

STATEWIDE WATER ADVISORY GROUP MEETING SUMMARY

Meeting Number 5, July 7, 2006, 10:00 AM to 2:00 PM

I. Introductions

Tom Carr opened the meeting by asking each of the members to introduce themselves. Tom then introduced the three guest speakers that would be making presentations to the group on how their State funds water projects. The guest speakers were Rod Kuharich, Executive Director for the Colorado Water Conservation Board, Jeanine Jones, Interstate Resource Manager for the California Department of Water Resources, and Dennis Strong, Director of the Division of Water Resources for the State of Utah.

II. Presentations on State Funding of Water Projects in Colorado, California, and Utah

-Colorado -

Rod Kuharich, Executive Director of the Colorado Water Conservation Board made the first presentation. The Colorado Water Conservation Board (WCB) is responsible for overseeing the management of interstate compacts, flood and drought protection, conservation, instream flows and natural lake levels. In Colorado, there are four basic ways to finance a water development project.

Bonding is the most traditional way and is tax exempt. Most large projects are funded this way and are typically used by governmental entities such as municipalities.

The WCB can finance up to 90% of a water project's cost including engineering fees. The source of these funds are 1) a revolving construction loan fund, which was established in 1973 and currently has about \$300 million in the account, and 2) a Mineral Severance Tax that was established in 1980 and currently has about \$200 million. The WCB receives about 25% of the revenues generated each year from the Mineral Severance Tax. The account from the Mineral Severance Tax has almost doubled in the last couple of years due to the increased drilling for methane within Colorado.

The WCB is only allowed by statute to fund raw water projects. Their funding authority stops at the intake to the water treatment plant or municipalities' infrastructure. The current list of borrowers are agriculture, municipal and commercial entities. The interest rates charged for loans vary according to the type of water user. Thirty-year interest rates to agriculture borrowers are 2.5%. Thirty-year interest rates to municipal borrowers range from 3.25% to 4.25%. Thirty-year interest rates to commercial borrowers are 5.25% and the WCB gets very few requests from commercial borrowers due to the rather stringent collateral requirements.

The WCB's construction fund is their primary source of funding for administration of the WCB. The WCB has only had one default on a loan and that was for \$240,000.

An application and loan feasibility study must be submitted to the WCB to obtain funding. The WCB has approved small grants in certain situations to cover the costs of

completing a loan feasibility study. If the loan is under \$5 million, the WCB can approve the loan at a bi-monthly meeting. This process usually takes about 4 to 6 months. If the loan is greater than \$5 million, the application is due by August 31 of each year and requires legislative approval and the governor's signature. The largest loan so far has been about \$50-\$60 million, but larger projects are starting to be submitted due to the fact that the easy projects have already been completed. The key to obtaining a loan is collateral and the ability to pay. The WCB has funded new pipelines, new ditches, reservoirs and purchase of water rights. The WCB is currently looking into conditional water rights, but there really are no appraisers to determine the value of a conditional water right.

Another source of funding in Colorado is the Colorado Water Resource and Power Development Authority (Authority), which was established in the 1970s. The Authority offers a revolving loan program exclusively for water and wastewater projects. The funding source is from federal grants (Clean Water Act and Safe Drinking Water Act). A portion of the money goes to fund the project and the other part is used to subsidize bond issuance.

In order to take advantage of this program the project must be eligible and be on the Authority's list, which is updated annually. Loans are approved by the Authority's board and then identified to the legislature. The legislature passes a resolution to approve the loan. It does not require the signature of the governor. Planning and design grants up to \$10,000 are sometimes approved mostly for lower income, small communities. The criteria for accessing this grant are the community must be under 10,000 people with a median income less than the state average, or the water and wastewater rates equal to or greater than the state average.

The Authority also offers a revolving loan fund for subsidizing the acquisition of bonds for small water resource projects up to \$500 million in loans for investment grade borrowers and \$2.55 million in loans for non-investment grade borrowers. See brochure posted on web (<http://www.cwrpda.com/SWRPsubmenu.htm>). The Authority takes care of all the costs except the legal costs for issuance of the bonds to ensure an AAA rating. All costs can be financed through the bonds.

