

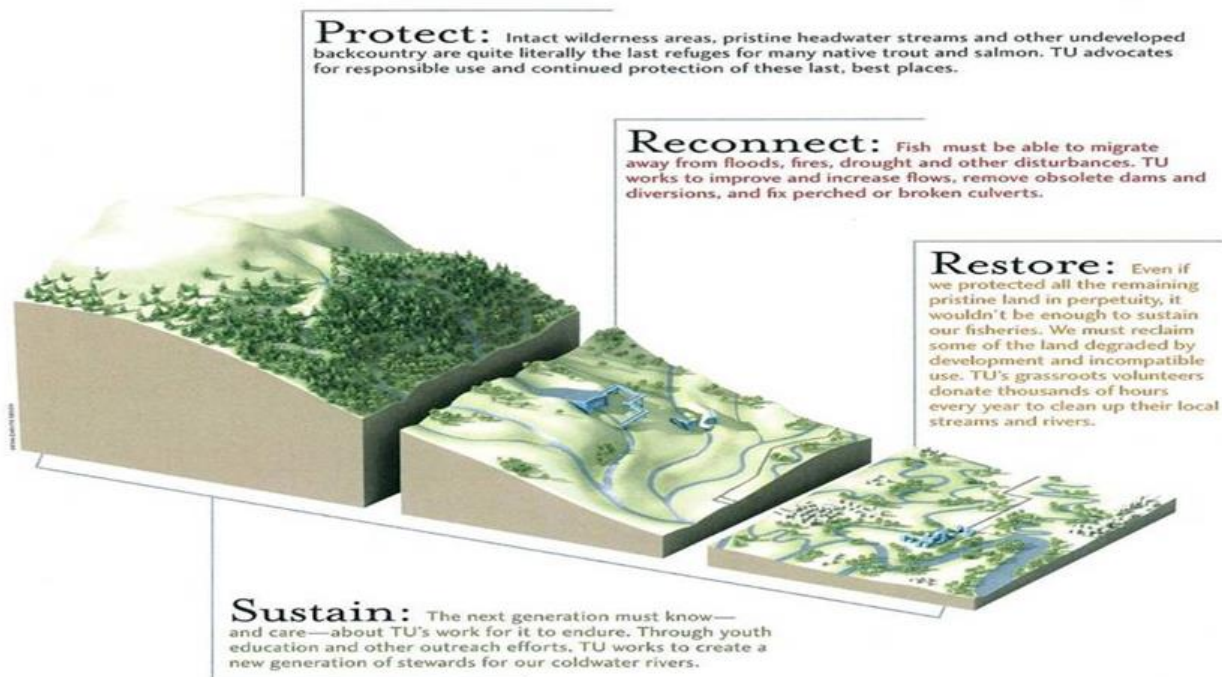


Private Sector Strategies for Restoring Flows to Seasonally Dewatered Rivers in the Upper Green River Basin

Cory Toye
Wyoming Water and Habitat Director



Wyoming Water and Habitat Program



TU is a private, non profit organization with 150,000 members dedicated to conserving, protecting and restoring North America's coldwater fisheries and their watersheds



Freedom is a dirty shirt,
The sun on my face and
My shovel in the dirt
Bruce Springsteen

