Water for the Environment: The Role of Market Transactions

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Water for the Environment

Securing Environmental Flows

- Regulatory:
  - ESA
  - Permit by permit conditions on new appropriations
  - "Set-asides" where unappropriated water
  - Public trust
- Voluntary transactions in existing rights

“Market” Transactions

- Water rights as marketable quantity
  - Purchase
  - Lease (term, dry year options)
- Compensated forbearance
- Donation

What's in it for the Environment?

"Sellers" and "Buyers"

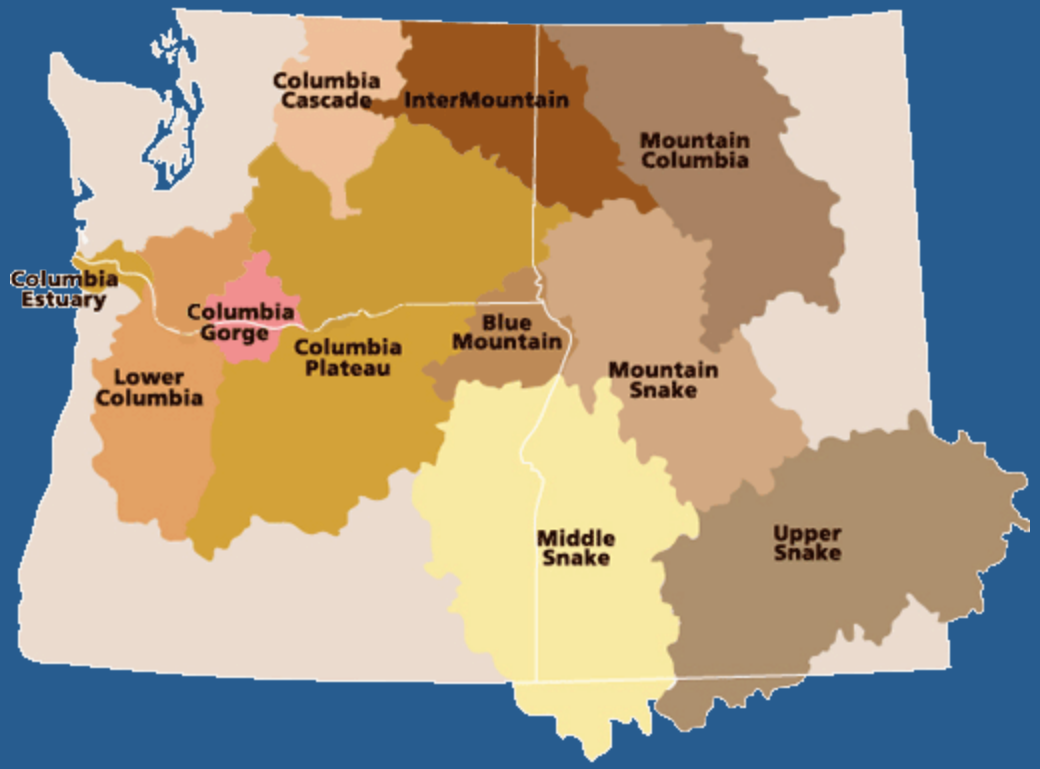
- "Sellers":
  - Agriculture: 60 to 80% of existing surface water rights in West, depending on location
  - Older rights more valuable than junior rights

- "Buyers"
  - Government
  - Entities with ESA obligations
  - Non-profits (water trusts)

Examples

- Columbia Basin Water Transaction Program
- Deschutes Resources Conservancy
- Colorado River Delta
- Good overview: Reed Benson, Public Funding Programs for Environmental Water Acquisitions, 42:1, *Environmental Law Review,* Lewis and Clark School of Law (2012) (https://law.lclark.edu/live/files/11169-421bensonpdf)

