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**The Twentieth Annual Rocky Mountain Land Use Institute Conference: Water:
Beyond Dams and Diversions**

THE TWENTIETH ANNUAL ROCKY MOUNTAIN LAND USE INSTITUTE CONFERENCE

Denver, Colorado March 3-4, 2011

WATER: BEYOND DAMS AND DIVERSIONS

[A Panel Session Sponsored by the University of Denver Water Law Review]

As moderator for the panel discussion, Peter Pollock of the Lincoln Institute of Land Policy posed the question of how we get beyond the current solutions to water management and land use in the West when there is such a poor link between the two. Water conservation, new technology, and integrated planning will have to offset the need for new water supply and diversion projects in the future.

Tom Romero, professor at the University of Denver, Sturm College of Law, spoke first about the effects that racial and social inequality have on water planning. Romero explained that, as Denver expanded, the city moved from a largely white to a multi-racial city. Many minority groups concentrated closer to the city and the Caucasian population concentrated largely outside the city. The housing industry also enforced racially-discriminatory covenants until *Shelley v. Kraemer*, the Supreme Court decision in 1948. Romero described that this led to minority groups living in older homes with poor infrastructure. Denver's "blue line" limit on water delivery fueled preexisting anger due to educational desegregation between the city and suburban populations. Romero concluded that there is a need to understand the relationship between racial segregation and social inequality in water development. He argued that, when approaching water planning, color-consciousness, rather than color-blindness will produce the most equitable and beneficial results.

From the Center for Natural Resources and Environmental Policy at the University of Montana, Sarah Bates discussed assured-supply laws. The common practice of states requiring assurance of a secure water supply for new development is almost universal in the West but not common in the rest of the United States. The key goals of basic assured-supply laws are consumer protection, secured pre-development funding for infrastructure, and environmental protection.

Colorado's basic "show me" law, for example, started as a subdivision law to assure a quality and quantity of water capable of servicing the subdivision. Bates explained that this gave a great deal of discretion to developers to decide what was adequate. Another problem with the existing assured-supply laws is that they vary widely from state to state. Many states do not define what is adequate. Some states also have a threshold of fifty or more units allowing circumvention of the regulation for smaller developments.

Despite the shortcomings of current assured-supply laws, Bates maintained that they do encourage better protection of homeowners, higher quality planning, and incentives to reduce water demand. If regulation expands assured-supply laws that are not accurate enough, increased costs for homebuyers and false assurances of the water supply may result. However, the distinct areas for improvement are applying the regulations to all developments and addressing possible limitations on sprawl. Bates stressed that assured-supply laws are not the only way to approach water use issues but they can strengthen comprehensive community plans in a number of ways.

Peter Mayer, Vice President of Aquacraft, presented on the potential for water conservation to meet the West's water demand. The 1.2 million acre-feet per year demand currently in Colorado is expected to increase to anywhere from 1.7 to 2.1 by 2050. Mayer predicted that the natural replacement of conservation fixtures would only have a passive savings of roughly 150,000 acre-feet per year. Mayer's suggestion to make up for the large gap in increased water demand is to pursue water conservation because it is the easiest, least expensive way to use already-existing water sources.

Mayer suggested four conservation best practices developed by Colorado Water Wise: metering all users, developing a rate structure, repairing utilities' water leakage, and increasing public information and educational campaigns. By implementing these strategies, Mayer projected a high potential for savings of 615,000 acre-feet per-year. Conservation cannot be the only solution to increased water demands in the West, but it can be a significant contributor to stabilizing the problem.

Finally, Mayer suggested that the use of a water budget can be very effective, especially when implemented with a rate structure. Mayer stated that the use of a water budget can be the ultimate meeting of land use planning and water conservation. A water budget, whether generous or conservative, gives the customer vital information to help conserve wherever possible.

Next, Abigail Holmquist, Professional Engineer and Recycled Water Program Manager for Denver Water, discussed water reuse from the municipal perspective. Holmquist explained that the United States only reuses five to six percent of the thirty-five billion gallons of reusable wastewater effluent per day. Therefore, there are abundant potential applications for this effluent in municipal, industrial, and private drain water settings.

Holmquist explored several local reuse trends throughout the Rocky Mountain region. Arizona, for example, is pursuing a program where they will inject effluent into the ground to recharge groundwater levels. Policy considerations will ultimately drive the development of reuse projects in the future. Holmquist noted that the benefits of water reuse will become more recognizable because water reuse lessens the load on the drinking water system, delays the need for new drinking water supplies, and is reliable and consistent.

Finally, Jim Holway, Director of Western Lands and Communities Program at the Sonoran Institute, wrapped up the discussion with an overview of water use in the West. Holway defined the driving forces that will be important in the future: population growth, climate change, increasing demands for energy, agriculture, and maintaining the natural environment. The problem in the West, described by Holway, is that the location of water is almost certainly in a different place than the demand for that water.

Holway contends that water managers must embrace and plan for uncertainty in this new era. The twenty to thirty year planning horizons are not enough; plans need to encompass long horizons and include many people with different backgrounds to reach the most comprehensive plan. This concept, Holway described, comes down to democratization. He maintained that local governments wield too much when there should be wider-ranging state standards.

Water infrastructure is very important because it shapes growth patterns of communities. Holway concluded that there should be a comprehensive management plan for water infrastructure that includes system optimization of groundwater, surface water, and effluent use that all comes together under one cohesive plan.

Joseph Norris

WATER LAW REVIEW 2011 SYMPOSIUM: A VISION FOR THE FUTURE: BALANCING POPULATION GROWTH WITH INCREASING WATER DEMAND

Denver, Colorado April 15, 2011

NEEDS AND DEMANDS: WHAT DOES THE FUTURE REALLY LOOK LIKE?

Jacob Bornstein, program manager at the Colorado Water Conservation Board (CWCB), presented the first session of the day on possible solutions to Colorado's growing water demands.

Bornstein began his presentation with the following questions:

- How many of you drink tap water, shower, or do laundry?
- How many of you enjoy skiing and other amenities of the state?
- How many of you come from farming or ranging communities?
- How many of you consume Colorado beef, lamb, produce, and wine?

The purpose of his exercise was to illustrate that water is not just about politics but that it is personal. Because each one of us uses water each day in so many different ways, water is personal and, therefore, contentious.