

SUMMARY

Roundtable Proceedings

September 21-23, 1986

UCROSS FOUNDATION

"Roundtable on Water Policy"

With Grateful Acknowledgement

To Lollie Plank
for the many hours volunteered
to record, review and assimilate
these Roundtable proceedings

SESSION I

AS A RENEWABLE RESOURCE, WHAT ARE THE ASSETS, CURRENT AND POTENTIAL, OF WATER TO WYOMING AND DOWNSTREAM STATES?

I. Current Assets

A. Water resources

1. Headwaters state
2. Diversity of water sources: streams, ponds, lakes, rivers
3. Water already developed
4. Good water quality: surface water and groundwater
5. Good storage locations: flood control, stream control
6. Low density recreational use of water

B. Human resources

1. Some history of cooperation among various entities and neighboring states
2. Legal framework of water rights and interstate compacts in place
3. Experience and study has developed a good base of knowledge among experts
4. Commitment to water development
 - a) high level of public interest
 - b) confidence in potential of water development
 - c) funding mechanism for water development already in place

C. Companion resources: minerals and land

II. Potential Assets

A. Water resources

1. Surplus water available for development
2. head waters state potential limited only by compacts already in place
3. Storage potential: reservoir sites already identified for future opportunities
4. Hydropower potential: high altitude headwaters
5. Enhanced recreational use and opportunities

B. Resources

1. While of the essence, time is still available to manage, plan and develop water in Wyoming.

2. Identification of economic development opportunities in state and downstream, related to water development
3. Identification and development of needs and markets for water and water-related communities
4. Water development has relatively low people impact: small population centers, low population density

SESSION II

WHAT ARE THE ISSUES (CONCERNS) THAT INHIBIT PROGRESSIVE UTILIZATION OF WATER, AND HENCE, POLICY?

- I. Inadequate water policy
 - A. Lack of cohesive, well-defined water policy
 1. Need to set long-range policy and goals
 2. Need for comprehensive planning
 3. Environmental review process is arbitrary
 - B. Need to define
 1. Beneficial use
 2. What is economic: cost benefit analysis
 3. What constitutes in-stream flow
 - C. Scale of priority water naleaLs doesn't match scale of immediate user requirements
 - D. More flexibility required to respond to today's opportunities
- II. Legal, political and institutional restraints
 - A. Fractured authority results in "turf issues"
 1. State vs. State
 2. State vs. Private
 3. State vs. Federal
 - B. Lack of cooperative atmosphere to encourage private/state/federal partnerships
 - C. Lack of cooperation between and among states with different water rights laws resulting in different interpretations of existing water compacts
 - D. In-stream flow constraints
- III. Financial concerns
 - A. Financial restrictions aggravated by state's lack of enthusiasm for allowing, seeking, identifying opportunities for private sector participation
 - B. Need to maintain adequate funding for maintenance and development
 - C. Need to prioritize uses of financial resources

IV. Environmental concerns

- A. Cumbersome, lengthy, costly permitting processes
- B. Problem of state and federal mix of requirements
- C. Environmental impact statement and cost benefit analysis should be required at early stage of project consideration to assist in realistic appraisal
- D. Maintaining water quality at state line: especially Colorado drainage

V. Public education and information

- A. Public has high level of interest and participation from insufficient knowledge base
- B. Too much emotionalism, provencialism and regional polarization
- C. Too narrow perspective cause diverse objectives pursued and politicized by selfish interests resulting in "objective drift"
- D. Peripheral issues impede timely development

VI. Additional concerns

- A. Is "use it or lose it" an appropriate goal to water development or do compacts protect against "losing it"?
- B. Present water distribution system not responsive enough to existing needs
- C. Unidentified markets for water and water-related commodities such as recreation

SESSIONS III AND IV

IDENTIFY POSSIBLE COLLABORATIVE EFFORTS WHICH MIGHT ENHANCE THE QUALITY OF LIFE OF CITIZENS OF THE REGION THROUGH USE OF WATER.

