



November 29, 2010

To: IBCC; **Cc:** Governor Ritter and Governor-elect Hickenlooper

From: Save the Poudre: Poudre Waterkeeper

Re: Comment on the IBCC's "Statement on Role of the State in Supporting Water Supply Processes and Projects" document

Dear IBCC,

Thank you for your service to the citizens of Colorado by serving on the IBCC. We appreciate your willingness to volunteer for the time-consuming and often controversial task of mapping a path forward for water supply and river protection in Colorado.

Save the Poudre: Poudre Waterkeeper's mission is to protect and restore the Cache la Poudre River of northern Colorado, a river that is already severely depleted, and due to several proposed dam and reservoir projects is one of the most endangered rivers in America. As it runs through Fort Collins, the Poudre River is sometimes drained completely dry (see <http://savethepoudre.org/photo-gallery-2010-07-19b.html>). By the time the river reaches downtown Fort Collins, 60% of its water has been drained out in an average year. Multiple proposed dam, reservoir, and pipeline projects threaten the river including the massive Northern Integrated Supply Project (NISP), the Seaman Project, the Halligan Project, and the Bellvue Pipe (proposed by the City of Greeley). In addition, the Windy Gap Firming Project threatens to be used in conjunction with NISP to further deplete the Poudre as well as provide large amounts of unregulated water to sprawling water-wasting cities in northern Colorado and to a highly polluting coal-fired power plant in the Poudre River watershed.

Due to all these serious threats, the Poudre River is at ground zero for river destruction in Colorado and in the Southwest U.S. The battle to save the Poudre is likewise one of the biggest

river conflicts in the Southwest – at present, 19 environmental groups have partnered in the “Save the Poudre Coalition” in a fight to keep the river alive.

Please know that your actions and policies regarding what are called “Identified Projects and Processes” (IPPs) may have more of an impact on the Poudre River than on any river in the state of Colorado. Because your actions may have an extraordinary impact on the Poudre River, we offer comments (below) on your draft document “Statement on Role of the State in Supporting Water Supply Processes and Projects, Draft Document, Revised October 12, 2010.” (Your draft document is Appendix A in this letter.) The numbered items below correspond to the numbered items on your draft (the lettered items do not correspond with the lettered items in your draft, but are a listing of our comments under each of your numbered items).

1. As the State considers supporting water supply projects, please be aware of the following information:

- a. We have serious concerns about the apparent fact that the IBCC and the CWCB are not scientifically evaluating IPPs using economic or environmental analyses. So far, the documents produced by CWCB and IBCC merely list the IPPs and seem to suggest that the majority of IPPs will move forward to “fill the gap.” We appreciate the fact that the CWCB’s “2050 Municipal and Industrial Gap Analysis” only assumes that 40% - 60% of the IPPs in the South Platte basin will be constructed. By evaluating those IPPs (such as NISP) using economic and environmental analyses, CWCB and IBCC would likely yield a dramatically lower success rate in the Poudre River basin, and then could better inform policymakers and the public about necessary alternatives in a timely manner that would likely save money for all participants.
- b. Some of the IPPs have a clearly defined federal permitting process underway. State intervention in those permitting processes may complicate legal outcomes that are intended to assure unbiased decision-making by federal permitting agencies. As one example, State financial support may have already severely complicated the Halligan/Seaman process because the applicants may have mis-used their CWCB grant – they used it solely to refine their “preferred alternative” rather than to do actual “Shared Vision Planning” that studied all alternatives to the projects.
- c. Any type of State support for IPPs should also be coupled with much stronger State support to protect Colorado’s rivers including the Cache la Poudre.
- d. Any State financial support for IPPs should be cognizant of the fact that one of the biggest problems causing water waste in Colorado is that water is undervalued. Stated differently, the cost of water to consumers does not equal the “true cost of

water” including the externalized cost to the environment. Colorado’s rivers are routinely drained completely dry, but this ecological river-devastation does not show up on any financial balance sheet. Continuing to publicly subsidize wasteful water projects will likely continue the unnecessary destruction of Colorado’s rivers. Conversely, forcing water projects to stand on their own financial feet (rather than publicly subsidizing them) will likely cause the “true cost of water” to be publicly revealed while leading to greater river protection statewide. Likewise, as an alternative to many of the proposed IPPs, investing in water projects that primarily focus on water conservation can be more reliable, cheaper, and faster to implement.