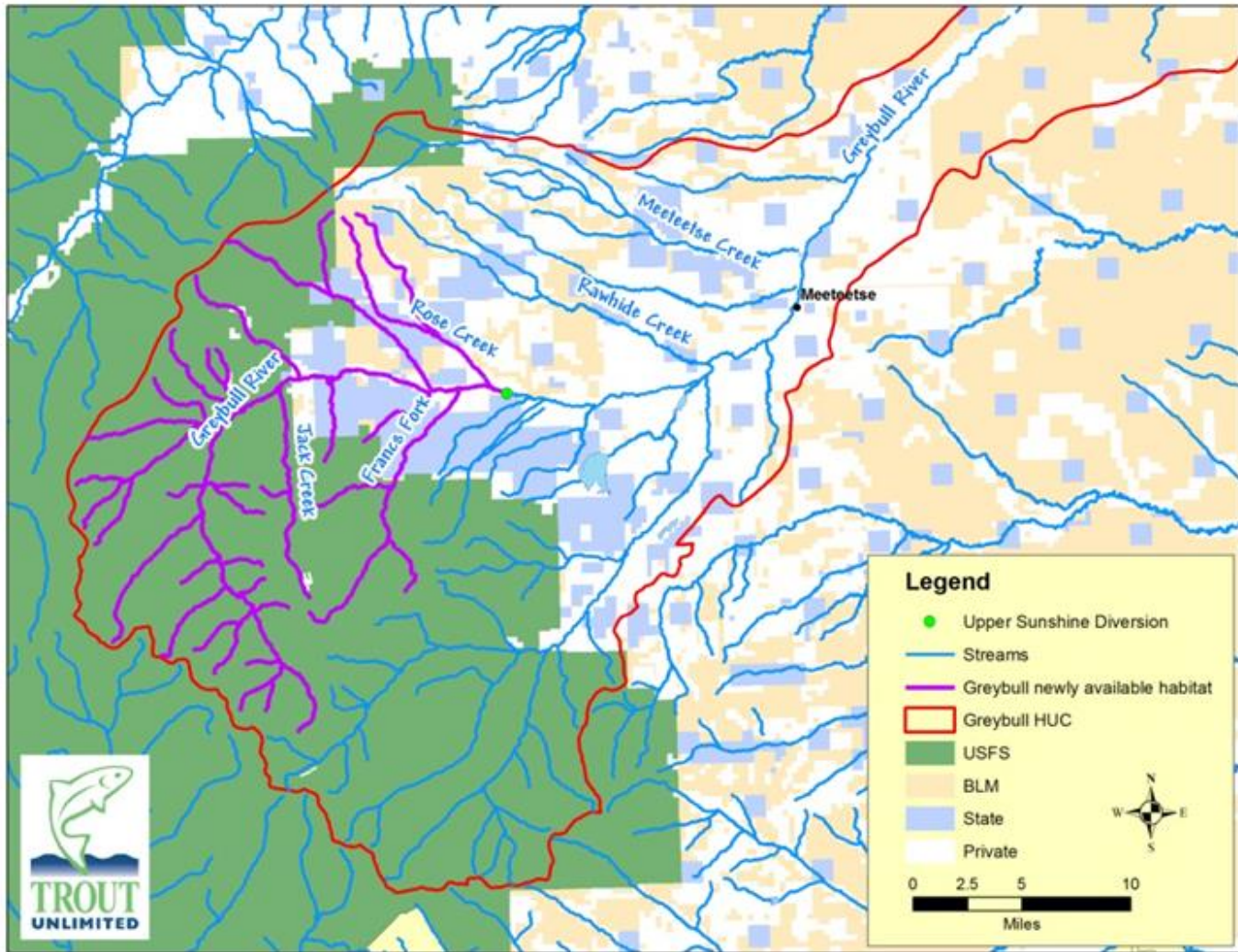
2017-2



2017-201



- Upper
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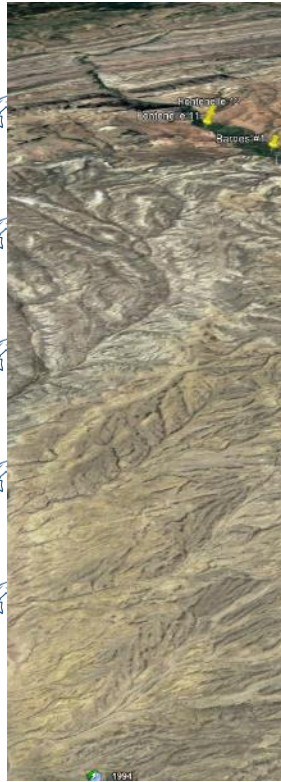


2017-2018 Wyoming Highlights





2017-2018 Wyoming Highlights





Upper Green River Water Marketing

The System Conservation Pilot Program in Wyoming

A Quick Wyoming Water Law Primer



Prior Appropriation	Law of the land
Free River Doctrine	Prior Appropriation plus
Protection of conserved water past non participating head gates (shepherding)	Not possible under existing statutes
Instream Flow	<ul style="list-style-type: none">• Success on public land in non-appropriated stream reaches.• Difficult to use existing statute on private land
Abandonment/Forfeiture	<ul style="list-style-type: none">• five successive years of non use, and• initiated by an affected water user who has a priority equal or junior to the right being abandoned
Change of Use Statutes	Applicable only to other “consumptive” uses

Trout Unlimited started the Western Water Project in 1998.

