Of Water and Trust: A Review of the Washington Water Acquisition Program

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Executive Summary

The Washington Water Acquisition Program is a voluntary, incentive-based program designed to encourage water right holders in Washington State to sell, lease, or donate some or all of their water rights to increase instream flows for the purpose of salmon restoration. The program is administered by the Washington State Department of Ecology (Ecology) in collaboration with the Washington Water Trust (WWT). Ecology began acquiring water rights under the Program in 2000 and, together with the WWT, has completed 80 temporary or permanent direct transfers representing 9,304 acre feet of water per year. The program currently has $5.5 million in state and federal funds to directly acquire water rights in 16 basins in which the state has determined that flow levels are critically low for threatened or endangered fish species. As of July 1, 2003, Ecology has spent less than $2 million on direct acquisition of water rights (purchase or lease).

After three years of effort, receptivity to the Water Acquisition Program has been mixed. The program has been well received in the Dungeness watershed, for example, but program uptake in other areas of the state has been significantly less than expected. The program has been controversial for a number of reasons, in part due to concerns that it will treat farmers unfairly or will be detrimental to farming communities and the viability of agricultural economies at the local and state level.

In June 2003, Ecology invited the Policy Consensus Center (PCC), a joint initiative of Washington State University and University of Washington, to review the Water Acquisition Program. It asked the Center to provide an independent public report on the views, perceptions, and responses of affected and interested parties concerning the program and its stated policy goals and to suggest ways, if indicated by the study, to reevaluate or adjust the program.

Based on interviews with statewide policy leaders from a variety of relevant constituencies and with a selection of individuals from varying viewpoints in three watersheds—the Dungeness, the Upper Yakima, and the Walla Walla River Basin[1]—we found that where properly applied to local conditions, water rights acquisition is a potentially useful tool for fair and respectful redirection of water from agricultural uses toward instream uses. However, responses from farmers and local leaders in the Upper Yakima and the Walla Walla watersheds as well as from individuals at the statewide agricultural policy level suggest that in many parts of the state both the program and Ecology are viewed negatively and significant barriers exist to improving receptivity to the Water Acquisition Program. Based on our interviews with statewide leaders, we believe our findings have statewide implications, although our specific data and results are limited to the three watersheds studied.

In the Dungeness watershed, the program appears to have been effectively applied to local conditions and thus well received. Some of the factors contributing to the program's success are unique to that area, but all are instructive in understanding what factors and features can lead to useful application of the program elsewhere. In the Dungeness area Ecology has a

[1] See Appendix 2: Watershed Map and Study Areas.

history of positive working relationships based on collaborative watershed planning efforts first initiated in 1991 under the Chelan Agreement. The agency has had a staff member working in the region who has earned the respect of farmers, irrigators, tribes, and others. Ecology worked effectively with the local Dungeness Agricultural Water Users Association to design a mutually beneficial lease agreement for water rights acquisition and gained the association's help in promoting the water acquisition program among its members. In addition, generally accepted hydrologic and biological data specific to the local area was available to predict water flows throughout the season and to determine the critical period during which salmon needed additional water in the river. With this information, a split-season lease was crafted that was acceptable to farmers as well as to Ecology and tribal biologists. The split-season lease allowed farmers to reap two of three potential harvests and be compensated for loss of the third harvest, thereby benefiting both the farmers and the fish. This locally crafted arrangement provided water in the river during the critical time of need for fish and also enhanced the viability of agriculture in the area, thus creating a win-win outcome.

Many of the features present in the Dungeness that contributed to this win-win scenario were notably absent in the Upper Yakima watershed and the Walla Walla River Basin. In these areas, Ecology is viewed with distrust and suspicion by many farmers and agricultural organizations, as is its scientific data. While the WWT plays an important intermediary role between agricultural water users and Ecology with regard to promoting the Water Acquisition Program and negotiating directly with individual water right holders, the program is still commonly associated with Ecology and it is commonly assumed that significant problems can arise at the point where Ecology becomes involved. Ecology was frequently faulted for being slow and unresponsive in processing applications to place privately held water rights into the state's trust water rights program, and many potential program participants also view the program as presenting unacceptably high risks in terms of applicants being exposed to punitive loss of water rights. At a broader level, many are concerned that the acquisition of water rights might lower the value of neighboring agricultural land and harm the agricultural economy and community in general. In addition, receptivity to the Water Acquisition Program appears to have been influenced by other on-going initiatives, such as the Irrigation Efficiencies Program, the Conservation Reserve Enhancement Program, watershed planning, and proposals for alternative methods to achieve water related goals.

Our analysis of the information and input we gathered in each of the three selected areas suggests that the Water Acquisition Program's ability to achieve a high level of utility and acceptance by farmers rests on two key factors. The first factor is the need to develop a detailed understanding of local conditions, including agricultural water needs and locally-specific science regarding stream flows and fish habitat requirements. This information is most effective if it reflects the common understandings of local farmers as well as state resource managers and is based on location-specific data collected by entities trusted by all parties. The quantity, location, and timing of water rights acquisitions should be based on the parameters defined by this mutually accepted data. Recognition of how this or other programs affects agricultural communities is important to successful program design and implementation. The second key factor is the degree of trust in the relationships among Ecology, local agricultural water users, and locally respected partners who can lend credibility to the program and provide a conduit to prospective participants. Most communities are likely to have a unique mix of individuals, groups, organizations, and other entities that are trusted by farmers and have already established positive relationships. To the extent that these entities

believe in the benefits of the Water Acquisition Program, they can help promote and possibly administer the program.

With these factors in mind, we urge the Department of Ecology to consider the following recommendations as it seeks to use the Water Acquisition Program to advance the policy goal of increasing instream flows for fish in a manner that reflects the values and interests of the agricultural community:

- **Tailor the program to local conditions and in a way that is acceptable to local leaders**: If the program is tailored to the specific conditions of each watershed area, it has a greater chance of being an effective part of local water policy and being accepted. The economic, physical, institutional, and other variables in each watershed are different, and they warrant careful consideration in terms of the design, promotion, and management of the program. Factors to consider in this effort include:
    - Partnerships with respected local entities that could help design the program to fit local conditions and promote it among agricultural water users.
    - Integrating the program with other programs that have related goals.
    - Addressing real and perceived risks associated with the program.
    - Availability and acceptability of location-specific science regarding fish needs and instream flow goals.
    - Likelihood that the program will be more valuable and effective in some watersheds than in others.
- **Consult with local and statewide agricultural leaders on the most effective ways to implement the program**: Before Ecology can credibly go to agricultural leaders at the local level, it must first demonstrate a willingness to address broader concerns about the impact of the Water Acquisition Program in order to increase the chance that statewide agricultural groups will become allies and conduits to other key respected individuals and groups at the local level. We thus propose the following two-step process:
    - First, convene a group consisting of agricultural organizations and community leaders, others with statewide knowledge and influence regarding agricultural or water policy or program implementation, affected tribal governments, and knowledgeable parties such as the WWT. Present this report to the group and bring in a skilled, neutral facilitator to manage a discussion that produces tentative recommendations for changes in program features, focus, or approach to address the broad concerns with the program and identifies key watersheds where the program is most likely to be effective. Include input from statewide environmental and land trust leaders.
    - Second, work with statewide agricultural organizations and other interested and affected parties to identify potential partner organizations in the key watersheds where the program is most likely to be effective to assist in shaping watershed-specific versions of the acquisition program. Work with statewide organizations and local leaders to implement pilot programs in several watersheds. Use the lessons from the pilot efforts to further revise and expand the program's availability if the results indicate that it can work more effectively with the enacted reforms. A key factor in the success of this effort will be the credibility and trust that is built during the statewide and local consultation processes.

Introduction

Study Purpose and Design

The Washington State Department of Ecology (Ecology) began acquiring water rights under the Washington Water Acquisition Program in 2000 after the state legislature provided funds to support a pilot effort in the Dungeness, Methow, Walla Walla, and Yakima basins. The program currently has $5.5 million in state and federal funds to directly acquire water rights in 16 basins in which the state has determined that flow levels are critically low for threatened or endangered fish species. As of July 1, 2003, Ecology has spent less than $2 million on direct acquisition of water rights (purchase or lease).

After three years of effort, receptivity to the concept has been mixed and uptake of the program across the state has been considerably less than Ecology expected. The program has been controversial, and according to Ecology, one of the most challenging tasks in acquiring water rights is finding willing sellers. Many potential participants are uninformed about the flow-level problem, have concerns about the long-term impact of transferring water out of agriculture and other uses, and generally mistrust both instream flow-transfer activities and government-run water markets.

In June 2003, Ecology invited the Policy Consensus Center (PCC), a joint initiative of Washington State University and University of Washington, to review the Water Acquisition Program. It asked the Center to provide an independent public report on the views, perceptions, and responses of affected and interested parties concerning the program and its stated policy goals and to suggest ways, if indicated by the study, to reevaluate or adjust the program. Thus, the central questions for this report are:

- Is water rights acquisition a viable concept in Washington State?
- If so, why hasn't uptake of the Water Acquisition Program been greater?
- If the concept is viable, how might the program be improved?

Before undertaking this project, PCC staff contacted a representative sample of leaders in interested or affected institutions and areas to confirm that such a review would be welcome and that it could be undertaken from a neutral perspective. The responses were positive and, while noting that the issues were complex and highly charged, the PCC was encouraged to proceed.

This report seeks to provide an accurate and impartial analysis of the design and operations of the Water Acquisition Program. Although the study was commissioned by Ecology, it was conducted with complete independence, including full editorial control over this report and its conclusions. The report is being released to all interested parties simultaneously.

The study is based on a series of confidential and voluntary interviews. To gain both a broad-level perspective and local-level detail, a two-tier study design was employed. Interviews were conducted with the following parties:

- Statewide policy-level individuals from a sampling of affected and interested constituencies, including agricultural organizations, environmental organizations, state agencies, and the legislature.
- Local level individuals interested in or affected by the program in three representative watershed basins—the Dungeness, the Upper Yakima, and the Walla Walla River Basin[2]—including farmers, water users, local agency staff, and local officials. Each of these watersheds was part of the original pilot program area where Ecology began acquiring water rights in 2000.

