WATER BANKING

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Outline

- Trust Water Rights Program Basics
- Water Banks
  - Risk
  - Mitigation
    - Yakima Basin Water Banks
      - Upper Kittitas Example
Trust Water Rights Program

- TWRP was created by the legislature to provide WA state a way to legally hold water rights for future uses without the risk of relinquishment.

- Only Ecology can hold a water right in trust (Walla Walla being the exception under RCW 90.92).
Acquiring Water

- **RCW 90.42.020(5):**
  - “Trust water right” means any water right acquired by the state under this chapter for management in the state’s trust water rights program.

- **RCW 90.42.080(1)(a) and (b):**
  - The state may acquire all or portions of existing surface water or groundwater rights, by donation, purchase, gift, or other appropriate means....
Acquisitions by Other Means

- Ecology may acquire water rights by “other means”
  - Agreements, Memorandum of Agreement (MOA), letter of instruction, contract
  - Ecology holds the right in exchange for something else
Water Banks

- Ecology may agree to acquire and manage a water right so it can be used to mitigate new uses.
  - “Public” Water Banks
  - “Private” Water Banks
“Water Banking in its most generalized sense is an institutionalized process specifically designed to facilitate the transfer of developed water to new uses. Broadly speaking, a water bank is an intermediary. Like a broker it seeks to bring together buyers and sellers. Unlike a broker, however, it is an institutionalized process with known procedures and with some kind of public sanction for its activities.”

Recipe for a **Successful** Water Bank

- Motivated buyers
- Motivated sellers
- Bank or banker(s) able to sustain long term operation
  - water right(s) transferred to instream flow
  - Supplemental mitigation?
  - Agreements to hold and manage water right(s) in trust
  - Protocols to assign mitigation to buyers
- Stakeholders (fish managers, senior right holders) accept mitigation in lieu of status quo
- Confidence in reliability of mitigation
Before agreement negotiations begin, there is much to consider....
Development of a Water Bank

- Instream flow
- New uses
- Bank profitability
- Ecology’s time and resources
- Partnerships
- Seller’s goals for water right/land

Donations
(for instream and groundwater preservation)
Managing Expectations

You asked your guest to bring a dessert...

They planned for enough time, money, and resources to make JELLO, but you expected Chocolate Raspberry Soufflé.
Mitigation

- POL 2035: “....adverse effects to the state’s water resources are best mitigated in-kind, in-time, and in-place.”
A call for water against new mitigated uses

- The water bank is only as good as the water right it’s founded on.
- Priority: First in time, first in right.
- Mitigated rights run the same risk as all other rights.
Mitigating Impacts/Product Design

- What are the effects/concerns?
  - Requirements set in rule
  - Water availability with respect to senior rights
  - Get direction through consultation, ex. Water Transfer Working Group,
  - Consider comments from public notice, SEPA review
Mitigating Impacts

- WATER SHORTAGE: addressing physical and legal limitations
  - Out of Kind mitigation is no good
  - Water for water, senior water rights are necessary
  - Additional elements may help:
    - flow augmentation
    - removing barriers
Mainstem Yakima River Mitigation

- Usually requires use of the Ecology/USBR Exchange Contract
  - USBR stores Ecology’s trust water to be delivered when and where it’s needed
Teanaway

- Teanaway River water rights have an irrigation season from May 1 to Sep 15
  - Low flow conditions generally occur between Aug 1 and Nov 1
    - Lowest flow is just as likely to occur after Sep 15 as before Sep 15
  - Need a way to retime water
Teanaway

- Solutions
  - Work with stakeholders interested in long term benefits for fish
  - Design a project to retime water to address Sep 15 – Nov 1 impacts to stream flow
Teanaway

- **Goal:** Create natural storage to retime water for fish from Sep 15 – Nov 1
- **Agreements:** with bankers to contribute $500 per home for Indian Creek project
- **Action:** Alter stream flow in Indian Creek with debris placement
Opportunity

- Working with stakeholders provided project support and increased reliability
Thank You

Questions?