Summary of Group Discussions and Action Items

Integrating Land Use and Water Planning in New Mexico

April 8, 2011

Impressions from the Breakout Sessions:

All of the breakout discussions noted the increasing exigency in addressing the disconnect between land use and water planning in the state, highlighted by the fact that it won't be long before New Mexico has approved more new water uses than can be met while still maintaining priority water rights and legal compact obligations. Many people expressed surprise at how it was relatively unknown that, without a change in trend, most of the agricultural water rights in the Middle Rio Grande region will eventually have to be retired for urban uses, and noted that this did not agree with other city and county goals such as promoting green spaces, riparian restoration, and local food production.

The groups were cognizant of the political realities of making changes, reflecting (former State Representative) Kathy McCoy's sentiment that it is very difficult to have a meaningful debate about water and land use issues in the Roundhouse, let alone enact effective legislation. The diversity of interests represented in the debate makes clear solutions illusive, yet there are small steps, including administrative reforms highlighted by the groups, that could begin to point the way to more comprehensive solutions.

The groups expressed a need for more consistency between state, regional and local comprehensive plans and in existing state and local land use and water planning processes which currently rarely reference one another let alone play integrative roles in each other's functions. Statewide standards for data and methodology for planning was considered important.

The importance of funding for citizen education, local government planning, and specifically, resources and legal mechanisms to implement the plans, was noted by all of the groups. They expressed frustration with the limitations of current planning paradigms. Lora Lucero's characterization that we need to move from a "growth accommodation paradigm" to a "planned growth paradigm" was referenced throughout the day. It was suggested that whichever reforms be enacted, they should look beyond growth projections and rather base decisions on the estimated carrying capacity of the land, a methodology that includes several geographic considerations such as terrain and water management under the over-arching theme of sustainability.

Summary of the top priorities expressed by the four discussion groups:

- ✓ Amend the state subdivision review process regarding the Office of the State Engineer's review of county subdivision applications for adequate water supply. The process should, at a minimum, require a response and an explanation from the counties if they plan to approve a development for which the State Engineer issues a negative opinion. Set a statewide minimum timeframe and standards for analysis which development

proposals must follow in demonstrating water availability. Establish a statewide database that collects county subdivision and water availability information.

- ✓ Amend the state planning and platting laws to require that comprehensive plans and land use codes address water availability, standardize planning horizons, require consistency among plans, and incorporate sustainability requirements. Look into redefining planning paradigms to address the overall "carrying capacity" of the land.

- ✓ Support education and outreach to promote public understanding of the value of water, the limits on supply, and potential future scenarios; this will enable the public to support proper funding for planning and resource management. Engage diverse stakeholders and local communities in a discussion of possible legal and economic reforms to better plan for New Mexico's water resources.

- ✓ Amend the State water plan process to make it more actionable, implementable; providing clear policy directives for local governments. Consider how to incorporate regions into watershed-based planning forums for discussion and resolution of basin-wide issues.

- ✓ Develop mechanisms to properly fund land and water planning processes, citizen education, development of statewide standards and methodologies; and resources for implementation of plans.

Individual Group Summaries: This section represents (by group) a summary of the discussion and priorities

Group 1

Action priorities:

- New Mexico should adopt a "Show Me" water statute as discussed in Sarah Bates overview of Western water regulation.

- The subdivision review process between the State Engineer and County land use office's needs to be modified. At a minimum, counties should have to report back to the State Engineer about whether the development was approved. Also, the State Engineer should create a database where they can track land use approvals given by counties to better understand/account for the cumulative impacts of development on water availability projections.

- Local governments in the Middle Rio Grande Region need to reconcile the policy of promoting growth and development, which will ultimately require the retirement of agricultural water uses for these new uses, with other inconsistent policies such as encouraging local farmers and local food production and consumption.

- Develop statewide data and methodology standards for water and land use planning documents and provide technical assistance to counties and municipalities in utilizing these methods in their planning processes.

- Support better coordination between departments at the local government level. Planners should be working with water authorities and other infrastructure managers.

- Regionalize mutual domestics to cut down on administrative costs, standardize billing and costs, and minimize competition between communities for scarce water resources.

- New Mexico needs to address the disconnect between the policies being pursued at the state level by the Interstate Stream Commission and the Office of the State Engineer and the land use decisions being approved and implemented at the local level which do not always reflect the statewide policies.

- The "carrying capacity" of land analysis, which includes water availability and other environmental factors, should be used to make land and resource plans as opposed to the current trend of using "projections" (e.g. water availability, population growth) because those projections are inaccurate and fail to show how continued current use will impact availability and demand projections.

- Land use plans should designate local aquifer recharge zones and make better use of storm-water and terrain management plans to funnel run-off and storm-water from private and public lands into areas where they can seep into the aquifer.

