

AG TO URBAN WATER TRANSFERS:
MITIGATION OF NEGATIVE EFFECTS VOLUNTARY OR REQUIRED?

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ABSTRACT

Agricultural and urban representatives to Colorado's Arkansas Basin Roundtable spent two years with a neutral facilitator hammering out a set of guidelines they could all agree to in answer to the question: "IF water is to be transferred from agriculture, how can we do it with the least damage to the environment and rural communities?" How the template they developed should be used is the basis of ongoing dialogue. Should the guidelines become the basis for regulation, or should they just be seen as educational? Should third parties to a transfer, such as rural communities, have a voice at the table or should transfers be a matter solely between willing buyer/willing seller? The presenter of this session, who served as the facilitator, will engage the IA audience in dialogue about this difficult question which is increasingly being asked in communities around the country.

BACKGROUND FOR DIALOGUE

"Colorado will see a significantly greater reduction in agricultural lands as municipal and industrial water providers seek additional permanent transfers of agricultural water rights to provide for increased urban demand."

That sentence from the 2004 Statewide Water Supply Initiative (SWSI) sparked the debate which led to a group of rural and urban stakeholders from Colorado's Arkansas River basin in the southeast quadrant of the state to spend two years trying to come to consensus about how to deal with the downside of such transfers.

Despite their differences, the stakeholders were mutually concerned about the effects agricultural to urban water transfers might have on third party interests including rural communities and the environment. They put more than 1400 hours of work into trying to answer the question: "If water is going to be transferred from agriculture, how can it be done right—with full awareness of the issues to be resolved?"

The Arkansas Basin Roundtable is one of nine created by the Colorado legislature to address the projected gap by the year 2030 between a watershed's water supply

and its demand. In the fall of 2006, Lawrence Sena, Mayor of Las Animas, took the microphone at a meeting of the Arkansas Basin Roundtable and said, “Some of us have put together a set of guidelines we would like for the roundtable to adopt—guidelines for cities to follow if they are going to transfer water from agriculture.” Urban water managers on the roundtable didn’t see things quite the same way, particularly the call for urban communities to control their growth. Thus began the work of the Water Transfer Guidelines Committee. State water leaders cited it as an exemplary process: stakeholders on opposite sides of the table working out their differences to cooperatively tackle a significant issue with high stakes for the Arkansas Basin, the state of Colorado, and indeed the entire western United States.

In September, 2008, the committee presented to the Arkansas Basin Roundtable a report of their work, *Considerations for Ag to Urban Water Transfers*, which includes guidelines to be taken into account if and when water is transferred from agriculture. The guidelines offer a number of mitigation measures that could be used, such as payments in lieu of taxes to offset school district revenue decreases in rural areas, or an urban community providing economic development assistance to a rural community. The committee did not, however, attempt to conclude whether such mitigation measures should be legislated or whether it should be voluntary.

The Arkansas Basin Roundtable accepted the report, praised the work of the committee, and spent several meetings debating how the report should be used. Most roundtable member points of view center around one of the following:

1. 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.
2. 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. We should not try to have mitigation become law.
3. 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?

The report has been the topic of much discussion statewide, among groups such as the Interbasin Compact Committee, Colorado Water Congress, and the Colorado Agricultural Water Alliance. Recently, a Colorado state legislator referred to the report in a press release in which he announced that he is formulating legislation to “provide an incentive for urban areas to provide for the future needs of rural communities in water transfers.” His bill would allow judges in water courts to consider mitigation on transfers of water. He said, “The bill would be open to all types of mitigation, a question that the Arkansas Basin Roundtable addressed in its report, *Considerations for Agriculture to Urban Water Transfers*.”

QUESTIONS FOR DIALOGUE

Which of the three points of view expressed by members of the Arkansas Basin Roundtable do you ascribe to? Or do you have an entirely different point of view, or a hybrid point of view? If you were in a sinking boat with a group of water stakeholders who were evenly split on this issue, what could you offer that in fifteen minutes you think everyone could agree on? Would that be useful to the state legislator trying to get his legislation passed? If you had more than fifteen minutes (the boat had a very slow leak and you had plenty of food onboard) what process would you use to try to bring your fellow boaters to consensus?

REFERENCE

Smith, MaryLou. *Considerations for Agriculture to Urban Water Transfers*. Arkansas Basin Roundtable, September, 2008. For a copy of the report, email mlsmith@aquagr.com

Smith, MaryLou. *The Future of Colorado Agricultural Water: A Panel's Perspective, Responses to the Arkansas Basin Roundtable's Report, Considerations for Agriculture to Urban Water Transfers*. Arkansas Basin Roundtable, January, 2009 Colorado Water Congress Convention. For a copy of the report, email mlsmith@aquagr.com