Another process for obtaining funding was recently established with the legislative creation of the Interbasin Water Commission. The Commission was established to explore interbasin issues and to facilitate work between basins. A fund was established and a process developed. A Commissioner and a State Committee was appointed. Roundtables in each basin were also established. A \$40 million fund for in low interest loans and grants was established. In order to be considered for a loan the project must first be a part of the statewide water supply program. A needs assessment that identifies existing and future water supplies and demands must also be completed. Upon completion of the needs assessment, the roundtable makes a recommendation to the State Committee, which ultimately makes a recommendation to the WCB. This is still a very new program and all projects will be highly scrutinized by the WCB. The legislation establishing this Commission has a 4-year sunset provision.

After the presentation there were several questions asked:

Herb Dishlip asked if only districts can borrow money and if so how are districts formed.

Rod Kuharich responded that counties have traditionally stayed out of this program but they do have some regulatory authority. In Colorado, there are three water conservation districts that were created by statute. There is also water conservancy districts in Colorado, which are quasi-governmental entities created by a vote of the people. In Colorado there are also special districts created by counties or cities as a taxing entity to facilitate the repayment of debts. These types of districts have recently taken on a more regional role. Recently governmental entities and quasi-governmental entities have been joining forces to create authorities. An example of this is the El Paso County Water Authority, which is dependent exclusively on non-renewable groundwater. The County, a couple of special districts and several communities all with tax exempt bonding capability came together to form the Authority. The WCB is the only entity that can make loans for commercial entities.

Herb Dishlip asked who the typical borrower is in Colorado.

Rod responded that agriculture has historically been largest borrower, but the WCB has been getting more and more applications from municipalities, districts and authorities. The WCB has to be careful, because one large project could virtually use up all of the funds. The WCB focuses on smaller district and agriculture projects. Agriculture has taken advantage of most of the funds to update their irrigation systems and rebuild dams. Municipalities have recently been applying for funding to construct or enlarge reservoirs, flood assistance and infrastructure. Lately the WCB has been getting into the purchase of water rights and or exchange of water from one place to another, which is highly political.

Senator Jake Flake stated that Rod Kuharich had mentioned that there were two pools of money and one of them was \$300 million. He asked if the \$300 million was appropriated by the legislature.

Rod stated yes. The legislature originally appropriated \$40 million in 1973 and it has grown to more than \$300 million. Surprisingly, the legislature has not raided the fund yet. The legislature has felt the development of water infrastructure is very important. The legislature did take \$40 million from the fund to set up the Colorado Water Resource and Power Development Authority, which is suppose to be paid back to the WCB. \$42 million was also taken from the fund to settle a legal dispute with the State of Kansas.

Senator Flake asked what year the fund was established.

Rod stated 1973.

Senator Flake asked if the original \$40 million appropriated in 1973 had grown to be more than \$300 million and if so how did it grow to be that much when interest rates are 2% to 3%.

Rod responded yes it was a one time appropriation that had grown to more than \$300 million. He then reminded the group that the interest rates in the 1970s and 1980s were much higher than they are today. Rod went on to say that the WCB doesn't allow borrowers to play the interest game. The WCB does not allow the refinancing of a loan when interest rates are adjusted downward. A borrower has the option of seeking a better interest rate through the bond market if they desire and the WCB has had some borrowers pursue that option.

Senator Flake then asked Buzz Walker of Payson if Payson would pursue this type of funding option if it were available in Arizona.

Buzz asked if there are any situations where the county helps to pay.

Rod stated no.

Bob Strain from Sierra Vista asked what type of structure do you have to have in order to borrow. Are authorities created by legislation?

Rod stated Conservation districts are created by legislation. Conservancy districts are created by a vote of the people and authorities are quasi-districts formed by local governmental entities joining forces. All three entities are creatures of statute.

Steve Olson from AMWUA asked what the relationship is between the WCB and private water companies.

Rod responded that private water companies provide water for municipal and industrial use and are eligible to seek funding, but to date there have been very few that have applied for funding. If a private water company does apply, the WCB looks very closely at their ability to pay the same as it does for everyone else. When dealing with state funds it is imperative that the funds are not put at risk any more than what a banker would consider being normal risk. Collateral and ability to pay policies are on the WCB's website.

Ron Doba asked if the terms for all loans are similar.

Rod stated no. Terms are determined by the board and are based on cost and debt. Agriculture and commercial are arbitrary. A water development authority can subsidize with bonds, which dictates the interest to maintain an AAA rating.

