COLORADO
Colorado Water Conservation Board
Department of Natural Resources

# IBCC/CAWA Ag Water Summit
# November 29, 2016
# Meeting Summary

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## Overview

The Interbasin Compact Committee (IBCC) and Colorado Ag Water Alliance (CAWA) held an Ag Water Summit on November 29, 2016 with 175 participants from across the state. The summit was geared towards identifying concrete ways to achieve the measurable objective in Colorado's Water Plan to share at least 50,000 acre-feet of agricultural water using voluntary alternative transfer methods (ATMs) by 2030. The day began with opening remarks from CWCB director James Eklund and CAWA board member Robert Sakata. Both Eklund and Sakata emphasized the importance of protecting agriculture and the need to actively implement successful ATM projects. The framework for the day's discussion was then provided by Phil Brink's review of his 2016 survey of Ag water right holders performed for CAWA and the Colorado Cattlemen's Association.

## Panel Discussions

The bulk of the summit consisted of five panels that explored various aspects of ATMs in an attempt to narrow in on a number of key issues and related recommendations.

**Panel 1 – Successful Current ATM Projects: Views of Agricultural Producers**

- **Phil Chavez** (Ag Producer, Arkansas Valley)
- **John McKenzie** (Ditch and Reservoir Company Alliance)
- **Jim Yahn** (North Sterling Irrigation District, CWCB & IBCC Rep)
- **Paul Kehmeier** (Ag Producer, Western Slope)

The first panel sought to address the perspective of agricultural producers who must often maintain some degree of successful production with less water while trying to supplement their income with ATMs. The panel explored positive aspects of ATMs such as soil improvements from fallowing and rotation, appropriately incentivized payment structures, and the potential benefits of income diversity from long term leases, all of which can lead to relatively strong community support and participation. However, participants emphasized the importance of storage and other infrastructure, along with the appropriate geographic location of buyers and sellers. The panel concluded that many important lessons have already been learned (especially from the Super Ditch Project), but transaction complexity remains a major issue, along with delivery and water shepherding complications that are proving difficult to integrate with existing water rights. Recommendations included pursuing more ditch-wide partnerships, increasing transparency, conducting cost-benefit analyses with realistic assumptions, and even creating a simplified "Turbo Tax" type system for ATMs to increase the efficiency of necessary data analyses.

**Panel 2 – Successful Current ATM Projects: Views of M&I Participants**

- **Gerry Knapp (City of Aurora)**
- **Michael Fink (City of Fountain)**
- **Richard Belt (Xcel Energy)**
- **Scott Lorenz (Colorado Springs Utilities)**

The second panel focused on the perspective of municipal and industrial water providers who are charged with procuring consistent and cost-effective water supplies. As a large utility, Xcel Energy provided an interesting example of its diverse ATM operations that are the largest in the state, with 5,500 AF of ATMs in their current portfolio. The success of Xcel's ATM portfolio was credited to well-structured agreements, good communication, willing participants, flexibility enabled by storage, clear triggers for administration, and compatible location/scale. Representatives from the municipalities of Fountain, Colorado Springs, and Aurora all explored various aspects of their experience with successful ATMs. Participants stressed the importance of flexibility, reasonable expectations, and respect for the self-sufficiency of farmers. It was also noted that ATMs can serve different purposes: short-term needs (drought recovery) and long-term needs (water supply portfolio and redundancy). However, regardless of the purpose, infrastructure (especially storage) was identified as the most critical component. The panel concluded that ATMs can provide a critical piece of water supply portfolios as long as they make financial sense for everyone involved.

**Panel 3 –Successful Current ATM Projects: Views of Environmental and Recreational Participants**

- **Zack Smith (Colorado Water Trust)**
- **Dave Kanzer (Colorado River Water Conservation District)**
- **Aaron Derwingson (The Nature Conservancy)**

The third panel explored how ATMs can be used to help address environmental and recreational needs. The panel noted how such ATMs may address very different goals on the West Slope and East Slope. For example, West Slope efforts have focused on water banking related to compact issues and water quality, while also resulting in improved infrastructure. The current Grand Valley Pilot Project was examined as a potentially promising example that has initially received more interest than anticipated and involves 1,250 acres, 10 shareholders, 4 activities, $1M of farm improvements, and 3,200 AF of water delivered above the 15-mile reach to help augment flows for the endangered fish. The panel discussed how 3-in-10-year instream flow leases have worked with an expedited approval process to address environmental and recreational needs. It also explained how other tools are being used, such as permanent split-season projects, and water conservation plans per new legislation that protects participating water rights from abandonment and historical consumptive use penalties, without providing the status of a full instream flow water right. The panel concluded by emphasizing the importance of flexibility and addressing all needs in harmony.

