

2007 YAKIMA TRIBUTARY WATER RIGHTS AUCTION BID CONDITIONS AND TERMS

We will consider bids for water rights that meet all the following conditions:

- The priority date of the water right must be May 9, 1905 or earlier.
- The water right must have been confirmed in a Conditional Final Order by the Yakima County Superior Court in the Yakima River Adjudication.
- The water right must be for water in a tributary to the Yakima, Naches or Tieton Rivers upstream from Parker Dam.
- The minimum offer must be for at least 10 irrigated acres.
- The party submitting the bid is willing to lease or sell the water right beginning with the 2008 irrigation season.
- If the water right is sold, the land to which the water right is appurtenant can no longer be irrigated.
- If the water right is leased, the land to which the water right is appurtenant can no longer be irrigated during the periods prescribed in the lease; or, in the case of a dry-year lease option, during years of proration if the option to lease water is exercised.
- The party submitting the bid must be prepared to show that the water has been used in the amount offered during the period from 2002 through 2006.
- The party submitting the bid must be willing to allow staff from Washington Department of Fish and Wildlife access to the pumps/headworks for the purpose of evaluating the stream and habitat characteristics in the reach of stream that would benefit from the lease of sale of the water right.
- The party submitting the bid must be willing to work promptly to complete the transfer of the water right or portion of the water right to the State Trust Water Rights Program.
- The party entering into a sale agreement, lease or lease option must be willing to allow Ecology and/or its representative access to the land subject to the agreement upon request at reasonable times to ensure compliance with the terms of the agreement. Measuring and reporting water use associated with any portion of the water right not sold or leased to Ecology will be required.
- The party entering into a sale agreement, split-season lease, or dry-year option must represent and warrant that they own the land to which the water right is appurtenant and that they have the authority to lease or sell the water right.
- Landowners within irrigation districts must submit written permission from the irrigation district manager or board of directors to lease or sell their water right.

For each round of the auction, purchases will be given priority over leases. If bids meeting the acceptance criteria (to be revealed at the bid opening) offered for sale equal or exceed \$625,000 all funds would be used for purchases and no funds would be available for leases. The total cost of accepted leases in any case will not exceed \$375,000.

- Successful bidders offered a Letter of Intent may not submit any later bids relating to the right or portion of the right already accepted by Ecology. If a bidder submits two or more

bids for the same water right (e.g., lease, dry-year option, and purchase) meeting Ecology's acceptance criteria in a single round, Ecology will determine which bid is accepted.

- Ecology will notify in writing landowners who submit a bid whether or not their bid is accepted. Acceptance of a bid will be documented by letter.
- If a landowner's bid is accepted, the landowner will be expected to enter into a preliminary and non-binding agreement to sell, lease or provide an option to lease the water right, subject to acceptance of the water right into the State Trust Water Rights Program by Ecology, and for leases, by the Adjudication Court.
- Payment will be made to the landowner in accordance with a completed and signed agreement between Ecology, Washington Rivers Conservancy and Washington Water Trust and the seller or lessor upon completion of the transfer into the State Trust Water Rights Program by Ecology and, if required, the Court.

Please retain a copy of these terms and conditions for your records, along with a copy of the bid you submitted.

Participation in the bid process shall not result in any obligation of Ecology to purchase or otherwise lease a water right. Ecology will purchase or lease a water right only if it accepts the terms of a bid in writing. Any water right holder participating in the bid process agrees to hold Ecology harmless from any and all claims that may arise from participation in the bid process.

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