I. Allocation and Management Approaches – Ken Knox

A. Evaluate and rank existing approaches to establishing an “equitable apportionment” by compact. (See McCormick paper).

B. Should entire interstate river system be covered i.e. mainstream and tributaries? How should groundwater (tributary and non-tributary) be treated?

C. What factors should be considered in determining allocations? (Muys paper, pp. 2-3)
   1. What role should environmental considerations, including water quality, play?
      a. Should each participant agree to contribute to agreed upon basinwide minimum flows in proportion to its allocation or some other basis, designed to preserve riparian habitat, aesthetic and recreational values, and aquatic species?
   2. Should Congress require the United States to submit data on existing and potential federal consumptive, non-consumptive and regulatory uses? (Muys paper, p. 7)

D. Should allocations be permanently fixed or subject to review and possible adjustment after a reasonable period? Should the duration be provided for in the compact or Congressional consent legislation?

E. Should allocations be based upon agreed upon “normal” flows and subject to adjustment within the term of the compact based on certain flow “triggers” (e.g. severe drought or surplus flows) or unanticipated legal or economic developments?

F. Are there any other issues regarding allocation and management approaches that should be considered?
II. Membership and Decision-Making – David Feldman

A. Review existing approaches.

B. Signatory options: States only, States/United States (voting or non-voting), States/United States/Indian Tribes (voting or non-voting, single or multiple representatives)?

C. How many levels of decision-makers should there be (e.g., technical, political) and who should be members and alternates?

   1. Should decisions require unanimous or majority vote? Should requirement vary depending on nature and magnitude of impacts, e.g., political or technical significance, for various kinds of actions?

      If unanimity not required, should states have weighted voting power based on factors such as drainage basin area, population, magnitude of existing uses, etc.?

   2. Should there be a tie-breaking procedure, e.g., third party, mediation, arbitration? If so, should it be mandatory or permissive? How and when should it be invoked?

   3. Should major decisions require a formal record?

D. Should a participant be permitted to unilaterally withdraw from the compact upon reasonable notice (___ years?), subject to environmental obligations, existing rights in other compact states, or other conditions?

E. What should be the legal effect of compact decisions on actions of state and federal water management agencies, e.g., binding if not in direct conflict with existing law, require best efforts to comply, or optional?

F. What should be the scope, manner and effect of federal objections to commission decisions in a federal/interstate compact?
G. Are there any other issues regarding membership and decision making that should be considered?

III. Interstate and Federal-State Coordination, Staffing and Funding – John Volkman

A. Should essential data for negotiating compact allocations and monitoring compact compliance be developed on an agreed upon, uniform basis? Should reported data on compact compliance be binding on compact participants if not objected to within a reasonable period?

B. Should coordination obligations be imposed on compact states among themselves and with federal water management and environmental protection agencies, i.e. Bureau of Reclamation, Corps of Engineers, FERC, EPA, Fish and Wildlife Service and National Marine Fisheries Service? If so, for what kinds of actions, e.g., operational, planning?

C. Should advisory committees be established? If so, for what purposes, e.g., technical, policy, stakeholder recommendations?

D. How should compact operations be funded? How should participant shares be determined? What should be the consequences of a participant not meeting its agreed upon contribution?

E. Should participants use an independent staff, state or federal staffs, or combination? What should be the allocation of responsibilities?

F. Should there be authority for water user fees, monetary penalties for violations, or direct taxing?

G. Are there any other issues related to this topic that ought to be considered?

IV. Compact Agency Powers – Jeff Featherstone
A. Should a formal compact administrative agency be established?

B. Should agency be limited to monitoring allocations or have broader management authority? If the latter, should it have any of the following powers?

1. Temporarily modify compact allocations by unanimous agreement upon occurrence of unanticipated conditions. If so, should some form of compensation or credit be provided states with downward adjustments?

2. Prepare and maintain comprehensive river basin plan for interrelated water management activities, including watershed protection and restoration.

3. Establish, monitor and enforce basinwide water quality in accord with EPA standards.


5. Review state and federal permits for water projects in basin for consistency with basin plan and collect fees for same.

6. Project construction and financing.

7. Taxation.

8. Approval of interstate transfers and banking.

9. Necessary and proper ancillary powers to carry out compact purposes.

10. Other?

C. Should agency powers supplement or supersede powers of member states? In either case, should they be exercised only if state agencies lack such power, fail to exercise their authority, or on some other conditions?

D. Should agency be subject to suit?

E. Should agency establish rulemaking procedures similar to the federal Administrative Procedure Act to insure public participation?
F. Are there any other issues related to compact agency powers that should be considered?