

Advisory Group on Water Trust, Banking, and Transfers
Meeting 2, May 7
9:30 am to 12:30 pm

Meeting Notes

Welcome, review agenda & objectives, introductions, summary of last meeting

Carrie Sessions

Background presentations: Overview of sales and transfers

Dave Christensen

Scott Revell

[Presentation available [here](#)]

Discussion Part A: Out-of-basin transfers

Moderator: Carrie Sessions

Participants:

Mark Peterson

Mary McCrea

Wes McCart

Chris Marks

Dan Haller

Andy Hover

Chris Stearns

Discussion Questions and Comment Summary:

Question 1: We have heard concerns that out-of-basin transfers:

- Negatively impact the social and economic wellbeing of communities;
- Prohibit communities from ever getting the water back; and
- Can be used by outside actors to profit from water rights.

Please discuss your specific concerns about out-of-basin transfers and explain what is driving them. If out-of-basin transfers don't concern you, why not?

- Out-of-basin transfers increase water management flexibility and allow water right holders to increase the productivity and value of their water rights
- Water users are diverse, as are water supply conditions in different basins. There may be no one-size-fits-all solution. However, basins with small native supplies may see severe economic impacts due to transfers that may be considered very small in other basins.
- Historical water supply conditions are shifting due to climate change, resulting in increasing water supply restrictions during irrigation season even without removing water rights from tributary basins.
- Out-of-basin transfers should be distinguished from out-of-county transfers. Out-of-county transfers reduce the tax base in the county of origin, while out-of-basin transfers within the same county do not.

- Out-of-basin transfers are a valuable tool for providing instream flow improvements.
- This debate may be better framed as the conflict between and valuation of instream and out-of-stream uses
- Private out-of-basin transfers have so far been considerably smaller than out-of-basin transfers by public agencies.
- Defining a public interest test favors existing uses, loudest voices, and is too subjective.
- A deeper market for water rights featuring a higher volume of trading will produce more valuable outcomes for the state.
- Public interest test should be included to evaluate impacts to a public resource.
- Public interest test may not be the appropriate way to address impacts to counties. The state needs to make a broader commitment to protecting agricultural land and productivity.
- Public interest test should not evaluate impacts to local agriculture, economy, fishery, etc, on its own. Needs to balance competing priorities including each of those criteria.
- Municipalities should receive priority in public interest because of the importance of basic domestic access.
- Public interest standard is too nebulous to be included in transfer review.
- State should explore new ways to enable upstream transfers.
- Monetary value should not be the only criterion for evaluating the value of water
- Ecology should make it more difficult to separate water rights from the land they are appurtenant to.

Question 2: Most out-of-basin transfers benefit instream resources. Does this benefit outweigh some of the potential social costs?

- Instream flow improvements provide long-term economic benefits upstream through improved fisheries.
- Instream flow benefits are only captured if instream rights are protected from downstream diversion.

Break

Discussion Part B: Water right sales

Moderator: Dave Christensen

Participants:

Jamie Morin

Urban Eberhart

Bill Clarke

Dan Von Seggern

Jason Hatch

Arden Thomas

Dan Haller

Andy Hover

Mark Peterson

Lorah Super

*Paul Jewell
Ilene Levee
Chris Stearns
Peter Dykstra
Mary McCrea*

Discussion Questions and Comment Summary:

Question 3: The only public notification of a water right sale occurs with the application to change or transfer the water right. Is this a sufficient level of public notice? What would we gain by having more transparency? What would we lose? Is there a benefit to added transparency if the standard for review does not consider that information (under current statute, there is only a review for impairment)?

- Current notice requirements are sufficient.
- More notice requirements would be an unnecessary burden.
- The state should not rewrite the water code in response to one newspaper article.
- Notice requirement could be expanded to include all affected counties (in the case of out-of-basin transfers) and could include application online.
- Newspaper postings are an outdated form of public notice.
- Public notice requirements aren't necessarily the problem, rather we should be concerned that posted transfer applications are not visible enough to the general public (especially in the case of conservancy board applications).
- Price information should be included in public notice.
- There is not enough market information for many water right holders to be well-informed market participants.
- Not enough people see posted transfer applications currently.
- Posted transfer applications should be available in an integrated, publicly-accessible GIS interface.

Question 4: Though water is a public resource, the right to use water is privately-held. Should the State regulate the sale of water rights when they occur apart from the land? For example, should we restrict out-of-state entities from buying Washington water rights and putting them in the Trust Water Rights Program? Why or why not?

- USBR/BPA/NFWF are not in-state entities but the state has no authority to restrict their access.
- It is easy to register an in-state entity quickly even for non-residents
- How can in-state vs. out-of-state be effectively defined? Crown Columbia is a Washington-based company, is Ecology attempting to restrict its access?
- The problem is not who owns the water rights, it is what they are doing with it. The focus of regulation should be preventing anti-competitive behavior such as monopolistic consolidation and price gouging.
- "Beneficial use" should be defined by the benefit to residents of the state.
- Restricting who can buy water rights would mean restricting who can buy land coupled with appurtenant water rights. Is the state really prepared to do that?
- Non-resident purchasers still have to put water to beneficial use. What we are really discussing is our prioritization of beneficial uses.
- Any standard for restricting market access is subjective and based on personal preferences.

- Many transactions simply result in long-term TWRP donations rather than being put to a new out-of-stream use.
- The state should provide incentives to irrigators to maintain link between water and land.

Wrap up, look ahead to next meeting, show and open the follow-up poll

Carrie Sessions

Meeting Adjourned