


# Water Transfers

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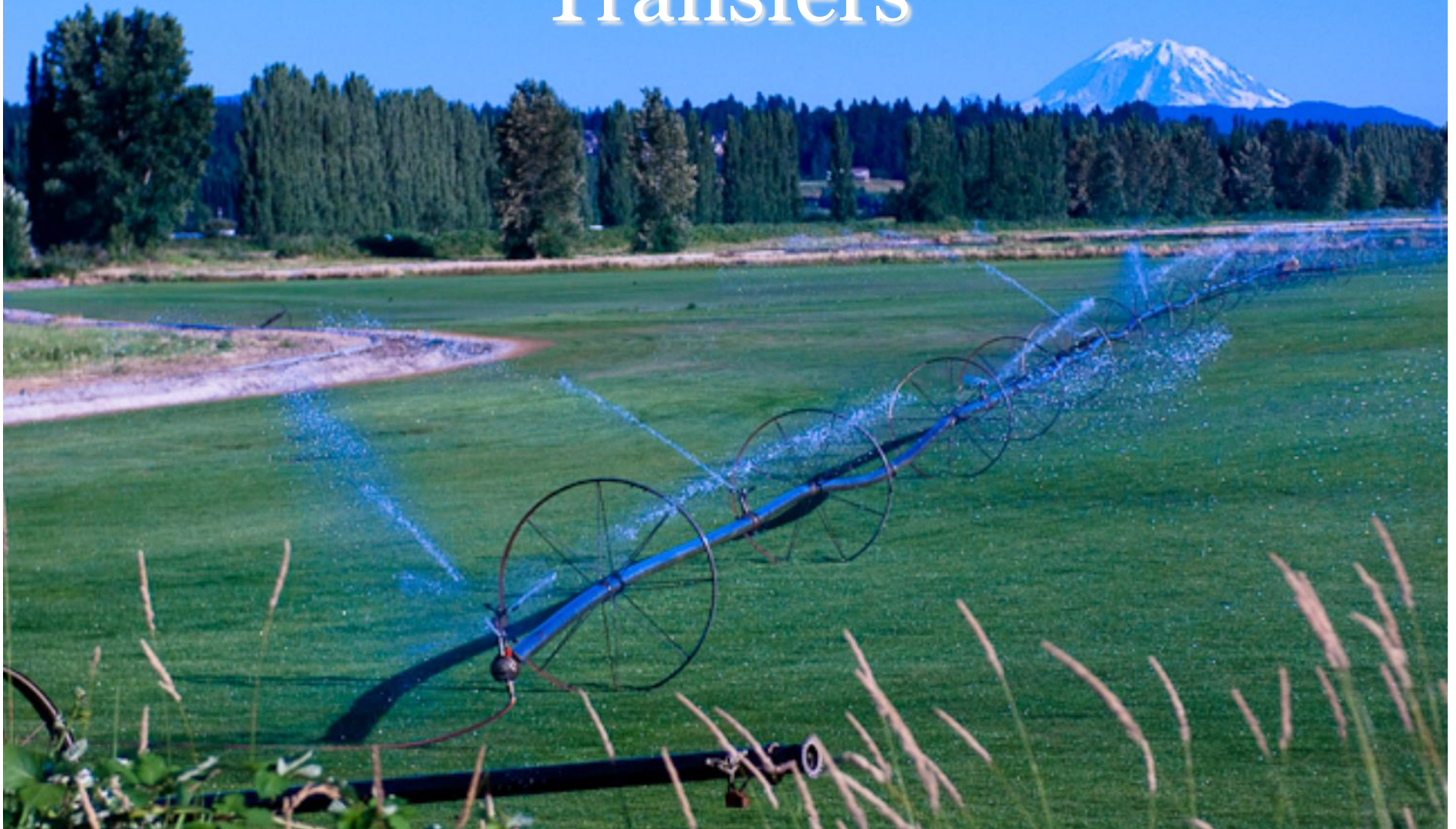


How can water transfer mechanisms be made more effective and useful?

# How?

- By changing the characteristics of the mechanisms used
- By recognizing/affecting influential factors, e.g.:
  - Law
  - Administrative capacity
  - Social and political dynamics
  - Economics
  - Infrastructure and the proximity of buyers and sellers