Columbia Basin Water Transactions Program

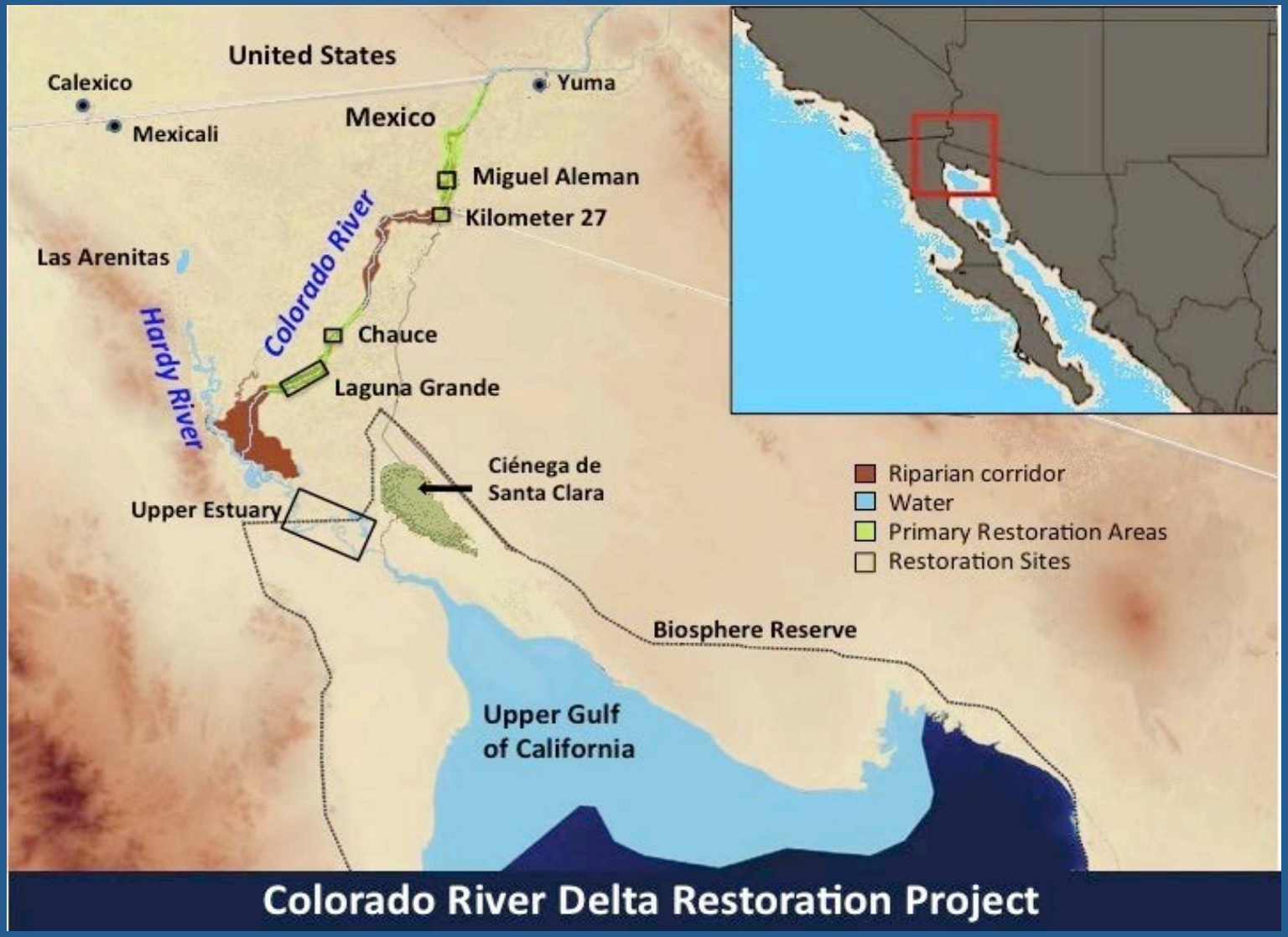


www.cbwtp.org

Deschutes River

- Began in 1996
- Ag to environment leases primarily (fish and water quality)
- Federal funding ($ 3 to $ 4 million/year)
- Experimented with reverse auction tool
- Taking more watershed wide look now

Colorado River Delta Water Trust



Sonoran
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TEXAS
El Paso
Rio Grande R.
Closed basin
Pecos R.
Closed basin
Fort Quitman
RIO GRANDE BASIN
Forgotten River
Marfa
Alamito Creek
Cibolo Creek
Terlingua Creek
CHIHUAHUA
Ojinaga
Big Bend
National Park
Amistad Reservoir
Presidio
Rio Conchos
COAHUILA
Rio Salado

Trans-Pecos Water Trust

- Started in 2005
- Features
  - Local board members, plus NGOs
    - agricultural rights (almost 5000 acre-feet)
    - Added instream use to existing use via TCEQ amendment process clarified by SB 3
    - Downstream need
- Model for other locations/rivers?

Texas Water Trust

- Established in SB 1, 1997
- Very few rights
- No funding for purchases/leases
- Little outreach/promotion
- Real potential to become a tool in SB 3 implementation
- House NR Interim charge