- I. Design an education plan based on a coherent water policy to provide Wyoming people with a rational knowledge base to aid responsible participation in water development decisions
 - A. Inventory current programs to determine needs
 - B. Water Development Commission in cooperation with University of Wyoming to coordinate education program throughout the state
 - C. Design educational programs at all levels of public schooling, for regional groups, interest groups
 - D. Develop state-wide, coordinated water education network
 - E. Natural resource districts established to aid education and communication
 - F. Design education program for teachers at different levels
- II. Reorganize state government to implement water policy effectively.
 - A. Economic Development and Stabilization Board to encourage consolidation of all departments and agencies dealing with water resources into and under an umbrella "Department of Natural Resources".
 - B. Develop a state division of water resources with planning and spending authority that does what the Bureau of Reclamation does nationally
 - C. Centralize local, county and state efforts
 - D. Consolidated department would then implement newly formulated, comprehensive water policy

* notes efforts deemed most feasible

- * III. Process to develop a realistic, responsive water policy for Wyoming
 - A. To be developed by a water planning study groups consisting of various interested parties and agency heads
 - B. To be characterized by a pro-active water development program based on multiple use considerations early in the project planning process
 - C. Resource board established to identify projects and needs, to study and select projects based on established priorities and criteria with set minimum standards at every level of consideration
- IV. Suggestions for the Water Development Commission or a newly formed umbrella agency to define and implement a comprehensive water policy
 - A. Identify problems and needs
 - 1. Verify downstream threats
 - 2. Determine Indian water rights requirements and implications
 - 3. Determine broad spectrum needs and uses including planning for water exchanges between and among basins
 - B. Meet with downstream states to solve legal problems before designing projects
 - C. Develop marketing plan for water not now being benefici_lly used
 - D. Market water downstream: consider term leasing of water
 - E. Promote industry development in-state
 - 1. Encourage private and public economic development that would process waL.er in Wyoming
 - 2. Facilitate gradual regional development of coal/pump storage power
 - 3. Promote water-based recreation industry

otes efforts deemed most feasible

- E. Simplify regulatory process
- G. Press for federal legislation requiring jurisdiction to be limited to geographic areas of litigants water development projects to lessen permitting process limitations
- H. Clarify current laws and policy concerning leasing water from state or private storage: in-state leases and ownstream state leases
- I. Facilitate state-owned, state-sponsored, as well as privately owned and sponsored projects that would maximize water available for lease at current market rates
- J. Require private sponsors to verify financial commitment prior to project analysis going to Level II
- K. Participate in ___WSSC (with 13 other member states) to promote Wyoming's interest and to take advantage of the hydropower opportunities indicated through this network.
- L. Schedule and organize bi-annual conferences on projects of regional scope with focus on regional economics and interstate cooperation
- M. Consider water quality and reuse when determining beneficial use priorities
- N. Expand beneficial use concept to include water storage
- O. Establish policies that facilitate coal slurry transportation
- V. Other possible collaborative efforts
 - A. With public/private cooperation spawn an entity to build and operate a regional electrical inter-tie to deliver surplus energy to needy areas
 - B. Develop a multi-purpose master plan to address northeast Wyoming's water potential
 1. A broad basin plan to include the Little Big Horn, Clear Creek and Middle Fork drainages
 2. Research and resolve permitting, compact and transbasin issues
 3. Carry master plan through EIS and complete review process stages

notes efforts deemed most feasible

VI. The following specific projects were noted as being at different pre-development stages and as having merit for various needs and uses.

- | | |
|-----------------|--------------------|
| 1. Sandstone | 6. Clark's Fork |
| 2. Deer Creek | 7. Little Big Horn |
| 3. Seminole | 8. Clear Creek |
| 4. Middle Fork | 9. Polecat |
| 5. North Platte | |

* notes efforts deemed most feasible

TWO GOALS SELECTED WITH PLANS DEFINED AND BLUEPRINTS FOR ACTION DEVELOPED.

