

Revegetation Issues Discussion

Presentation Outline – Gerald Knapp

8/7/24

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- A. Introduction – Gerry Knapp background
 - a. Nearly 30 years with COA successful revegetation experience
 - i. Successfully revegetated lands, with court approved expert panel sign-off on revegetation in the Rocky Ford area.
 - b. Managed water resource operations in the Arkansas and Colorado River basins for COA
 - i. Oversaw water purchase and transfer, including the development of revegetation program and standards.
 - c. Revegetation consulting experience on several projects in SE Colorado.
 - i. Provide revegetation evaluation services to Bent County
 - 1. Arkansas River Farms - Ft. Lyon dry-up
 - 2. Highland Canal – LAWMA dry-up
 - ii. Provide revegetation planning to La Junta
 - 1. Holbrook Revegetation Project
 - a. Revegetation according to 1041 permit conditions
 - iii. Provided revegetation planning and implementation on a ranch in Chaffee County to Pueblo West.
 - 1. No establishment criteria included in the decree.
 - d. Co-authored “Evaluation of Land Protection Measures within Agricultural to Municipal Water Transfers in the Arkansas River Basin.”
 - i. A comprehensive look at various transfers and the resultant reclamation measures required or used.
 - ii. Developed a manual, “Revegetation Program Development & Implementation Manual,” for use in setting up a revegetation program.

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B. Perspective:

- a. Historically, revegetation requirements appear to be more of an afterthought than a major provision of a water transfer.
 - i. Statute enacted in 1992
- b. The purpose of reclamation or revegetation: In the water transfer context, revegetation is usually considered a mitigation provision to prevent the blowing of sand or dust and the control of weed infestations. It needs to be considered as a protection provision for the land resource, providing continued productivity through this resource with the native plant communities and control of weeds, whether for the benefit of a grazing program or wildlife habitat.

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- c. Revegetation requirements have not been uniformly required in transfer decrees.
 - i. Largely driven by the extent of opposition when change cases occur.
 - ii. Some decrees only require a procedure to be implemented, with no standards of establishment included.

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- d. Revegetation results have not met the expectations of the requirements.
 - i. Highland Canal in Bent County is now in its 17th year of the process that had a 10 yr compliance period
- e. Post-establishment management should be a part of the revegetation process.
 - i. Generally, there has been a get it to establishment and walk away
 - ii. Previously irrigated fields have changed soils which are more fragile in maintaining the revegetation.

C. Issues:

- a. No consistency in how reclamation requirements are developed and implemented.

- b. The smaller, rural communities generally don't have the level of expertise, experience and/or resources to understand all of the protections and requirements needed when a large municipality implements a water transfer project from irrigated agricultural lands.
 - i. Impacts go beyond direct economic impacts.
 - ii. In many cases, the loss of water to outside interests reduces the ability of these areas to access water rights for future development.
- c. Lack of accountability for water transferring entities to complete the revegetation requirements.
 - i. Large cities like Colorado Springs transfer the requirement to a third party or the seller to complete.
 - ii. Sellers do not generally understand the costs of adequately revegetating and managing the land.

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- iii. Revegetation is a slow difficult undertaking. Grasses grow and develop slowly.
- iv. The cost of revegetating lands is generally higher than the land is worth once revegetated.
- d. Land needs to be protected and productivity maintained.
 - i. The land can continue to be productive without irrigation if good management is and continues to be in place.
- e. Local community and neighbors may suffer.
 - i. Without proper revegetation and weed control, weeds proliferate, and dust blows. Creating a nuisance for neighbors.
 - ii. Lost productivity on any parcel is detrimental to communities.
- f. Where should reclamation requirements reside?
 - i. Current trend to put revegetation requirements into a 1041 permit with the decree referencing compliance with the permit.
 - ii. When the local county is faced with the requirements, assistance from outside expertise is needed and critical.

- iii. Legislative minimum standards applied through the water court may be helpful.

D. Solutions:

- a. First, accountability for completion of the revegetation requirement must be put in place.
 - i. The sole effective method requires completion of revegetation establishment before water is transferred to new uses.
 - ii. Owner/Purchaser of water rights must maintain and retain the responsibility for completing and maintaining revegetation.
 - iii. A buyer has an incentive to quickly and efficiently conduct revegetation.

- b. Second, post-establishment management must continue to ensure the continued protection of the land resource. A mandatory revegetation retained jurisdiction provision should be at least 20 years.

- c. Third, revegetation establishment criteria with associated evaluation methodology should be in place.
 - i. Establishment criteria should provide for local flexibility.
 - ii. Evaluation methodology must be associated with the establishment standard.
 - iii. Criterion should include weed control standards.

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- d. Fourth, revegetation should be considered as a way to protect the productivity of the land following a water transfer.

- i. Revegetation requirements should not be an opportunity for requiring a utopian environment but a sustainable native plant community with a jump start to be appropriately managed.
 - ii. Establishment criteria must reflect those native plants that would be expected to permanently exist with the opportunity to continue to evolve as conditions allow.
- e. Fifth, revegetation requirements associated with the land from which water is being removed must continue with water rights owner maintaining responsibility.
 - i. For instance, should conversion to dry-land farming be allowed, the revegetation requirement must continue should the farming activities cease at any time in the future.
 - 1. Need to caution the use of a conversion to dry-land farming. It is used widely to avoid the expense of revegetation.
 - 2. Even if an area is suitable for dry-land farming, it is hard to guarantee appropriate implementation or rain!
 - ii. The land must be protected for the benefit of all.

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- f. Finally, local communities and rural counties need to be provided access to significant resources, including financial, intellectual, and experiential resources, to help them protect themselves and develop the experience and resource for themselves.
 - i. State assistance needs to be readily available to counties and communities regarding reclamation impacts, protections, and remedies.

Questions?

