

## Keeping water rights in public hands

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City Council considers joining provider coalition

by Carol Crump

Fort Collins entrepreneur Aaron Million has his eyes on Wyoming's water. His idea to build a 400-mile, \$4 billion pipeline from Flaming Gorge Reservoir on the Utah-Wyoming border to the Colorado Front Range could put from 250,000 to 400,000 acre-feet of unused Wyoming and Colorado water under private control.

The Casper City Council may choose to be part of a coalition of public water providers that is looking into the feasibility of building a pipeline of its own. The alternative pipeline would keep the water rights in and the cost for water in public hands.

The city's portion of the cost to study the possibility of a pipeline to bring the water into the Platte River Basin instead of directly to Colorado is \$20,000. Taking part in the study that would determine whether a pipeline across the state was cost effective and feasible would not obligate the city to take part in the pipeline's construction, according to Harriet Hageman, a Cheyenne attorney who represented the coalition at the Feb. 8 Casper City Council work session.

U.S. Water News described Million's plan as a way to create a public-private partnership that would meet a gap in Colorado's future water supply. His idea is to take water from the Green River stored in Bureau of Reclamation controlled Flaming Gorge Reservoir through at least a pair of 42-inch pipelines along Interstate 80, following the route of existing gas pipelines. The pipeline would branch off into smaller lines in the Denver Metro area and could stretch as far south as Colorado Springs.

The pricing structure for the water that would flow through a pipeline built with private investment would be priced for the communities' agriculture that chose to use it, based on "prevailing prices for water in markets," according to U.S. Water News.

Privatizing public water has been tried in other places, Hageman said, with disastrous results. In Wyoming, water is allocated under "first in time, first in right" law; rights to water are established by actual use of the water, and maintained by continued use and need. Currently Wyoming and Colorado each have approximately 250,000 acre-feet of water flowing through the Green River, which is not currently being used by either state. The water is simply flowing downstream.

So far, there has been no instance where water rights have been lost for non-use, but Hageman expressed concern with a recent U.S. Supreme Court case that allowed three lakes north of Scottsbluff, Neb., to use Wyoming water for irrigation in spite of the state's senior water rights.

"Acquiescence had allowed the lakes to have the same priority date as Pathfinder," she said.

Transporting unused water

The coalition Hageman represents would like to transport the unused water east through a publicly-owned pipeline across the center of the state, into the Platte River Basin. Since the water in Platte River Basin is already over-appropriated under the Platte River Decree for endangered and threatened species in Nebraska, moving the Green River water eastward would put new water, with a newer water right priority, into the basin for cities like Casper.

Using the rule of thumb that one acre-foot of water typically serves a family of four or five for a year, the coalition's proposed pipeline project "would allow long-term planning for demand and development," Hageman said.

The primary difference between Million's and the coalition's proposals is public vs. private ownership, the water attorney said. "We're saying you should be the owner, not a user with water use contracts. Control your own destiny."