I. The goal: through widely utilized educational programs to further educate Wyoming people to make informed choices toward the preservation and wise use of the state's water resources.

A. The Plan:

1. A long-range program to encompass education from elementary school on up as to the significance of water to Wyoming
2. Expand and formalize education efforts currently undertaken primarily by the University's Agriculture Extension Program and the Water Development Association
3. Target concerned groups that should participate in the program: teachers, public officials, water interest groups
4. Solicit participation of targeted groups

B. The players: Leadership would come from

1. University of Wyoming's Water Research Center, Agriculture Extension Service, Civil and Agricultural Engineering Departments
2. Two key state water agencies: State Engineer's Office, Wyoming Water Development Commission.
3. Help from Wyoming Futures Project leadership to develop public awareness of need and promote a comprehensive education program.

C. Logical participants

1. Likely proponents targeted for participation
 - a) University of Wyoming
 - b) Community College system: teacher participation
 - c) Agricultural Organizations: Agriculture Unity Group, Farm Bureau, Stockgrowers, Woolgrowers, and others
 - d) Public official groups: Wyoming Association of Municipalities, County Commissioner Associations, WWDA, legislators, RC&D type organizations, state water agencies, state water forum

2. Opponents
 - a) Existing "experts" across the state
 - b) "Anti-development" interests, "preservationists" who may perceive the effort as "pro-development"
 3. Participants with no predictable bias
 - a) Water consumers
 - b) The public as they pursue a better knowledge base
 - c) Educators in so far as they teach objective knowledge to the public
- D. Begin now to establish a "comprehensive" program through coordinated efforts of identified leaders
1. Identified leaders meet to flesh out details of plan, determine commitment of manpower and dollars and prepare a formalized educational program feeding off existing programs-to be disseminated by a committed "Public Information Group"
 2. Design of program: curriculum materials chosen to familiarize student publics with:
 - a) Water Law: in-state and compacts
 - b) Conservation
 - c) Management and use
 - d) Regulation and administration
 - e) Multiple uses of water
 - f) Measurement: quantity, quality
 3. Present courses in educational format in an educational setting , using strength of Wyoming education netwo7k to ring education to the people" in cities, towns across the state, Community Colleges, University of Wyoming.
 4. This program should be continuous, expanded and updated as necessary and custom designed for targeted groups:
 - a) Two day seminars for various adult publics
 - b) Two week accredited short courses - summer for teachers and educators - culminating in curriulum additions in elementary and high school courses
 - c) Reinforced with "handout" materials, stimulating, lectures, media advertising
 - d) Curriculum made available on VCR tapes

5. Sponsorship and dollars

- a) Need governor and legislative support, for both funding and awareness
- b) State Department of Education support
- c) Matching dollars from private sector
- d) Small fee for courses
- e) Funding through Wyoming Futures Project

E. Expectations: The public has significant role to play in a water resource planning and development in Wyoming so any education is a positive step toward the most beneficial use of the state's water assets

1. It will take two to three years of committed effort, especially by the "Public Information Group" charged with disseminating it, to establish the program
2. It is hoped that the leadership of the "Public Information Group" will have a profit's zeal and credibility in promoting this new thrust IF education, with the imprimatur of the Governor of Wyoming

The goal: To reorganize state government consolidating those agencies with water resource functions under a Department of Natural Resource .