# Prior Appropriation & Transfers



# Prior Appropriation

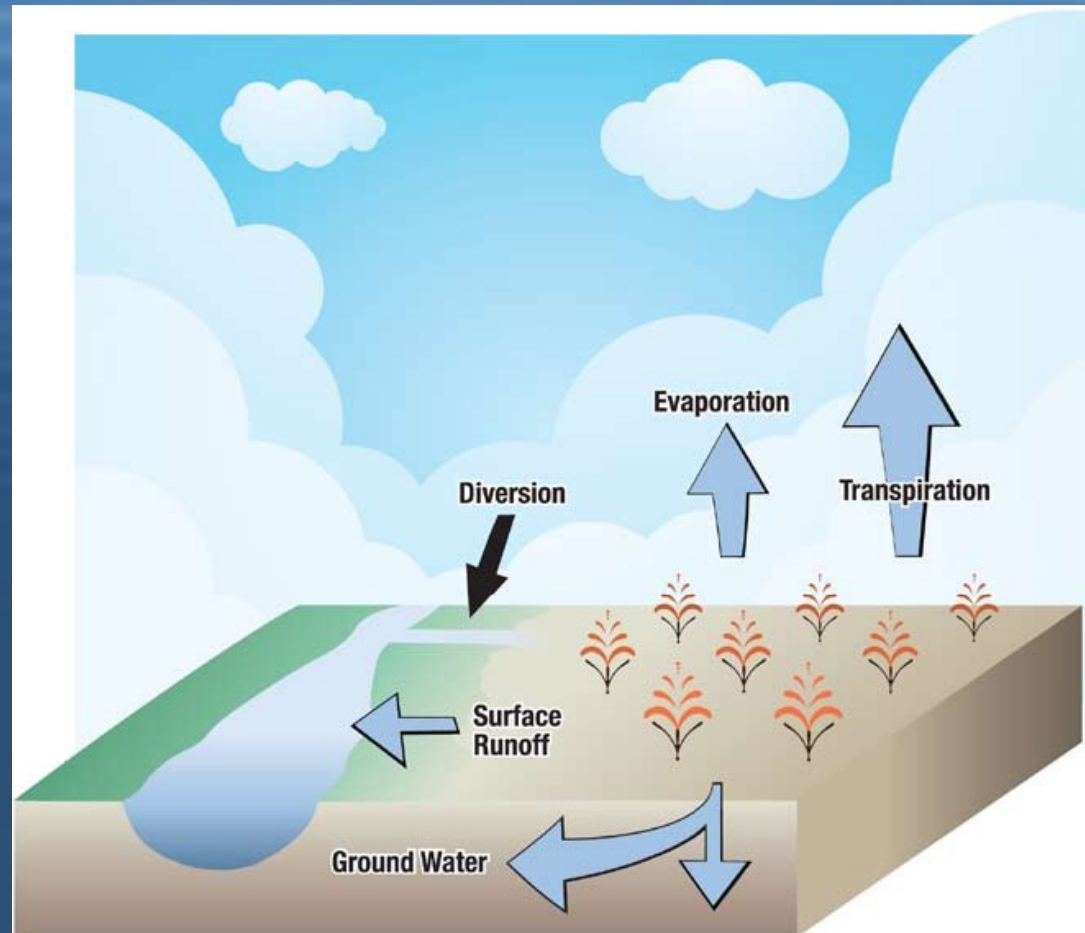
- The first to use the water (or acquire a permit) is always the first in line to receive all the water necessary to meet that original purpose of use in the original place of use.
- The right holder with the second oldest claim is second in line. The third is third in line, etc.
- Water is distributed in this manner until all rights are fulfilled or there is no water left in a stream, etc., whichever comes first.

# Key Tenets

- Protect the water rights of other users
  - Along with an imperfect understanding of historic consumption, it slows the transfer process
- Avoid speculation: forfeiture/abandonment
  - Whether an actual or merely perceived legal impediment, it can dissuade both sides of a transfer
- Most states in the West have thorough procedures (administrative or judicial) for reviewing transfers – to enforce these tenets

# Consumptive Use

- Quantifying the historical use of water often is difficult, time-consuming, and expensive.



# The Impact

The time and expense of these procedures:

- Encourage long-term transfers over short ones
  - The larger the transaction costs, the larger the transaction amount must be to be viable.
- Reduce the responsiveness of transfers
  - The longer the process, the greater the lag time between identifying changes in supply and demand and meeting them.



