

Protecting Local Economies

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March 5, 2009

Legislative Charge

"Perform an independent analysis of legislative options to protect rural communities in northeast Washington from disproportionate economic, agricultural, and environmental impact when upstream water rights are purchased and transferred for use, or idled and used as mitigation, in a downstream watershed or county."

Legislative Charge – cont'd

"The contractor selected shall conduct the independent analysis and develop a report describing options and recommended actions. The department of ecology shall provide the report to the appropriate committees of the legislature by December 1, 2008."

The Core Issue

- What conditions, if any, should be placed on a change of use of a water right that removes water from a local economy?

Background

1. Water uses are tied to particular purposes and places of use but may be changed, including the location of the use, so long as there is no impairment of other water rights.
2. Rights of use are property interests that may be transferred to others.

Background – cont'd

3. The buyers and sellers work out terms that are satisfactory to both; the effects on *third parties* are not considered.
4. If there is a change of use, other water rights are protected.
5. If the change involves moving water out of a local area, the associated activity (e.g, irrigated agriculture) ceases, affecting the local economy.

Background – cont'd

6. What are these local economic effects? How substantial are they?
7. What are the benefits of the new water uses? Do they offset the losses?
8. Is there a need to regulate these transactions to protect local economies or for other reasons?

Project Approach

1. Familiarize ourselves with local context in study area
2. Review existing Washington water transfer law
3. Examine out-of-WRIA transfer activity in study area
4. Evaluate findings from studies of "third party" effects
5. Examine relevant laws in other states to determine options

Visits to NE Washington

- **Meetings on first trip (August 19-22, 2008)**
 - Representative Kretz and Senator Morton (in Spokane)
 - Ecology staff in eastern and central offices
 - Merrill Ott, Stevens County Commissioner
 - Okanogan: Mary Lou Peterson, Okanogan County Commissioner; Dan Boettger, Okanogan PUD, Regulatory Affairs; Perry Huston, County planning; Frank Sautell, County public works
 - Quad cities: Peter Rogalsky, Public Works Director, Richland, WA; Nancy Aldrich, Richland; Peter Beaudry, Kennewick, Public Works Director; Roscoe Slade, Public Works Director, West Richland; Doyle Heath, Public Works, City of Pasco
- **Meeting with Eastern Washington Area Council of Governments in Davenport (September 5, 2008)**

About the Report

- **Findings are presented in pp. 5-21.**
- **Supporting analysis provided in 5 appendices:**
 - A: county information
 - B: Washington water law
 - C: Out-of-WRIA transfers in study area
 - D: Survey of existing research on third party effects
 - E: Summary of relevant state laws

Report Findings: Context – NE Washington

- The 5-county study area is predominantly rural, with economies historically dependent on agriculture and natural resources; irrigated agriculture is most important in Okanogan and Lincoln counties

Report Findings: Washington Water Transfer Law

- Water rights regarded as property rights
- Uses generally can be changed in purpose and location, subject to no impairment rule
- No direction to consider local economic effects
- No public interest review

Report Findings:

Out-of-WRIA Transfers in Study Area

- Department of Ecology records show **50 applications** for out-of-WRIA transfers in Okanogan (25), Stevens (13), and Lincoln (12) counties **between 2000 and 2008**. None in Ferry or Pend Oreille counties. Only 1 of the 25 would stay in Okanogan County while 11 of the Stevens applications would stay in-county and 6 of the Lincoln applications would stay in-county.

Out-of WRIA – cont'd

- 16 of the 50 approved to date; 4 rejected; rest pending
- 12 of the 50 involved a proposed change of use from irrigation to municipal or domestic use; most would keep water in irrigation use
- Median amount of water: 160 acre-feet

Report Findings: Third Party Effects

■ **Include**

indirect effects: changes in local expenditures because the farmer/irrigator is no longer buying farm inputs and services

induced effects: income lost to community because farm workers, other service providers, and farm input sellers do not buy [as much] local consumer goods

property taxes: loss of tax revenue because non-irrigated land taxed at lower rate

Water Marketing in the West

- Leases and sales of water rights involving changes of use occur in every state
- Essential means of meeting new demands when water sources are fully allocated
- Most common in urbanizing states to meet some new development but widely used to meet new irrigation demands as well
- Generally involves modest amounts of water; permanent sales are expensive

