

## NOTES FOR THE LEAGUE OF WOMEN VOTERS FORUM – MARCH 19, 2008

Thank you for inviting me to speak about water here today. Let me first say that my wife was President of the Local Chapter of the League of Women Voters in the 1980's here in Durango. Her interests have changed over the years, but I know of the good work of the League and the long hours spent by its members in providing objective review of political issues of the day. I would like to take this opportunity to provide you with some information on an issue that will be posed to the voters in the City of Durango in two or three years.

I have worked for the City of Durango for the last 25 years as City Engineer, or Public Works Director or both. I must admit that I have a prejudice in favor of protecting the City from limitations on options resulting from inadequate planning of the water supply for the City. I have seen the City change in voter make-up over the years and in City Council priorities.

Three years ago Recreational Use of Water in the Animas River was not an issue that resulted in any work on my part. Within the last three years it has become an issue that has taken up a quarter of my time and at least \$200,000 worth of time of our water attorney and consulting engineers.

Recreational Water Rights are an invention of the State legislature of the State of Colorado in 2001. They were enacted in an attempt to reserve water in the river for future recreational purposes including kayaking and rafting, in a water rights system that heretofore had limited water rights purposes to removal of water from the river system for beneficial uses. That is not entirely correct, because the State in the 1970's had allowed water rights to be held by the State for environmental purposes, however those water rights are small and insufficient to meet the desires of the kayakers and rafters. The City's effort to obtain a water right for recreational purposes stems from the seeming abundance of the Animas River and the objections to the water rights application does not seem to make sense in a watershed that has not had a water rights call. Also it is difficult to explain the general policies of the State of Colorado to try to protect the waters of the State of Colorado for consumptive uses when recreational uses of water left the stream provide an economic benefit to the area.

It seems counter intuitive that the abundance of flow in the Animas River would lead to the objections by many to the filing for a recreational water right by the City of Durango. If there is lots of water in the river why would anyone object to preserving some for recreation in the river. The answer is that because there has always been water in the river, many water users never have felt the need to apply for water rights for the water that they use. Not having a water right never kept an upstream user in the Animas River basin from diverting water to maintain a wetlands or filling a fishing pond or drilling a well for a commercial use. However under the Colorado water law, a person or entity with a water right can stop an historic use of water when water for that entity's purpose is insufficient to meet its flow requirements. Because the Recreational In-Channel Diversion water right proposed by the City of Durango was so large in terms of cubic foot per second, a water right of the City could jeopardize existing uses and potential development of the Animas Valley above Durango.

The State of Colorado objection to the recreational water rights was an institutional stance by the State Department of Natural Resources and the Colorado Water Conservation Board to object to all recreational water rights, a stance which has changed with the change in administration during the last year. So, the City settled the water rights case by entering into a stipulation with all objectors allowing water rights filings made by La Plata County and the Southwest Water Conservation District to be senior to the recreational water rights to allow for a modest increase in consumptive uses upstream to satisfy existing users and some development within the Animas River Basin. By way of comparison the City applied for a water right which varied from 1400 cubic feet per second in June to 185 cubic feet per second during the winter months. The water rights reserved for the upstream users amount to about 20 cfs of consumptive use. The amount reserved for upstream use would serve the needs of a community of 200,000 people if the water rights were used only for urban type uses.

So, why you might ask, has the State of Colorado been so adamant in its opposition to recreational water rights over the years. The objective of the CWCB seems to have been to protect the economic base of the

State for many years to come. If water rights are granted to in-stream uses particularly near the State line, water protected thereby will leave the State. It will not be available for growing crops or building cities. And, so why might the State have changed its position in recent months? It may be just a change in administration, but it may be due to the recognition that the State has an obligation to let some water leave the State as a condition of the Colorado River Compact. While in Denver for a Colorado Water Congress meeting in January, I listened to Jim Lockhead, Randy Seaholm and Scott Balcolm discuss how they were able to negotiate a favorable settlement of the Colorado River Compact negotiations with the downstream states of California, Arizona and Nevada. Details of the negotiations are beyond the time allotted here today, and I do not understand all of the settlement issues, however those three negotiators represented the results of the negotiations being favorable to the State of Colorado. The construction of facilities in the lower basin states to bring in additional water supplies from other basins to support high growth areas and the promotion of water conservation to allow the water that is available in the Colorado River to serve a greater population are ways in which the settlement efforts were fostered.

At that same conference Susan Turnquist from the American Water Works Association and David Clow from the US Geologic Survey reported on the effects of climate change on water supplies in the west. Global warming promises to cause an overall increase in precipitation in the world as water bodies expand in area and temperature increases lead to increased evaporation. However, effects of climate change on local weather patterns is far from understood at this time. For public water suppliers in the west the prospects for change are worrisome. Warmer weather will lead to early snowmelt, leaving surface water supplies dwindling in the dog days of summer when outdoor use of the public water supply is greatest. Snowmelt will have passed down the rivers by the time we need the water and unless there is a greater supply of snow, there will be a need for more and larger reservoirs to store water available in May for use in July and August. Studies are underway to better predict the effects of expected increased wind on sublimation, the removal of snow to the atmosphere before it melts, as well as the effect of increases in temperature on local weather patterns, however studies to date indicate no statistically significant effect of temperature increases over the last 100 years to snowfall moisture content in the Colorado Rockies, although there has been an impact on total snowfall moisture content in other adjacent basins.

But, that leads me to the decisions that the City of Durango citizens will have to make in two or three years. In a few years, the Animas La Plata Project will be completed and the reservoir in Ridges Basin will be full. At that time the voters of the City will be asked to pass a bond issue to purchase water from the project. Water stored in Ridges Basin Reservoir will provide water for at least five different entities, the two Ute Tribes, the Navajo Tribe, the San Juan Water Commission serving Farmington, Aztec and other communities in New Mexico and the Colorado Water and Power Development Authority. The City of Durango has entered into a contract for an option to purchase water from the Colorado Water and Power Authority and when the ALP reservoir is full the City must decide whether or not to pursue the option and pay in the neighborhood of \$7,000,000 for the right to use water from the reservoir.

We will not have the cash available to pay for the storage and the City Charter requires that any borrowing of money be approved by a vote of the citizens of Durango. The water supply that the City has optioned to acquire is sufficient to support a population of 40,000 people. 40,000 people is about the population that would fit in the City as presented in the 2007 Comprehensive Plan of the City. The storage volumes needed to support this population were calculated in 2003 when the City investigated water supply opportunities and recommended contracting to acquire water storage from the Animas La Plata Project as opposed to other water storage opportunities including the construction of a reservoir in Horse Gulch, east of the current City Limits.

So, I will ask your help in future years in getting the word out that water storage is critical to the health of our community, and the investment of public funds coming principally from charges to new development is a worthwhile undertaking.

There will be people who have long opposed the Animas La Plata Project for environmental and economic reasons who may be persuaded that this investment is not a sell-out to a federal boondoggle. There will be those who oppose growth in this community who will find the approval of a bond issue paramount to opening the floodgates to population increases. There will be those who find no reason to incur debt to

benefit developers and future residents, so the passage of a bond issue is surely no slam dunk. But, for those in the know, those with a complete understanding of the situation a positive vote on a bond issue seems undeniably the right thing to do.

Jack Rogers  
Public Works Director  
City of Durango