This report focuses on the water rights acquisition efforts of both the Department of Ecology and the Washington Water Trust. Ecology is a state agency with a broad mandate that includes administration of the state's water laws, including water rights permits and instream flows. The WWT is a private, statewide not-for-profit organization that has worked in partnership with Ecology under the Water Acquisition Program to acquire water rights in selected watersheds throughout Washington State. Other entities are also involved in water rights acquisition, such as the Walla Walla Watershed Alliance and the Bonneville Power Administration, but their efforts were not included in this study. Because the conclusions of this report are based on interviews in just three of the state's 16 critical watersheds, further validation of these results in other key watersheds would be beneficial before suggested changes are implemented.

Overview of the Water Acquisition Program

The Water Acquisition Program was introduced largely as a policy tool to aid statewide salmon recovery efforts by contributing to stream flow restoration in areas where low flows are believed to inhibit migration and/or spawning of fish. The program is intended to be a voluntary, incentive-based initiative, offering monetary compensation to water right holders who are willing to revert all or a portion of their water rights back to the state to increase instream flows.[3] The water can be acquired on a permanent or temporary basis through purchase, lease, donation, or as part of a publicly funded water conservation initiative. Ecology administers the program in collaboration with entities such as the WWT and the Bonneville Power Administration. Participants are intended to be compensated at "fair market value" for their water rights, and all water reverted through the program is held in trust by the state and is intended to be returned to designated rivers or streams for the purpose of restoring or enhancing instream flows.

A 1999 state agency report[4] identified 16 watersheds as "over-appropriated," meaning that more water has been legally allocated than is naturally available. These watersheds are commonly referred to as the 16 "critical basins" that have a shortage of water for fish. A

[2] See Appendix 2: Watershed Map and Study Areas.
[3] The term *instream flow* is used to identify a specific stream flow (typically measured in cubic feet per second) at a specific location for a defined time, and typically following seasonal variations. Instream flows are usually defined as the stream flows needed to protect and preserve instream resources and values, such as fish, wildlife and recreation. Instream flows are most often described and established in a formal legal document, typically an adopted state rule. (Source: Department of Ecology website.)
[4] *Extinction Is Not an Option: Washington's Statewide Strategy to Recover Salmon*. Governor's Salmon Recovery Office. Olympia, WA, 1999.

number of salmon and other fish species found in these basins are currently listed as threatened or endangered under the federal Endangered Species Act. According to Ecology, water withdrawals in these critical watersheds have significantly lowered stream flows or altered the seasonal distribution of water such that salmon migration and spawning are inhibited.

The Washington State legislature has passed a variety of laws that recognize the need to protect stream flows for fish. One tool available under existing state water law is to set instream flows. However, under state law these established instream flow rules are subservient to most existing water rights—with the net result that newly established instream flow rights are junior in time and priority and consequently might exist only on paper. In the 16 critical basins, as well as in other watersheds identified as having chronic low-flow conditions, simply setting or amending instream flows will not sufficiently increase flows to maintain adequate flow for fish migration and spawning and support other functions.

In light of this situation, the state legislature established a legal mechanism to facilitate the voluntary transfer of water and water rights to the state, which would hold them in trust. Under the trust water rights legislation (90.42 RCW), the Department of Ecology is authorized to acquire water rights from willing water right holders as a way to increase stream flows for fish or provide water for irrigation, municipal, and other beneficial uses. The trust water held by the state retains the seniority of the original right and is not subject to relinquishment while in trust status.

The Water Acquisition Program builds on the trust water mechanism by providing a strategic framework that brings together options designed to get more water into streams and guide future water rights acquisitions. Acquisitions under the program might include any of the following:

- **Purchase**: This permanently transfers all or a portion of the water right to the state's trust program.
- **Lease**: A lease is a temporary acquisition of the right. In practice, leases have been arranged for periods of 1, 3, 5, and 20 years. Longer-term leases are preferred.
- **Split-season lease**: This allows a portion of the water right to be used for irrigation early in the season, but returns the water to streams during the period of need for fish. In the Dungeness watershed, the water is leased for just six weeks per year, from August 1 to September 15.
- **Dry-year lease**: This allows a farmer to irrigate except in dry years, when water is not withdrawn.
- **Donation**: Water right holders can donate all or part of a water right on a permanent or temporary basis, and they might be eligible for a tax deduction.

Acquiring water rights is but one of many options intended to increase or restore stream flows. Other options include irrigation efficiency projects, water auctions, water banking, changes in the point of diversion, changes in the source of water, water storage, aquifer recharge, and acquisition of farmland with water rights attached. Part of the program's stated strategy is to integrate these options to maximize uses and benefits, including consumptive use and ecosystem needs.

A key partner in the Water Acquisition Program is the Washington Water Trust. The WWT is a private, nonprofit organization that was established in 1998 to restore instream flows in Washington's rivers and streams. The WWT works to benefit water quality, fisheries, and recreation by acquiring existing water rights from willing sellers through purchase, lease, or gift. It is currently active in the Upper Yakima and Walla Walla River basins, as well as the Methow, Okanogan, and Snake River basins.

How the Program Works in Practice

According to interviews and program materials, the Water Acquisition Program has a number of components, including stream prioritization, outreach, validation and valuation of water rights, negotiation, and placing water rights in trust. The state identifies priority streams and reaches based on the Washington State Conservation Commission's Limiting Factor Analysis and data from Ecology and from the US Geological Survey (USGS). Priority streams are those in which low instream flows were noted in a comprehensive analysis as being a limiting factor to salmon production due to surface water diversions. According to Ecology, these are streams in the 16 critical basins where additional stream flow will most help fish.

Prospective participants in the program are primarily agricultural water users in the priority areas. Ecology, the WWT, and others promote the program through informational materials, presentations, and partnerships with local watershed groups, conservation districts, agricultural organizations, and other groups.

If a water right holder becomes interested in selling or leasing water rights under the program, the validity of the water rights in question is assessed and the diversion point is determined. Only "wet" water (a water right that can be validated), not "paper" water (water represented by a claim that cannot be validated) is accepted. Determining the validity of a water right claim can be a highly sensitive matter, largely because individual water right holders often fear loss or curtailment of a right if it cannot be substantiated through a history of continuous beneficial use. The WWT plays a valuable role in this regard by providing a confidential initial review of the water right's potential for substantiation.

If the water right and location appear to meet established criteria for inclusion in the program, the water right is then valued. Valuation can be accomplished in a variety of ways. If a local water market is present, the water right can be valued based on past local prices. An alternative method involves calculating the replacement value of the forgone crops. Another method involves considering the value of the land with and without the water right attached. The price is also affected by the ecological value of the water and whether the acquisition is a purchase, lease, split-season lease, or dry-season lease.

Once a water right is valued, an acquisition agreement is crafted through negotiation between the water right holder and Ecology or the WWT. In the Dungeness watershed, Ecology worked through the Dungeness Agricultural Water Users Association to craft a lease agreement that was acceptable to the farmers as a group. The price of the water and the structure of the lease were determined jointly. In most other cases, Ecology or the WWT negotiates directly with the water right holder to craft an agreement that reflects the interests of the parties involved.

Once the terms of an acquisition are negotiated, a water right change application is filed with Ecology. During this process, the water right is officially validated and the water is placed into the state's trust water program. This action protects the water right from relinquishment in the case of a temporary transfer and maintains its priority date.

In most of the 16 critical watersheds, water rights acquisitions are pursued under the Water Acquisition Program by both Ecology and the WWT. In the Dungeness area, however, Ecology has handled acquisitions directly. In other parts of the state, the WWT plays a highly valuable intermediary role in the program by providing services such as outreach to water users, a safe point of contact for inquiries, a confidential initial review of the water right's validity, and valuation of the water right. If the water right meets Ecology's criteria for inclusion in the program and the seller is willing to consider participation, the WWT negotiates the price and terms of the acquisition directly with the water right holder. If this negotiation is successful, the WWT files the required applications with Ecology to protect the right as a trust water right. Ecology then validates the water right and administers the change application to the trust program. The agency is responsible for monitoring compliance for the life of the agreement.

Examples of Water Acquisition Projects

The following are some noteworthy examples of how the program has been implemented at the local level.

In the Dungeness basin, Ecology worked with the Dungeness Agricultural Water Users Association, which represents irrigators and farmers, to design, promote, and negotiate the water rights acquisitions. The Dungeness River, an important river for salmon, is over-appropriated and low flows exacerbated by irrigation withdrawals have created barriers to fish migration and temperature problems. With the availability of adequate biological and stream flow data, scientists determined that the critical period of need for salmon spanned just six weeks, from August 1 to September 15. Thus, a split-season lease agreement was crafted that allowed farmers to farm during two-thirds of their growing season and thus reap two of their three potential harvests. Farmers were compensated for the forgone crops in exchange for agreeing not to irrigate during that period. In 2001, 13 one-year leases were secured, and in 2003 the program grew and 25 three-year leases were completed.

In other areas, the WWT has found interested parties through a variety of means. For example, the Teanaway River in the Upper Yakima became an area of focus for WWT because sufficient scientific data existed to identify streams in need of additional water and the area had a history of active instream leasing through Bureau of Land Management (BLM) and the Roza Irrigation District. As a consequence, local farmers were familiar with the concept of water acquisition. A local inquiry to the WWT led to an educational meeting with most water users on a single diversion line from the river. The WWT wanted to involve as many parties as possible on a single diversion to maximize the reduction of water diverted from that point. Site visits and a few additional meetings to negotiate terms led to 13 leases or donations into the state's trust water rights program in 2003.

In a second example, an individual who had no prior contact with the WWT made an inquiry. WWT staff met with him to describe options and then conducted a site visit to assess the land and better understand his interests. In this case, the individual was seeking funds to improve

the efficiency of his irrigation system and was interested in moving the point of diversion. He had some funds for the new irrigation system, but not enough, and he expected to lose two growing seasons during a transition to the improved system. He wanted to see the unused water left in the stream to benefit fish. The result was a win-win for the farmer and the fish: a five-year lease was crafted in which the farmer was paid for non-use of water rights for two years during construction, and then for three years for the portion of water saved through irrigation improvements. He used the money he gained to cover the costs of improving the irrigation system.

Program Activity

As of December 2003, 80 water right transactions were completed by either Ecology or the WWT in Washington State, with 47 of those (59 percent) occurring in 2003 (see Figure 1: these numbers include the three study watersheds plus the Okanogan and the Methow Basins). All but nine of those transactions were leases. The WWT currently has more than 20 active projects that might lead to acquisitions in the near future. It should be noted that some of those 80 transactions involved repeated leasing of the water right. For instance, in the Dungeness all who leased for one year in 2001 agreed to lease water again in 2003. In all, these transactions total 9,304 acre-feet per year of water.