Copies of Rod's handouts are posted on the website.
(http://www.azwater.gov/dwr/Content/Hot_Topics/SWAG/default.htm)

-California -

Jeanine Jones, Interstate Resource Manager for the California Department of Water Resources (CDWR) made a presentation on how the State of California funds water projects. See copy of the presentation and her handouts on the website.

After the presentation there were several questions asked:

Bill Garfield of the Arizona Water Company asked if California had a strict ranking system for the loan process.

Jeanine stated they have a strict scoring process and fund until the money is gone.

Bill Garfield asked if there were different factors they consider for each type of project.

Jeanine responded yes, the criteria changes depending on the type of project or program. For example, a proposal may receive points for having a groundwater plan on file or may receive points if a proposal can demonstrate benefits to the environment, etc.

Sid Wilson from Central Arizona Water Conservation District commented that during the presentation Jeanine indicated that they assist small communities to the point of actually filling out applications. Do you have an ongoing program to ensure that any grant that has been secured is actually utilized?

Jeanine responded that most applicants are small municipalities or rural communities that have no staff resources and enlist the aid of a volunteer manager. If the CDWR assists a community in getting a grant, the community generally ends up hiring a consultant with a portion of the grant money to manage and implement the grant.

David Snider from Pinal County stated that CDWR appears to have a rather liberal policy for assisting in the administrative end of securing a grant.

Jeanine responded they have staff resources to assist in the identification and application process. Once they obtain the grant they are generally okay.

David Snider asked if they were proactive in getting out to do outreach to assist rural communities.

Jeanine stated yes. One of their major activities is to get out and try to assist people.

Rod Kuharich from the State of Colorado asked who pays off the bonds.

Jeanine stated the funds are general obligation bonds and are repaid by the citizens of California.

Alan Stephens from the Governor's office commented that California has a very large general obligation bonding authority whereas Arizona's authority is about \$300,000.

Jeanine stated that in the upcoming election there is about \$60 million in GO bonding on the ballot.

-Utah -

Dennis Strong, Director of the Utah Water Resources Division made a presentation on how Utah funds water projects. See copy of the presentation on the website.

After the presentation there were several questions asked:

Tom Buschatzke from the City of Phoenix asked if the water rights in the State of Utah had been adjudicated and how Utah addresses the issue of funding in areas where water rights are not adjudicated.

Dennis responded if they don't have a water right they don't have a project.

III. Organization Work Group Discussion

Herb Dishlip thanked everyone who responded to the questionnaire and stated that the responses were helpful in deciding a proposed course of action to pursue.

Herb then stated that SWAG has had the opportunity to listen to a number of presentations from several rural areas around the state. The group has also listened to presentations from examples of water authorities or districts within the state. Within the rural area presentations, there were many commonalities as well as differences in the issues and the way rural Arizona was attempting to address the issues. Herb emphasized the important thing to remember is that there are possible solutions to many of the problems and issues. Herb also pointed out that the presentations that were made today were examples of solutions other states are using to tackle many of the same issues.

Herb reminded the group that the genesis of SWAG is to develop solutions for water issues in rural Arizona. He stated there might not be a single statewide solution, or there may already be statutes in place that might assist rural Arizona with a little tweaking. The goal of this group is to identify solutions and ultimately draft legislation. Herb stated the drafting and introduction of legislation for the upcoming session is the driver behind the timeframe for completion of this effort. Any solutions identified will have to be vetted through the public input process prior to being drafted into legislation language and introduced.

Based on the responses to the questionnaire, the first recommendation Herb made was to consolidate the work groups from the originally proposed three to two. The work group dealing with the "role of government" will be consolidated into the other two work groups. Herb stated that from a logistic standpoint it also makes sense because we can

hold both meetings on the same day, one meeting in the morning and the other work group meeting after lunch.

Herb then made a presentation on the proposed process and structure of the work groups. See copy of the presentation on the website.

After the presentation Herb stated the major headings under the two proposed groups are in no order of priority, but are just the major topics. Herb emphasized that he was not proposing to pursue the implementation of the major headings in his presentation; he was just creating a mechanism for the group. Herb then asked how to focus the attention of group to address the major topics. In other words what should the members do with the topics now.

