

# Trust Water Rights Program

## Focus on

## What is the Trust Water Rights Program and how can it help me?

Water is a finite resource. Despite Washington State's reputation for rain, watersheds across the state are faced with a shortage of water, when and where it is needed. The demand for water continues to grow, but the supply remains the same. So where is water going to come from for new homes, businesses, farms, endangered fish, recreation, and the environment?

Transferring or reallocating existing water rights is one of the most important sources of water for new uses. Over 20 years ago, the Washington State Legislature understood the value of creating a legal mechanism for the voluntary transfer of water and water rights. They created the state Trust Water Rights Program (TWRP), a "vault" for holding and protecting water rights, which are then available for other uses. (Note that the TWRP is a repository of "paper water" – that is, issued water rights. It is not a physical reservoir for storing millions of gallons of water.)

### Why it matters

Demand for water continues to grow around the state, but no new water is being made. Where will new water supplies come from? Transferring existing water rights to new uses is one of the best tools around. The state Trust Water Rights Program was created to hold and protect water rights so the water can be available for other uses.

If you find yourself with "extra" water – either temporarily or permanently – consider using the state Trust Water Rights Program. It is a win-win situation: your water is protected and people and the environment benefit.

A **trust water right** is any water right acquired by the state for management in the state's Trust Water Rights Program

### I've got water – but why would I be interested in the TWRP?

The TWRP is a great tool for anyone who has a water right and is not using all or part of it – either temporarily or permanently. You might have inherited property and are in the process of figuring out the terms of the water right associated with that land. You may be a farmer who is looking to change crops and will be using less water for a while. There are any number of scenarios under which you may find yourself with "extra water."

I have water – but why not just hold on to it? Is there any advantage to using the TWRP?

There are some clear advantages to water right holders to use the TWRP. To provide some context, you need to first understand some of the basic legalities of using water in Washington state.

Under Washington water law, water is considered a public resource. It belongs collectively to all Washington citizens. You can't "own" water, rather are granted the right to use it in the form of a water right issued by the Department of Ecology (Ecology). Ecology is charged with managing the state's water.

Water must be used "beneficially" – that is, a reasonable amount for a designated purpose. Water cannot be wasted. This is why there is a relinquishment law, also referred to as the "use it or lose it" law. If you do not use all or a portion of your water right for a period of five years or more

you will, under most circumstances, lose the right to use that water.<sup>1</sup>

### **Water right holders benefit, with lots of flexibility**

One of the big advantages of the TWRP is that while a water right (or portion thereof) is held in trust, it is protected from relinquishment. Water in the TWRP is considered an exercised water right.

More good news for water right holders: the right maintains its original priority date while in trust. The priority date, or effective date, of a water right is important because Washington water law is based on “first in time first in right” – in water-short times, the oldest water rights are satisfied first. The priority date determines your place in line.

If you make a temporary donation to the TWRP, the amount of water you put in is what you take out. Your water right remains intact.

For permanent donations, there is another potential advantage to water rights holders: a federal tax benefit for the value of the right.

There is a lot of flexibility in the TWRP. You can donate all or part of a right, either temporarily or permanently. The water can be either groundwater (water under the ground) or surface water (water on the Earth’s surface, such as streams and rivers). Water in trust can be used for either instream or out-of-stream purposes.

So if you find yourself with some “extra” water, consider donating or leasing that water to the state Trust Water Rights Program. It can benefit Washington streams and Washington citizens, at the same time it benefits you. It is a win-win.

### **For more information**

#### **Noah Wentzel**

Statewide Trust Water Coordinator

[noah.wentzel@ecy.wa.gov](mailto:noah.wentzel@ecy.wa.gov)

360-522-2777

#### **Buck Smith**

Northwest Region Office – Shoreline

[buck.smith@ecy.wa.gov](mailto:buck.smith@ecy.wa.gov)

425-649-7147

#### **Dan Tolleson**

Eastern Region Office – Spokane

[dan.tolleson@ecy.wa.gov](mailto:dan.tolleson@ecy.wa.gov)

509-329-3526

#### **Kelsey Collins**

Central Region Trust Water Coordinator

[kelsey.collins@ecy.wa.gov](mailto:kelsey.collins@ecy.wa.gov)

509-575-2640

### **Ecology website:**

<https://ecology.wa.gov/water-shorelines/water-supply/water-rights/trust-water-rights>

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<sup>1</sup> Refer to RCW 90.14.140 for “sufficient causes” for non-use. To understand more about relinquishment, you can also refer to this Ecology publication: <https://apps.ecology.wa.gov/publications/publications/981812wr.pdf>