In the Dungeness, Ecology staff negotiated directly with agricultural water users during the drought of 2001 and completed 13 one-year leases, withdrawing 1,030 acres of land from irrigation. The program was oversubscribed that year, and more land could have been withdrawn had funds been available. In 2003, the program grew and 25 leases were signed, withdrawing 1,397 acres of land from irrigation. Ecology has had lower levels of activity in other regions of the state (see Figure 2). In the Upper Yakima, three one-year leases were signed in 2001, one purchase was made in 2002, and no leases or purchases were made in 2003. In the Walla Walla River Basin, Ecology made one purchase of water rights in 2000 and completed four one-year leases in 2001. Ecology has made no leases or purchases in the Upper Yakima since then.

While the WWT does not operate in the Dungeness, it is a valuable partner in the areas where it is active, including both the Upper Yakima and the Walla Walla watersheds. Thus far, the WWT has acquired twelve 1-to-5-year leases and one 1-year donation in the Yakima Basin, as

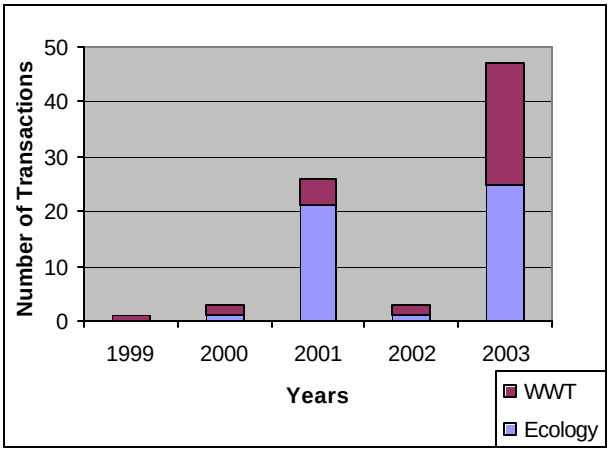

Figure 1: Number of water rights acquisition transactions concluded each year.

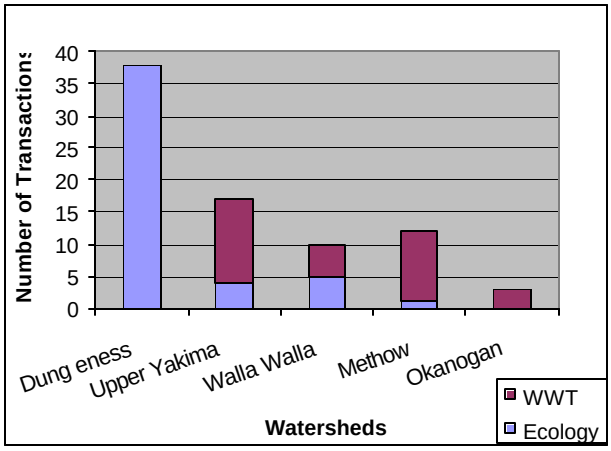

Figure 2: Number of water rights acquisition transaction concluded in each watershed.

well as two 20-year leases, one 1-year donation and one permanent purchase in the Walla Walla Basin. It has also completed fourteen lease or donation transactions in the Okanogan and Methow basins. According to WWT staff, interest in the trust program is growing. In 2003, the WWT completed 22 transactions—more than twice that of the previous years combined.

While actual transactions have increased markedly in the past year, the numbers do not fully reflect interest in the program. WWT staff estimate that between 50 and 80 percent of their inquiries do not meet the criteria for acquisition, for a variety of reasons. Uncertain rights are a major factor in this regard. The WWT provides a confidential initial review of the water right's validity, which is a valuable service because water right holders are often reluctant to approach Ecology for fear that their right might be revealed as an unsubstantiated claim and they might lose it as a result. In other cases, program criteria are not met because the price a water right holder expects for the right is well beyond the determined fair market value or the water diversion is not ecologically significant. In some cases, benefit to fish cannot be confirmed because the farmer would replace the surface water rights with groundwater withdrawals which, due to potential hydraulic continuity, might not result in increased instream flows.

Other Initiatives with Related Goals

A number of programs, activities, and studies that relate to water policies and goals have some overlap with the Water Acquisition Program and might affect the program's utility and acceptance in various ways, depending on the specific location.

One complementary approach to increasing instream flows is the Irrigation Efficiencies Program. This program is administered by local conservation districts through the Washington State Conservation Commission and targets the same priority streams in the 16 critical basins as the Water Acquisition Program. The Irrigation Efficiencies Program provides financial and technical support to agricultural water users to reduce water consumption by improving the efficiency of a farmer's existing irrigation system. Through a cost-share mechanism, the farmer or landowner receives an improved irrigation system at reduced cost and in turn places a portion of the saved water in the state's trust water program for the life of the system. (For example, a center pivot system has an estimated lifespan of 25 years.) This program was established by the legislature at the same time as the Water Acquisition Program and has received a total of $7.8 million in appropriations. During the last fiscal year, four projects were completed under the program, at a total combined cost share of $1.44 million. The four projects have saved a combined total of 4.1 cubic feet per second (cfs) and 979.7 acre feet of water annually. Four additional irrigation efficiencies projects are reportedly under contract.

Another program that overlaps with the Water Acquisition Program is the Conservation Reserve Enhancement Program (CREP). CREP is a voluntary program that uses financial incentives to encourage farmers and ranchers to retire agricultural and grazing lands near streams through contractual agreements of 10 to 15 years duration. The CREP initiative is designed to assist in the restoration of habitats for salmon listed under the Federal Endangered Species Act by helping to restore freshwater riparian habitat along as many as 3000 miles of salmon streams throughout Washington State. Because the CREP program retires land from

production, water rights associated with that land might no longer be needed and thus, under acceptable mechanisms, could be incorporated into the state's trust water program.

In addition to these two major programs, each watershed has a unique mix of ongoing water-related activities that might include instream flow setting, watershed planning, water rights adjudication, and other activities that could affect the availability and use of water. Many studies and proposals are also being undertaken to address water concerns, including the US Army Corps of Engineers study in Walla Walla that is reviewing the feasibility of options to increase water availability, and the US Bureau of Reclamation's "Yakima River Basin Water Storage Feasibility Study" (generally known as the Black Rock dam study) in the Upper Yakima that could result in substantial additional water for both irrigation uses and instream flow enhancements. The utility of and receptivity to the Water Acquisition Program in each watershed is affected by these activities to some degree. In some cases, there are possibilities for integration and synergy between the Water Acquisition Program and the other water resource planning efforts.

Findings

Our interviews in the Dungeness, Upper Yakima, and Walla Walla watersheds provided an instructive comparison of how Ecology's Washington Water Acquisition Program has fared under varying circumstances. Experience thus far suggests that where properly applied to local conditions—such as occurred in the Dungeness watershed—water rights acquisition is a potentially useful tool for fair and respectful redirection of water from agricultural uses toward instream uses. However, responses from farmers and local leaders in the Upper Yakima and the Walla Walla watersheds as well as from individuals at the statewide policy level suggest that the program and Ecology is viewed negatively in many parts of the state and significant barriers exist to improving receptivity to the Water Acquisition Program in many parts of the state.

The barriers include structural and administrative factors as well as broader issues related to state water law and attitudes toward Ecology in particular and government in general. The following section will describe the factors that contributed to receptivity of the program in the Dungeness, and will contrast those factors with the concerns and risks associated with the program as perceived by those interviewed in the Upper Yakima and the Walla Walla areas. This section then identifies concerns with the processing of water right change applications, compares the Water Acquisition Program to the Irrigation Efficiencies Program, and considers the conditions under which the program has been effective, such as knowledge of local conditions and the evolution of positive trusting relations at the local level.

Receptivity to the Program

Receptivity to the Water Acquisition Program differed in each of the three watersheds studied depending on conditions and factors described below.

Dungeness

In the Dungeness area, agricultural water users have been relatively receptive to the Water Acquisition Program. In 2001, thirteen one-year split-season leases (August 1 to September 15) totaling 417 acre feet per year were completed. The combination of water right leases and irrigation system improvements in 2001 resulted in an estimated 8.5 cfs of additional water in the Dungeness River. In 2003, twenty-five similar split-season leases were concluded, each for a three-year period, totaling 10.17 cfs. Interviews with farmers and irrigation company officials revealed general satisfaction with the program. Participation is widespread among those who are eligible, farmers participate openly, and most report that they would consider leasing their water again in the future. Two key contributors to this result have been the split-season lease and positive relations between Ecology and the local farmers, irrigators, and area tribes.

Irrigation in the Dungeness is allowed from April 15 to September 15, but under the split-season lease water is leased during the final six weeks of the season, from August 1 to September 15. This arrangement reduces agricultural risks, allows farmers to farm through two-thirds of the season and possibly get a third harvest as well, compensates farmers fairly for potential loss of crops, and allows farmers to possibly gain additional profit if they are

able to harvest. As a result, the program substantially enhances the viability of agriculture in the area.

According to most people interviewed both inside and outside the watershed, the key attribute that allowed water acquisitions to be pursued in the Dungeness was Ecology's positive working relationships with agricultural water users, tribes, and others in the area. Inside the watershed, attitudes toward Ecology are generally positive. One farmer volunteered the view that, "Ecology is great; they have good people working with us and for us and they have a good attitude." Another farmer said, "Ecology has defended our plans and our efforts in court; they are an ally."

These positive sentiments toward Ecology in the Dungeness are unique among the three watersheds surveyed, and appear to be the result of the following characteristics not replicated elsewhere:

- **Continuity of respected staff**: The Ecology representative working on water issues in the Dungeness has been in place for many years and has developed positive working relationships with farmers and irrigators. This person functions as a single point of contact with the agency and is accessible, trusted, and respected. This individual, along with other Ecology staff, was credited with listening carefully, negotiating fairly, and making genuine efforts to accommodate the interests of all parties.
- **Dependability and responsiveness to local concerns**: While Ecology is often faulted for being slow or late, many interviewees in the Dungeness noted that the agency has so far always delivered on its promises. Ecology staff worked closely with farming and irrigation leaders to craft a lease agreement template that addressed the concerns of farmers. A key example was the agency's willingness, based on biological and flow data accepted by all parties, to accept a six-week split-season lease agreement rather than insisting on its original, longer proposal for the lease period. A second example was the development of the Trust Water Right Memorandum of Understanding in 1998, prior to attempts to lease water. At the time, this document was unique to the Dungeness and protected water right holders from being punished for conserving water through the state's long-established "use it or lose it" policy.
- **History of working in the local interest**: In many instances in the Dungeness, Ecology has been perceived by farmers, irrigators, and tribes as acting in ways that recognize and support local interests. For example, in 1991 Ecology began supporting a multi-stakeholder, consensus-based watershed planning process in the Dungeness under the Chelan Agreement. Since then, the agency has defended local conservation and watershed management plans in court against third-party lawsuits and has provided funds and staff for numerous scientific studies. Because Ecology had a sufficient positive history of working in the area, its staff has been able to raise the idea of acquiring water rights and gain consideration by agricultural water users.

