

Washington's Trust Water Rights Program

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Trust Water Rights Program

Legislation

- **RCW Chapter 90.38 (1989 Yakima Basin)**
- **RCW Chapter 90.42 (1991 Statewide)**

What is a trust water right?

- **A water right acquired by the state through chapter 90.42 or 90.38**
- **An existing water right cannot be established as a trust water right**
- **Multiple beneficial uses such as industrial, instream flow, irrigation and municipal**
- **Whole or a portion of an existing water right can be transferred**

How are trust water rights acquired?

- **Donations**
- **Short and long-term leases**
- **Permanent acquisitions**
- **Water made available through publicly funded water conservation projects, i.e. Irrigation Efficiency Program or Ref 38**
- **Mitigation projects**

What happens when a water right goes into trust?

- **Retains the same priority date as the original water right**
- **Relinquishment is avoided**
- **Impairment analysis may be required**
- **Water quantity available for trust is based on type of transfer**

What happens when water right goes into trust continued...

- **Public Notice may be required**
- **Water right holder may identify beneficial use of the water right while in trust**
- **When a portion of the right is acquired or donated the portion of the water right remaining with the water right holder is not reviewed for extent and validity**
- **Water rights acquired for instream flow must remain in trust for instream flow**

Are there water rights that cannot go into trust?

- **Groundwater rights that cannot be related to a specific stream reach if trust water right is permanent**
- **Water acquired through a conservation project with a water right established after July 28th, 1991**
- **Impairment of an existing water right**
- **Family farm permits, unless acquired by lease; and within UGA or the same WRIA**

Relinquishment

- **Water rights do not relinquish while in trust**
- **Under a donation, the water right is returned to the water right holder in the same quantity that it was accepted into trust**
- **The law is ambiguous regarding the five year non-use clock**

Trust water rights program and water banking

- **2003-amendments to the Trust Water Rights Program**
 - Authorized use of the program for mitigating water resource impacts, future supply needs
 - Provide a source of water rights to be made available to third parties
 - Documentation of transfers to and from the trust water rights program

Opportunities for water right holders

- **Land use changes**
- **Land ownership changes**
- **Crop changes**
- **Protection of property rights and values**
- **Irrigation efficiency programs, both Federal and State**

Additional Information or questions?



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