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AGENDA: Evolving Regional Frameworks for Ag-to-Urban Water Transfers

University of Colorado Boulder. Natural Resources Law Center

Western Water Policy Program

Western Water Assessment

Red Lodge Clearinghouse

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Presentation & Workshop on . . .

Evolving Regional Frameworks for Ag-to-Urban Water Transfers

December 11, 2008: 8:30 AM – NOON,
University of Colorado Law School



The permanent transfer of water from agricultural users to municipalities has become a common feature of water management in several western states. In many cases, these voluntary market-based transfers provide significant benefits to both the buyers and sellers, but many third parties—including remaining irrigators, rural businesses and communities dependent upon agricultural economies—have been negatively impacted. While some impacts of these so-called “buy and dry” transfers are largely unavoidable, many can be lessened by temporary arrangements that only shift water to cities in years when municipal supplies are inadequate, such as drought and post-drought storage recovery, and by consolidating individual farm-to-city water transfers within a regional framework where cumulative impacts can be anticipated and mitigated. Additionally, regional water transfer frameworks can potentially reduce the transactions costs (e.g., legal and engineering expenses, approval time) associated with shifting water, making water transfers a more cost-effective mechanism for cities adapting to the challenges associated with growth and climate variability.

In May 2008, the Lower Arkansas Valley “Super Ditch” Company was established to play this role in the active water market in southeastern Colorado, building upon the experiences and innovations of other regions—namely, the Palo Verde Irrigation District in Southern California, and the Fremont-Madison Irrigation District in Idaho. Please join us for a review of the experience in these three regions.

- **Peter Nichols** — General Counsel of the Lower Arkansas Valley “Super Ditch” Company. Trout, Raley, Montano, Witwer & Freeman, Colorado
- **Ed Smith** — General Manager, Palo Verde Irrigation District, Southern California
- **Jerry Rigby** — Counsel for Fremont-Madison Irrigation District, Idaho. Rigby, Thatcher, Andrus, Rigby & Moeller

Following the presentations, a panel of respondents, lead by the Dean of the CU Law School **David Getches**, will discuss the findings and concerns.

CLEs: 4

Fee: Attendance FREE
\$20 for CLE
\$8 parking

RSVP to:

Heidi.Horten@colorado.edu
(303) 492-1286

Presented by:



Western Water Assessment

Also of Note: The Ditch and Reservoir Company Alliance's 7th Annual Convention in Pueblo (Feb.19-20, 2009) will address: “Ag to Urban Transfers of Water: Can Ditch Companies Come Out Ahead?” See <http://www.darca.org/content/view/243/2/> or contact DARCA at john.mckenzie@darca.org (970- 412-1960).

Presentation & Workshop on . . .

Evolving Regional Frameworks for Ag-to-Urban Water Transfers

December 11, 2008

University of Colorado Law School
Wolf Law Building, Wittemyer Courtroom
8:30 to noon

8:30 WELCOME AND INTRODUCTION

8:35 to 10:15 CASE STUDY PRESENTATIONS

- **Jerry R. Rigby**, *Rigby, Thatcher, Andrus, Rigby & Moeller*
(and Counsel for Fremont Madison Irrigation District)
- **Ed Smith**, General Manager, *Palo Verde Irrigation District*
- **Peter Nichols**, *Trout, Raley, Montano, Witwer & Freeman, PC*
(and General Counsel of the Lower Arkansas Valley “Super Ditch” Company)

10:15 to 10:40 BREAK

10:40 to 12:00 PANEL OF RESPONDENTS AND AUDIENCE Q&A

Moderator: David Getches, Dean and Raphael J. Moses Professor of Natural Resources Law, University of Colorado Law School

- **Mark Pifher**, Director, *Aurora Water*
- **Adam Schempp**, *Environmental Law Institute*, Washington, D.C.
- **John McKenzie**, Executive Director, *Ditch and Reservoir Company Alliance (DARCA)*
- **Larry MacDonnell**, Attorney, Author and Professor

Sponsored by:



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Presenters and Panelists

LAWRENCE J. MACDONNELL is an attorney and consultant in Boulder, Colorado. His practice focuses primarily on water resources and on ways to make development more environmentally compatible. He was the first director of the Natural Resources Law Center at the University of Colorado Law School a position he held for 11 years.

John McKenzie received both his BA in American Studies and his JD from the University of Colorado at Boulder. He obtained his MS in Agricultural and Resource Economics from Colorado State University. John has been involved with production agriculture, marketing, policy, and water issues for more than 35 years and lives on the farm in Boulder County that has been in his family since 1893. His paternal great-grandfather came to the gold camps of Colorado in 1866 and his maternal great-grandfather settled in the San Luis Valley in 1858. Through his business, Innovastat Corp, he provides training and consultation in risk and decision analysis, domestically and internationally, with emphasis on agriculture and natural resources. He was a founding board member of the Ditch and Reservoir Company Alliance and currently serves as its executive director.

Peter Nichols is a graduate of the CU Law School and a long-time friend and collaborator with the Natural Resources Law Center including serving as the lead author of "*Water and Growth in Colorado*" (published by the NRLC in 2001). He is an attorney with the firm of Trout, Raley, Montano, Witwer & Freeman and serves as General Counsel of the Lower Arkansas Valley "Super Ditch" Company.

Mark Pifher is the Director of Aurora Water and the former director of the Colorado Water Quality Control Division. Aurora has been a pioneer in temporary ag to urban transfers, having executed a contractual leasing arrangement with the Rocky Ford Highline Ditch Company after the 2002 drought that was beneficial to both parties. Aurora has also been a leader in revegetation of agricultural lands and the use of drip technology to maintain lands in production while transferring a portion of the historic yield. Aurora Water took a very active role in the Water Transfers Committee of the Arkansas Basin Roundtable and in the preparation of its recent report entitled "*Considerations for Agriculture to Urban Water Transfers.*"

Jerry Rigby, since 1994, has served as a board member and is current chairman of the Idaho Water Resource Board. He was recently appointed as one of Idaho's members to the Western States Water Council by Idaho Governor Otter. He is the managing shareholder in the law firm of Rigby, Andrus & Moeller in Rexburg, Idaho where he practices law with emphasis in Water Law, Electric Cooperative Law, Estate Planning and Litigation. He represents several business enterprises, water Irrigation districts, canal companies, the Committee of Nine and Electrical Cooperatives in the southeast Idaho area. He has given several seminar lectures on water law related issues. Jerry holds a J.D. degree from J. Reuben Clark School at Brigham Young University and B.A. degree from Brigham Young University in Economics

Adam Schempp is Director of the Western Water Program at the Environmental Law Institute in Washington, DC. He leads the Institute's work on water rights, allocation, and use. His current work includes development of a guide to adaptations of the prior appropriation system and the benefits they have to water use efficiency. Adam holds a bachelor degree in Ethics, Politics, and Economics from Yale University and a J.D. from the University of Virginia School of Law.

Edward Smith Graduated from the University of Arizona in 1970 with a B.S. in Agronomy. From 1973–2000, he was Managing partner at The Dune Company of Blythe, a retail fertilizer and farm chemical business in the Palo Verde Valley with sales approaching \$10,000,000 annually. Since 2000, he has been General Manager of the Palo Verde Irrigation District. From almost from day one, he began working with Board members of the District in negotiations with the Metropolitan Water District of Southern California to facilitate a 35-year land following/water transfer program. That program has been in full implementation since August 1, 2005.