consider other tensions—those related to lack of municipal planning.
- Large number of tensions for urban economies and rural economies alike.
- There are more important issues shaping rural Colorado than water transfers: Labor, tax structure, price structure, cropping patterns.
- In this report I hear a call for “give us more respect in rural areas. How can we prevent ghost towns?”
- Globalization is having an impact on agriculture. For example white asparagus production moved out of Europe to Peru because it's cheaper to grow it in Peru and ship it to Europe than to grow it in Europe.

- ▶ Colorado agriculture: 66 million acres in Colorado. 30+ million acres in farms and ranches, 11 in cropland, 2.6 million acres in irrigation.
- ▶ Three quarters of ag economy is from livestock.
- ▶ State has overestimated how much water for urban growth will come from agriculture.
- ▶ Municipalities need to be challenged to think about how they are going to operate their systems in the future and not take easy way out by counting on ag transfers.
- ▶ Going to regulation is the easy off ramp. Free market/property rights advocate. Third parties need standing but not to point they influence bad decisions. We're taking things out of context.
- ▶ We've lost the practical approach of how we are actually going to operate municipalities, serve next 2-3 million people. No more significant water will come from Ark Basin to front range urban communities.
- ▶ Front Range municipalities will draw from small subset of irrigated ag, mostly that which is contiguous to urban areas or cost effectively piped. These areas should be recognized as part of the urban structure.
- ▶ But most ag will never get to "play in this game."
- ▶ State needs to create more granularity to what this discussion is about. Deal with issue of rural economy in larger context, but not primarily as an issue of water transfers. That's only a very small subset. Water transfers should not be code talk for demise of rural communities. Nominal amount of water will move from ag areas to urban.
- ▶ Municipalities need to step up to the plate. Talk about how are they going to use water information, how they are going to use conservation, how they will use perhaps one more transbasin diversion. How they will set up a relationship with agriculture for viable leasing, banking programs. Some areas will be dried up, but they should be less productive areas. Set aside prime farmland as unavailable for urban corridor. Land use planning, more deliberate infrastructure layouts to recognize those areas that will be conjoined with urban areas is appropriate.
- ▶ This should not become a statewide regulatory issue. However, some guidance to where practically the laws of economics will allow you to connect the dots is appropriate.

The Dialogue

MaryLou Smith: Just a clarification. The committee generally favored voluntary use of guidelines rather than their being regulated. Also, the committee struggled with issue that it's a lot more than just water transfers affecting rural economic viability.

Ray Wright: I am embarrassed that I agree with so much of Peter's written report. Tax revenue comes mostly from urban areas, and rural areas benefit from that. But we need to remember that Denver started as a center of trade for both mining and agriculture. Now ag feels forgotten or marginalized by urban areas. Rural brings to the table forgotten resources which ought to be brought back into the mix. We need to see if we can't reinvigorate ag areas, so they can carry their own load. Without reverse in trend, there will be a greater burden on urban areas to support underserved areas of the state.

Robert Sakata: I think ag to urban transfers will be more of an issue than Peter thinks. He says we have 2.6 million acres of irrigated farmland in Colorado. But it's really less than that, because some of that land has good water rights while some areas are minimally irrigated.

Peter Binney: Robert is right. It's positional, it's locational. It's a disservice to treat ag water as homogeneous no matter where it is in the state. Has us asking the wrong questions and getting the wrong answers. State should step back and think about "agriculture enterprise zones"—those that could serve as part of a quasi urban area. They exist in Larimer, Weld, to a lesser extent in Adams County in South Platte. Pueblo, Otero Counties in the Ark basin. Magic wand: Build very large reservoir upstream of Denver, capture water, use it in urban area, re-regulate it in gravel pits of South Platte and deliver it for ag downstream. Cooperative programs that would allow us to get more utility out of the water.

Robert Sakata: Maybe the best thing to help rural economies would be for farms like ours, closer to urban areas, to sell out.

Peter Binney: Not necessarily. It's in the interest of urban areas to preserve prime farmland. It would be a crying shame for good farmland to grow houses instead of crops. But unfortunately from an economic point of view, by staying in farming, you are devaluing your water from what you could have sold it for. There are economic ways of leveling things. For instance, If you became an extension of a quasi urban water authority and became a water bank, you could stay in farming and get your value there.

Stulp: Peter is right that there are a lot of issues affecting ag other than just water, but water seems to be the lubricant that makes everything work better. We are at a breaking point with the amount of water that's coming out of certain areas. A given

ditch can become totally inefficient if we take too much water. Climate change may hurt us too. Cities need water because they sold water taps and people expect water. But in ag, profitability is in jeopardy at every point. Farmers have had to rely on asset of water instead of profitability of crops. Creates a dilemma. Ark basin has changed. Lost sugar beet and other industries because water resources diminished. How do we keep ag profitable? Only when ag isn't profitable is their water typically for sale. Profitability is an age old problem in ag, but ag is the basis of our country's prosperity because we spend very few of our dollars for food. The price of this luxury is borne by agriculture. We need better transportation in rural areas, yes, but we can't seem to fund urban transportation, much less rural transportation. Lots of good things being done with reuse. But farmers having most difficulty getting augmentation water are those close to urban areas. Ag will probably move east if we don't take some different actions to preserve the prime lands right.

MaryLou Smith: Want to move this forward. Not let these ideas go. Some of us are dedicated to keeping this dialogue going, take action. Have to take ideas and do something with it or it seems hopeless.

Audience--John Singletary: Have seen pressure in recent times on rural areas to find solutions to save themselves. Appreciate Peter's thoughtful approach, calling on the urban areas to look in other directions than ag transfers. Every urban community seems to have a thirst problem. Rather than working to find a municipal water provider that could provide water for the entire area, each entity goes out on their own. Cooperating would be a better way to utilize infrastructure, reduce competition for the water. All the municipal water suppliers go looking for the best ag water still available, usually taking the best land. A regional water provider could incorporate water transportation infrastructure that municipal suppliers need with the infrastructure ag needs. State needs to develop a plan that incorporates land use planning with water supply planning to better use infrastructure to benefit both ag and municipal.

Audience—Unintroduced gentleman: Water law has been glossed over in this. Sacred cow. Has served us well, but do we need some flexibility in water law? My research in the Arkansas shows that sometimes when they buy a farm they buy water off the best farming land, leaving the remaining water to go on a marginal farm instead of farmland better suited for it. Any thoughts on how we could allow flexibility within the law?

Robert Sakata: If we change water law, we would have to have a huge bailout for Colorado's water attorneys! When you start to change the rules, hard to make business plans. If we can live within these rules and find other ways to manage, that would be preferable.

Don Schwindt: Not major changes to the law, but look at tweaking it through things like interruptible supply, water banking concepts, like we have been actively exploring the last few years to try to address that kind of thing.

Stulp: Rather than mess with the law, leave it like it is. It has served us well. Colorado has always been creative at working between opposing entities to come up with solutions. That's where the flexibility may come from. Two willing parties in the transaction, be respectful of what the constitution says.

Peter Binney: Leave it the way it is because you can't bond infrastructure projects on Wall Street if you send signal that you are going to change rules on underlying collateral value of assets. Leave it the way it is—it's good.