

Managing Trust Water Rights

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First Steps

- Acquire the water right
 - purchase, lease, donation, conservation
- Formally create the trust water right (twr)
 - protect by twr
 - or by Court O.P.L. (Yakima temporary)
- Maintain running total of twr's created
 - spreadsheet, by month

Second Steps

- **Inspect original right periodically for compliance with terms of twr creation**
 - **make sure the twr is real (fallowed POU? conservation implemented?)**
- **Measuring devices needed**
 - **diversion measuring devices**
 - **stream flow gages**

Regulation of twr's #1

- **Prepare stream-specific schedule of rights**
 - **by priority date**
 - **with twr's incorporated**
 - **by month**
 - **with both primary reach and secondary reach Q's for each twr**
- **Prepare ditch-specific schedule, if desired**
 - **at each POD, define the Qi of instream flow needed to satisfy senior downstream rights, including senior twr's**
 - **by month**
 - **carefully consider both primary and secondary reach Q's for downstream twr's**
- **Adjudicated and state-issued rights are “easy”; claims may require a tentative determination of extent and validity**

Regulation of twr's #2

- **Measuring devices**
 - **locate and read diversion measuring devices or obtain diversion report data**
 - **locate stream flow gage(s) and obtain flow readings routinely**
 - **Or, take stream flow measurements with a flow meter at key locations**

Regulation of twr's #3

- **Regulation is “simple” (right?)**
- **First in time is first in right (includes twr's)**
- **Carefully consider that a POD's return flows return to satisfy downstream twr's**
- **Use existing authority to curtail junior diversions to satisfy senior rights, including twr's**
 - **state notices of regulation, enforcement orders, or Court orders (e.g., Yakima Basin)**

Regulation of twr's #4

Chapter 2 of the Trust Water Right Guidance document cautions (check these before regulating juniors to protect twr):

- Has public notice for twr been published?
- Are the senior rights defined? (Sinking Creek issues)
- Rights not defined? Seek Superior Court relief/direction

Regulation of twr's #5

In a Nutshell

- **Ensure acquired rights are followed**
- **Ensure conserved water is not diverted**
- **Gather diversion and stream flow data**
- **Prepare schedule of rights by month**
- **Regulate all rights by priority, curtailing juniors as needed**

Trust water right complications

Regulation requires:

- Knowing stream flow Q's with certainty at several points along a stream**
- Knowing the total of senior downstream water right Q's, including twr Q's that must pass by each stream POD site**
- Monitoring and tracking changes in stream flows and need for regulation for the entire season**

The accounting problem

- **Trust water rights have two Qi's, a constant primary reach Qi and a "bell curve" secondary reach Qi (which varies by month), both of which must be included in the spreadsheet of water rights**
- **Some twr's are temporary – one or more year duration. Therefore, spreadsheets of rights must be annually updated**
- **Some twr's are part-year only, or dry-year only**
- **Some twr's are specific only to a primary reach (e.g., conservation and IEGP twr's)**
- **Other authorities may create temporary instream flow rights (e.g., Yakima Adjudication Court Orders Pendente Lite), which must be added in to the spreadsheet of rights**

The accounting solution

- **Create a spreadsheet of all of the water rights, including the twr's, on a stream: a schedule of rights for the stream, by priority date**
- **Create the schedule of rights by month, with appropriate notes to define the primary reaches and the secondary reaches for each twr**
- **As needed, create regulation aids that define the Qi of instream flow water that must pass by each POD along the stream to satisfy senior downstream water rights, including senior twr's**
- **Do this accounting in advance, or you'll be scratching your head on the stream bank, wondering what to do when you get to regulation time. We must protect our public funding investment for acquired instream flow twr's and we must also protect existing rights from detriment or injury (or negative effect)!**

A final note

Stream flow gages are extremely important. They are critical to proper management of trust water rights.

Yakima experience

- **twr's and Court OPL's**
 - **Court retains jurisdiction over SW claimants in the Yakima Basin**
- **2001 and 2005 droughts**
- **USBR YRBWEP leases and acquisitions**
- **'Trust at Parker' spreadsheet – adds to YRBWEP target flows**
- **WWT and WRC**
- **Conservation Districts and IEGP**
- **Teanaway subbasin stream patrol**