Western Water Right Transaction Programs

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What’s a Transaction Program?

• Desire to use market-based methods to achieve a water reallocation or transfer goal
  – Differs from regulatory programs, in which reallocation is not voluntary, compensated, and/or temporary

• Centralized party on one side, many parties on the other
  – For demand management - this means one buyer, many sellers

• Geographic area of interest, ‘acceptable’ area in which to find other parties
  – For demand management in Colorado, water is delivered to the state line and can be sourced from anywhere on the Western Slope.

• Transfers large volume of water rights, significant scale to justify program development
  – Individual transactions can be small or large, but cumulative volume is large

• Programs can include lease or permanent transfers of water
Example Water Transaction Programs in Western US
Transaction Program Foundational Questions

• What’s the purpose of the program?
• How to find willing partners?
• How to conduct due diligence?
• How to quantify deal terms?
• How to monitor on-farm compliance?
• How to ensure program benefits are achieved?
• How to pay for it?
What’s the Program’s Purpose?

**Environmental**
Increase stream flows for ecological benefit

- Columbia Basin Water Transactions Program
- Colorado Water Trust
- Deschutes River Basin Water Leasing
- Imperial Irrigation District Fallow Programs
- Walker Basin Restoration Program

**Augmentation**
Ensure junior users can keep diverting

- Rio Grande Water Conservation District
- *System Conservation Pilot Program (Upper)*
- *System Conservation Pilot Program (Lower)*

**Municipal**
Transfer water to municipal use

- Imperial Irrigation District Fallowing Program
- Palo Verde Irrigation District Rotational Fallowing Program
How to Find Willing Partners?

Reverse RFP
Buyer puts out a Request for Proposals from sellers & evaluates each proposal
   Ex. Colorado Water Trust – "Request for Water Process"

Administrative Price
Buyer sets price to be paid and criteria to be met, seller can evaluate and opt to participate.
   Ex. Rio Grande Water Conservation District – *Annually Set Price for Fallowing*
   Ex. Deschutes River Basin Water Leasing – *$0-$7/AF*

Individual Partnerships
A program is built in partnership with companies/districts, with partners arranged by larger entity.
   Ex. Imperial Irrigation District Fallowing Program – *Fallowing program administered by IID*
   Ex. Deschutes River Basin Water Leasing Program – *Irrigation Districts administer leasing program*

Targeted Legwork
Partner organizations use their local knowledge and connections to find potential sellers.
   Ex. Columbia Basin Water Transaction Program – *Qualified Local Entities*

Alternative Mechanisms
There are a number of other mechanisms that could be used for price and/or partner discovery.
How to Conduct Due Diligence?

**Company/District**
Work with a company or district that maintains accurate records
- Ex. Imperial Irrigation District Fallowing Programs – *IID maintains records on diversions*

**State Records**
Use state records to validate water right, particularly for individual right holdings
- Ex. Rio Grande Water Conservation District – *State permits & pumping records*

**Other Data**
Use other available data sources: crop reports, satellite imagery, county assessor, FSA.

**Local Legwork**
Partner organizations on the ground use local knowledge and available data to validate
- Ex. Columbia Basin Water Transaction Program – *Qualified Local Entities*

**New Remote Sensing Data Tools**
Multiple new tools are being developed that can aid in determining HCU over a large area in a quick and programmatic way.

**Due Diligence Items**
- Historic water use
- Ownership
- Encumbrances
# How to Quantify Deal Terms? - Units

## What Units Should a Program Use?
- $/Share?
- $/AF Diversion?
- $/AF HCU?
- $/Acre?
- $/CFS?
- $/Miners Inch?

*Conversion not always straightforward.*

## Local Standard
*Pay in local units*
- No need for potential partners to do conversions
- Some areas could have multiple standards
- Used for localized, homogenous areas

*Ex. Deschutes River Basin Water Leasing - $/AF of Delivery*

## Admin Standard
*Use standard (Ex. HCU)*
- Might not be colloquial
- Partners need to convert to administrative standard
- Keeps admin. straightforward
- Used for large, heterogenous areas

*Ex. Columbia Basin Water Transactions Program – QLE’s quantify all transactions in HCU where relevant.*
How to Monitor On-Farm Compliance?

**Company/District**
Companies/Districts ensure water is not delivered to seller.

Ex. Deschutes River Basin Water Leasing – *Most water is leased from district members under district partnerships, allowing enforcement to occur in-office.*

**State**
State Agencies are used to enforce fallowing or other restrictions.

Ex. Columbia Basin Water Transactions Program – *Northwestern states require formal transfer approvals.*

**Local Partners**
Partner entities can be on the ground ensuring compliance.

Ex. System Conservation Pilot Program – *Local entities worked with irrigators.*
# How to Ensure Program Benefits?

## How to Protect Conserved Water

<table>
<thead>
<tr>
<th>State Oversight</th>
<th>Bypass Deals</th>
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</thead>
<tbody>
<tr>
<td>Use state mechanisms to ensure water gets where it’s contracted.</td>
<td>Agreements with intervening diverters to allow water by.</td>
</tr>
<tr>
<td>Ex. Walker Basin Restoration Program – <em>Court Ruling affirmed right to call</em></td>
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<tr>
<td>Ex. Colorado Water Trust – <em>15 Mile Reach</em></td>
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<tr>
<th>Fully Local Deals</th>
<th>No Need</th>
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</thead>
<tbody>
<tr>
<td>Only do deals in areas where water can get where it’s needed without interception.</td>
<td>Water is needed by the new user interior to the original POD</td>
</tr>
<tr>
<td>Ex. System Conservation Pilot Program – <em>Deals with all irrigators on tributary in WY</em></td>
<td>Imperial Irrigation District Fallowing Program – <em>Salton Sea received water inside IID.</em></td>
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## How to Pay for it All?

<table>
<thead>
<tr>
<th>Water Users</th>
<th>Government</th>
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</thead>
<tbody>
<tr>
<td>• Imperial Irrigation District Fallowing Programs</td>
<td>• Colorado Water Trust</td>
</tr>
<tr>
<td>• Rio Grande Water Conservation District</td>
<td>• System Conservation Pilot Program (Upper)</td>
</tr>
<tr>
<td></td>
<td>• System Conservation Pilot Program (Lower)</td>
</tr>
<tr>
<td></td>
<td>• Deschutes River Conservancy Water Leasing</td>
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<td></td>
<td>• Nebraska NRDs</td>
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<th>Donors</th>
<th>Settlement</th>
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Lessons for the Western Slope

• **Partners:** A successful program requires on the ground partners
  – Companies, Districts, or other entities that know irrigators and their area
  – Companies & Districts can help reduce upfront & monitoring costs
  – Many programs rely on state partners or local partners to shepherd water

• **Diverse Rights:** Targeting heterogenous assets requires more upfront work and more diligence on what is being transacted
  – Careful consideration on the units of the deal terms
  – Diversion volumes are easy, “wet water” is not

• **Expensive:** Large volume programs typically have significant transaction costs & funding typically comes from multiple sources
Questions?