

# **Upstream/Downstream Policy Work Group Report to Full Upstream/Downstream Forum**

**July 14, 2009**

## **Full Upstream/Downstream Forum – Brief Background**

The Water Supply Study for the Middle Rio Grande Basin by S. S. Papadopoulos and Associates in 2004 showed the basin ran an annual deficit and was in danger of failing to make Compact deliveries. Three regional water plans --Jemez y Sangre, Middle Rio Grande, and Socorro/Sierra-- share the Basin but did not coordinate their planning efforts. In recognition of the deficit and the disparities among the regional plans, in 2006 the New Mexico Water Dialogue convened the Upstream/Downstream Forum, with six representatives from each region and many more experts participating in a limited fashion. The purpose was to try to establish some form of coordination among the regions which shared the river and its obligations for downstream delivery of water.

In 2008, D. B. Stephens and Associates performed a study to clearly identify inconsistencies among the three regional water plans. The study identified substantial inconsistencies in the regions' approach to water accounting, and included some recommendations for standardization. However, because of concerns about the methodology by which the study aggregated regional water budgets, the regional participants were unable to accept the study in its entirety when they convened on April 7, 2009.

During this same Workshop, the Forum explored its future role. Two issues emerged. The first issue, recognizing that participation was dwindling over the years, prompted a discussion on how to reestablish participation and to assure reasonably balanced/complete representation on the Forum. The second issue, in recognition of the interregional coordination difficulties that had been surfaced by the DBS&A study, led to a consideration of what policies or topics the Forum might pursue, taking advantage of its interregional nature, so as to make the Forum truly productive.

Self-selected work groups were established to address each of the two issues, and tasked to return proposals to the full Upstream/Downstream Forum. This document is the report of the Policy Work Group.

## **Policy Work Group Process**

Three people<sup>1</sup>, were assigned to develop a purpose and scope of work for the Policy Work Group, and then to serve as a nucleus for others<sup>2</sup> to join and participate. The Policy Work Group conducted its deliberations via five telephone conferences (some of the named individuals were unable to participate fully), numerous e-mails, individual homework assignments, and evolving documentation. The concurred purpose and scope of work appears in Appendix A (file UD04d... .pdf). The Work Group brainstormed, described, refined, and grouped a set of forty policy nominees. The result appears in Appendix B (file UD05i... .pdf). From those forty, the Work Group selected and refined three candidate policy areas, each with components, for the full Upstream/Downstream Forum to consider.

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## Results of Deliberations

The Policy Work Group took several steps at evaluating, prioritizing, and deliberating the brainstormed policy nominees. The intent was to develop a finite set of choices from which the full Upstream/Downstream Forum could select. The criteria that the Work Group considered included practicality for the Forum to be effective, lack of redundancy with external efforts, applicability across the three regions, and value toward solving water problems. The result was a set of three policy areas, each of which included several components, some in parallel, some in series. The three areas were:

- Water Accounting
- Public Welfare
- Conservation of Water

### Policy Area 1 – Water Accounting

Upstream/Downstream policy action in the Water Accounting area would seek to have water accounting data be reported in consistent metrics into a regional water budget to enable better administration of the resource. Obtaining concurrence from three regional perspectives will go a long way in improving water reporting and administration. The ultimate end objective would be to develop guidance for a common water budget structure from which entities within individual regions and among the three regions could keep consistent track of their water supplies, uses, and permissions. Choices should be made from among the many existing budgeting and modeling methods. The following topics should be addressed:

- Budgeting – Identifying accounting tabulations – e.g., wet water budgets, balance sheets, water rights
- Line items – Identifying and defining reportable quantities within an accounting tabulation
- Aggregations – Identifying and defining appropriate aggregations of line items
- Assumptions – Identifying and describing needed disclosures of underlying assumptions in reports

### Policy Area 2 – Public Welfare

Upstream/Downstream policy action in the Public Welfare area would seek to establish and implement a common concept for dealing with the Public Welfare issues in the basin relating to inter-region water rights transfers (and perhaps intra-region also). The ultimate objective would be to treat the three-region basin as whole, and address those attributes that are held in common among the regions. The following topics could be addressed:

- Commonalities – Identify the commonalities in public welfare statements among regions
- Basin Statement – Develop a set of common, basin-wide Public Welfare criteria
- Implement – Establish a three-region standing subcommittee to review substantial transfer applications

## **Policy Area 3 – Conservation of Water**

Upstream/Downstream policy action in the Conservation of Water area would seek to focus attention on the need for increased and vigorous water conservation action at all levels. Conserved water is the cheapest source of “additional” water. The objective would be to allow and encourage entities to take advantage of others’ effective techniques to yield reductions in use of our limited and dwindling water supplies. The following topics could be addressed:

- Budgeting – Demonstrate how Conservation can improve water budget deficits at low dollar costs
- Communication – Publicize Conservation techniques that enable more efficient uses
- Standards – Establish common conservation goals across the basin

## **Recommendations**

The Policy Work Group recommends that the full Upstream/Downstream Forum do the following:

### **Select Policy Focus**

Adopt this report; prioritize among the bulleted actions; and assign next steps for action.