Analysis of Third Party Effects: 4 case studies

1. Central Valley of California

Two studies of local economic effects of fallowing lands and leasing water in drought years of early 1990s

- A 13% reduction in irrigated acreage caused gross agricultural income in two ag-dependent counties to decline between 3.2 to 5 %; less than 1% loss in county income
- A 25% cut in water supply caused total county income to drop 2.5% and 5% in 2 heavily ag counties; other counties much less

Case Studies – cont'd

2. Imperial Irrigation District – California

Study: A projection of expected impacts from leasing water to San Diego

- worst case: each 1% reduction in water supply expected to reduce farm employment by 1.6% and total county employment by 0.5%

Case Studies – cont'd

3. Palo Verde Irrigation District – California

a. Study of impacts of two-year transfer (1992-93)

Fallowing of 25% of lands resulted in local job losses of about 1.3% of total

b. Study of projected impacts of 2005 agreement

Fallowing of up to 28% of acreage would result in about 1% loss of local income

Case Studies – cont'd

4. **Arkansas Valley of Colorado**

Results of two studies:

- a. Statewide income loss: \$53 per acre-foot of water transferred outside valley
- b. Present value of loss of local income and tax revenues: \$187 per acre-foot

Report Findings: Relevant Statutory Provisions

- Local economic effects associated with water transfers addressed in two contexts:
 1. development of a new, out-of-watershed or basin water supply
 2. transfers of water rights

Appendix E summarizes relevant provisions from 19 states and provides related information from 9 additional states

Relevant Statutes – cont'd

- **Review of proposed interbasin transfers**
 - at least 16 states have provisions
 - generally establish a special review process
 - typically, a list of factors for the reviewer to consider
 - predominant concern: adequacy of water supply for present and foreseeable future needs in area of origin

Relevant Statutes – cont'd

- Statutes governing changes of water rights
 - all western states provide for protection of other water rights
 - about half also have a “public interest” provision
 - 5 states have provisions that address particular third party concerns (summarized next)

California

- Review applications for changes: "not unreasonably affect fish, wildlife, or other instream beneficial uses"
- Also for 2009 water bank
 - "not unreasonably affect the overall economy or the environment of the county from which the water is transferred"

Colorado

- "The terms and conditions applicable to changes of use of water rights from agricultural irrigation purposes to other beneficial uses shall include reasonable provisions designed to accomplish the revegetation and noxious weed management of the lands from which irrigation water is removed."

Colorado

- **For "significant" water transfers (more than 1,000 acre-feet of consumptive use water)**

"transition mitigation payment": the amount of the reduction in property tax revenues attributable to water transfer.

"bonded indebtedness payment": equal to the reduction in bond repayment revenues attributable to removal of water.

Maximum of 30 years.

Do not apply if new use within 20 miles of original use.

Colorado

- **Water quality also a consideration for large transfers (more than 1,000 AF)**
 - if the transfer causes exceedance of water quality standards for the stream segment including the original point of diversion, actions must be taken to offset those exceedances

Idaho

- Changes must meet "local" public interest review and those moving water outside a local area must not adversely affect the local economy of the local area from which the water comes; local public interest defined as : "interests that the people in the area directly affected by a proposed water use have in the effects of such use on the local public resource."
- Changes of irrigation rights to non-irrigation purposes must not "significantly affect the agricultural base of the local area."

Nevada

- Notice to counties of applications to move water outside the county
- Counties authorized to impose of fee of up to \$10 per acre-foot per year, subject to approval of state engineer
- Alternatively, the applicant and the county can develop a plan to mitigate adverse economic effects

Wyoming

- State engineer to consider the economic loss to the community and the state from discontinuation of water use and extent to which this loss will be offset by benefits of new use

Summary of Options

1. Prohibit out-of-county transfers (not used)
2. No special restrictions (most common)
3. "Consider" local economic impacts (standard?)
4. Assess fees (revenue to local government)

Recommendations

1. Statutory requirement for land cover to prevent weeds and dust
2. Statutory requirement to offset lost property tax revenues, if any, for 20 years.
3. Statutory provision for public interest review

The Bigger Picture

- Need for local governments to work with irrigated agriculture to develop options to permanent loss of water and agriculture
 - developing other local uses of a portion of the water
 - short and long-term leases of reliable pools of water, with revenues used to improve local agriculture
 - may need some legislation to facilitate these efforts (water leasing/water banks)

Questions?