

Organization

Washington State Department of Ecology

Please provide some background information about your organization.

Department of Ecology Water Resources Program manages water resources to meet the needs of people and the natural environment, in partnership with Washington communities.

Tentative Project Title

Comparing and Contrasting Water Banking and Water Marketing in Washington to Other Western States

Please describe the problem, challenge, or opportunity that the consultant team will address.

Washington State water law is unique from other western states following the prior appropriation doctrine. Here as in other states, many watersheds have become fully allocated (or over-allocated). Water banking has become a tool used more frequently to allow new users to access water. Although substantial research has been done to identify the benefits of water banking, little critical analysis has been done about whether the tool is the “best tool.”

In fact, other tools could be potentially more effective here. The other approaches to effectuate the reallocation of water might better uphold the prior appropriations doctrine and may work more economically in Washington because of our unique hydrogeology, as well as ecological, political and social conditions.

Water banks, water markets and market reallocation schemes contribute generally to privatizing public water resources. Concerns have become more acute recently in Washington about whether water markets themselves are facilitating speculation and undermining the basic tenets of prior appropriations. Water rights are usufructory property rights and the prior appropriations system relies on the concept of relinquishment of rights not being used to ensure junior water users have opportunities to obtain access to water.

What is your desired deliverable? Examples include policy reports, fundraising strategy documents, stakeholder analyses, or other strategic documents.

Policy analysis/reports

What are some key tasks the students will perform to complete the project?

Overall, Washington is faced with important policy decisions about how to best facilitate reallocation of water supplies because of scarcity. This research proposal for Evans School students will attempt to focus academic resources on identifying, comparing and contrasting economic, legal, policy, and environmental settings which either promote or discourage water banking in an attempt to inform Washington's future direction in water management. We seek an evaluation of the use of water banking – not simply a promotion of the benefits of the tool, but a critical evaluation of why it may be limited (for good reason) for use in our state.

To accomplish this, we would envision that Evans School of Public Policy and Governance students work directly with Ecology's Water Resources policy development team, which includes a recent Evans School graduate. Students would refine specific research questions and scope to best integrate into the existing knowledge and recent areas of policy development focus, and to ensure successful completion of research within their available time.

A number of questions could be researched to contribute toward this evaluation, such as:

Which states have active water banks, and how much water is being banked?

What types of uses are being promoted by each of the water banks (e.g., agriculture, industrial, residential)? What are the conditions that drive the certain users to seek water from banks?

What are the similarities and differences in the geologic and legal frameworks between Washington and other Western states that may promote or discourage water banking?

In Washington State, water banking relies on the Trust Water Statute (chapter 90.42 RCW). What statutory mechanisms are used to support water banking in other states? How similar are those to Trust Water and what changes might strengthen Washington's legal framework to more effectively enact water banking tools?

Does Washington's Trust Water statute undermine prior appropriations by providing too much protection from relinquishment?

Do other Western states use market mechanisms such as requiring fees to bank water to reduce potential speculation?

How could Washington adopt fee structures or other funding models to both pay for implementation as well as promote more effective and functioning markets?

What are the economic, political and social ramifications/consequences of privatizing the public's water resources?

What environmental settings and protections exist throughout the Western states to ensure that water banks do not have negative effects? Are Washington's laws, which ensure no impairment to senior water rights (including instream flows), stymying water banks?

How have water banks or water markets in other Western states addressed tribal senior water rights, either quantified or unquantified?

What resources are available to complete the project (e.g., access to data, support from staff, etc.)?

Data at Ecology; staff support from program policy staff