The Mission: Restore healthy stream flows and habitat in some of the West's best places

A Change of Use For Fishery Purposes can only take place after July 1.

Finding a system that doesn't take land out of production while still providing flow for fisheries during critical time periods.

Allows for incentive driven transactions with landowners to provide late summer streamflow benefits.

Recognizes the importance of early season irrigation for late season return flows

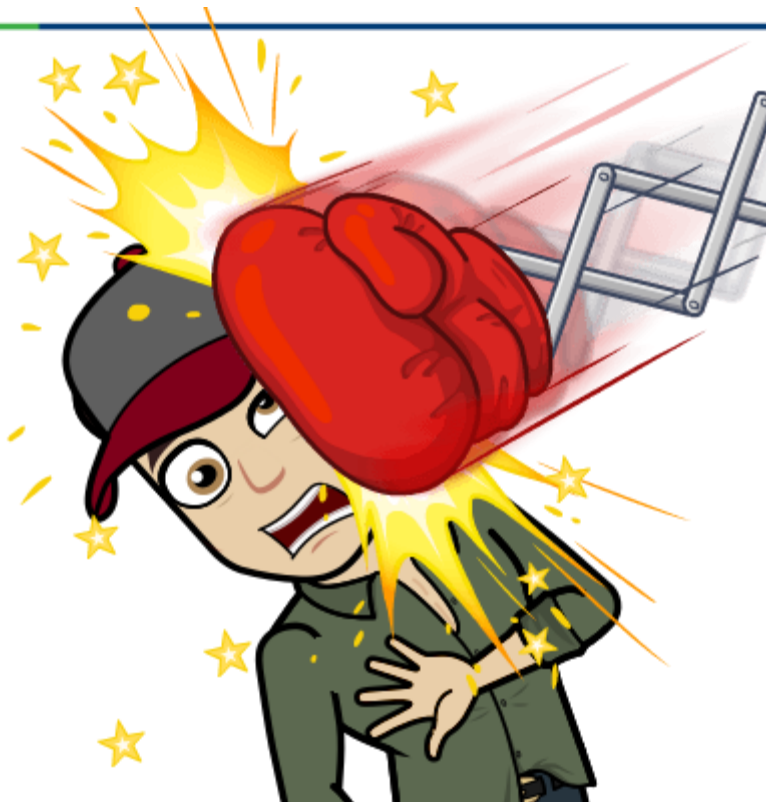


A water right is granted in perpetuity, the right is transferable so that it can move to higher uses in response to economic forces.

(Frank J. Trelease, Land and Water Law Review Vol. 1 No. 1, 4, 1996).

The theory behind this doctrine is that by permitting persons to carve out for themselves, private property rights from the public owned assets, each person will attempt to achieve the greatest possible benefit for himself, and the total result of these individual actions will tend to produce maximum welfare for the state or nation.

(Frank J. Trelease, Land and Water Law Review Vol. 1 No. 1, 4, 1996).



