

FLEX Water Market



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FLEX STUDY: History



- Need: Statewide Water Supply Initiative Study
- CWCBA ATM Grant Program
 - Methods: Fallowing, reduced consumptive use cropping, deficit irrigation
- Corn Growers/Aurora/Ducks Unlimited Phase One : Barriers
- The “Private Market” concept
 - Water law concepts: type and place of use, speculation
 - Multiple end uses of existing senior rights
 - Water Court approved “market,” voluntary lease arrangements



FLEX Market

- Agreement to change the use of senior water right to include multiple uses
- Platform to facilitate voluntary leases, trades between market members
- Example: Ag User, M&I User, E/C User
- Goals
 - **Permit** a portion of the senior right to be used for M&I and EC uses pursuant to voluntary contractual arrangements
 - **Maintain** the economic benefit of the senior water right in its region of origin
 - **Retain** sufficient water supply in the region of origin to sustain agricultural activities.



Photo Credit: Wusel007



Photo Credit: Jeffrey Beall



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FLEX STUDY: Goals



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- Overcome Identified Barriers
- Build consensus: workable implementation models
- Summarize Results in model FLEX agreement, water court terms and conditions
- Survey level engineering on three major South Platte Ditch Companies to assess potential for implementation of market concept

FLEX Study: Process



Photo Credit: Tim Kiser

- Groups met 3 times each, total of 20 meetings
- Comments integrated, progressive drafts produced
- Engineering: meetings with ditch companies, potential end users, analysis of CU and delivery issues

- Meetings with Division Engineer
- Four Working Groups
 - Ag Users
 - M&I Users
 - Environmental/Conservation Users
 - Attorneys/Engineers



FLEX STUDY: Results

- Broad Support for Multiple Use Concept
- M&I Uses
 - OTC Market
 - Drought Recovery
 - Filling Holes while acquiring permanent water supply
 - Permanent Supply



Photo Credit : Ethan Emery, Angling University



Photo Credit: Dick Rochester

- EC Uses
 - In stream flow (CWCB)
 - Habitat restoration and development
 - Recreation
- Ag Uses
 - “Water as cash crop”
 - Risk mitigation

FLEX STUDY: Results

- 6 Keys to FLEX Agreement
 - Critical elements of alternative transfer agreement
- Model FLEX Agreement
 - Establishes market, platform for transactions between parties



Photo Credit: Dick Rochester



Photo Credit : Ethan Emery, Angling University

- Model Terms and Conditions
 - Example of FLEX water court adjudication terms
 - Developed in cooperation with attorneys/engineers group
 - Two models
 - Pay As You Go
 - Return Flow Accounting

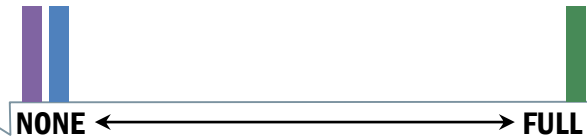
 = Municipal & Industrial
 = Environmental Conservation
 = Agriculture



PARTICIPANTS



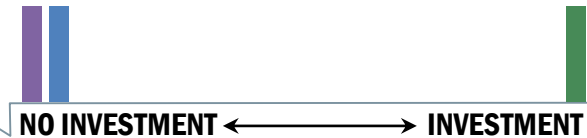
OWNERSHIP



WATER COURT APP.



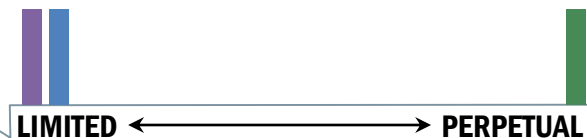
INFRASTRUCTURE



ADMINISTRATION



TERM



FLEX Summit

- Broad Cross Section of Water Users
 - **16** identified as **M&I Users** (27%)
 - **17** identified as **Ag Users** (31%)
 - **6** identified as **EC Users** (11%)
 - **17** identified as **Attorney/Engineer** (31%)



