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## Agricultural Leadership Forum: So What Exactly Does "Saving Ag" Mean?

## CONFERENCE REPORTS

### COLORADO WATER CONGRESS SUMMER CONFERENCE 2013: LEADING OUR WATER FUTURE

Steamboat Springs, Colorado August 21-23, 2013

#### AGRICULTURAL LEADERSHIP FORUM: SO WHAT EXACTLY DOES “SAVING AG” MEAN?

The Colorado Water Congress is a leading nonpartisan voice in shaping policy and legislation relating to water development, management, and conservation. In addition to working as an advocate for a variety of legislative and regulatory issues, the Colorado Water Congress provides members with various opportunities for collaboration, networking, and professional development at several events throughout the year. One such event is the Summer Conference. Hosted annually in a beautiful Colorado resort location, the Colorado Water Congress Summer Conference offers excellent topical content on water law and policy. At this year’s conference in Steamboat Springs, attorneys, citizen groups, engineers, ranchers, legislators, and others gathered to discuss the future of water and agriculture in Colorado.

As part of this year’s Summer Conference, Erin Wilson of Wilson Water Group and the Colorado Water Congress Board of Directors moderated a panel discussion on an important question: “So What Exactly Does ‘Saving Ag’ Mean?” The five panelists shared perspectives on the future of agricultural water rights in the face of growing municipal demands. The panel consisted of John Salazar, Commissioner of the Colorado Department of Agriculture; Marsha Daughenbaugh of the Community Agriculture Alliance; Doug Robotham of the Nature Conservancy; Terry Fankhauser of the Colorado Cattlemen’s Association; and John McClow of the Upper Gunnison River Water Conservancy District.

Commissioner Salazar began the panel discussion with a lively presentation on Colorado’s rapidly increasing population and the attendant impacts on the state’s land and water resources. Salazar estimated Colorado’s population will increase by 3-4 million by 2040, a rate faster than the United States growth rate. Naturally, an increased population will stress the demand for water. Salazar estimated this growth will require an additional 190,000 to 630,000 acre-feet of water per year. Emphasizing the significance of farm and ranch water rights, the Commissioner declared agriculture a “cornerstone” of Colorado’s economy. In doing so, Salazar argued that agricultural water rights are vital to the growing state economy and that there is a need to ensure the continued production of agricultural goods as municipal needs grow.

Marsha Daughenbaugh, Executive Director of the Community Agriculture Alliance, focused her presentation on one of her organization’s strategic anchors: the importance of public education on agriculture. As a third generation

rancher, Daughenbaugh's interests are vested in the partnerships developed between the Yampa Valley's resort, business, and agricultural interests to assure agriculture's longevity throughout the area. The Community Agriculture Alliance seeks to preserve the agricultural heritage of the Yampa Valley by encouraging programs and policies that mutually benefit and connect agricultural producers and consumers. Daughenbaugh and her organization believe in the continuing philosophy that the agricultural environment is a valuable part of the community and Colorado must act to preserve it. To share this conviction, the Community Agriculture Alliance connects and educates various community groups with agriculture in the Yampa Valley and provides resources for other regions to build a similar connection. Daughenbaugh's public education work is not limited to promoting the benefits of farming and ranching. For example, she highlighted agricultural lands providing abundant open space allowing unique Colorado ecosystems and wildlife to thrive.

Next, Doug Robotham discussed how The Nature Conservancy decides which lands and habitats to protect. The Nature Conservancy works with communities and businesses to protect and preserve lands and waters vital to the diversity of life on Earth. In Colorado, The Nature Conservancy has helped preserve more than 426,000 acres by establishing thirteen preserves statewide. Robotham pointed to the Nature Conservancy's historic Carpenter Ranch in the Yampa Valley as "a great example of how agriculture and conservation can come together." A new conservation easement project across the Yampa River from Carpenter Ranch, the Wolf Mountain Ranch, aims to permanently conserve up to 6,300 acres that (i) provide critical habitat for Columbian sharp-tailed grouse and sandhill cranes, (ii) support miles of a globally rare river forest corridor, (iii) represent historically and economically important ranchlands, and (iv) preserve historic and scenic views important to the local economy.