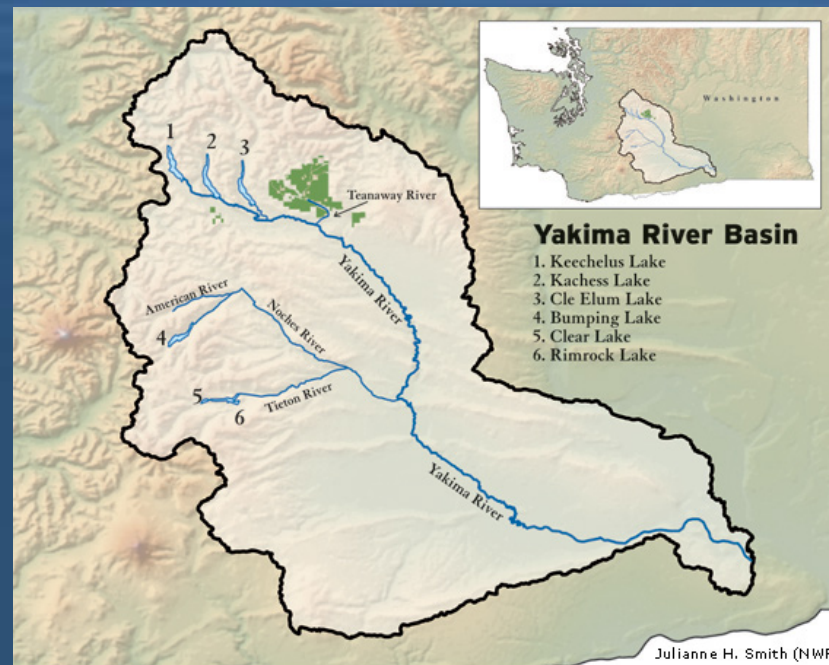
# Examples of Improved Transfer Mechanisms

What Has  
Worked and Why



# Community-Assisted Process

- The Yakima Water Transfer Working Group provides technical review of proposed water right transfers in the Yakima River basin.



# About the WTWG

- If the Group finds a proposed transfer to be consistent with its guidelines, it labels the proposal as “recommended.”
- A “recommended” proposal almost always receives approval from the Yakima County Superior Court or the Department of Ecology.
- Turnaround time objective (from application to approval): 15 days in dry years, 45 days in other years

# Civic Engagement

- The Group consists of a representative of the Washington Department of Ecology and U.S. Bureau of Reclamation and hydrologists, water users, and water rights experts from the basin.
- Members serve voluntarily and do not formally represent their respective organizations.
- Given the members' knowledge and the diversity of interests represented, unanimous approval is a positive indication that a transfer would not adversely affect streamflow.

# Clarity of Rights

- Critical to this expedited review is the fact that the Yakima Basin is fully adjudicated.
- The details of the rights to be transferred, as well as those potentially affected, are clear when reviewed by the Group and the judge/Ecology.
- In addition, having gone through the adjudication process has provided a base for collaboration, since the parties know each other.

# Long-Term Agreement

- In 2004, the Palo Verde Irrigation District and the Metropolitan Water District of Southern California signed a 35-year water supply agreement.



[http://www.mwdh2o.com/PDF\\_NewsRoom/6.4.2\\_Water\\_Reliability\\_Palo\\_Verde.pdf](http://www.mwdh2o.com/PDF_NewsRoom/6.4.2_Water_Reliability_Palo_Verde.pdf)

# The PVID-WMD Agreement

- From 1992 to 1994, the two districts conducted a pilot project (roughly 115,000 AF/year), for which MWD paid the farmers a total of \$25 million.
- The 2004 agreement (set to last from 2005 to 2040) requires Palo Verde farmers fallow 7% to 28% of valley lands in any year, making that water available to urban Southern California.
- Participating farmers received a one-time payment of \$3,170 per acre enrolled, and annually receive \$602 per acre fallowed.

# Economic Effects

- During the pilot project, 52 full-time agricultural jobs were reported to be temporarily lost, and farm-related services lost roughly \$4 million.
- In 2004, MWD established a \$6 million Palo Verde Valley Community Improvement Fund (in addition to lease payments).
- The fund is managed by a volunteer local board and has invested in workforce training, provided loans to businesses in the Valley, and developed community resources.



# Adaptability

- The agreement has succeeded over the years in large part because of its ability to easily adapt to year-to-year variation in water availability.
- The amount of water transferred to MWD each year depends on MWD's demands, but within set limits: between 6,000 and 26,500 acres of land (roughly 29,500 to 118,000 AF of water).
- Also, the amount MWD annually pays PVID for administrative costs varies, and annual payments to farmers are adjust for inflation.

# Water Banking

- Some form of water banking has been tried in most western states, with mixed results.
- The Idaho State Water Supply Bank is one of the more successful examples.
- The Idaho Water Resources Board sets policy and runs the bank, and the transfer procedures are less onerous than, and replace, the procedures otherwise required for transfers.

# The Effect of Law: An Incentive

- In 2002, the Idaho Legislature added depositing a right in the water supply bank to its list of exceptions and defenses to forfeiture.
- The water need not be rented, just deposited in the bank, to receive this protection.
- The success of the water bank has been widely attributed to this forfeiture exemption for deposited water rights.

