

Interbasin Compact Committee – Demand Management Workgroup Joint Meeting Report

Date: March 4-5, 2020

Day 1: The first day focused on IBCC issues, with several Demand Management Workgroup participants present as well.

Presentations:

- Russ George, Dan Gibbs, and Becky Mitchell provided opening remarks.
- Cleave Simpson gave a presentation on water resource management in the Rio Grande Basin.
- Paul Bruchez provided a presentation on the Colorado River Basin Roundtable's Alternative Transfer Method project analyzing conserved consumptive use in high altitude projects.
- John Kolanz presented on the possibility of state assumption of Section 404 permitting.
- Russ George provided thoughts and feedback relating to the Demand Management Feasibility Investigation.
- Andrew Rickert presented on Colorado's Weather Modification efforts.
- Amy Ostdiek provided an update on the Demand Management Feasibility Investigation.
- Kevin Rein presented on Colorado River Compact Administration.
- Greg Johnson provided an update on the Water Supply Reserve Fund Criteria and Guidelines and the work of the Public Education Participation and Outreach committee.

Discussion topics: IBCC and Demand Management workgroup members in attendance held a discussion on equity, and its definition and implications within the context of the Demand Management Feasibility Investigation. The group broke out into eight smaller groups and discussed various scenarios, and whether or not they would be considered equitable. This helped the group further focus the discussion of what equity is or is not in a potential Demand Management program.

Day 2: The second day focused on the Demand Management Feasibility Investigation, with Demand Management workgroup members in attendance and IBCC members as they were able to join.

Presentations:

- Becky Mitchell, Russ George, and Greg Johnson provided opening remarks and updates.
- The group was asked several polling questions relating to impressions of the Demand Management Feasibility Investigation.
- Amy Ostdiek provided an update on the Demand Management Workgroup progress.
- David Groves and Russ Sands then introduced an exercise designed to provide a framework and structure for analyzing various potential outcomes in light of the various uncertainties associated with a potential demand management program, and values the workgroups have identified and continue to develop. This framework could help guide future workgroup discussions.
- The workgroups then broke into individual meetings, followed by workgroup-to-workgroup meetings to discuss crosscutting issues. Reports from each workgroup are below, followed by a list of discussion topics in workgroup-to-workgroup meetings.

Administration & Accounting

- Importance of administration and accounting mechanism not being overly burdensome. However, this will need to be balanced with the needs of a potential program.
- Need to assure no injury to non-participants if a demand management program is set up.
- Desire to prevent federalization in the Upper Basin.
- Storage, ability to store in various units is an important element to understanding administration and accounting issues.
- Legal questions remain, such as whether compact compliance is a beneficial use.

Agricultural Impacts

- Discussion about equity, and how it changes depending on the perspective.
- Voluntariness is important, how defined in various contexts.
- It is helpful to think about demand management as a shared responsibility. Defining key terms, such as “demand management,” “fairness,” etc., will be important.
- The value of water – participation in a program could beneficially or negatively impact the financial wellbeing of local and regional communities depending on how much water is contributed to a program.
- Demand management should be thought of as an insurance policy; should prevent adverse impacts to agriculture and the community and seek to maximize benefits where possible.

Economics & Local Government

- How to shift paradigm of evaluating a potential demand management program, by looking at benefits of a program instead of focusing on negative impacts.
- Goal to ensure that a program maintains or benefits state and local economies, including the recreation and tourism economies.
- Should be collaborative analysis of cumulative economic benefits between CWCB and local governments
- CWCB has experience in managing instream flow programs and grant and loan programs. Demand management could be built on similar programmatic structures.
- Language, such as “demand management,” overly complicates. Could switch focus to more well-known terminology.

Education & Outreach

- A communications and outreach plan should be in place before a Demand Management program is decided upon, while messaging can be developed as the program is developed.
- Messaging requires a common unifying frame and common terms/language to start, such as long history of Colorado resilience, opportunity, common enemy, investment, etc.
- Regardless of core statewide framing, different groups require unique, tailored communications centered on clear, positive benefits.
- Uncertainties exist around this workgroup's role in the feasibility investigation process. A communications plan could be developed with content/output from other workgroups, but no need to broadly communicate about a program that may not happen.
- Values of inclusiveness and empowerment, and proactive management rather than reactive crisis response.

Environmental Considerations

- Without an insurance program, when the hydrology gets bad, the environment will suffer. Therefore, demand management is an appealing option from environmental perspective.
- Criteria to ensure environmental compliance as well as net environmental benefits would be helpful.
- Goal to encourage community and site-specific environmental benefits.
- Questions around how much participation there would be in a potential program and what that means for environmental impacts.

Funding

- The amount of money that needs to be raised will affect what funding options are available and what a potential demand management program could look like.
- Questions around what the funds would need to cover – e.g. only program participation, or also administrative and staffing costs, monitoring costs, infrastructure costs.
- Timeline of when water should be available will also influence funding needs. An acute vs. chronic timeline will help determine whether funding needs to be one lump sum or annualized.
- Funding workgroup continues to work on balancing risk of having multiple funding sources vs. one funding source.