The Jamestown S'Klallam Tribe has also played an important role by pressuring Ecology to take action on instream flows and by obtaining grant funds to fix leaks and improve the efficiency of farmers' irrigation systems. The tribe has a significant interest in the survival of salmon, but the other parties regarded it as respectful in its approach to finding mutually agreeable solutions.

The positive working relations between irrigators, the Jamestown S'Klallam Tribe, and Ecology in the Dungeness are credited with creating an opening for the parties to collaboratively craft a win-win water right lease agreement viewed as beneficial to all parties. As one outside observer noted, the Dungeness is "an example of what can happen when everyone sits down at the table and looks at the problem holistically. They didn't blame any one party, but recognized that everyone had an important interest in how the resource was used."

It should be noted that the conditions described above developed relatively recently. From 1986 to 1989, a great deal of distrust reportedly existed between Ecology, the Tribe and farmers in the Dungeness basin. The parties regarded each other's data and motives with suspicion, and social conditions were tense. Discussions regarding water use were highly contentious because the tribe and the farmers felt that their livelihood and culture depended on the proper management of scarce water resources. The staff person from Ecology at that time reportedly tended to foment distrust. The contrast between then and now offers an instructive lesson in the potential for a cooperative approach to transform adverse conditions, attitudes, and results.

Upper Yakima

Water acquisitions in the Upper Yakima have been less numerous than in the Dungeness. Seventeen acquisitions have been completed by the WWT or Ecology since 2001, with thirteen of those occurring in 2003. The total amount of water reverted to streams in the Upper Yakima in 2001 through one-year leases negotiated by Ecology was 1,080 acre feet per year; a purchase of water rights in 2002 resulted in 363 acre feet per year being permanently returned to the stream. In 2003, the WWT completed twelve leases and one one-year donation, totaling 1,276 acre-feet per year.

Those interviewed in the Upper Yakima were less positive about the water rights acquisition concept and the Water Acquisition Program than those in the Dungeness, and their comments reflected a high degree of contentiousness surrounding water issues in the area. Some agricultural water users indicated that they did not believe the program could be successful in their locale because the water shortage there is too severe and farmers and ranchers in the area do not have surplus water available. "Water should *not* be traded here; there isn't enough water to go around as it is," said one farmer. In addition, many local irrigators strongly believe that it is wrong to take land out of irrigation or to not irrigate land that is irrigable: "*Nobody* has the right to mess with God-given irrigation water and peoples' right to make a living off the land," said another farmer, reflecting a sentiment widely shared in the area.

Fear of relinquishment and distrust of Ecology—and often distrust of government in general—seem to inhibit greater receptivity to the Water Acquisition Program in the Upper Yakima. Most farmers interviewed there were particularly suspicious of Ecology's motives with regard to water rights and instream flow. Said one farmer in this regard, "The acquisition scheme is a smokescreen. This is just a way of gaining control of our water and local land use. Ecology, DFW [Washington Department of Fish and Wildlife], and the Feds are just trying to put irrigators out of business." This distrust of government negatively affects the willingness of farmers to consider working with Ecology in general and impedes their willingness to participate in the Water Acquisition Program in particular. An Upper Yakima watershed landowner and irrigator made this observation: "There is a distrust and reluctance in the

valley for people to work with Ecology and wildlife agencies. Reluctance to even let agency people know details of farming operations, or to even let them on property." Another landowner and irrigator said that he is "wary" of the Water Acquisition Program. "There is a difference between the intent of a program and its management. Ecology scares people out of good programs."

Many interviewees in the Upper Yakima expressed concern about water laws and the risk of relinquishment. Said one farmer, "Never give up something you've inherited." Another said he had no interest in transferring water and that such an action would be unwelcome in the community. "Anyone in […] Water Company must have the board's permission to do such a thing, since it causes such physical problems with delivery. After all, if irrigation works the way it is supposed to, little or no water reaches the end of the ditch." Farmers were also irritated that they were asked to spend money to reduce water use and then were asked to give up the conserved water.

Others in the Upper Yakima watershed questioned whether leased water would actually stay in the streams. Said one farmer, "It's good if you can actually get water in the streams that won't be taken by someone downstream. There are still several guys upstream turning water back for fish and then a guy downstream takes it and the fish never see it. How do you resolve the issue of releasing water upstream and taking it out downstream?"

These negative impressions of the program are tempered somewhat by reports from WWT staff members working in the Teanaway River area of the Upper Yakima basin. Despite hearing some frustration voiced by farmers regarding regulatory water issues, the WWT has been able to lease more than 1,000 acre-feet of water from residents in the area. WWT staff members are now working with many of these people on longer-term leases for 2004 and beyond.

Walla Walla

Of the three study areas, the Walla Walla River Basin has had the fewest water acquisitions under the program. Ecology made its first purchase of water rights in this area with the "Buckley" deal in 2000, which permanently reverted 1,008 acre feet per year of water to the Walla Walla River. The agency also concluded four one-year leases in 2001, which reverted 267 acre-feet per year. The WWT has also completed five acquisitions in the basin (554 acre-feet per year), for a total of ten acquisitions.

A commonly cited impediment to increased water rights acquisitions in Walla Walla is excessive price expectations. Many interviewees said that the Buckley purchase set a poor precedent in the minds of farmers because the price was extremely high for water located in a low-priority section of the stream (closer to the mouth than the headwaters), and they thus questioned the value of the purchase relative to the stated purpose of the program. In addition, two power generation projects, the Newport project located inside the watershed and the Starbuck project located just outside the watershed, each signed option agreements with water right holders for relatively high prices. Even though these two entities did not follow through on these options, the result has been inflated price expectations for water among many landowners.

As in the Upper Yakima, interviewees in the Walla Walla area conveyed distrust of Ecology and its programs affecting agriculture. These programs were viewed as complicated, bureaucratic, complex, and inconsistent, and they were generally seen as creating major disincentives for private landowners to become involved in water-related transactions with the state, regardless of the possible monetary benefits. Although only a small number of transactions have been pursued, and fewer consummated, this feeling was demonstrably widespread. Said one individual, "Getting involved in Ecology's Water Acquisition Program is like volunteering for an IRS audit." Ecology programs and procedures were typically seen as being "one-way" in the agency's favor rather than representing a "win-win" approach. Many complained that Ecology changes rules and approaches from program to program and from participant to participant. A common concern was the fear of being "penalized" for stepping forward and getting involved.

Many interviewees in the Walla Walla area viewed the use of intermediary organizations such as the Washington Water Trust as a necessary "credibility bridge" between the public and Ecology. According to one farmer, many landowners feel much more comfortable working with the WWT or the local conservation district staff than with Ecology. Indeed, recent outreach by the conservation district has reportedly led to more than twenty new water right holders expressing interest in the Water Acquisition Program. According to many of those interviewed in the Walla Walla area, Ecology lacks the trust, credibility, predictability, reliability, and sincerity necessary to deal directly with private landowners on a large enough scale to achieve meaningful instream flow results through water acquisition.

Even with the WWT playing an intermediary role, many of those interviewed criticized Ecology for slow, bureaucratic, and unresponsive processing of tasks required of the agency at the end of the process, primarily the water right validation and the actual transfer of water to the state's trust water program. "Washington Water Trust is often capable of putting together good deals with landowners up to the point where Ecology gets involved—once that happens, the projects or agreements appear to get bogged down or go negative," said one local participant. Indeed, the interviews brought to light two recent instances in which acquisition deals were reportedly nearly terminated by the water right holder due to lengthy processing delays and the perception of poor communication by Ecology.

One individual in the Walla Walla watershed, in a comment that echoed the sentiments of numerous other interviewees, suggested that the combination of current water law (especially the "use it or lose it" provision) and the recent emphasis on flow restoration and metering is causing landowners to actually begin using more water rather than less. Many landowners are realizing that if their water use is being metered, they must use more of their claim (their paper water right) in order to document and substantiate historical use. If this analysis is correct, the net result might be that some landowners are taking more water from streams than they had in the past to prevent having their water right (and ultimately their property's value) diminished as a result of documented non-use. This individual suggested that the state ought to address how to handle unused water rights in a way that does not penalize the water right holder.

Finally, many landowners in the Walla Walla River Basin believe that efforts are currently under way to determine the value of water for fish and agriculture, and that these decisions will ultimately influence the value of their water and their property. As a result, many landowners in the area are adopting a wait-and-see approach to water acquisition efforts,

preferring to watch what develops before they make a commitment to market their water or use their property for other purposes such as residential development.

Risks Associated with the Program

In addition to concerns regarding water policy and Ecology's role in the program, many agricultural water users in the Upper Yakima and the Walla Walla watersheds highlighted what they perceived as significant risks and disincentives associated with participation in the Water Acquisition Program. Many are concerned that they stand to lose far more than they might gain, with relinquishment of water rights being the primary fear. Since water is seen as the "life-blood" of agriculture in the state, relinquishment or loss of water is seen as a direct threat to their ability to farm.

In the Dungeness watershed, these and other risks have largely been addressed through careful structuring of the lease agreements and policy changes such as the 1998 Trust Water Rights Agreement, which prevented relinquishment of conserved water in the Dungeness. It should be noted that these results in the Dungeness were not a forgone conclusion, but instead were the product of good relations between Dungeness water users and Ecology, availability of accepted and trusted science, and other factors that contributed to the ability of the parties to work together toward mutually satisfactory outcomes.

