

Beyond rethinking: *redoing western water law*

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Shifting Baselines & New Meridians
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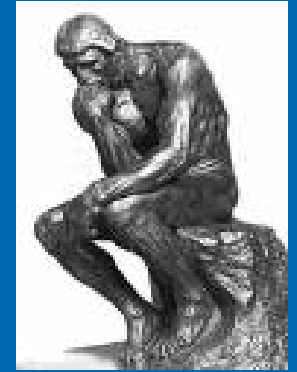


Enough thinking!

Time to act . . .

- The problems in western water law don't stem from a lack of thought, but from a lack of action
- What's needed isn't rethinking, but *redoing*: a water action agenda & implementation plan
 - First, review the thinking/rethinking that's already been done
 - Second, consider why the ideas haven't been implemented
 - Third, address how to turn the ideas into action

Thinking, thinking, and thinking some more

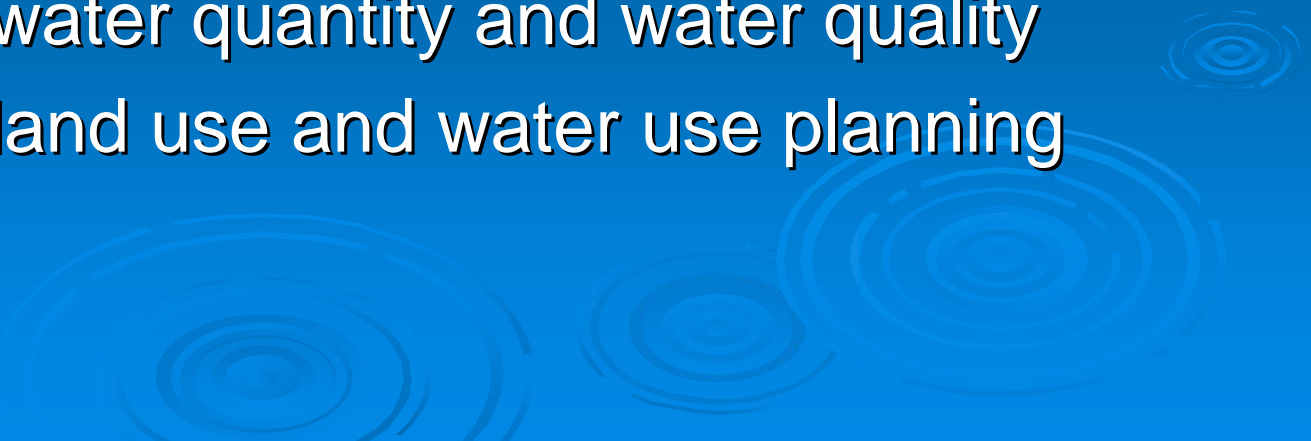


- Nearly 40 years of thought already
 - 1973 National Water Commission Report
 - 1986 Report to Western Governors' Assoc.
 - 1992 Park City Principles/ Longs Peak Report
 - 1998 Water in the West Report
 - 1999 New Strategies for US Watersheds
 - 2006 Western Governors' Association Report
 - 2008 21st Century Water Commission Bill

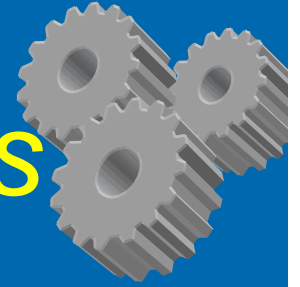
Great minds think alike: previous reports/common thoughts

- Recognize the nature of water resources
- Incorporate economics and improve efficiency
- Acknowledge and adapt to changing understandings, values, and needs
- Tailor institutions to problems being solved and promote public participation
- Address inequities
- Consider climate change (1998-on)

The **nature** of water resources

- Recognize how hydrologic systems work
 - Improve data collection
 - Respect basins, watersheds, flow regimes, & aquatic/riparian ecosystems
 - Integrate surface water and groundwater management
 - Integrate water quantity and water quality
 - Integrate land use and water use planning
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Economic\$ and *efficiencies*



- Incorporate conservation and efficiency as explicit components of water policy
- Apply sound economic principles to water projects and water use to promote conservation and efficiency & create new supplies:
 - eliminate counterproductive subsidies
 - reassess costs and benefits of water infrastructure
 - use pricing, incentives, “user pays” principles, and voluntary market transactions





Changing understandings, values, and needs



- Address environmental impacts of water development and use
- Recognize public values for water *in situ*
- Incorporate principles of sound science, adaptive management, and sustainability
- Recognize that policy choices significantly affect future water demands derive in large part from policy choices