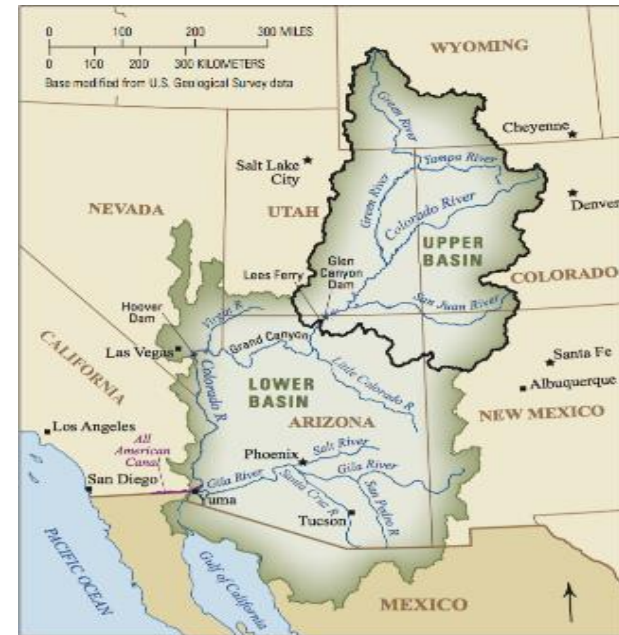
The Colorado River Drainage



UPPER COLORADO RIVER COMMISSION

355 South 400 East • Salt Lake City • Utah 84111 • 801-531-1150 • FAX 801-531-9705

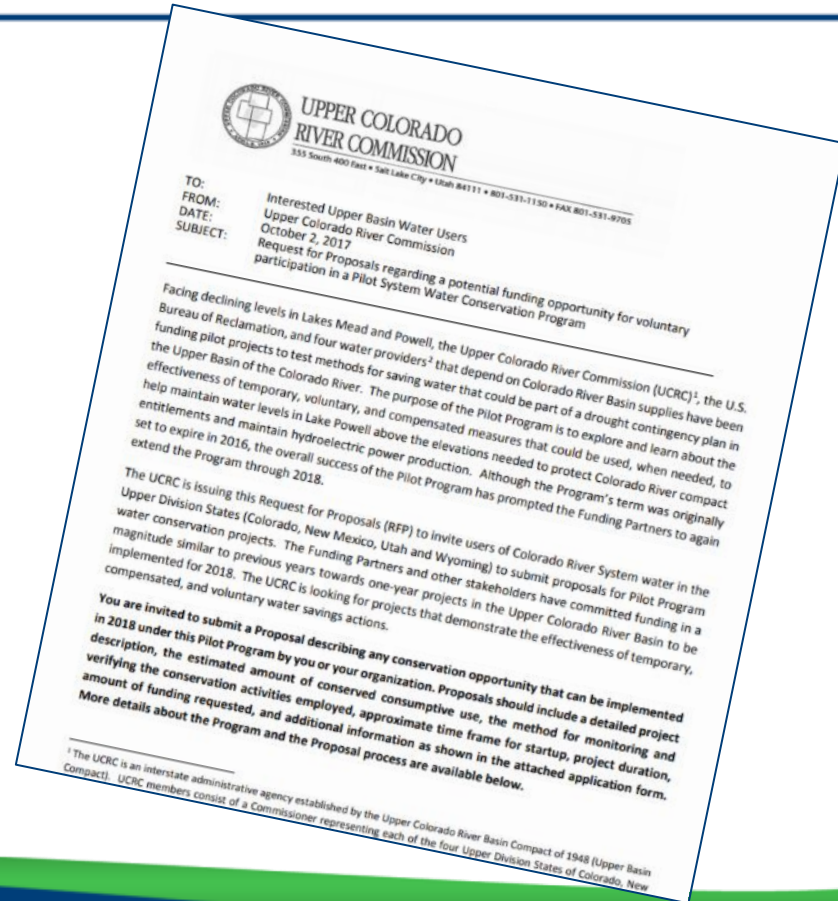
- The Upper Colorado River Commission (UCRC) is an interstate water administrative agency established by action of five state legislatures and Congress with the enactment of the 1948 Upper Colorado River Basin Compact.
- The Commission's role is to administer water from the Colorado River to the Upper Division States of Wyoming, Colorado, Utah and New Mexico, and
- Ensure water is released in accordance with the 1922 Colorado River Compact to the Lower Division States of Nevada, Arizona and California and to the Republic of Mexico.



System Conservation Pilot Program (SCPP)



- Facing the ongoing drought in the Colorado River Basin and declining reservoir levels, the BoR and four municipal water providers that depend on the CO River are developing tools that could be part of a drought contingency plan – including the SCPP.
- The SCPP is designed to test on-the-ground, emergency water conservation opportunities:
 - Are there voluntary measures that could be used, when needed, to help maintain water levels in Lake Powell for CO River compact compliance and maintain hydropower generation?
- Originally a 2 year pilot program slated to end in 2016, the overall success of the program prompted funding partners to extend the program through 2018.