The following are some of the principal concerns raised by water users regarding the Water Acquisition Program as it is currently structured:

- **Loss of water rights:** The most common concern among water users is relinquishment. Many fear that by applying to the Water Acquisition Program, their historical water use will be examined and their claim might be deemed unsubstantiated, leading to loss of a portion of their water right. According to Washington water law, only the quantity of water that has been put to actual beneficial use is valid for change or transfer (for example, to go into the trust water program). Thus, many water users fear discovery of non-use or other changes in use that could lead to loss of water rights and diminished property value, all without compensation. Fear of relinquishment is a major barrier to program success. Under the program's present structure, the closer a person's actual use is to the water right claimed on paper, the more attractive the program is because the risk of loss appears low. This issue does not appear to be a concern in the Dungeness, however, because water rights there are held in the name of the irrigation district rather than the individual landowner, and thus are more perfected rights with less risk of relinquishment. One individual from the Walla Walla area suggested that one way to make the program substantially more attractive and successful would be to "change the assessment process—period!" One suggested improvement would involve looking back at least 15 years to determine historical water use rather than the current five-year period.
- **Leased water might not be returned**: Statewide agricultural leaders are concerned that farmers who lease their water might not be able to get it back once the lease expires. Many pointed to the Endangered Species Act and related third-party litigation, suggesting that leased water could become defined as critical habitat. Under the Endangered Species Act, they said, there are no assurances that program participation over a fixed period would not lead to a permanent relinquishment.

- **Loss of control over water and property**: Some farmers fear that involvement in the program would subject them to intrusive oversight by the state. They are concerned that they would be "told" by Ecology what they can or cannot do with their water or their property. They fear that with the state monitoring water use and their land, they would no longer be permitted to use their water or their property as they saw fit, or that they would become mired in a bureaucratic process if they needed to make changes in their use of water.
- **Loss of flexibility**: Farmers are concerned that by giving up water rights, especially on a permanent or long-term basis, they would be unduly restricted in their ability to respond to changes in weather patterns or emerging market trends. In the Walla Walla watershed, for example, one farmer stated that he was afraid the program would restrict his options for crop choices in response to market changes because not enough water would be available to adopt different crop practices if needed. Another interviewee gave the example of a landowner who is currently using only 0.5 acre feet of a 4.0-acre-foot water right for 350 acres of wine grapes, primarily because he is using privately funded, state-of-the-art irrigation efficiency systems. If a severe winter freeze were to destroy the existing crop and he needed to convert to a different crop that required more water, he would be unable to do so if he had transferred or leased his previously unused 3.5 acre feet of water. He would thus lose flexibility over what crops to grow on his property. To many landowners, this loss of flexibility and control would severely diminish the value of their property and is a significant disincentive to participate in the program. In the Dungeness watershed, five-year leases were rejected in favor of three-year leases for similar reasons. It is difficult for irrigators to predict their water needs very far in advance, and this acts as a disincentive for them to sell or lease substantial portions of their water rights for long periods of time.
- **Threat to the agricultural community:** Many potential program participants perceive small and medium-sized farms to be "under siege"—threatened by a combination of government regulations, foreign imports, and large agribusiness operations. They see themselves as struggling just to survive, and they fear that the Water Acquisition Program and other attempts to remove water from farms will only further reduce the viability of agriculture and hasten the decline of rural communities throughout Eastern Washington. Many farmers see themselves as good stewards of the land and their community, and they are thus concerned with the effect of the program on their own land, their neighbors, and the entire state. Some of the people interviewed in Eastern Washington were concerned that the Water Acquisition Program would "dry up" agriculture by reducing the levels of water available for agriculture in general and in certain areas in particular. One farmer asked, "How do I make a decision about giving up my water? What about weed control on my unused ground, and the new vole farm I make? And the ground water level changes below me? If I can't farm, what do I do with the land? And my neighbor is impacted by my weeds and voles." Another said, "If we sell water out, the ditch is low and now we fight delivery problems" because the irrigation ditch is set to operate at a certain level. Another noted that getting land back into production is difficult after many years of non-irrigation. Thus, short-term leases can lead to long-term problems. In stark contrast, in the Dungeness watershed the structure of the split-season lease has tended to enhance the viability of the program in farmers' eyes and has thus strengthened the agricultural community rather than weakened it.

- **Loss of agricultural economy and infrastructure** : Farmers also expressed concern that taking land out of production would proportionately reduce the quantity of inputs and infrastructure needed. This in turn could hurt farm communities and local economies because farmers in the program would buy less farm equipment and related supplies and materials, and they would also spend less on transportation, mechanical repairs, and other farm-related inputs and expenditures, thereby reducing the overall economic and commercial activity in the area.

Some interviewees also noted that state water policy appears to be in flux, and that many programs and studies could influence future policy. Uncertainty about water policy, valuation, compliance, and other issues is causing many potential program participants to take a wait-and-see approach. In the Walla Walla watershed, a major study conducted by the Army Corps of Engineers is examining the feasibility, costs, and benefits of large-scale water storage, water acquisition, irrigation efficiencies, and shallow aquifer recharge for restoring water and instream flow in the area. In the Upper Yakima watershed, farmers point to the Black Rock Dam as a hopeful solution to water problems in the valley, and ongoing adjudication there adds uncertainty to water right holders' decision framework. These and other water resource management issues are reportedly making farmers reluctant to become involved in programs or make major decisions regarding their water rights. Some potential program participants are waiting to see if better options come along, while others, as one interviewee described it, have decided to "hunker down and hope the issue will pass them by untouched."

Application Processing

Many parties familiar with the Water Acquisition Program faulted Ecology for slow processing of water right change applications. Although reports suggest that processing speed is increasing, it was also noted that the Agency could improve further. While this study did not independently examine or analyze application processing, the complaints related to this aspect of Ecology's work point to potential reform needs.

Processing applications for the Water Acquisition Program typically involves evaluating the extent and validity of the water right, including water right seniority, historic beneficial use, and quantification of transferable quantities of water. While processing applications, Ecology must consider whether an acquisition would lead to actual instream flow improvements. In some cases, more extensive and lengthy reviews are reportedly necessary to ensure that the state is acquiring actual water rather than paper water.

Although a backlog of some 170,000 water right claims are awaiting processing by Ecology, trust water right change applications are supposed to jump to the front of the line. In 2001, the state legislature created a "two-line" processing option to separate and speed change requests over applications for new water rights and to allow for expedited processing of transfers into the trust water program. Some interviewees suggested that while this change in policy has sped up processing considerably, there is still more room for improvement. They also suggested that because water right processing has been moved from the field offices to Ecology's headquarters in Olympia, the many steps involved in confirming a water right's validity have led to a kind of "stovepiping" that has slowed the process.

The length of turnaround time for processing applications has contributed to negative impressions of Ecology in general and to the Water Acquisition Program in particular. According to landowner applicants and other interviewees in the Walla Walla watershed, the WWT often puts together good deals with landowners, but at the point when Ecology gets involved the projects or agreements get bogged down and the applicants receive little or no follow-up communication, status reports, or signs of progress. Potential program participants view the process as a "black hole," which is extremely frustrating for them and for intermediary groups such as the WWT and conservation district staff.

Indeed, two acquisition projects were reportedly almost terminated due to applicants' frustration with processing delays and lack of communication from Ecology. In each case, processing went beyond the start date of the lease, and the water right holder was concerned that he would forgo irrigation and not have his water right accepted by Ecology. After much nurturing, both projects came back on line, but the experience highlights the negative reinforcement that can occur when water right holders feel stymied by the bureaucracy and do not receive personalized service.

Interviewees suggested that potential program participants watch closely to see how the process works for their neighbors and for early participants. The common perception of Ecology based on its management of the program thus far is that the agency is "bureaucratic," "insensitive," and "incompetent." Lengthy delays and lack of responsiveness are reportedly discouraging other landowners from coming forward to take part in the program.

Comparison with the Irrigation Efficiencies Program

The Water Acquisition Program also suffers from competition with the Irrigation Efficiencies Program. The Irrigation Efficiencies Program provides both financial and technical support to improve existing irrigation systems, with some or all of the saved water placed in trust to augment instream flows. Up to 85 percent of the cost of a new irrigation system can be covered by the state. Many farmers in the Upper Yakima and Walla Walla watersheds reportedly prefer this program to the Water Acquisition Program because it improves property values and provides greater options for land and crop use. These benefits contrast markedly with the commonly perceived outcomes of the Water Acquisition Program in those areas.

One Walla Walla farmer familiar with the Irrigation Efficiencies Program offered the following example: A participating landowner receives a $250,000 pivot irrigation system installed on property he has been using to raise a relatively low-value crop. The water saved is leased for instream use, but it is still associated with his property for the long term. As a result of his new irrigation capabilities, the landowner has more options for what types of crops to grow on his property. In some instances, landowners have been approached by other farmers wanting to lease their more efficiently irrigated property to grow different types of crops. The landowner is pleased because he has more options for the use of his property, the property's value is greater, and the saved water is still associated with his property but goes into the stream to benefit fish. Landowners see this type of arrangement as meeting their needs and coming closer to a win-win-win result for the landowners, the local agricultural community, and the fish. This set of incentives contrasts starkly with those associated with the Water Acquisition Program, which is seen as carrying huge up-front risks for the landowner in terms of potential decrease in the value of agricultural property and offering minimal long-term gains.

In the Dungeness, many farmers are participating in both the Irrigation Efficiencies Program and the Water Acquisition Program. Leasing through the Water Acquisition Program was particularly beneficial to both streamflow and farmers during the 2001 drought. However, recent reports suggest that the Dungeness water users are questioning how their water savings are calculated and credited to the trust between irrigation efficiency, leasing, and their own 1998 trust water rights agreement. These concerns highlight the importance of making certain the programs are carefully integrated and do not work at cross-purposes.

Conditions Under Which the Program Has Been Successful

Experience in the Dungeness, Upper Yakima, and Walla Walla suggest that two key components are necessary for successful outreach and structuring of a water lease agreement: knowledge of local conditions and partnerships with respected local entities.