# Fiscal Stability

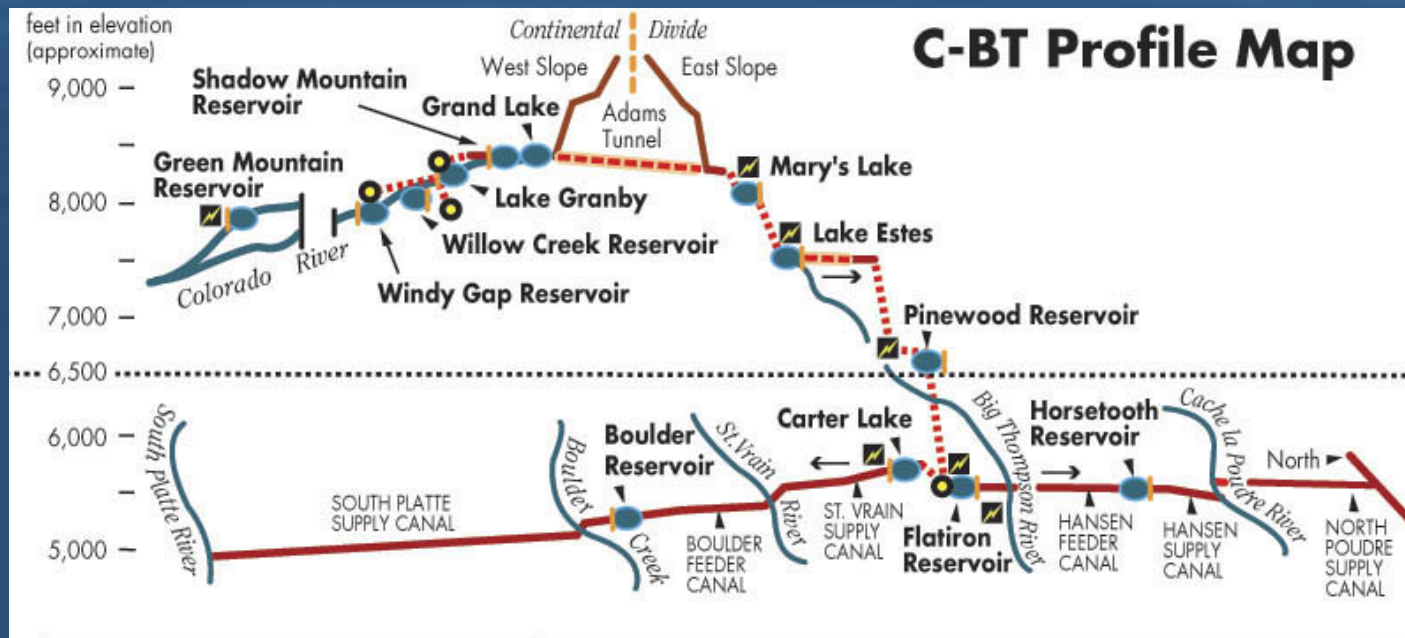
- One of the common challenges for water banks is financial support.
- If a water right deposited in the Idaho State Water Supply Bank is leased, 10% of the lease price goes to administrative fees.
- This was insufficient to cover operating costs, so the Idaho Legislature approved a \$250 lease application fee in 2011.

# Data Collection & Management

- Demands on the bank's record-keeping and staffing resources have increased as use of the bank has risen.
- In 2012, the bank implemented a GIS-based data management system and began assigning a separate code to each part of a rental fee.
- As a result, fiscal and bank staff can more easily analyze and share rental data and have streamlined payments to lessors.

# An Unencumbered Commodity

- The Colorado-Big Thompson (C-BT) Project enabled what has become a popular example of a highly functional water transfer program, albeit with rather unique circumstances.



<http://www.northernwater.org/WaterProjects/HowtheC-BTWorks.aspx>

# The Role of Infrastructure

- In the 1930s, Northeastern Colorado suffered a serious drought and sought water supplies from the other side of the Continental Divide.
- The system now consists of 95 miles of canals, 35 miles of tunnels, and 12 reservoirs, spanning 65 miles N-S and 150 miles E-W.
- The Project delivers supplemental water to 30 towns and cities and is used to help irrigate roughly 640,000 acres of farmland.

# The Nature of the Allocation

- Since C-BT water comes from outside the basin, Colorado water law allows it to be used to extinction (removing concerns over return flows).
- At the project's inception, water users acquired "units," each representing a pro-rata share of project water available in a given year.
- There are 310,000 units, and they can be leased or sold within the project's service area.



# A Single Authority

- The Northern Colorado Water Conservancy District single-handedly allocates C-BT water, so it solely sets and implements transfer rules.
- Also, the District includes both agricultural and urban users, often the sellers/lessors and buyers/lessees, respectively.
- Since the District works relatively independently of extra-district water interests, it can create a water transactions program that operates with little process and thus at a relatively low cost.

# Concluding Points

- **Why** the system exists and operates the way that it does is as important as **what** the current system is and what changes might be made.
- Simplifying the transfer process is important, but potential consequences and third-party interests should be considered, or else the change just shifts when an issue is addressed.
- There are many ways to facilitate water (right) transfers; it is important to find and tailor the one that best suits the circumstances.

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