FLEX Summit

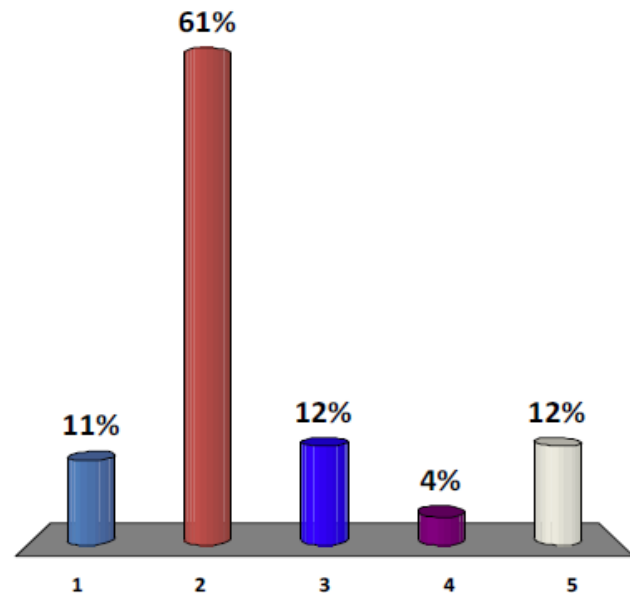


- Participation in FLEX Market
 - **80% of Ag Users** reported that they would “lease consumptive use and adjust my farming operation if the price was right.”
 - **89% of M&I Users** reported that they would “lease water supplies from FLEX deliverable to my integrated system if the price was right.”
 - **100% of EC Users** stated that they “would lease water supplies from FLEX deliverable for conservation and environmental uses if the price was right.”

FLEX Summit

What is the single greatest barrier to multiple uses of senior decreed rights?

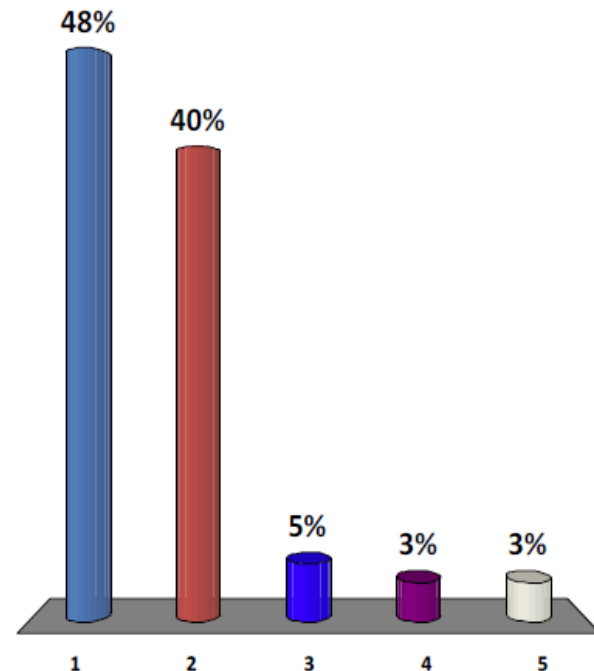
1. Transactional Costs
2. Legal issues
3. Price point for sale or lease of water
4. Delivery infrastructure
5. Other



FLEX Summit

Water court/administrative costs are a substantial barrier to implementation of alternatives to buy and dry like the FLEX market.

1. Strongly Agree
2. Agree
3. Neutral
4. Disagree
5. Strongly Disagree



Demonstration Projects

- Demonstration projects under the current study focus on implementation of a Flex Water Market
- Scope of Study
 - Understand the “plumbing” of a participating ditch system
 - Evaluate the reliability of supplier and reliability requirements of end users
 - Quantify historical consumptive use and return flows at a high level
 - Assess delivery capability
 - Develop water management strategies
 - Meet with participants to discuss