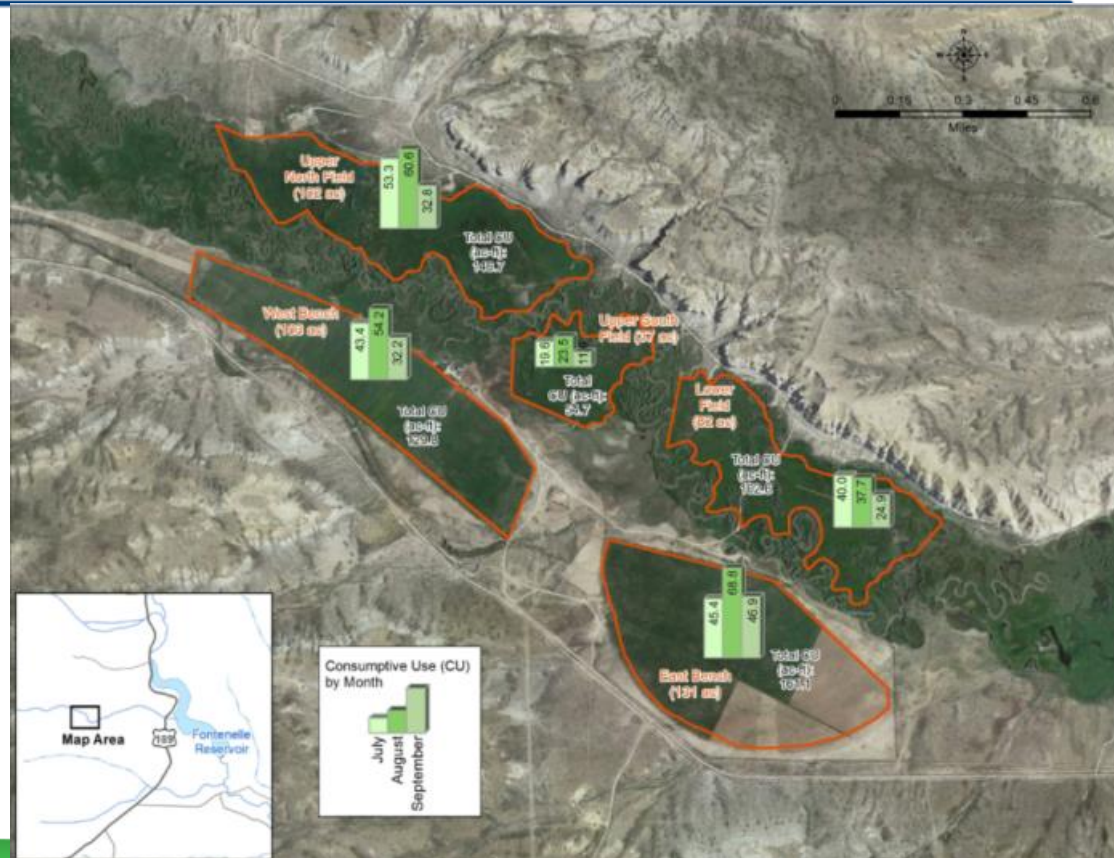


- The Wyoming State Engineers Office (SEO) approached TU to participate in the SCPP by soliciting the program to partners in the Upper Green.
- SEO offered technical assistance for completing applications, in particular, estimating consumptive use (CU) for each water conservation activity.
- Success of the early rounds of SCPP were due to relationships from previous TU project partnerships.
- Successful applicants helped recruit more members.

Wyoming SCPP 2015



- 5 applications submitted
- 5 successful applications
- 2200 acres fallowed after July 1
- 1644 AF of water conserved
- \$200/AF
- Total Cost = \$328,800.00



- 9 applications submitted (7 TU)
- 9 successful applications
- 7056 acres fallowed after July 1
- 5117 AF of water conserved
- \$200/AF
- Total Cost = \$1,023,400.00



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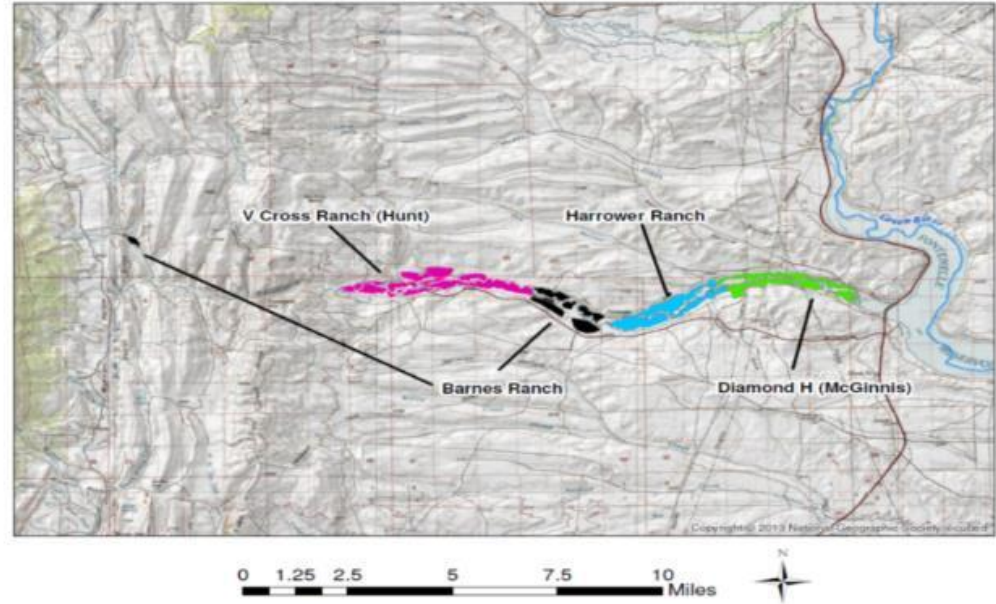
Trout Unlimited helped Barres install these new irrigation gates that allow fish to swim up stream. His old gates blocked fish movement.

