Water Banking and Marketing

Council on State Governments – West
Kalispell, MT
August 24, 2015
We operate with a fundamental belief that access to information and transparency in markets facilitates better decision making, which benefits everyone.
Water Transfers

Sale or lease of the right to use water
Voluntary agreement
Who buys or acquires rights?

- Agricultural users: junior users, particularly during dry years
- Municipal water users: to meet demands for future uses
- Industrial users: transfers for new and long term supplies
- Conservation interests
Who are the sellers/suppliers?

Agricultural users are the main supply source. Generally hold the most senior rights.

Permanent sale means removing land from irrigated agriculture. Alternative transfer methods (ATM) such as leasing, rotational land fallowing, water conservation, and infrastructure improvements keep land in agricultural production.
Incentives

• Tax incentives – NM offers 50% of the appraised value of land and water rights for conservation easements. CO offers an income tax credit to those who donate to instream flow

• Grant programs – CO for ATM, including water banks, leasebacks, fallowing and more
State of Market

- CA and AZ are driven by drought emergency status
- Short term leases to address immediate problems in CA
- Incentive for long term planning in AZ
Case Study - Montana
Water Banking is New in Montana

• Prior to 2011, water was “use it or lose it.”
• Changing a right to instream fishery use was the only way to preserve the water right.
• 93 water rights are presently listed as instream fishery rights pursuant to change authorizations.
• 56 water rights have been changed to mitigation.
• 1 water right has been changed to marketing for mitigation/aquifer recharge
Closed Basins and Development Drive the Market

LEGISLATIVE CLOSURES

- Bitterroot Basin Temporary Closure (76H) Effective 03/29/1999 (2862 sq.mi.).
- Jefferson and Madison Basins (41A, 41B, 41C, 41D, 41E 41F, and 41G) Effective 04/01/1993 (11660 sq.mi.).
- Teton Basin (41O) Effective 04/21/1993 (1917 sq.mi.).
- Upper Clark Fork Basin (76E, 76F, 76G, and 76GJ) Effective 04/14/1995 (6017 sq.mi.).
- Upper Missouri Basin (41H, 41I, 41J, 41K, 41QJ, and 41U) Effective 04/16/1993 (10620 sq.mi.).
Some Benefits of Banking

- Provide a cost-effective solution for municipal and residential water supply
- Enhance watershed sustainability to protect streamflow and senior rights
- Reallocate senior rights to meet changing demands
- Enhance viability of the agricultural sector - maintaining infrastructure to provide conveyance of mitigation water
Mitigation Rights by Basin

Legislative Closures
Bitterroot Basin 14
Jefferson and Madison Basins – 4
Teton Basin - 0
Upper Clark Fork Basin -17
Upper Missouri Basin – 15

Administrative Rule Closures
Grant Creek– 3
Musselshell River – 1
Water for Sale

Spring Water Rights For Sale in Montana

Listing ID: 404
Total Price: $ 0.00
Address: Reference # MT102
Zipcode: 59724
County: Beaverhead County
State: Montana
Sale or Lease: Sale
Basin or Aquifer Name: Columbia
Water Type: Spring Water
Acre Feet: 507.00
Priority Date (year): 1882-1963
Due Diligence is Important

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Water for Sale

1,212 ACRE FEET OF SENIOR WATER RIGHTS
Senior Water Rights for Sale
Barriers

- Administrative Barriers
  - Complexity of permit and change processes

- State of Demand

- State of the Market
States can Facilitate Transfers

- Access to State Data
- Incentives – Tax and Grant
- Streamlined administrative processes