Law & Policy

- Every workgroup will require a legal discussion. The Law and Policy group views its task as to help set framework to help other workgroups think through legal issues.
- The workgroup is working to identify the legal and policy questions rather than define the exact policy.
- Also working on providing a definition of key terms of any potential demand management policy to ensure there is defined common language.
- Focus on question of whether compact compliance is considered beneficial use.

Monitoring & Verification

- Discussion around developing a streamlined process for monitoring potential demand management activity.
- Need for sideboards and differentiation of Monitoring & Verification needs depending on project type (high elevation pasture, full and partial fallow, crop switching, Municipal & Industrial, Trans Mountain Diversions, etc.)
- Desire to measure “wet water” and not “paper water.”
- Maintenance of return flow patterns where there is injury potential is important.
- Desire for “strawman” to work through.

Joint Workgroup Meetings – Round 1

Administration & Accounting/Law & Policy

- Discussion around “compact compliance” as beneficial use, and need for potential legislative fix.
- Issues that require water court involvement, or preference to design so that it does not.
- Demand Management Storage Agreement constraints discussed, including storage in upstream reservoirs, policy mechanisms to be used to allow for upstream storage.
- Definition of “consumptive uses” for qualifying to participate in a potential program.
- Injury and return flows, and legal or policy mechanisms that would be necessary.

Agricultural Impacts/Monitoring and Verification Workgroup

- Ag Impacts’ themes are focused on ag viability/economic preservation, the need to keep water on the land long-term and avoid/mitigate impacts of temporary conservation on agricultural operations, while Monitoring and Verification is focused on need to create stringent enough guidelines while providing flexibility and ensuring easy enough path to participation.
- Discussed how municipalities and Front Range water users might participate, and issues specific to their participation.
- Need to establish defensible, honest, and accurate mechanisms to verify while not overly burdening the ag community or a specific basin or geographic region.
- Desire for additional site-specific pilot or other projects to better understand agronomic effects such as yield, forage quality, and foregone income as well as broader socio-economic impacts.
- Discussion around injury – what it means and how to avoid injury.
- Desire to run through strawman and scenarios with these groups, and get the administrative group involved. Possibly through a demand management technical “summit.”

Economic Impacts & Local Government/Funding

- The issues and decisions to be made vary based on the timing of development of water in a potential program – whether chronic or acute.
- Various potential funding sources discussed, such as Prop DD, other potential sources.
- There is confusion around the definition of temporary for different types of potential participation in a program, and the program itself, and the group discussed and clarified that “temporary” generally refers to the participant’s participation in the program.
- Full consideration of costs would be important, including costs of shepherding, administration, data management, monitoring and verification.

- Equity discussed as a shared responsibility.

Education & Outreach/Environmental Considerations

- A potential Demand Management program will need public funds and thus the public to understand the issues. Need all frames to talk to the public.
- Difficulties relating to messaging a program that does not yet exist in the face of fear and misinformation.
- Need to reset the story, articulate common goals, and highlight potential system benefits to all sectors to overcome early negativity.

Joint Workgroup Meetings – Round 2

Administration & Accounting/Monitoring & Verification

- Questions around administration of a possible program, such as who would make decisions on which projects to select and evaluation criteria.
- Discussion of need to balance rigorous monitoring/verification with need to streamline process.
- Assuring no injury, balanced against level of accuracy.
- Discussion around other models with framework that could be useful, such as Lease Fallow Pilot Project model.
- Discussion about need for water court involvement.

Agricultural Impacts/Education & Outreach Workgroup

- Desire to frame the message positively, and overcome negativity associated with demand management; a positive foundation (communication frame and plan) could answer a need to assist rather than burden communities in face uncertainty.
- Tell Colorado's success story and long history of resilience, creativity, and benchmark agreements.
- Acknowledged the difficulty in messaging a feasibility analysis as opposed to an actual program.
- Need to map and utilize existing communications networks. Message should most often be delivered by those internal to communities, but based on common narrative (communication plan, content, foundation).
- Communication often fails/succeeds based on trust of the messenger.

Funding/Law & Policy

- Discussion about whether program and funding will focus on solely water contributed, or also more permanent infrastructure updates. There was also discussion about the

definition of “temporary,” ie, is the program only temporary for participants, while program itself could continue in perpetuity?

- Discussion of triggers that may “turn on” a demand management program.
- Realistic sideboards to consider at this point, leading up to timeline for renegotiation of the 2007 Guidelines, and what we need in the next 5-10 years.
- Need for advance notice for developing funding sources.
- Desire to focus on certain scenarios to further develop these concepts.

Economic Impacts & Local Government/Environmental Considerations

- Mechanisms for demand management contributions from Front Range discussed.
- Challenges of developing a message at this stage, but need to develop groundwork for messaging, such as demand management as an insurance policy, clearer messaging around negative impacts of curtailment.
- Discussion of potential criteria to protect both communities and the environment.
- Definition and terms can be problematic, including the phrase “demand management.”