

**Wyoming Demand Management Feasibility Investigation  
Stakeholder Meeting, Rock Springs, September 9, 2019  
Summary of Issues Raised by Key Stakeholders**

**1. Compact Curtailment risk assessment:**

- The Demand Management investigation process needs Information about water rights that may be affected by a Compact curtailment. The information should include:
  - Water rights with priority dates at risk
  - Consumptive use associated with rights at risk
  - Percentage of rights at risk per sub-basin
  - Past and projected river flows in Wyoming
- Information about curtailment risk will inform views on the severity of Compact curtailment impacts, and therefore the need for a Demand Management program. Some current considerations weighing against and in favor of investigating a Demand Management program include:
  - Against:
    - Desire not to spread fear of disaster and therefore get overreaction from water users.
    - Demand management may not be wise—it adds to inertia of 100 years leading to buy & dry of Wyoming agriculture. Wyoming can find other ways to get water to towns.
    - Wyoming has the advantage of flexibility and time. Wyoming can be creative and drive the process with other states. Demand management discussion is therefore valuable.
  - In favor:
    - Unconcern about Compact curtailment ignores or belittles needs of other, non-agriculture sectors, and the pressure on them (who might be funding source). Their needs include water supply certainty.
    - The impact of Compact curtailment will be harsh for municipalities and industry, and possibly on environment. These “post-compact water rights” represent the economy of the state and the Basin counties – major industries provide jobs and revenue (including recreation & tourism).
    - No current crisis is an advantage because there is time to hold the discussions properly and so people in basin can drive it. It will be balancing act to get people on board.
- When considering Compact curtailment risks, there needs to be example scenarios for comparison of Demand Management and Curtailment impacts for:
  - Agricultural pre-compact rights including 1<sup>st</sup> cfs right, 2d cfs right, and free river
  - Agricultural rights at risk for Compact curtailment including 1<sup>st</sup> cfs right, 2d cfs right, and free river
  - Municipal rights
  - Industrial rights
  - River flows and reservoir levels affecting fish, waterfowl and other environmental concerns

- The Compact curtailment risk assessment needs to consider future consumptive uses and vulnerability:
  - Could post-compact consumptive increase?
  - With warmer temperatures, less water, and potential increase in pivots and in yearling agriculture operations, there may be fewer return flows from agriculture.
  - There might be more residential development, therefore less consumptive use.
  - Consider the possibility of power plants closing as well as the need to attract new industry that potentially uses water.
- There is a need for additional discussion about whether the trigger for Compact curtailment is 75 maf over a 10 year rolling average at Lee Ferry, or whether it's 7.5 maf every year. Related is the potential Upper Basin obligation to supply one-half of any deficiency to Mexico (possibly 750 kaf). How does this affect the water rights at risk?
- Need to discuss possible legislative funding to assist with completing a Compact curtailment risk assessment.
- Consider how to find equity in a Demand Management program– vulnerability is probably greatest for non-agriculture rights, but agriculture has the most valuable rights

**2. Consumptive Use Measurement: a major issue for Colorado River management going forward**

- What is the best method to measure consumptive use?
- Consumptive use measurement will be important for any demand management or curtailment effort. For example, measuring the amount of water to be leased/transferred etc.
- What consumptive use measurement method will other states accept? The Upper Colorado River Commission (UCRC) is currently studying the issue, but each Upper Basin state has sunk costs into its preferred or existing approach (sometimes court-required). (Note: while the 1948 Upper Basin Compact provides for using the inflow-outflow method to determine consumptive use, the UCRC can change the method by unanimous action).
- Wyoming could take lead on consumptive use measurement and conveyance loss measurements
- Why investigate Demand management if the states can't even agree on a consumptive use measurement method? Counterpoint: Getting agreement on consumptive use measurement method among the states is major reason to investigate DM because it will require consensus on consumptive use determinations.
- Measurement devices can be expensive – 1 device could be \$100k.
- Information is needed with regard to conservation methods: what methods are the most effective and where, and what methods are worth investing in. Could Wyoming take the lead on this?
  - Continue to try out demonstration projects to get needed information; with priority for project types that keep agriculture in production AND increases water to the Colorado River system.
  - Consider projects on irrigated meadows tied to riparian areas, and other areas dependent on return flow etc., could be made low priority.
  - Upper Colorado River Commission is putting out a request to consultants on technical issues in October – may help on this issue?

- Municipal conservation: Consider examples in-state, including Cheyenne – wastewater re-use as one of methods there. Also consider how strings on state funding which require towns to charge only the cost of water could hinder municipal conservation.

