

TOOLS TO ACCOMMODATE CHANGE

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GOALS AND CHALLENGE

- Understand existing state policy.
 - MCA 85-2-101 (Declaration of Policy and Purpose): *“It is the policy of this state and a purpose of this chapter to encourage the wise use of the state’s water resources by making them available for appropriation consistent with this chapter and to provide for the wise utilization, development, and conservation of the waters of this state for the maximum benefit of its people with the least possible degradation of the natural aquatic ecosystems.....”*
- Understand existing policy tools, legal environment and constraints.
- Understand hydrologic reality.
- Consider additional opportunities to meet future water demands.

CONSTRAINTS

- PHYSICAL AND LEGAL WATER SUPPLY
 - Tributaries often over-allocated due to irrigation and instream flow water rights/reservations.
 - Upper Missouri River basin/mainstem over-allocated due to hydropower water rights at Great Falls. Excess water available for only two months on average.
- LEGISLATIVE BASIN CLOSURES
 - Jefferson and Madison River Basin Closures – MCA 85-2-341
 - Upper Missouri River Basin Closure – MCA 85-2-343
 - Teton River Basin Closure – MCA 85-2-330
- MARIAS RIVER BASIN IS NOT CLOSED BUT LEGAL WATER AVAILABILITY IS SCARCE

DNRC Water Right Change Process

- Reallocation of existing supply.
- DNRC's Water Right Change Process is the most common tool in developing water in Upper Missouri
 - Authorization required to change a point of diversion, place of use, purpose, or storage.
 - Drop-for-Drop.

ADDITIONAL TOOLS

- Water Marketing (buying/selling water rights)
- Water Sharing/Pooling (e.g. Big Hole River)
- Water Reservations (MCA 85-2-316)
- Water Right Enforcement (MCA 85-2-406; 85-5-101)
- Federal Contract Water (Canyon Ferry and Tiber)
- Water Leasing Program (MCA 85-2-141)
- Efficiency Upgrades
- Eminent Domain (condemnation of water rights)

Opportunities

- Water Banking
 - An institutional mechanism used to facilitate the legal transfer and market exchange of developed water to new uses
 - A brokerage that brings together willing buyers and sellers
 - Driven by market forces
 - Functional at the watershed level
- Groundwater Investigations
 - Can we benefit from further understanding of GW boundaries, movement, timing and surface water connection?