Tailor institutions and promote public participation

- Align water management with water “problemsheds”
- Assign water management responsibility to the lowest possible level of governance; continue to refine water federalism, with appropriate roles for federal, tribal, state, regional, and local entities (and private sector)



Address inequities

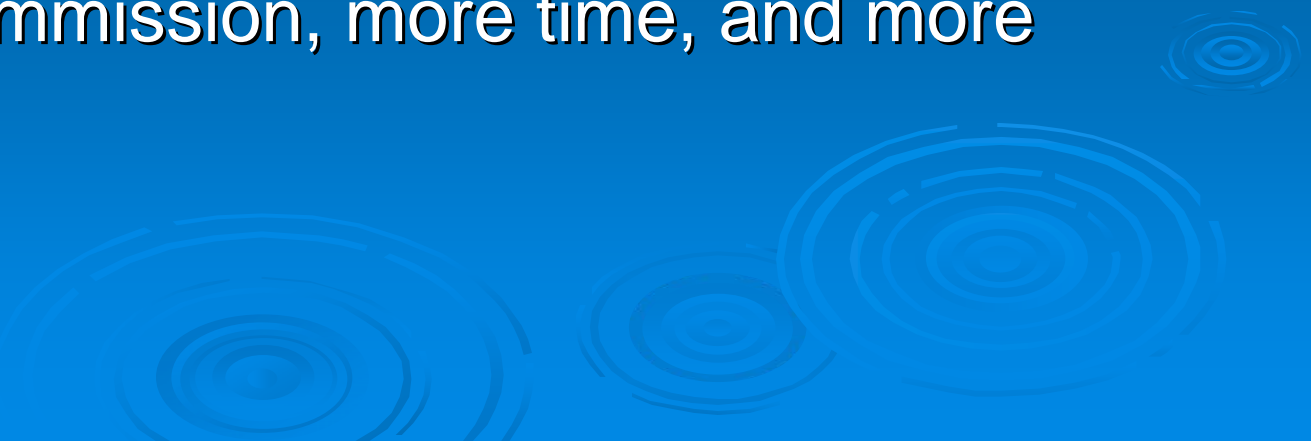
- Fulfill tribal water rights obligations
- Address rural water needs
- Reassess basin of origin protections
- Respect existing rights



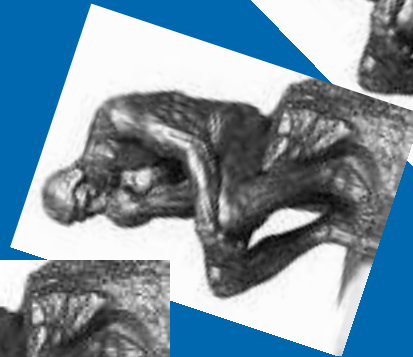
21st Century Water Commission (HR 135)

- Likely to say more of the same
- Similar charter:
 - Project future water supply and demand
 - Study water management programs
 - Develop comprehensive water strategy
 - Respect role of states; avoid increasing mandates
 - Eliminate duplication among federal programs
 - Optimize supply while protecting environment
 - Promote conservation

Proposed amendments

- All of the above
 - With the addition of:
 - Greater attention to climate change, natural hydrologic processes and watersheds, and consideration of non-structural/sustainable methods of increasing water supply
 - Bigger commission, more time, and more money
- 

More thinking.....



What is said

Great ideas for
water policy reform...

Blah, blah, blah, blah, blah, blah,
blah, blah, WATER, blah, blah, blah,
blah, blah, blah, blah.....

What is heard



Anything new under the sun?

- What would constitute truly radical rethinking?
 - Move agriculture back to humid areas
 - Limit urban growth in arid areas
 - Treat water as liquid blue gold
 - Elevate ecosystem services of watersheds over jurisdictional lines



Chances of this kind of thinking are slim to none, so need to concentrate on implementing existing ideas in current **climate**



Why haven't all the good ideas been implemented?

- Recommendations threaten vested interests
- Proposals also threaten “home” for many people
- No economically powerful group exists with “change” as its agenda
- $\text{Change} = \text{benefits} + \text{costs} \times \text{uncertainty}$
- Short societal and institutional memory & desire for quick fixes stymie implementation

What to do?



- Don't need to reinvent the wheel, just need to get it rolling
 - Form new coalitions
 - Rural communities, conservationists, fiscal conservatives, municipalities
 - Educate the public and policy makers
 - Water 101
 - Get on lawmakers' radar screens
 - Federal, state, and local
 - Connect the platform to the crucial issues of the day
 - Climate change, the war in Iraq, "homeland security," energy policy, the economy, natural disasters, etc.