©2017 APRIL BARRES

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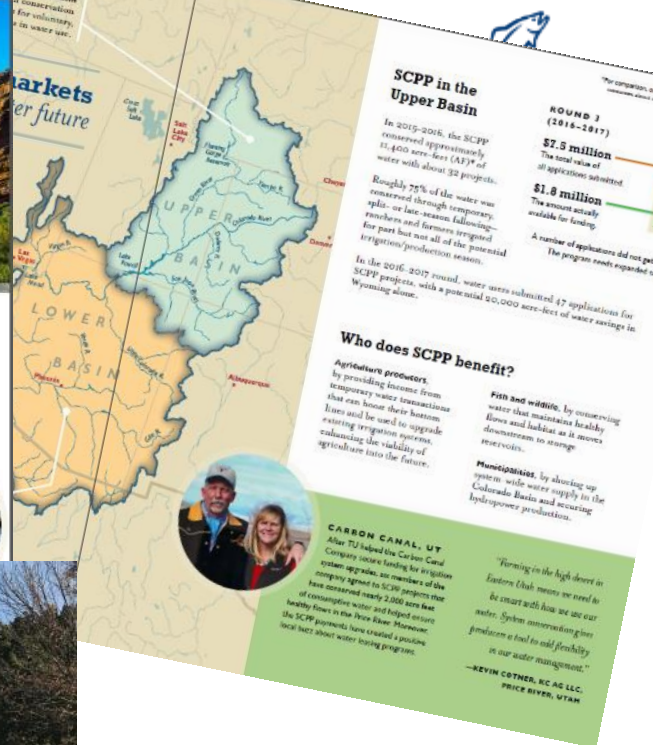
- 20 applications submitted (18 TU)
 - 24,748.4 acres
 - 21,080 AF
 - \$5,138,860.00 requested in WY
- 4 successful applications
 - 2836.2 acres fallowed after July 1
 - 2744 AF of water conserved
 - \$190.00/AF
 - Total Cost = \$521,360.00