A. The Plan: since water is the linchpin upon which the economic use of all the other natural resources of the state depend,

1. Consolidate and reorganize all of the agencies of state government that have a function in the development of Wyoming's natural resources into or under one umbrella department to improve cooperation without unduly disturbing the functions of existing agencies
- 2.. Eliminate those practices or functions that are counter-productive, contradicting, redundant or wasteful of the human, capitol and natural resources of the state

B. The Players: Leadership would come from

1. The new Governor of Wyoming
2. Wyoming Futures Project and the WFP Task Force on Government Reorganization
3. Commission of 7 individuals with broad-based representation, appointed by the legislature and the governor, led by a citizen of high credibility and state-wide stature (perhaps a former governor) and charged with the responsibility of proposing a reorganization of state government

C. Logical participants

1. Proponents
 - a) Wyoming Futures Project
 - b) Wyoming Water Development Association
 - c) Agricultural Association: Stockgrowers, Woolgrowers, Farm Bureau
 - d) Mining Associations
 - e) Coalition for Good Government
 - f) Heritage Society
 - g) Wyoming Bar Association
 - h) League of Women Voters
 - i) Wyoming Taxpayer's Association
 - j) Chambers of Commerce
 - k) Some involved government agencies

2. Opponents
 - a) Some involved agencies
 - b) Environmental organizations and "preservationists" who are successful in dealing with state government agencies as presently constituted might view a reorganization as a way to streamline development
 3. Participants with no predictable bias
 - a) University of Wyoming
 - b) Wyoming Association of Municipalities
 - c) Community Colleges
 - d) Silent majority
- D. The process should begin currently with the formation of the Wyoming Futures Project Task Force on Government Reorganization with membership chosen for its broad representation
1. Task Force recommendation to legislature to fund and establish Commission of 7
 2. Recommendation to be ready for 1987 consideration by interim committees of the legislature
 3. Obtain funding for Commission in 1988 legislative session
 4. Consideration of Commission's proposals at 1989 regular session of Wyoming legislature
- E. Expectations: The reorganization would save time and money and would enhance the quality of life in Wyoming by providing more effective, efficient government at a time when economic development is acknowledged to be of utmost importance.
1. Broad based reorganization under an "umbrella" Department of Natural Resources is a saleable proposal and could be done without greatly upsetting the functions of existing agencies. Such a reorganization must involve: State Engineers Office, Water Development Commission, EDS Board and water functions of DEQ, Game and Fish, Public Service, Oil and Gas Conservation, Industrial Siting, Department of Recreation, Agriculture Department.

2. A compromise might have a better chance of success: reorganizing, the most important agencies evolved with water resources i.e. State Engineer's Office, Water Development Commission and the EDS-Board
3. Possibility of success reasonably good for a partial reorganization
4. Failure to budge the bureaucracy is also a possibility
5. Governor's unqualified support is essential
6. Caliber and statesmanship of appointed leadership of Department of Natural Resources is vital

A LONG-TERM MARKETING STRATEGY TO DEVELOP AND MARKET WYOMING WATER NOT ALREADY COMMITTED TO BENEFICIAL USE. (THE PRIMARY GOAL AND IMMEDIATE PRIORITY OF THE EXISTING WATER DEVELOPMENT PROGRAM.)

- I. Determine in-state existing use requirements
 - A. Insure water availability for existing demand
 - B. Allow for expansion of existing demand
 - C. Define and quantify available surplus to be marketed
- II. Marketing and purchasing entities
 - A. Water from current and planned state water projects to be marketed by the EDS Board and the Water Development Commission to
 - B. In-state users: to encourage economic development and jobs
 1. Promote mineral/water packages to develop mineral resources
 2. Uses that result in reusable water to sell
 - a) Reservoir recreation and fisheries
 - b) Hydropower - an economic by-product of stored water under contract that can be released at a consistent rate
 - c) After in-state use/uses collect for coal slurry use if water can be transported out of basin
 - C. Out-of-state, downstream users: to assure full financial benefit, from Wyoming's water allocation under current compacts, of any surplus water remaining after "I" and "II-B" above
 1. Surplus water could be marketed by contract not to develop, for a defined period of time, Wyoming's currently unused compact allocation now being lost in spring run-off. Let it flow across state borders as long as Wyoming is assured of getting it back at end of contract period