- Update the zoning and subdivision enabling acts with particular focus on the current utility (or lack of) of the subdivision exemptions.

- Enact a statute that solves the difficulties presented by antiquated plats.

Group 2

<u>Action Items: (in order of priority):</u>

- Engage the public on all levels and look at the different human processes and activities that need to be addressed in the planning process
- Amend the State Engineer's subdivision review process to require Counties to respond to or comply with the recommendations of the State Engineer.
- Amend State law to provide guidelines for City/County comprehensive plans, require that they be integrated with, or at least reflect, state plans.
- Amend the State water plan process to make it more actionable, implementable, and so that it provides clear policy directives for local governments.
- Amend state law to prevent antiquated plats – set a time frame in which development must occur before approvals become invalid.
- Promote education, outreach, and planning policy that is more sensitive to local cultures.

- Require that local water utilities, including mutual domestics and water utilities be at the table when local land use plans are being drafted or amended.
- Expand the scope of land use management to emphasize stewardship, alternative land management, and water catchment.

Striking concepts of the day (discussion items):

- The need to remove water from agricultural lands to offset for new uses in the future and the fact that the amount of agricultural land that will have to be retired does not comport with other planning objectives such as riparian protection and storm-water management, open space, and local food production.
- Ancient state zoning legislation!
- The possibilities of deep water wells as sources of water
- Dichotomy between scientific and data based planning and government and political processes
- The Santa Fe Sustainable growth management plan seems to provide a dynamic and promising model for land use planning and development
- The need to incorporate sustainability as a concept in planning processes
- Local governments need to be better prepared and enable to affect local control over resources and land use decisions and better protect local interests

Group 3

Actionable items:

- Amend state zoning statute to require the connection of water and land in comprehensive plans and land use codes. (13)
- State needs to be a clearinghouse for research, data, and methodology. They need to create standardized methods of data gathering and also create a statewide database that all local governments could use and refer to. (6)
- Make land use and water integration a state policy priority and support that initiative at the local level (5)
- The state water plan process should be amended to better incorporate the policies identified in the regional water plans. There should be an over arching state growth management plan that incorporates the water plans. There needs to be more funding and incentive for implementation of these plans.(3)
- Private Sector need to take the lead on green building initiatives (1)
- Funding for water policy and public education, such as the funding used to produce "water Matters" should not be withdrawn (0)
- To achieve more consistent planning horizon, the state should look at requiring water availability at 300 years and require updates
- Both rural and urban New Mexico need to better understand their water usage and how uses in each area are related to availability in the other.
- State needs to reevaluate the prior appropriation doctrine as well implementing changes that allow local water banks and other solutions that would give local governments to plan for future water needs.

Issues discussion:

- In rural NM, there is not a lot of regulation. We need zoning and policies that bring land use and water together. Developers are looking for the weakest laws in the Country. We'll take some of these ideas home, especially from Rio Arriba County.
- Big issues are sidestepped and there is not enough oversight to ensure that plans are implemented
- Too many various approaches to planning horizons and timelines –questions validity of long-range planning --300 years? We barely know what's happening 20 years out. None of the projections take water into consideration. So we're not doing projections right.
- In the absence of adjudication, and NM tendency to not limit development, green-building provides promising means to achieve certain land use goals. Especially with the current governor's perspective, we need the private sector helping out.
- There is not enough congruence between the state water plan and the regional water plans
- Diverse stakeholders and sometimes conflicting interests –how do we meet sustainability needs without driving off private investors?
- Too easy/cheap to get domestic well permit which can unfairly impact the water supplies of existing wells
- Widespread unawareness of the connection between land and water and the control of growth – I want to keep agriculture in Middle Rio Grande, but it is quickly disappearing. And no one talks about population [control].
- Strong disconnect between water as a resource that is limited and its under-valuation. The true value/cost of water is not reflected, e.g. you can run your water all night long for the same cost as a pack of bottled water.
- Liked the Shomaker talk that State engineer is in some ways a referee, not deciding where water goes between competing demands. And maybe "public welfare" is best decided by local governments. The OSE is not connected enough to local land use entities to effectively assist with development plans and approvals
- How to approach these difficult, complex problems? In terms of consistency doctrine in planning, you work your way from the top down so there is some framework by the time you get down to the local level, to counties, so that they are all consistent and you can avoid all these problems. We don't have any standardization of data. For example, the per capita consumption, you can't do any comparison of data.
- Regionalization is called for. Get with our neighbors, work out common issues. It's top down and bottom up at the same time.
- We need to decide in a planning sense, what cultural values we want and how to continue those. Some counties are doing way too much farming; farming alfalfa is not using water wisely.
- But we can't prioritize the use of water without a change to the state constitution because of the law of prior appropriation.
- The economic system we have now doesn't mesh with the legal system of water rights.
- Looking at the State to unify the regional water plans. Maybe senior water rights need to be purchased. Look at Pecos, cities are junior. Voluntary agreement reached.
- There is a lack of adequate legal and economic framework around water as a commodity to resolve the state's issues