### **Adopt a Resolution (Adjudication)**

The Policy Work Group felt that adjudication of water rights (both Native American and non-Native) in the basin was crucial to solve our mutual water problems. However, the Work Group felt that all the Forum could really do was to encourage our various elected representatives to fund the process.. Accordingly, the Policy Work Group recommends that the full Upstream/Downstream Forum issue a policy resolution supporting full adjudication in the basin, and forward the resolution to the State Engineer and to the legislators.

## Appendix A

### Upstream/Downstream Policy Subcommittee Purpose and Scope of Work Revised Strawman May 6, 2009

#### **Purpose:**

Cause the full Upstream/Downstream committee to press for implementation of a selected set of policies that beneficially affect all three Upstream/Downstream Water Planning Regions, by addressing existing or impending problems. These policies would be guiding principles that would promote good water planning, management, and sustainability in the basin. Implementers of the policies could include the regions, the local governments, state agencies, and/or the legislature, with the specific entities to be identified as the policy list evolves. Water project selection would be then guided by the policies.

#### **Scope of Work Tasks** (listed in reverse chronological order):

Full Committee: Assign and execute the chosen approach to cause policy implementation

Full Committee: Determine the best approach for getting the selected policies implemented.

Full Committee: Debate/select the three<sup>3</sup> most important policies from the list of candidate policies.

Full Committee: Debate/refine the list of candidate policies for optimum wording.

Full Committee: Inject any candidate policies that are seen to have been omitted from the list.

Subcommittee: Deliver the list of candidate policies to the full committee.

Subcommittee: Develop impact report: issues, implications, consequences for candidate policies

Subcommittee: Debate/refine the list of candidate policies for optimum wording.

Subcommittee: Identify the appropriate implementer(s) for each candidate policy

Subcommittee: Debate/select the ten<sup>4</sup> most important policies from the list of nominee policies.

Subcommittee: Identify regional differences in pros/cons for each nominee policy

Subcommittee: Brainstorm a list of nominee policies that potentially benefit the three regions.

Subcommittee: Try to ensure balanced representation from regions and from stakeholder types.

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<sup>3</sup> This is an example, intended to represent a very small number. It could be increased or decreased by one or so, if that were seen to make more sense.

<sup>4</sup> This is an example, intended to represent a moderately small number. It could be increased or decreased by three or so, if that were seen to make more sense.

## Appendix B

# Upstream/Downstream Policy Work Group Archive Document Brainstormed Policy Nominees July 1, 2009

## Contents

### A Basin to Take Primary Action

#### 1 Public Welfare

- a Establish a public welfare connection to water transfer applications
- b Establish an effective definition and interpretation of public welfare
- c Establish a basin-wide public welfare statement
- d Create a basin-wide review team for proposed water transfers

#### 2 Miscellaneous

- a Adopt a basin-wide water budget
- b Establish a set of participation criteria for Upstream/Downstream group
- c Preserve agricultural production
- d Improve interregional sharing of information
- e Water conservation in transfers, seek commonalities

### B Basin to Encourage State Action

#### 1 Water Planning

- a Establish budget line item for water plan updates
- b Schedule concurrent RWP updates in along Rio Grande
- c Schedule concurrent RWP updates in neighboring regions

#### 2 Water Transfers

- a Establish a water tittle on transfers of water rights
- b Preclude import of water to Middle Rio Grande Basin
- c Prevent condemnation of water rights (already DONE by legislature?)
- d Establish an area-of-origin protection for water supplies
- e Establish well-defined rules/regulations for water markets and banks

#### 3 Water Rights

- a Promptly and completely determine permissions to use limited water, and at what

**priority**

- b Design/enforce a viable approach to priority administration**
- c Give regulatory authority to the State Engineer (already DONE by legislature?)**
- d Withdraw/realign unused permissions to pump groundwater**
- e Establish mechanism for commercial water rights title insurance**
- f Establish rights and priority to in-stream flow uses of water**

#### **4 Water Management**

- a Start active management of deep saline aquifers by the State Engineer**
- b Stop authorizing increased uses of water in the state**
- c Enforce a ceiling on all water uses (residential, agricultural, etc.)**
- d Measure, meter, and monitor all water uses (agricultural, domestic, etc.)**
- e Embed consideration of the energy-water nexus in energy and water regulations**

#### **5 Miscellaneous**

- a Get State and MRGCD funding for infrastructure improvements**
- b Expand permission and use of water harvesting**
- c Redefine purpose, power, and function of the MRGCD**
- d Have a 12 year term for State Engineer**
- e Appoint Assistant State Engineer several years before the end of the SE term**
- f Deal overtly with our impending inability to deliver under the RG Compact, and our lack of management institutions to solve that problem.**
- g Compel Local Government Involvement**
- h Establish ISC Implementation Office**
- i Press for resolution of Pueblo water rights within basin**

### **C Basin to Encourage Individual Regions to Act**

#### **1 Miscellaneous**

- a Assure public, agency, and steering committees involvement in RWP updates**
- b Extend waste water treatment**
- c Establish protection buffers along surface water flows**