- e. We are not convinced that the DNR is the appropriate state agency to lead this IPP-support effort. As just one example, the DNR is leading the IBCC and Roundtable processes, but the South Platte Roundtable in our watershed absolutely does not represent a diversity of stakeholders – out of 51 appointed participants, only 2 represent “non-consumptive” needs (that’s 4%!). Of the 19 organizations partnering in the Save the Poudre Coalition, none have a voice on the South Platte Roundtable. Stated differently, the biggest conflict in the South Platte basin and one of the biggest conflicts in the Southwest U.S. – the battle to save the Poudre River – is completely voiceless in the public and state-funded IBCC/South Platte Roundtable process. The partner groups in the Save the Poudre Coalition represent over 3 million American citizens, including tens-of-thousands in northern Colorado.
- f. The goal of IBCC support for IPPs should be to support water supply projects and protect Colorado’s rivers and environment, not “move the project through the regulatory process.”
- g. IPP opponents and any other interested parties should also “have the option to directly coordinate with and educate the task force and seek the task force’s involvement.” Public input, for or against any IPP, is absolutely critical, even more so when the public’s money is being spent.
- h. IPP proponents, opponents, and the task force should all have the opportunity to engage in an open dialogue to address impacts of the project.

2. From an outsider’s perspective, the first sentence in item #2 reads like anti-government, anti-regulatory propaganda. It inappropriately mischaracterizes the agencies as being obstructionist as opposed to protective of the public interest and the natural resources of the State. Surely the IBCC doesn’t mean to insinuate that State agencies “*make* problems and create obstacles” as they enforce the necessary laws and regulations – many of which were passed by wide majorities of past legislatures and enacted with broad public support – that protect Colorado’s

people, rivers, and environment? Unless we are totally misreading this sentence, we very strongly recommend that it be deleted.

3. Any conference with the State's Congressional delegation should include the objective of protecting Colorado's rivers and environment.

- a. Again, we are not convinced that the DNR is the appropriate agency for this task (see #1e above).
- b. Any direction given to federal permitting agencies should also focus on the overall protection of Colorado's rivers and environment.

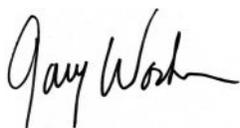
4. We are very concerned about the Basin Roundtables' efforts to analyze projects as well as potentially dole out large sums of public money (see #1e above). Because the South Platte Roundtable in our watershed absolutely does not represent a diversity of stakeholders, we do not believe it should be doling out large sums of public money to support water projects.

5. Please be fully aware that there is extraordinary conflict around all of the projects proposed in the Cache la Poudre River basin. We do not perceive the IBCC, the South Platte Roundtable, the CWCB, or the DNR to be the appropriate arbiter to mediate this conflict. We recommend that outside facilitators/mediators be hired to convene any such effort. We recommend that the hiring of any such mediator – including the specific people hired – be mutually agreed upon by all conflicted stakeholders. Any use of public funds must be fully and transparently vetted by the public.

6. We recommend that no “public advocacy,” “direction to the Governor and State agencies,” “legislative resolutions,” or agency “advocacy for the project” occur unless the stakeholder process outlined in #5 is fully and transparently addressed with due public process agreed upon by all stakeholders.

Thank you for the opportunity to comment on the draft IPP document. Feel free to contact me with any questions or concerns. And thank you again for your service to the citizens of Colorado.

Respectfully,



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APPENDIX A

Interbasin Compact Committee (IBCC) Statement on Role of the State in Supporting Water Supply Processes and Projects Draft Document Revised October 12, 2010

The IBCC makes the following recommendations to promote State assistance of proposed water supply processes and projects of all sizes and types in Colorado. The IBCC determined that State support is necessary. These recommendations seek to define how State support should be provided. The recommendations focus on: coordination between and within State agencies, education of federal entities on Colorado's water supply needs, and state financial support.