Herb stated that he sees it as a series of steps with the first step to prioritize the list of major topics due to the limited amount of time. The second thing is to scope the topic correctly. In other words, what do the members want here and what can the group recommend, keeping in mind legislation? The third thing to consider is where the group is starting from. In other words, what are the current statutes in law that deals with the issues? Herb stated that ADWR legal staff should be able to provide that information. The meat of the question, as proposed by Herb, is if the current law doesn't create the opportunity, or is an impediment, what needs to be changed and how do we go about making the change.

Herb stated that one option to begin the discussions is to develop straw man proposal because it is important to have something to start with. It is imperative that the group has a very frank discussion about any proposal. Herb said that from his perspective each member should come to the group with one foot in the local area, but also be open enough to look at the big picture and be willing to consider other options for others. The recommendations that are reached by the group may address the problem at two levels. At the one level, there may already be a statute that addresses a recommendation, but due to policy or rule making, it doesn't work. The second level involves new legislation to implement a recommended solution. Herb stated the product of the work groups should be conceptual recommendations written in English and not the actual legislation.

Herb then outlined the proposed schedule in order to have a product ready for the legislature. Three meetings are currently scheduled for the work groups to focus on the list of major topics. Herb stated he envisions recommendations to be in bulleted fashion. The three work group meetings are scheduled for July 21, August 4, and August 18. After the work group meetings the entire SWAG will meet on the September 1 to go over recommendations. (The last meeting may be changed due to the Labor Day holiday). Group one would meet from 9:00 a.m. to 12:00 p.m. and the second group would meet from 1:00 p.m. to 4:00 p.m.

Herb then asked the group what they thought.

Sid Wilson from Central Arizona Water Conservation District stated that it doesn't sound like very much time if you are looking to actually draft legislation for next session. He also stated that in order to pull this off the work groups are going to have to be facilitated with some very strong facilitators.

Herb Dishlip responded there would be strong facilitation and it is his hope that the presentations made thus far will serve to answer most of the questions about the background.

Bob Strain asked if they were looking for a recommendation on the process and also asked if it could be possible to overlap the meetings to accommodate members who have to contend with traffic if they leave around 4:00p.m.

Herb Dishlip responded yes we are looking for a recommendation on the process and opened the discussion of overlapping the meeting to the group.

Greg Kornrumph from Salt River Project stated that overlapping the meetings creates a problem for those individuals that want to participate in both work groups.

Carole Klopatek from the Fort McDowell Yavapai Tribe asked if the group was looking to develop two legislative packages and if so, how do you ensure that you capture the ideas from individuals that only participated in one work group.

Herb Dishlip responded that the recommendations from each work group would ultimately come back to the SWAG as a whole to hopefully make one recommendation from the entire group. A member only participating in one work group could still comment on any recommendations from the other work group when the SWAG comes back together to address all of the recommendations.

David Snider asked if it might be helpful to create a smaller sub-working group to hammer out smaller issues.

Herb Dishlip stated that would be okay if people were willing to do so.

Buzz Walker stated that he agreed with Sid Wilson of the need for a strong facilitator that can also contribute to the process.

Gretchen Kent from Fort Huachuca stated that September 1 is the day before Labor Day and might create some conflicts with people attending.

Herb Dishlip noted that the September 1, meeting date would be moved.

Deb Hill from Coconino County suggested that the group do away with lunch and work from 9:30 a.m. to 12:30 p.m. and 12:30 p.m. to 3:30 p.m.

Sid Wilson stated that he did not like the overlap.

Herb Dishlip asked if it would be okay to have lunch without actually breaking.

Bill Garfield from Arizona Water Company stated that six straight hours of working is an awful lot of time to be spending without a break. It is hard to be productive for that long of period of time without a break.

Tom Carr asked if the group wanted to split the two meetings over two days.

Bill Garfield stated that he didn't know how many people were in both groups, but either way attending one meeting basically kills the entire day anyway.

Herb Dishlip asked for a show of hands how many people want to participate in both work groups. More than 80% raised their hands.

One of the members asked why the entire SWAG just didn't address everything as a whole.

Herb Dishlip stated the purpose in having work groups is to narrow the focus to the specific issues.

One of the members suggested focusing on one topic at one meeting, the second topic at the second meeting and half of each topic on the third meeting for clean up.

Herb Dishlip noted that ADWR staff input would be needed and also thought it would be good to have some time to let ideas simmer from the first meeting for discussion at the next meeting.