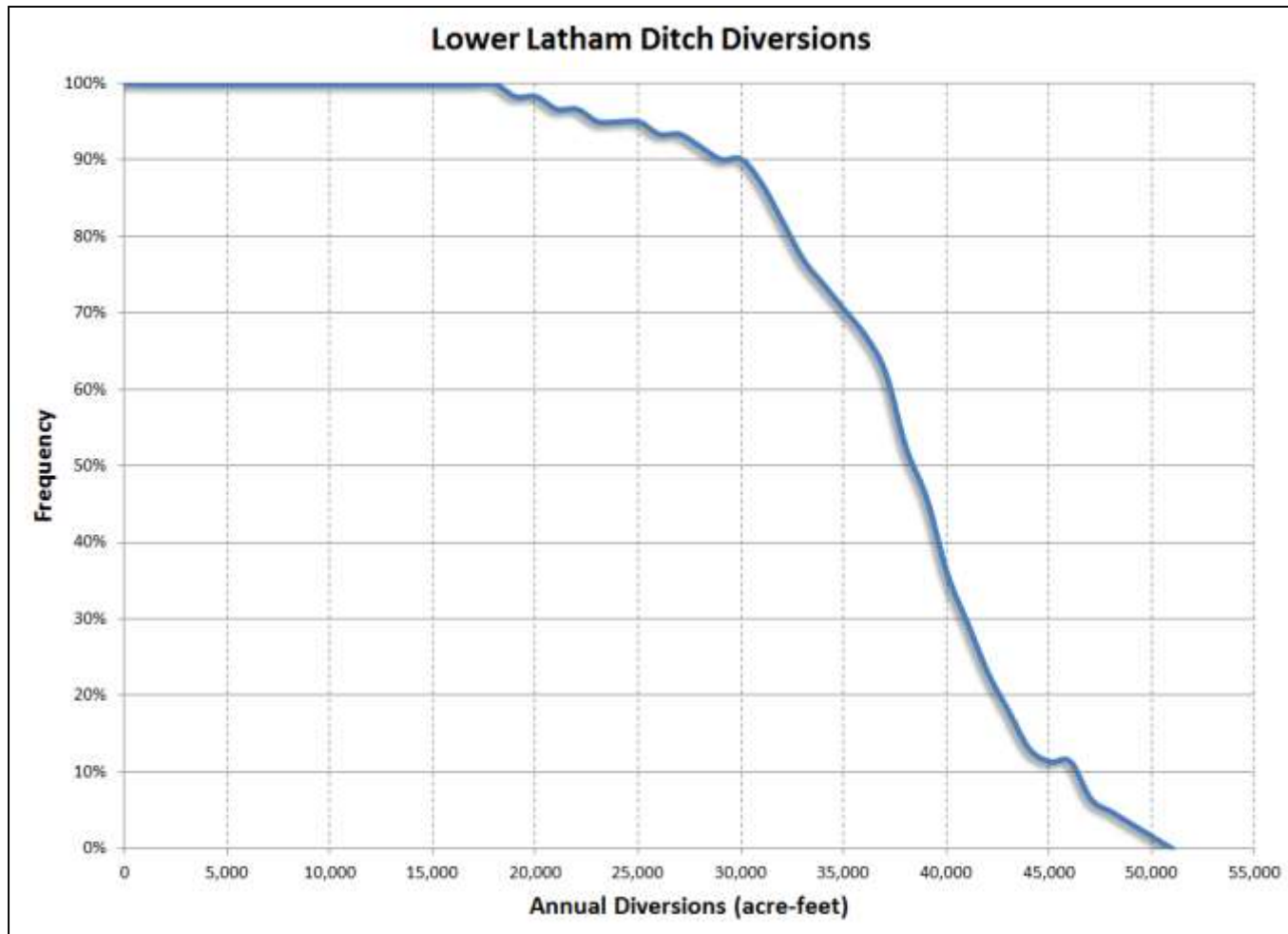
Demonstration Projects

- Example - Lower Latham Ditch Company



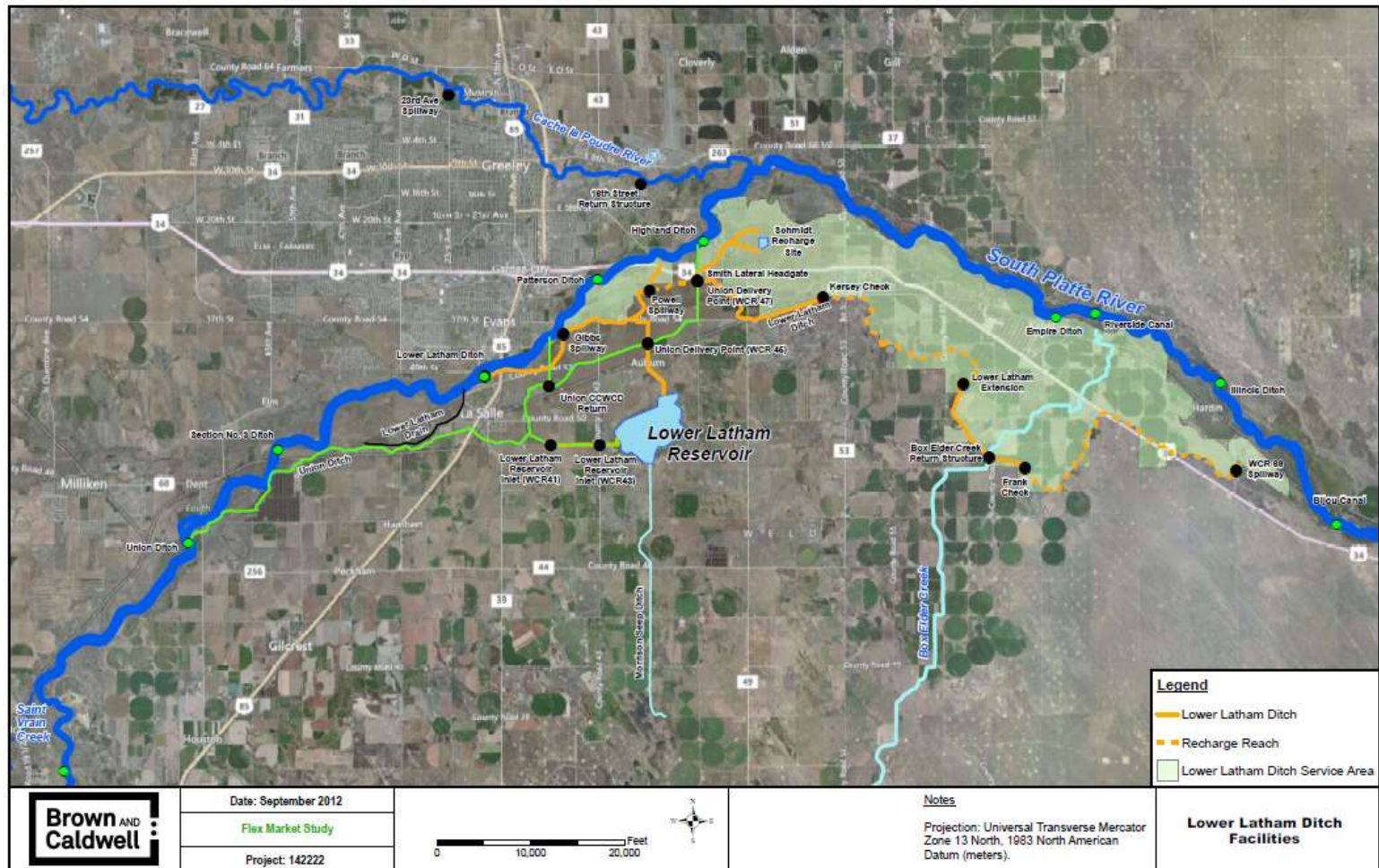
Demonstration Projects

- Reliability of Supplies



Demonstration Projects

- Water Management Strategies



Demonstration Projects

- Points of Delivery – Upstream, Local, and



FLEX Study Lessons

- Water Transfers Should Preserve Economic Benefit in Local Economies
- Keep it Simple
- Promote Ditch Wide Changes in Use to Multiple End Uses
 - Statutory Amendments
 - Standardized Approaches
 - Funding



FLEX Study Lessons

- Develop New Models of Ownership
 - Shared Ownership
 - Market Based Interventions
- Distinguish Between ATM Market Types
 - OTC Market
 - Permanent Supply
 - Blended Market
- Use Land Use and Policy Tools
 - Real Covenants
 - Prioritizing Food and Fiber Production Areas
- Investigate Indexed Pricing Mechanisms
- Education



Legislative Recommendations

- “FLEX Use”
 - Issue: anti-speculation doctrine prevents quantification and flexible use
 - Create statutory “FLEX” use or “use types” to substitute for end users in water court and administrative applications
 - Allow quantification of CU for “FLEX” uses, delivery at identified river locations
 - Water “wild card” usable in a broad range of applications



Legislative Recommendations

- Partial Irrigation: Tax and Insurance Issues
 - Property tax category for “partially irrigated”
 - Crop insurance for partially irrigated crops



Legislative Recommendations

- Ditch Wide Change in Use
 - Quantification is key, ditch wide is best
 - Incentives
 - Standardized CU and return flow requirements
 - Headgate wells
 - Abandonment protection
 - SWSP approval fast track
 - Water Trades
 - Funding
 - Docket Preference
 - Protections
 - Legacy protection
 - Delayed volumetric limits



Legislative Recommendations

- FLEX “Water Development Zone”
 - Combine legislative strategies, focus on pilot projects
 - Communities identify key areas- food production, open space, water supply
 - Apply new concepts – FLEX Use, tax and insurance, ditch wide incentives and protections – in identified zones
 - Potential for Ag related economic development tie-ins- local food supply, food hubs etc.

