

# 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 new 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 and 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 28<sup>th</sup>, 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, does it start over or is it suspended

# 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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