2. Contracts to store and deliver

- a) Wyoming's decree/compact allocation of 1) water developed (stored) but with no in-state use or 2) stored water used beneficially and able to be reused downstream could be marketed under definite term contract, preferably to a specific use with a definite life span
- b) Store downstream state's decree/compact water as a service for delivery under contract terms: potential for hydropower as a by-product to benefit Wyoming

3. Some of these contracts might address water quality problems such as salinity

4. "C.1" and "C.2.a" contracts must honor entitlements

5. All water c scribed above to be marketed out-of-state would bi sold to states, not private industry

III. Potential projects to develop storage

- A. Green River: Fontinelle, Sandstone
- B. Bear River: Smith's Fork
- C. Powder River: Middle Fork, state purchase of Lake DeSmet
- D. Tongue River: State Line, Prairie Dog
- E. Clark's Fork: series of high altitude reservoirs for storage to sell downstream and perhaps out of basin
- F. Big Horn Basin: Buffalo Bill

IV. Some perceived problems (to be dealt with and/or resolved)

- A. How do you prove to public tht you have a surplus to market?
Education problem
- B. Some compacts state that Wyoming water allocation must be used in Wyoming or released downstream. This water could not be sold unless perhaps in a reusable state after recreation or other use
- C. Impediment to coal slurry and transbasin use: water In some drainages can't b transported out of 'Basin without permission of other compact states

- D. Quality of water crossing state line is becoming a consideration not covered in original compacts
- E. Lack of return flow could become a consideration as original compacts assumed return flow when allocating total amounts of water available in a drainage

COMMENTARY AND DISCUSSION ON STATE WATER POLICY. AN ATTEMPT TO IDENTIFY
WHAT IS LACKING AND WHAT IS NEEDED.

I. Existing water policy

A. Water policy consists of the enabling legislation's mandate to the Wyoming Water Development Commission to develop optimum amount of water in the state and the Commission's policy guidelines in the pursuit of that mandate

B. Difficulties with existing policy and procedures

1. "Optimum" needs clear definition
2. Procedures, as delineated in guidelines, need to be followed more straightforwardly and consistently
3. Procedures need to be updated to accommodate water development from the perspective of scarcity

II. Inadequacies of policy and Procedures as currently defined and practiced

A. Economic evaluation of proposed projects should be based on established standardized criteria'

1. Most criteria are already included in guidelines but are fuzzy and often ignored as pet projects become politicized
2. Need more definitive treatment of economic analysis for TUTEification of projects

B. Water Development Commission has power to tighten up procedures

1. Better screening process should rule out inadequate project ideas before a lot of money is spent in Level I stage when it is obvious a project won't meet the requirements of Level II
2. Too easy to move through the initial three study levels
 - a) Procedural gaps and inconsistencies lead to early compromises through political influence
 - b) Inadequate requirement for financial commitment from sponsors of projects

C. Procedures need to be updated

1. Broaden scope of Level I studies to address all practicable alternatives
2. Require cost sharing of studies for all levels beyond Level I
3. Greater priority given to quality of water, in so far as quality considerations do not jeopardize basic system of first in time, first in right water law
 - a) Give best water to highest use in so far as possible given established water law
 - b) "Quality water for quality needs in any stream segment" would be possible if exchanges were allowed
4. Give consideration where possible to reusing water several times from highest quality needs to slurry use

III. Some discussion areas

- A. Using rigid economic criteria to establish project priorities could tend to curtail the development of projects with real merit from other perspectives
- B. Politicizing of project development decisions
 1. Projects inadequately evaluated for their financial and engineering merit are passed on to legislature where political process takes over
 2. Best way to truly evaluate projects is to keep them out of political process
- C. Water development program should better address above criticisms as it matures
 1. Because of state's current condition of economic austerity, projects are being set on the shelf
 2. This is a reordering period for what has been a project intensive program
 3. Quality projects should begin to rise to the surface

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