

To: Tina Kurtz  
From: Pam Andersen  
Re: Structure of Integrated Management Plans  
Date: January 10, 2007

As you know, we have had several conversations about what the structure of the integrated management plans (IMPs) being drafted by the Platte River Natural Resources Districts should be like and also what the structure of the Republican Basin IMPs should be like when they are rewritten this year. I don't think that I have expressed myself well when I have tried to explain what I think the structure should be and also what issues the plans need to address. This memo is an attempt to clarify my thoughts for both you and me. The memo will not be comprehensive because we are still learning as we go but it will be a start for you and I to begin to arrive at agreement on certain things and identify which things we disagree on or are unsure about so that we can discuss them with Ann and other staff as necessary in order to reach agreement. Also, this memo will hopefully be a springboard for the synergy we need to create a comprehensive list of what needs to be in a good IMP. Having said all that, it is important to me that you truly understand this is still an attempt on my part to write down all the scattered thoughts and list of issues that I have about what a good IMP needs to look like so this memo will not be "tightly written" like a good brief.

It occurs to me that I should first define what I think a "good" IMP for a fully appropriated area is. Briefly, a good IMP is:

1. understandable by a high school sophomore;
2. addresses everything required by law i.e. the list in 46-715(2) and adopts controls:
  - a. that are sufficient to ensure that the state will remain in compliance with the Republican River Compact, the North Platte River Cooperative Agreement and New Depletions Plan, and the federal and state endangered species laws, [46-715(3) i.e. applicable state and federal laws and with compacts, decrees and formal state contracts and agreements pertaining to water use and supplies]; and
  - b. protects surface water appropriators and ground water users whose wells are dependent on recharge from a river from streamflow depletions caused by water use AFTER the date an area is declared to be fully or overappropriated.
3. sufficiently detailed so that the districts and the department know how the controls are to be implemented in order to reach the goals and objectives. This will enable the districts and the department to monitor each other's implementation and enforcement of the controls each is responsible for to ensure success and to be able to make a clear case to the Interrelated Water Review Board if or when necessary in order to ensure success.
4. contain procedures for the districts and the department to propose modifications to the IMP and a process for incorporating or rejecting these proposals.
5. contain a protocol for the district and the department to report to each other about their own implementation and enforcement efforts and results. This may require auditing each other's records if necessary.
6. address the areas where there is duplicate or shared responsibility for water use e.g. municipal, industrial and out-of-state transfers of groundwater. The IMP needs to include a process so that the district and the department assist each other in meeting their individual responsibilities or at least not impair one another and so that the applicant for the transfer isn't ensnared in redtape.

I don't think that it detracts from a good IMP if there are recitations of history or positions statements in it as long as the words don't create conflicts or cloud the meanings of the goals and objectives. I also don't think it matters if the rules are a part of the IMP or not. It is only necessary that the IMP contain enough detail about the controls so that the regulations can't undermine them. If the rules are a part of the IMP, however, the IMP needs to contain a clear process that the Department or an NRD has to go through before it can modify any of its own rules that effect the controls.

I think that the goals statement of an IMP needs to identify what state and federal laws, compacts, agreements, etc. the IMP's controls are designed to ensure compliance with. What compliance means

needs to be clearly articulated e.g. in the Platte Basin compliance with the New Depletions Plan means no new depletions after January 1, 2007. My example is too simple but I think you can see what I mean. The NRD's and the Department need to arrive at an understanding of what has to be done to comply and what each one is going to do to ensure compliance. The result may be a long list of opportunities when compliance can be achieved e.g. when permits shall be required, if the permit will require an offset, who decides what the amount and nature of the offset should be, how achievement will be assessed and how often assessment will take place.

I have run out of time but I think this is a good start for our meeting today. It appears to me that writing a good IMP is like weaving a net and doesn't lend itself to linear thinking.