3. **Credit for savings in a DM program:**

- Can there be credit for personal storage accounts for industrial/other private entities/(maybe even cities) if they pay for conservation? Possibly retroactive... credit up front for early action?
- Wyoming itself needs to fight for credit for Demand Management participation – obtaining curtailment risk and consumptive use data as described above will help that.
- How are conveyance losses to reservoirs accounted for?
- What scale is appropriate for participation in a Demand Management program in Wyoming? Individual water right holders, creek basins, irrigation districts?
- It is important to avoid adverse effects on neighbors. For example, if one user upstream uses less water and that reduces return flow or the water table depended upon by a neighbor.
- Does Wyoming need a water salvage statute (which exist in some other states), which would allow a water user who saves water to sell or lease the saved water? (Currently any water not used becomes part of the flow available to junior/other users).

4. **Existing water transfer tools in Wyoming. Wyoming water law allows permanent and temporary changes of the type or place of water use, and water exchanges to allow replacement water from a different source.**

- Municipalities and industry need a portfolio of different options to deal with the possibility of curtailment.
- Exchanges via Fontenelle and/or High Savery Reservoir:
  - Because they are post-Compact reservoirs, there are limits on their utility. Stored water can however be shifted to new uses more easily in Wyoming than in other states.
  - Can water stored in Wyoming be exchanged for conservation of a surplus or excess water right (2<sup>nd</sup> cfs) that may be at risk?
  - Could other, smaller reservoirs be used for exchanges?
- Can temporary transfers be arranged in advance? There is a need for an **orderly** process, whether for Demand management or curtailment implementation.
- Infrastructure may be needed to get the water being transferred to the new place of use.
- Any program needs to protect any water right holder from forfeiture/abandonment in use of tools.
- Fontenelle Reservoir:
  - What are the options for State acquisition of more Fontenelle storage? What is the cost? Is that water available to release in a Compact curtailment?
  - The Bureau of Reclamation's operation of Fontenelle reservoir affects the amount of water really available. The reservoir is often less than full, especially in preparation for spring run-off.

- The Legislature needs to understand the high value of the proposed riprap project at Fontenelle which would make an additional 80 kaf always available. (discussion is ongoing regarding what method to use for the riprap project – the cheaper method involves emptying reservoir, but raises concerns for fishermen and industry).
- Could Fontenelle be a Demand Management storage spot?
  - It is not eligible under the Demand Management Storage Agreement.
  - Could Wyoming get Demand Management credit for storage “spilled” in Bureau of Reclamation operations? Or some sort of exchange agreement?
- Viva Naughton – if the power plant closes, is that water useful, or are there risks for the drainages and the users?
- Consider treating flood irrigation of fields as Demand Management storage, and pay irrigators for flood irrigation.
- The System Conservation Pilot Program, which paid per acre for fields not watered after early July in some cases, does not have to be model for Demand Management.

#### **5. Augmentation needs exploration**

- Possible purchase of tribal futures rights?
- Import water unused in other basins.
- Groundwater; deep resources that aren’t sufficiently connected to Colorado River surface water.

#### **6. Funding:**

- Position that funding will not come from the state for the compensation portion of a Demand Management program.
- If funding found (particularly private funding), it should be equal opportunity and sectors should be equally targeted for conservation projects.

#### **7. Miscellaneous:**

- Quagga mussels: If there is no funding to keep them out of Wyoming, they could easily change key calculations – clogging up irrigation, municipal and industrial infrastructure.
- Is Demand Management storage actually protection? Is it worth doing even if it only provides 1-year of protection? Couldn’t all the water stored over several years (up to 500 kaf cap) be released in 1 year? Compact compliance problem could persist probably for more than 1 year.
- Concern over Demand Management being forced upon Wyoming by the Upper Colorado River Commission. Is that possible because Demand Management can’t be initiated without a unanimous vote of every state commissioner on UCRC – including Wyoming’s commissioner.
  - Could Demand Management be forced on Wyoming through incorporation in post-2026 guidelines by the Secretary of Interior? Is this possible due to the unanimous UCRC vote requirement?
- US Forest management fixes could provide more water (& less fire damage).
- In the entire Colorado River Basin, should forest consumptive be counted or reduced so more water resource is available?

- Does water conserved under a Demand Management program have to comply with Wyoming's export statute which requires legislative approval of the export of water in excess of 100 kaf for use outside of the state)? What effect does the export statute's savings clause, which says the statute cannot interfere with compact obligations, have on the question?