Knowledge of Local Conditions

Local conditions affect how water rights acquisitions affect not only individual landowners but also the larger community. The result can enhance agricultural viability, as in the Dungeness watershed, or it can lead to serious concerns about the future of agricultural communities, as in some parts of Eastern Washington. Conditions vary by location and can influence the impact of the Water Acquisition Program and the extent of local receptivity to it. The following are some of the key local variables:

- **Climate and rainfall patterns**: The Dungeness tends to be far wetter than the Walla Walla or the Upper Yakima. Thus, even if irrigation is suspended for a period of time in the Dungeness, rains might still allow a harvest. The Walla Walla and the Upper Yakima are both very dry, with rainfall during the growing and irrigation season averaging less than 0.5 inches per month.
- **Agricultural and cropping patterns**: Crops in the Dungeness consist primarily of alfalfa, hay, and pasture, and many farmers are able to obtain three harvests per growing season. Because the period of time when instream flow needs to be increased coincides with irrigation of the third harvest (August 1 to September 15), farmers are asked to forgo only one-third of their annual harvest. And, if rain falls during that time, farmers can still harvest their third cutting. In the Upper Yakima watershed, the most prominent crop is timothy hay, which requires consistent watering. In the Walla Walla watershed, the dominant irrigated crop is alfalfa, although grape vineyards for wine production are a growing agricultural industry that tends to rely on surface water diversion for irrigation.
- **Availability of trusted data**: In the case of the Dungeness, data on instream flows, fish habitat requirements, agricultural diversions, and other issues has been compiled over a long period of time, and the results are not disputed by farming and irrigation leaders. Farmers and irrigators or their representatives have participated in data gathering and have helped review scientific studies. They generally trust the data and have had sufficient time to accept it. Interviews in the Upper Yakima and the Walla Walla watersheds and with statewide agricultural leaders suggest this might not be the case elsewhere. Fundamental scientific findings such as whether salmon are truly threatened, whether instream flows are insufficient, and whether water is in short supply have been disputed by some. Said one Upper Yakima water user, “Do we

really *need* the water program, given the huge salmon and steelhead numbers?" Others questioned the specifics on how much water is needed in which streams during which period of time. Especially in the Upper Yakima watershed, farmers questioned the degree of scientific understanding held by Ecology at the level of specific creeks and how one can know when there is enough water.

Positive Relations with Respected Local Entities

Many interviewees stressed that the key factor in managing and negotiating the acquisition process is the presence of good, trusting relationships with water right holders and trusted local organizations. According to WWT staff, building trusting relationships with water right holders is central to the organization's work. The WWT can provide confidential support and personalized service, which creates a bond of trust and goodwill. During our interviews, the WWT was characterized as credible, trustworthy, honest, and fair. It was credited with being highly responsive and keeping landowners informed about the benefits of the program and the status and progress of applications.

To promote the concept of water rights acquisition, the support of locally trusted agencies, groups or individuals is extremely valuable. In the Dungeness watershed, Ecology worked with the Dungeness Agricultural Water Users Association, which then promoted the program to its members. Without this support, it is unlikely that interest in the program would have been nearly as strong. WWT staff also said that they benefited greatly from the assistance of locally based agency staff (e.g., Ecology, the Washington Department of Fish and Wildlife, and the Bureau of Reclamation) to make introductions or referrals to potential customers. While the WWT has promoted the program with watershed planning groups, local conservation districts, commodity farming groups, tribes, and at conferences, more linkages could be formed to promote the program. Some local Ecology field offices are reportedly more supportive in this regard than others.

Conservation Districts in many areas were cited as a key to forging closer relationships with potential program participants at the local level. Conservation District offices tend to be located in farming communities and have close ties with local farmers. Conservation districts are non-regulatory and already provide many programs designed to support farming operations, such as the Irrigation Efficiencies Program and the Conservation Reserve Enhancement Program. A number of other entities reportedly have good rapport and extensive networks with farmers and farming groups. These entities include irrigation districts, grower groups such as the Washington Association of Wheat Growers, commodity groups, the Washington State Farm Bureau, and the Washington State Department of Agriculture.

Next Steps

Water rights acquisition is perceived by some as a potentially valuable tool that could contribute to increasing instream flows in targeted streams or rivers. Its success in the Dungeness case suggests that the approach has potential for program mission accomplishment. Moreover, the jump in numbers of acquisitions in 2003 in other priority watersheds suggests that the program is gaining in receptivity in other areas of the state. However, the findings presented in this report also suggest that there are significant barriers to the program's application in areas sharing the characteristics of the Upper Yakima and the Walla Walla watersheds. Many individuals we talked with, both in these particular areas and among statewide agricultural leaders, are concerned that the program will treat farmers unfairly or will be detrimental to farming communities and the viability of agricultural economies at the local and state level.

Based on the findings presented in this report, it appears that the Water Acquisition Program could be more effective if it is tailored more closely to conditions in each watershed and is promoted in areas where water conservation and instream flow efforts could have the greatest benefit. A more tailored and targeted approach, developed in conjunction with relevant statewide and local groups, could lead to the dual achievement of benefiting agricultural landowners and providing needed water in streams over a longer term for fish migration and spawning habitat.

This section highlights some key variables to consider for making water rights acquisition a more useful tool for water resource management, with greater impact on instream flows and greater real and perceived value to water right holders. It also offers a process for achieving these goals through engagement with local and statewide agricultural leaders. These recommendations are based on interviews in only three watersheds and with a number of statewide observers, and should be tested with representatives from other key watersheds before they are implemented widely.

Tailor the Program to Local Conditions

Our primary recommendation is to tailor the Water Acquisition Program to local conditions and in a way that is acceptable to local leaders. This approach has proven successful in the Dungeness, while experience in the Upper Yakima and the Walla Walla areas suggests that the program has not been designed and implemented with enough attention to the interests and concerns of the intended audience and has thus not enjoyed support from most local agricultural leaders and agricultural water users.

As stated earlier, the unique conditions and features in each geographic area influence the value of and receptivity to the Water Acquisition Program. These include climate and rainfall patterns, agricultural and cropping patterns, the water regime, and the availability of trusted data. In addition, each geographic area has a unique set of organizations, agencies, and related relationships that can offer knowledge of local conditions and might support reasonable efforts to increase instream flows. These salient groups include conservation districts, irrigation districts, and agriculture and commodity groups. Finally, the mix of policy and program options in the locality is an important element of strategy planning and should be

considered. Other initiatives that address water issues in the same area might include the Irrigation Efficiencies Program, Conservation Reserve Enhancement Program, water banking, increased water storage, and shallow aquifer recharge. The viability of each for instream flow enhancement depends on the local conditions.

Factors to consider in tailoring the Water Acquisition Program to fit local conditions include:

- Partnerships with respected local entities that could help promote the program.
- Integration with other programs that have related goals.
- Addressing real and perceived risks associated with the program.
- Availability and acceptability of location-specific science regarding fish habitat needs and instream flow goals.
- Program promotion.

These factors are described below.

Partnerships with Respected Local Entities

The Water Acquisition Program is likely to be better received if it is promoted by locally respected entities, as described earlier. The key tasks are to identify a set of locally respected entities and to develop a mutually beneficial relationship with them. In most communities, there is likely to be some unique mix of individuals, groups, organizations, or other entities that are trusted by farmers and already have positive relationships. These are entities that, to the degree they believed in the benefits of the Water Acquisition Program, could assist in promoting and possibly administering the program. These respected entities and local leaders will be different in each area—for example, a given agency might have a good reputation in the Walla Walla area but not be as well regarded in the Upper Yakima watershed. An understanding of each local area will be necessary to identify the right mix of trusted entities.

In our interviews, a variety of entities were identified as having good relations with agricultural water users and were recommended as being potentially helpful in promoting the program. These include:

- **Conservation Districts**: Conservation Districts administer the Conservation Reserve Program, the Irrigation Efficiencies Program and CREP, and they have a strong network of local offices. In most areas of Eastern Washington, they are reportedly respected and trusted by farmers.
- **Irrigation districts**: Irrigation district boards are typically composed of respected local farmers who are knowledgeable about irrigation issues and have access to water users.
- **Grower groups**: Groups such as the Washington Association of Wheat Growers have strong networks among their members and have played a valuable role in educating farmers about programs such as CREP.
- **Commodity groups**: Some of these have successfully promoted drip irrigation and other improvements among their members.

- **Farm Bureau**: The Farm Bureau is a well known as an advocate for farmers and has a strong network among agricultural interests.
- **Washington State Department of Agriculture**: Carries out many programs in support of the agricultural community. Under its current leadership, it is reportedly widely respected and highly trusted by the state's farmers.

In some areas, effective partnerships with some of these entities have already been formed. In others, Ecology might need to invest in building trust and establishing positive relations to improve receptivity to the Water Acquisition Program. While many of the above groups have not been contacted regarding their willingness to work with Ecology on this topic, our interviews indicate that at least some of them would be willing to consider doing so.

Integration with Other Programs That Have Related Goals

The Water Acquisition Program, in order to meet its goals, should be better coordinated and integrated with other programs and activities in each area. As described earlier, each area has a unique mix of ongoing water-related activities such as instream flow setting, watershed planning, and water rights adjudication; programs such as the Irrigation Efficiencies Program and the Conservation Reserve Enhancement Program; studies and proposals such as the US Army Corps of Engineers study in Walla Walla and the US Bureau of Reclamation's Water Storage Feasibility Study (the Black Rock dam study) in the Upper Yakima. The utility of and receptivity to the Water Acquisition Program in each watershed is affected by these activities. In some cases, possibilities exist for synergy between the Water Acquisition Program and these other efforts. Here are some examples:

- **Instream flow setting**: Instream flow setting has proven to be a contentious topic, in part because it is difficult for water-dependent farmers and others to see how to achieve instream flow goals. While instream flow rules are described as not affecting existing water rights, our interviews revealed concerns among farmers and statewide farming groups that in order to provide the water necessary to meet instream flow requirements, unperfected water rights might be curtailed, especially in over-appropriated basins. The Water Acquisition Program, the Irrigation Efficiencies Program, and other related water resource management programs could be presented in concert with the instream flow-setting process as a way to achieve instream flow goals in a voluntary and compensated way rather than through regulation and relinquishment. Interviewees suggested that this approach would be beneficial in some areas and is not yet happening in many locations.
- **Watershed planning**: Watershed planning is another area that overlaps with the Water Acquisition Program. Watershed planning in most of the Water Resource Inventory Areas (WRIAs) is a major focus through the state's 2514 Watershed Planning process. In establishing the 2514 process, the legislature made addressing water quantity issues a required element. According to some interviewees, many watershed planning groups are still forming and building relationships within themselves and are thus not yet ready to deal directly with instream flows and water rights acquisition. However, as the groups consider options for achieving watershed goals and water quantity needs, many will likely choose to establish instream flow recommendations and rules. Since methods to achieve instream flow goal will also be considered, the Water Acquisition Program and other voluntary programs should thus be presented to watershed planning groups. These groups often represent a broad

cross-section of constituencies and interests in the watershed and could be valuable allies in promoting the Water Acquisition Program in the local area.