Group 4

Major action items:

- Education is key – start early, in the schools. Children are receptive and take information home to parents. Coordinate planners and scientists – more forums like this to encourage communication and understanding on these issues.
- Watershed-level planning (bringing different regions to the table) is needed and water plans need to be quantifiable and enforceable. Require plans to be implemented, an annualized review of implementation, and require that planning is undertaken in order to get funding.
- Comprehensive planning/consistency framework is needed: framework that requires consistency in planning. Comprehensive or master plan level, and then more specific plans to deal with certain areas or issues – but each more specific plan must be consistent with the over-arching plan.

Impressions of the day/ discussion:

- Public needs to know the simple truths about water. There is a lack of understanding.
- We've promised more than we have - in the Middle Valley, we've already promised all irrigated land to cities. Recognition of that fact is critical to planning. We are running a deficit. Other places are ahead of Albuquerque. Water law needs to be addressed - over-appropriated and under-adjudicated. Prior appropriation is not being put into use.
- Homebuilders are looking at conservation in individual housing units, not addressing cumulative impacts. Some policies don't make sense: Rio Rancho requiring xeriscaping in the front yard but do whatever you want in the back. Prepared to dislike Homebuilders talk, but learned a lot about what they are doing.
- There is an overarching disconnect with implementation. A large number of disconnects have been named - hopes State Water Plan will enumerate each of the disconnects and say what they're going to do or at least have a placeholder next to each identified disconnect. Land & Water White Paper may do some of that. The State Water Plan will address some, but can't do everything at the state level. Four areas of focus in the SWP are climate change, conservation, infrastructure needs, and planning. Planners are fighting to create a plan that higher-ups at the office will accept. Approach is to update every five years - statute written as an ongoing process. In next update may address more issues. Draft close to completion. After review, it will be put out for public comment, then senior staff will decide how to incorporate. Senior staff worried about legal issues of 100% appropriated, 25% adjudicated.
- Elephant in room is population growth. No matter how much you reduce per capita use, use goes up if numbers increase. We keep inviting new residents and that's dumb. Yet, can't build fence around state. Doesn't seem possible to stop development. Maybe better to focus on what may be achievable.
- Our lifestyle is water-consumptive, resource consumptive. A Chilean economist Max Manfred – said unlimited growth not possible, but the answer isn't to stop developing. There is no unlimited growth in biology, it hits an equilibrium. Economists are starting to stop linear thought, there are movements happening around the world in economics rethinking how we develop. For example, infill development, remove some hardscape to

promote water recharge. In the '70's, the idea was that we shouldn't grow beyond the resources of our planning area. Now we're importing water across the Continental Divide (San Juan-Chama), etc. and that idea has gone by the wayside.

- Education: Start with education early. Children are very receptive. Take information home to parents. In UK, a school curriculum was changed to include water issues throughout every subject. The program was very successful and made the school more successful as well. This could be expanded to watersheds – that water doesn't just come from the tap.
- Water plans need to be quantifiable and enforceable. Must have a framework that requires consistency in planning: comprehensive or master plan level, and then more specific plans to deal with certain areas or issues --but all more specific plans must be consistent with the comprehensive plan.
- Watershed-based planning: The ISC is interested in the regional idea. Raises several issues - If you're going to regulate in terms of watersheds, we would have to reconfigure the regulatory system on a statewide level. So regional planning areas maybe get put into a watershed? We won't ever meet the goal of redefining county boundaries, but we can put local entities together at the table on regional/watershed level. What about compacts? Those are statewide - the philosophy is to have some planning coordination between entities at far ends of a basin. It would provide a means to discuss potential impacts of one region on another.
- Think about tying regulations to tax credits, where you get credit on a showing of complying with sustainable water practices. There is a tension between wanting more development because we are a poor state and this would be a way to encourage new development to follow good practices. But we now have a governor that wants less regulation and planning. You can follow a concept such as what was done with Intel, where a certain percentage of local hires was required.
- Education is the key. We need more forums like this, where planners and scientists can continue the dialogue.
- There is a basic need to properly fund planning. There is a disconnect between planning and value. There is a need for people to see what it actually does and have progress in terms of resolving water allocation issues. Having a state planning office has been discussed at the State Legislature.
- What about requiring more comprehensive regional planning and legislating requirements that have to be met, such as regular reporting, implementation milestones, etc.?