2017 Wyoming SCPP Locations



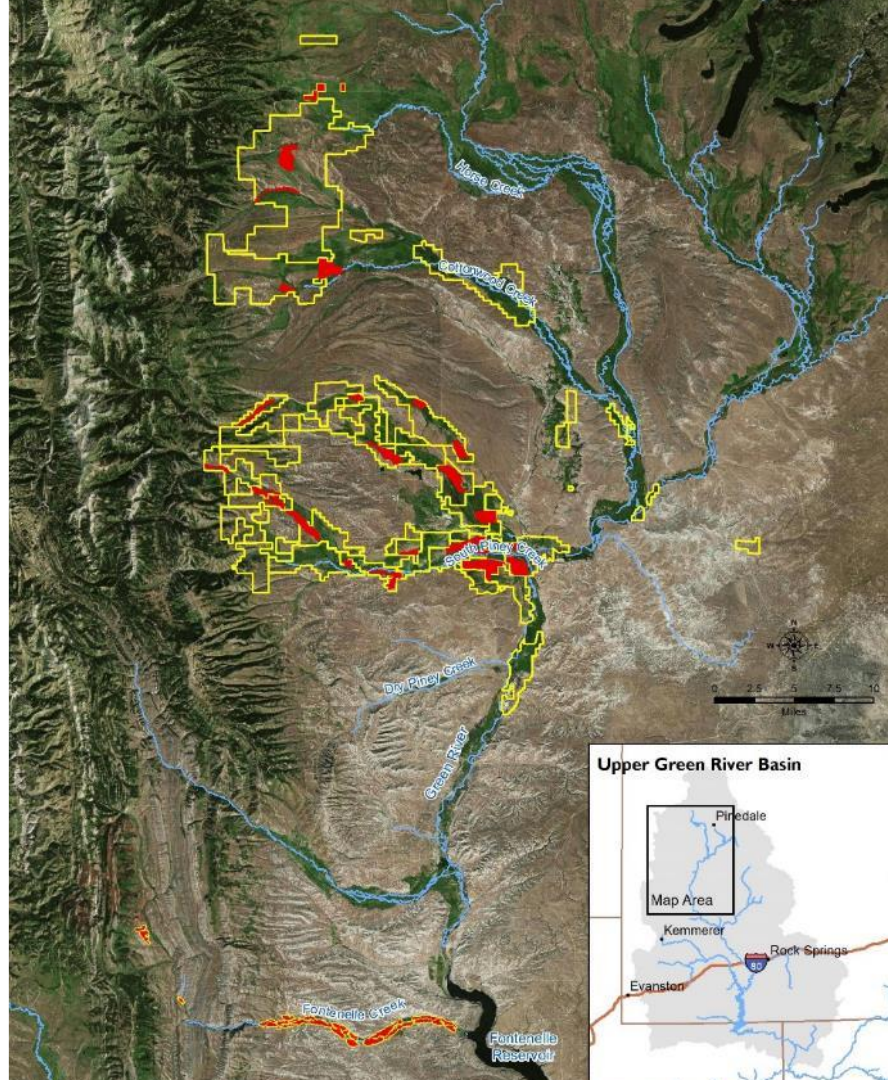
Wyoming SCPP 2017

- 2017 SCPP RFP started emphasizing shepherding
- Total requests for funding across the upper basin = \$7.5 million,
- Total funding available: \$1.8 million
- Off to DC!



Wyoming SCPP 2018

- 28 applications submitted by TU
 - 28 applications approved
 - 16,944.97 acres
 - 16,714.88 AF conserved
 - \$150.00/AF
 - Total Cost: \$2,168,832.00
-
- Four tributaries with 95-100% participation
 - Participating landowners represent 95-100% of landowners
 - Limited application to ~600 acres
 - Tributary model for shepherding
-
- TU acting as 3rd party to administer agreements



- Let the market develop
 - Competition is a good thing
 - Create a predictable accounting system for both buyers and sellers
- Work with stakeholders towards a permanent water market
 - Longer term contracts with water right holders
 - Develop triggers to determine when the system needs water
- Learn from the 2018 field season and refine the 3rd party model
- The slow and humbling march towards legislation(?)



State Engineer's Office

HERSCHLER BUILDING, 4th
CHEYENNE, WYOMING 82002
(307) 777-6150

MATTHEW H. MEAD
GOVERNOR

PATRICK T. TYRRELL
STATE ENGINEER



5 May, 2017

Mr. Cory Toye, Director
Wyoming Water Project – Trout Unlimited
220 N. 8th Street
Lander, WY 82520

- Explicit protection for
- Consumptive use

- First and foremost, any program must have the support of local landowners and water right holders. They are the key to any successful, long-term program.
- The program must be administered by a third-party. The Upper Colorado River Commission should be replaced with a more formal, targeted, management structure, tailored to the program.
- Any conservation program must be voluntary and operate in a manner that is consistent with Wyoming water law. It also cannot threaten, by its practices, underlying individual water rights.
- The program should be operated to compliment a basin-wide conservation program benefitting Wyoming and the Upper Basin's Drought Contingency Planning, and not as a stand-alone program. Wyoming's larger benefit is the system water saved.
- Any operational program must not threaten Wyoming's rights, obligations, or apportionments under the Colorado River and Upper Colorado River Basin Compacts.

- Any operational program must not threaten Wyoming's rights, obligations, or apportionments under the Colorado River and Upper Colorado River Basin Compacts.

We thank you for your efforts.

Sincerely,

Patrick T. Tyrrell
State Engineer

Surface Water
(307) 777-6475

Ground Water
(307) 777-6163

Board of Control
(307) 777-6178



Kirk Dahle 2009

Questions?

Cory Toye
ctoeye@tu.org