- **Irrigation Efficiencies Program**: There is much potential synergy between the Water Acquisition Program and the Irrigation Efficiencies Program. For instance, funding from the Water Acquisition Program could be used to augment funds from other sources to cover more of the costs to farmers in the Irrigation Efficiencies Program. Currently, the government provides a maximum of 85 percent cost share for the Irrigation Efficiencies Program, and in exchange it requires that a percentage of the saved water equal to or greater than the cost share be placed into the state's trust water program. If the Irrigation Efficiencies Program were integrated into a package with the Water Acquisition Program, additional funds might be made available to farmers if they lease or sell additional unused water through the Water Acquisition Program. This integration might lead to greater uptake of both programs and create incentives for farmers to return more water to streams in priority fish habitat areas.
- **Conservation Reserve Enhancement Program**: Water from agricultural land taken out of production through the CREP program could be enrolled in the Water Acquisition Program. Under CREP, riparian agricultural land along streams is removed from production and grazing for 10 or 15 years, and landowners plant trees and shrubs to stabilize the stream bank and provide shade to cool the water. Landowners receive annual rent, incentive and maintenance payments, and cost share for practice installations. If removal of this land reduces water needs, an additional incentive could be created through the Water Acquisition Program to attract more landowners to both programs.

Addressing Risks Associated with the Program

A number of significant risks are associated with the Water Acquisition Program and create a disincentive to participate. Some perceived risks are based on an incomplete understanding of the program features, while other concerns relate to state water law, application of the Water Acquisition Program, distrust of Ecology, and the potential cumulative effects of the program on the viability of agricultural communities. As detailed earlier, the risks identified through our interviews include:

- Loss or diminishment of water rights.
- Potential that water might not be returned once the lease expires.
- Loss of control over water and property.
- Loss of flexibility involving land use.
- Threat to the viability of the agricultural community.
- Loss of agricultural infrastructure and related effects on the community.

These risks were sufficiently addressed in the Dungeness watershed to make the program attractive to farmers. Some of these concerns and possibly others will be present to varying degrees in each of the 16 critical watersheds. Receptivity to the program will be enhanced to the degree that each of these issues can be addressed at the local level—by appropriate public information efforts, changes in state water law and policy, improvements in Ecology's

approach to the program, or development of better relations and trust with the agricultural community. Possible approaches include the following:

- Concern over loss of water rights might be addressed through legislative changes in water law, such as a change in the approach toward relinquishment. Policy approaches might also be effective, such as when Ecology signed the trust water rights agreement with the Dungeness Agricultural Water Users Association in 1998 to provide certainty that the conserved water would not be relinquished. Process changes might also be helpful, such as establishing an official, confidential no-risk review of water right validity. The WWT currently provides such a service as an unofficial preliminary review, but final determination still rests with Ecology. As a consequence, some risk is still present under current circumstances.
- Concerns about the return of water once the lease expires and losing control over the land may best be dealt with by improving relations and trust between Ecology and local farmers and by publicizing testimonials of farmers who have enrolled in the program and can describe a their experience in favorable terms.
- Concerns over flexibility, viability of the agricultural community and loss of agricultural infrastructure are primarily related to how the agreements are structured and whether the program enhances agricultural viability or threatens it. The availability of locally specific and generally accepted science regarding the amount and timing of water needs for both agriculture and fish is critical here.

Accepted Location-Specific Science

The Water Acquisition Program is designed to put water in streams where low flows inhibit migration or spawning of salmon. Thus, in order to determine where, when and what quantity of water rights are needed, detailed location-specific knowledge should be available in each area regarding which streams require water, how much additional water is needed in each stream, and during which period of time it is needed for salmon migration and spawning. This knowledge should be generally accepted by all parties involved, especially agricultural water users who are being asked to give up some of their water and change their agricultural practices in ways that might not be beneficial to the broader agricultural community. In some cases, financial support for joint fact-finding might increase the likelihood that dialogue is based on data trusted by all parties affected by the program.

In the Dungeness case, the parties' efforts to reach agreement were aided by the presence of generally accepted, location-specific science. As noted previously, Ecology's initial proposal to the Dungeness agricultural water users was to lease the water from July 1 when the rains typically stopped, but many farmers opposed this start date. Ecology turned to data from the Jamestown S'Klallam Tribe regarding water flows and locally-specific salmon habitat requirements which indicated that the period of greatest need did not begin until August 1. Thus, Ecology and the farmers were able to arrive at a more acceptable lease period that allowed the growers to reap two of their three yearly harvests. The locally-specific data allowed the parties to craft an agreement that was tailored to the needs of the fish and less burdensome to the farmers.

During interviews in the Upper Yakima and the Walla Walla watersheds and among statewide agricultural representatives, we heard a variety of anecdotal reports suggesting that the state has attempted to acquire water for instream flow during periods of time that is not supported

by evidence of need. This also occurred in the Dungeness, but in that case data were available to help fashion a more acceptable alternative. In our interviews, statewide agricultural leaders emphasized that if the State of Washington is going to ask farmers to give up some portion of their water, the period should be limited to the minimum necessary and be supported by scientific data.

Program Promotion

Water rights acquisition is a relatively new and unfamiliar concept to many potential program participants. Although all the people we interviewed were at least somewhat familiar with the Water Acquisition Program, some told us that awareness was not widespread in rural communities across the state and that misunderstandings concerning the program were common. Many suggested that the Water Acquisition Program is easily confused with other programs and activities that have related goals, such as the Irrigation Efficiencies Program, instream flow setting, watershed planning, and acquisition efforts by the Bonneville Power Administration and the U.S. Bureau of Reclamation. Additional public outreach and education efforts of all kinds were recommended by many with whom we talked.

These efforts are more likely to be effective if they are designed with the interests and concerns of the local audience held firmly in mind. Currently, the Water Acquisition Program is marketed statewide as an opportunity for "farmers, ranchers and other water right holders…to join in state fish recovery efforts." A glossy program brochure prominently features a picture of a salmon, describes the threats to salmon from low instream flows, and states that the Water Acquisition Program "is an important tool to support fish survival."

Some statewide agricultural officials suggested that the Water Acquisition Program might be better received if it was marketed in terms of its economic and community benefits to farmers. They said that outreach efforts should stress that farmers gain a financial return for unneeded water, the transfer can be temporary or permanent, the priority dates are maintained, transferred water is not subject to relinquishment, and individual agreements can be crafted to suit the interests of the farmer. These messages convey a sense of mutual interest and concern for the needs of farmers and rural communities as well as the needs of fish and are more likely to resonate with farmers—particularly those in Eastern Washington.

Agricultural water users are also more likely to be receptive to the Water Acquisition Program if the messages come from trusted and respected sources. In this regard, we again recommend that the program work with and through respected local partners—namely, conservation districts, irrigation districts, grower and commodity groups, farming organizations and others. If they help promote the program through their communication networks at the local and statewide level, the program can gain credibility in the eyes of farmers and reach a broader audience than would be likely otherwise.

Many of the negative perceptions of the program can also be altered by the use of success stories. Testimonials from farmers who have leased or sold their water rights and found it beneficial are a valuable potential tool for program promotion. Peer-to-peer contact is often the most effective form of communication. If prospective participants can identify with the people providing testimonials, the message is likely to have greater impact. In this regard, local farmers operating under similar conditions are more likely to resonate than would

farmers from distant locations who grow different crops or operate under different economic and climatic conditions.

Finally, the Water Acquisition Program should not only be promoted to prospective participants, but it should also be promoted more thoroughly to the staff of Ecology and other agencies who are in contact with farmers. It is essential that agency staff be knowledgeable about the program and be able to respond accurately and competently to questions about it. A number of interviewees highlighted the problem of agency staff who were either not knowledgeable about the program or were clearly unsupportive of it. Some interviewees described the program as an "Olympia program" that has not yet filtered out and been taken up by many of the Ecology field offices. One exception in this regard is the Walla Walla field office, where the staff member there was described as a "gem" by numerous interviewees; some agency representatives in other field offices, however, appeared to our interviewees as not as enthusiastic about the program. Efforts to make the program meaningful and attractive to field staff would go a long way toward utilizing Ecology's existing networks to more fully promote the program.

Improve the Efficiency and Speed of Water Rights Processing

A common complaint, especially among interviewees in the Walla Walla area, was that processing water right change applications was slow, bureaucratic, and unresponsive to the needs of potential program participants. In some cases, delays lasted well beyond the start date for the lease, leading to an uncertain situation in which the water right holder must forgo irrigation before learning if the application will be accepted and he will be compensated.

While this study did not examine water rights processing in detail, concerns regarding its efficiency and responsiveness have led to negative perceptions of both the Water Acquisition Program and Ecology, especially in the Walla Walla area. Anecdotal reports suggest that the mandate for trust water right change applications to "jump the line" during processing interferes with the processing of other change applications and thus creates some difficulty for agency staff. This appears to be a process-flow problem that could be addressed through a careful review of how the two lines of change applications (trust and non-trust) are handled within the agency. Finding a flexible and efficient approach to application processing would likely improve program participants' sense that Ecology is being respectful and responsive to their concerns. Such a review might be undertaken once the program is refined according to our other recommendations.

Examine the Success Achieved in the Dungeness

As implied elsewhere in this report, the program's success in the Dungeness watershed can serve as a model for how Ecology can improve its relations in other areas, and how it can make the program more successful in the remaining watersheds. We recommend that Ecology closely examine the factors behind this success to understand the dynamics that made such a positive trust-building outcome possible, and then replicate the process elsewhere in the state.

Social conditions and relations with Ecology in the Dungeness during the late 1980s were reportedly similar to conditions existing today in the Upper Yakima and Walla Walla

watersheds. The positive outcome that Ecology has been able to achieve in the Dungeness demonstrates that significant change is possible.

Engage Local and Statewide Agricultural Leaders

As discussed previously, the support and participation of local leaders will be a key factor in integrating the Water Acquisition Program with other, related programs and activities and in tailoring such arrangements to the unique conditions in each local area. A number of agricultural representatives with whom we talked emphasized that there is a great deal of knowledge, passion, and creativity among farmers in Washington State and that if they were approached respectfully and appropriately, many would be willing to support an effort to tailor the Water Acquisition Program to the needs of the state's farmers and diverse agricultural communities. If farmers were more actively engaged in helping to restore streams, we were told, many agricultural communities would come up with innovative ways to accomplish water goals in ways that would make sense to them. The next step then is to design a process that could lead to local participation and support in key watersheds.

However, a major barrier to progress is the degree of distrust that exists between Ecology and the agricultural community. This distrust impedes farmers' willingness to participate in programs such as the Water Acquisition Program. Yet our analysis suggests that where Ecology has operated in a way that is dependable and responsive to local concerns and has placed staff who are respected, trusted, and accessible, positive relations have developed and impressive achievements have occurred.