1. The IBCC recommends a joint agency task force be created. This could be done through executive order and should include representatives from all State agencies involved with water supply development for the purposes outlined in 2 and 3 below.
 - a. The Department of Natural Resources will be the coordinating agency.
 - b. The task force will consist of all State agencies that might have a role in evaluating, assessing, permitting, overseeing, coordinating, or administering a proposed project. These agencies include, but may not be limited to, CWCB, the Division of Wildlife, the Colorado Department of Public Health and Environment, the Division of Water Resources, and the Attorney General's Office at the request of their client agencies. There should be one contact person from each agency.
 - c. The task force will design a clear sequential process of internal and external actions necessary to move the project through the regulatory process. The process will identify responsible parties and deadlines for each action.
 - d. Project proponents have the option to directly coordinate with and educate the task force and seek the task force's involvement, as the project proponents pursue a new water supply project or process.
 - e. The project proponent and the task force will engage in an open dialogue to help avoid, minimize, and mitigate the project's impacts per federal and state requirements.
 - f. Opinions from agencies represented by the task force shall be issued after sufficient information is provided by project proponents, as detailed in the task force process.
2. The State of Colorado and its constituent agencies should seek to *solve* problems and help identify ways to overcome obstacles related to water projects rather than *make* problems and create obstacles to those projects. The IBCC recommends that State agencies act creatively and flexibly within the context of their regulatory responsibilities to facilitate the implementation of solutions to Colorado's urgent water supply needs. The joint agency task force will establish a process to coordinate multiple State agencies' evaluations, responses, and other efforts regarding water supply projects early in a project's life and in an ongoing and regular fashion.
3. The State of Colorado through the joint agency task force should be actively and regularly confer with and educate federal agencies and the State's Congressional delegation about Colorado's water supply needs and the importance of local water projects and processes to address those needs.

- a. The Department of Natural Resources should be the coordinating agency that ensures that such consultation is occurring sufficiently and by the appropriate State agency or agencies.
 - b. This direction is not intended to undermine or diminish federal agency authority or the protections provided by federal oversight. Rather, it seeks to ensure that federal agencies understand the pressing nature of the water supply issue in the state and the importance of appropriate coordination.
 - c. This direction focuses on the overall water supply needs and shortages in the state.
4. The State of Colorado through the legislature and directed agencies should continue to provide funding through grants and loans to local entities to assist them in evaluating and funding proposed projects.
 - a. State financial support has been critical in meeting the State's water needs. For instance, the Colorado Water Conservation Board (CWCB) has approved over 400 loans totaling over \$700 million. In addition, CWCB's Water Supply Reserve Account (WSRA) program has assisted over 140 water projects with over \$26 million, while leveraging over \$45 million in local and federal funds. For example, the CWCB provided financing and a \$1 million mitigation grant for the enlargement of Elkhead Reservoir near Craig, CO. This 12,000 acre-foot enlargement is a \$30 million multi-purpose project that provides water supplies for long-term human and environmental needs. Other examples of the CWCB providing critically important support include Chatfield Reservoir Storage Reallocation and the Animas-LaPlata Project.
 - b. Funds for such assistance should continue to be made available by the Basin Roundtables and the CWCB through the CWCB loan program, WSRA, and other programs that support local basin planning.
5. In cases where there is local and/or stakeholder disagreement about a proposed project, if the project proponent requests it, the State of Colorado and/or Interbasin Compact Committee should initiate efforts to convene stakeholders in a process that aims to resolve conflicts and address concerns. The joint agency task force shall participate in this process. The State can itself serve as the facilitator or mediator of such an effort, or it may provide financial assistance to support hiring an outside facilitator or mediator.
6. Once the joint agency task force has substantially completed its process and achieved consensus, that a proposed project should proceed, and the stakeholder process in #5, if any, has reached a conclusion, then the State of Colorado and its constituent agencies could become public advocates for a project.
 - a. Direction to publicly advocate for a project should come from the Governor and be shared with all State agencies.
 - b. When appropriate, the legislature could pass a resolution in support of a project.
 - c. Directors of individual State agencies could then determine how best to proceed to effectively advocate for the project.