Bill Garfield agreed with Herb that it would be better to keep the groups split to let ideas simmer until the next meeting.

Herb Dishlip then asked the group to go back to the list of major topics under each work group and provide input about the prioritization of the list of topics. He asked what the prioritization of the list of major topics under the Growth and Water work group should be.

Rick Lavis from the Cotton Growers Association asked when ADWR legal staff would provide a briefing.

Herb Dishlip stated the ADWR legal staff would provide input as issues came up in the work groups.

Buzz Walker stated he liked the priorities for Growth and Water just as they were presented in Herb Dishlip's presentation.

Gretchen Kent from Fort Huachuca suggested the order be bullet 1 (water adequacy) and then bullet 5 (statewide conservation & drought), followed by bullets 2, 3, and 4.

Deb Hill from Coconino County stated that bullet 2 dealing with platting authority for counties, taking water into consideration, is very important to them.

Bill Garfield stated he liked Buzz Walker's suggestion of leaving the list of topics in the order in which they were presented in the presentation.

Herb Dishlip then asked about the prioritization of topics for work group 2, Water Supply Development. He stated for example: does it make sense to do funding without first creating an authority?

Pat Call from Cochise County stated that number 5 (creating an authority or district) should be the first priority.

Mark Stratton from Metropolitan Water agreed with Pat Call and noted that number 1 (obtaining water rights) should be next.

Sid Wilson asked what was the point of bullet 5 (creating an authority or district).

Herb Dishlip responded that people might need a way to organize, which currently isn't permissible in statute in order to successfully operate. Bullet 5 would look at whether or not there is a current way to create an entity, what is needed to operate, how it can be created, how it can be governed, etc.

Bob Strain stated that an entity such as an authority or district could also selectively adopt AMA tools if so desired.

Herb Dishlip agreed and stated that part of the discussion would be whether to build a pipeline while the other part would deal with whether or not to also plan and manage the resource.

Bill Garfield stated that the discussions would not only look at the identification of funding mechanism, but also the required legislation in order to obtain funding.

Herb Dishlip stated that the first question would be, do the people really want it.

Senator Flake stated that in his opinion bullets 2 (watershed health) and 3 (new infrastructure) are the most important because improving watershed health will create water.

Gretchen Kent from Fort Huachuca stated that once we have a better sense of bullets 2 and 3, we could then address how to do bullet 5.

Pat Call from Cochise County stated that the development of new water is important, but without the ability to have more authority there is not much we can do. Pat Call still felt that bullet 5 should be the top priority.

Herb Dishlip stated that at the first meeting of the Water Supply Development work group bullets 2, 3 and 5 would be discussed. We will set the agenda and it is important to know that prioritization does not mean anything drops of the list for discussion. Prioritization just sets the order in which each topic is dealt with.

Herb Dishlip stated that the Growth and Water would meet first in the morning.

Bill Garfield asked if the September 1 meeting could be used for an additional work group meeting if needed.

Herb Dishlip responded that September 1 might be too difficult due to the Labor Day weekend.

Dennis Rule from Tucson asked what was going to be on the agenda for work group number 2 (Water Supply Development).

Herb Dishlip responded topics 2 and 5

Tom Buschatzke from the City of Phoenix requested that they receive all of the written materials more than 2 days in advance of the meeting.

A member asked if the presentations will be on the website.

Tom Carr responded yes. Tom then informed the group that Herb Guenther would be scheduling visits around the state to discuss the process. The meetings should begin around the middle of August and be completed by the end of September. As soon the schedule is finalized, it will be shared with the group.

Herb Dishlip stated that he had received a recommendation from Ron Doba of Flagstaff to invite someone from ASU that presented at the Water and Growth workshop last week.

Bill Garfield asked if anyone had a suggestion for bringing in a speaker to make a presentation on funding possibilities.

Herb Dishlip stated that we would look into getting a speaker.

Tom Carr asked the members to please email any possible suggestions for a speaker to address funding possibilities to either himself or Tom Whitmer. Tom then stated that he had passed out some CDs to some of the members. The CD contains the first two chapters of the Statewide Water Atlas that has been under development for the last 18 months. The first chapter is an introduction and the second chapter covers the eastern

part of the Little Colorado River Plateau. If you are interested in seeing a copy of the first two chapters, you can go to the website and download a copy.

Tom then made a call to the public and no one responded.