In our view, before Ecology can credibly go to farming organizations at the local level, it must demonstrate a willingness to address some of the broader concerns regarding the effects of the Water Acquisition Program at the statewide level. Many interviewees from statewide agricultural organizations were skeptical of Ecology's ability to fairly implement water rights acquisition and expressed significant concerns about the program's effects on agricultural viability in many areas of the state. If these concerns can be addressed and, equally important, if positive relations can be fostered, statewide agricultural groups can become conduits to key respected individuals and groups at the local level, with whom the statewide groups often have strong links. Statewide agricultural organizations should be seen as an important potential partner in the Water Acquisition Program. An investment in improved relationships with them could lead to benefits well beyond the scope of the Water Acquisition Program and therefore should be viewed as worthwhile in its own right.

Based on the findings presented in this report, we believe the following two-step process is worth considering by Ecology in an effort to make the Water Acquisition Program more effective, minimize controversy and negative reactions, and contribute to improved relations between the agency and various segments of the agricultural community.

Work with Statewide Agricultural Leaders

Begin by working with statewide agricultural leaders:

- Convene a group consisting of agricultural organization and community leaders, persons with statewide knowledge and influence over policy or implementation of related water issues (including those who might seek to affect regulation or legislation), affected tribal governments, and knowledgeable parties such as the WWT.

Provide this report to the group and bring in a skilled, neutral facilitator to manage a discussion that can produce tentative recommendations for changes in program features, focus, or approach. Such a meeting should be focused and efficient, and the facilitator should check with all invitees prior to the discussion to formulate an effective agenda.

- Based on the recommendations generated from this discussion, determine tentatively what changes in program features, delivery, and targeting could usefully take place in keeping with the policy goals of the program and in keeping with fair, respectful, clear, and constructive approaches to agricultural water users.
- Based on priorities set through other forums, mandates, and analysis, and with input from the discussion proposed above and with statewide environmental and land trust leaders, identify watersheds and stream systems where a) water rights acquisition would likely be helpful as a policy tool; and b) the proposed reforms in the program features, delivery, and targeting would likely lead to greater acceptance of the program. Prioritize these areas based on a balance of policy value, likelihood of successful acquisitions, and costs of needed investments.

If successful, the result would be a program template that achieved the goal of providing water for fish and that could be viewed favorably within the agricultural community. Also, if successful, it is likely that the statewide agricultural organizations would play a supportive role in identifying effective messengers for the program at the local level and helping to promote it among their constituency. In the future, other important interaction between Ecology and the agricultural community might also be more constructive.

Work with Local Agricultural Leaders

The second step is to work with local entities in each priority area to address local concerns and design an approach that makes sense to farmers within each specific watershed:

- Using the priorities defined above, work with the statewide agricultural organizations and other interested and affected parties to identify appropriate partner organizations in the priority watersheds to assist in shaping watershed-specific versions of the acquisition program.
- Assign Ecology staff as needed in the field and at headquarters to work with statewide organizations and local leaders to test pilot programs in several watersheds based on the factors, issues, and partners identified through the process outlined above and set forth in this report.
- Use the lessons learned from the pilot programs to further revise and expand the program's availability if the results indicate that it can work more effectively with the enacted reforms.

A key factor for success will be the credibility and trust built by the statewide and local consultation processes. Simply attending to the factors cited in this report will not likely yield the needed improvement in the absence of openness and responsiveness among all parties in the further development of this program.

To be cost effective and properly structured, the consultations suggested above should be brief. Ecology staff and participating groups should be asked to strive for candor, targeted responses, and mutual respect, and to refrain from raising other issues in this forum.

We believe that a simple set of statewide consultations, program reforms developed on the basis of those consultations, and then implementation of a tailored program in priority watersheds can result in useful policy application in some of the priority areas.

Conclusion

A major theme of this report is that the Water Acquisition Program, and the Department of Ecology in general, are hampered in many areas of the state by a poor public image. However, by commissioning this study of the Water Acquisition Program by a neutral, external entity, and by allowing the report to be independently prepared and publicly distributed, Ecology has demonstrated willingness to address these issues openly and directly. The agency is to be commended for recognizing that important barriers are impeding uptake of the Water Acquisition Program and for seeking solutions. In commissioning this report, Ecology posed the following questions:

- Is water rights acquisition a viable concept in Washington State?
- If so, why hasn't uptake of the Water Acquisition Program been greater?
- If the concept is viable, how might the program be improved?

With the help of the many people we interviewed throughout the state, we have attempted to provide insight into these questions and propose a path forward for Ecology and others. The challenges should not be underestimated. However, the potential benefits of finding a way to simultaneously enhance agricultural and preserve salmon runs makes the effort worthwhile.

Appendices

- **Policy Consensus Center**
- **Watershed Map and Study Areas**

Policy Consensus Center

This report was completed under the aegis of the Policy Consensus Center.

The Policy Consensus Center is a partnership between Washington State University and the University of Washington that is dedicated to working as a neutral source of information and resources for problem solving in the region. The PCC assists public, tribal, business, agribusiness, environmental, and other community leaders in their efforts to work together to build consensus and resolve conflicts around difficult public policy issues. In addition, the PCC helps advance the teaching, curriculum, and research missions of the two universities by bringing real-world policy issues to the campuses. The PCC's activities are intended to improve the capacity of parties and institutions to collaboratively solve their problems and to provide the appropriate resources, people, and processes when requested.

The Policy Consensus Center offers many resources and services to Washington State, including:

- Providing a neutral and safe forum for parties to define the issues
- Conducting a conflict assessment to determine the most productive means of addressing the issues
- Marshaling resources for collaborative problem solving
- Serving as a clearinghouse for resources and research to be used at the option of the parties
- Performing applied research
- Providing knowledge, training, and infrastructure development to improve the capacity of parties and institutions to collaboratively solve problems affecting the region
- Hosting policy discussions

The Policy Consensus Center is overseen by a board chaired by William D. Ruckelshaus and composed of prominent local and statewide leaders representing a broad range of constituencies and geographic locations in the region. The Center is co-directed by Jonathan Brock at the University of Washington and Rob McDaniel at Washington State University. This report was prepared by Principal Investigator Nicholas P. Lovrich (Division of Governmental Studies and Services, WSU) and Dan Siemann (UW), with data collection and analysis contributed by Jonathan Brock (UW), R. Michael Bireley (WSU), Michael J. Gaffney (WSU), James Huckabay (CWU), and Christopher Kent (CWU).

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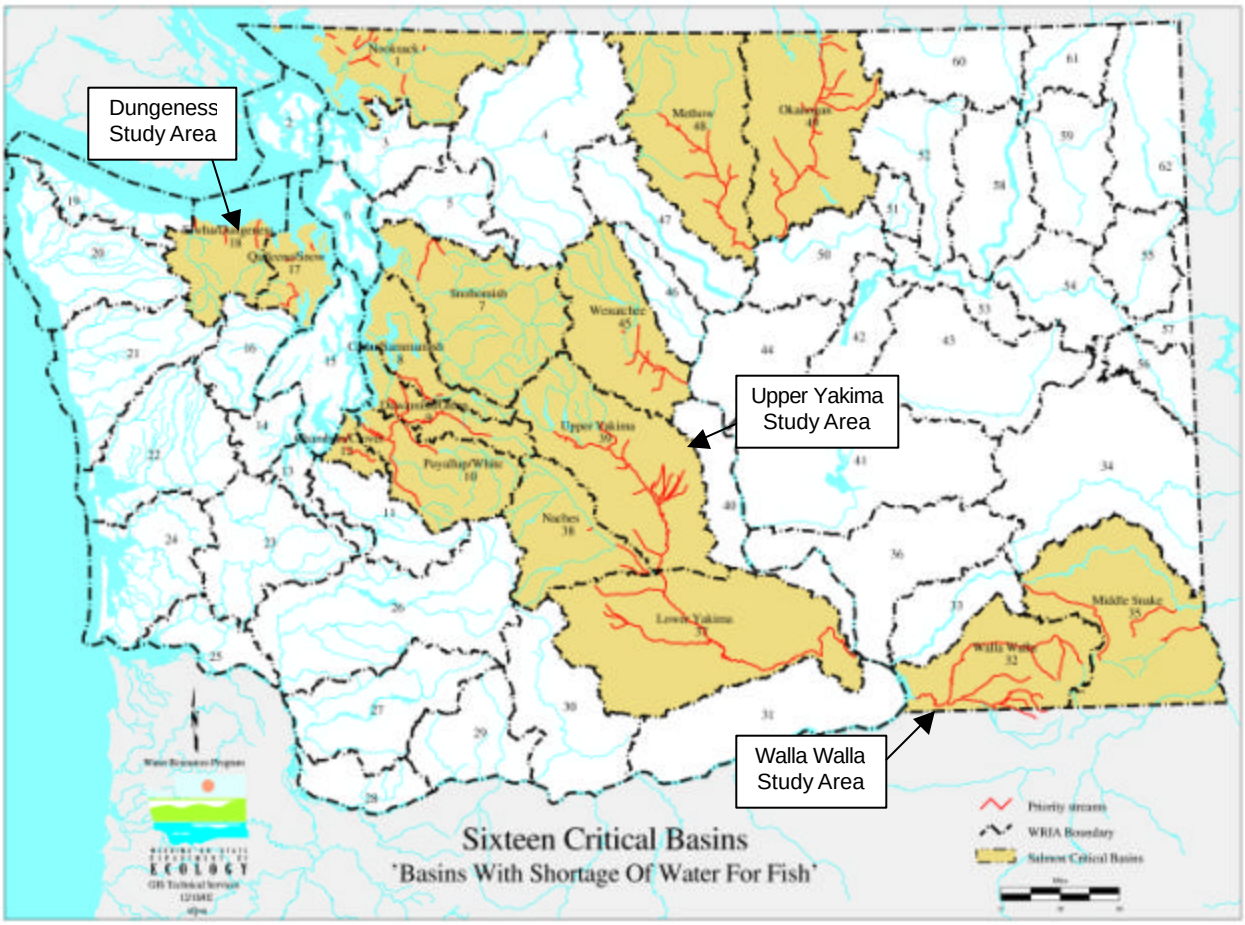
Watershed Map and Study Areas



Source: *Washington Water Acquisition Program: Finding Water to Restore Streams*. March 2003. Publication 03-11-005. Washington State Department of Ecology.