**Panel 4 – Why ATMs: Common Denominators & Obstacles**

- **Todd Doherty (Western Water Partnerships)**
- **Peter Nichols (Berg Hill Greenleaf Ruscitti LLP, IBCC Representative)**
- **Andy Jones (Lawrence Jones Custer Grasmick LLP)**

The forth panel sought to address the commonalities of successful ATMs, especially with regard to overcoming known obstacles. Identified elements of success included: a lead organization with expertise, resources, and long-term commitment; an organization that represents the irrigators; and a municipality that wants to make a deal. While much work has been done, with over 25 studies

published on the Super Ditch alone, a number of hurdles remain such as: high transaction costs, risk and uncertainty, insufficient infrastructure, and the need for permanence. Like other panels, this panel emphasized the need for legal flexibility and infrastructure. The panel even stressed that ATMs should be viewed like any other major water infrastructure or storage project. Recommendations included: an elected board to represent Ag interests, diverse funding, multiple participants/beneficiaries, a viable trading platform, and a strong lead entity for the water court process. Reliable and renewable funding was identified as one of the most critical ingredients for future ATM success, while new partners such as local and regional open space programs were introduced as relatively unexplored opportunities. The panel concluded by suggesting that while ATMs are successfully moving forward further innovation may ultimately be necessary, such as allowing for more flexible uses of fully consumable water rights and making lease-fallowing pilot programs permanent.

**Panel 5 – Ongoing Activities, Updates, and Legal/Legislative Issues**

- **Anne Castle (Getches-Wilkinson Center for Natural Resources, Energy, and the Environment at CU)**
- **Kevin Rein (Colorado Division of Water Resources)**
- **Brad Udall (Colorado Water Institute)**
- **Brett Bovee (WestWater Research)**

The fifth and final panel was tasked with tying things together by summarizing recent ATM activities in light of legal and legislative issues. The panel noted the importance of major differences between ATMs on the West Slope and East Slope, along with detailed legal changes to address some existing limitations. Participants also examined the pros and cons of existing legal, administrative, and technical ATM tools. For example, the lease fallowing tool for HB-1248 has provided a good technical platform with conservative presumptive factors that help to streamline the implementation of lease-fallowing pilot projects. On the other hand the implementation of technical approaches such as crop switching, deficit irrigation, and efficiency improvements often result in a number of often unanticipated complexities. The panel concluded with recommendations stressing the importance of: researching and understanding the demand side; reaching out to municipalities; motivating and educating municipalities about ATMs; reducing ATM costs; and addressing water supply risks with diverse portfolios to achieve long-term reliability.

**Table Discussions and Survey**

The final session of the Ag Water Summit involved table discussions that focused on six questions and a real-time survey conducted via smart phone polling technology. The table discussions and survey brought a number of recommendations into focus. Water bank concepts, the lease-fallow tool, and rotational fallowing were seen as some of the most promising tools. Recommendations for some of the best steps to move ATMs forward included: partnerships to invest in storage and delivery infrastructure, developing regional infrastructure and incentives, state leadership on specific areas, and field trials. The survey found that 35% of the attendees own or operate a water right while 36% are involved with an entity that could potentially lease an Ag water right. There was fairly strong agreement that the most appropriate scale for ATMs was regional (68% of respondents), with the most conclusive support for the fact that ATMs need storage or other infrastructure to be successful (84% of respondents).

*Summary materials from the Ag Water Summit and a number of related reports and studies on ATMs are available on Colorado's Water Plan website (including the recently released 2016 Annual Report for the successful Catlin Canal Rotational Land Fallowing-Municipal Leasing Pilot Project):*
*https://www.colorado.gov/pacific/cowaterplan/COagriculture*