Terry Fankhauser, Executive Vice President at the Colorado Cattlemen's Association ("CCA"), encouraged innovation when addressing the issues surrounding agricultural water use. Founded in 1867, CCA is the nation's oldest cattlemen's association. Beef producers voluntarily join CCA and manage it cooperatively, working together to speak on behalf of Colorado's more than 12,000 beef producers. As a representative of cattle ranching interests, Fankhauser observed that risk-aversion and inflexibility will not save agriculture. Instead, farmers and ranchers should be open to creativity where they can gain efficiency. With confidence, Fankhauser stressed that "agriculture does not deserve to be saved, but agriculture does deserve the opportunity to survive."

As the final panelist, John McClow offered a perspective on preserving agriculture in the Upper Gunnison River Water Conservancy District, which uses easements in the Gunnison County area to conserve agriculture. McClow questioned what would happen to agricultural lands if conservation groups could actually "save" such land. He illustrated two contrasting possibilities amongst others in a spectrum of options: (i) easements protect the lands in perpetuity, or (ii) easements protect the lands only until the farmer wants to retire and sell his water to a municipality (jokingly referred to as the "401(k) plan"). While conservation groups prefer the perpetuity option, increased land values in much of Colorado, especially surrounding resort communities, make

it difficult for conservation groups to incentivize ranchers to preserve agricultural land rather than sell the land to developers. One suggestion posed by McCloy involved state funding for a more sustainable water project to match population growth and demand, diverting attention away from ecologically special high-country areas.

The panel concluded with a brief discussion on three relevant and timely topics: The Walton Family Foundation Report, agricultural water conservation, and leasing/fallowing under Colorado House Bill 1248.

The Walton Family Foundation funded a collaborative effort, working with interested stakeholders, to identify innovative ways to allow water transfers from agriculture to urban use while avoiding or mitigating damages to agricultural economies and environmental values. The report evaluated novel water sharing strategies, and developed actionable recommendations to improve water-sharing opportunities in the Colorado River Basin and throughout the West.

Discussion on agricultural water conservation centered first on the issue of how to define such conservation and, second, whether agricultural water conservation can contribute to instream flows or municipal supply. The panel had difficulty answering some of the hard questions on the topic but agreed the problem is still a work in progress.

This discussion led to the topic of House Bill 1248, which authorizes the Colorado Water Conservation Board to administer a pilot program consisting of up to 3 pilot projects, each up to 10 years in duration, in the lower Arkansas River basin. The projects intend to experiment with fallowing agricultural irrigation land and leasing the associated water rights to municipal users in years of shortage.

Overall, the panel spoke positively about the Walton Family Foundation Report, agricultural water conservation, and HB 1248, and viewed each as progressive support for building a creative new approach to Western water management.

*Heidi Ruckriegle*

## **CLIMATE CHANGE AND WATER RESOURCES LAW: A LOOMING ADAPTATION CRISIS**

Denver, Colorado August 29, 2013

On August 29, 2013, the University of Denver Sturm College of Law was honored to welcome Associate Professor Alex Gardner of the University of Western Australia (UWA). Professor Gardner began his legal career as a solicitor in Melbourne, Australia, before receiving his Master of Laws in natural resources law at the University of British Columbia. Professor Gardner has been on the UWA Faculty of Law since 1988. During this time, he has worked with numerous research centers including the UWA Centre for Mining, Energy and Natural Resources Law, the National Center for Groundwater Research and Training, and the Cooperative Research Center for Water Sensitive Cities. Professor Gardner also holds an Adjunct Professorship at the Australian National University College of Law.