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Water Rights Trading



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What is water rights trading?

All abstractions of water, apart from certain exemptions defined in the Water Resources Act 1991, require an abstraction licence issued by the Environment Agency. Once granted an abstraction licence gives rights to the licence holder which are legally protected. Water rights trading is the transfer of licensable water rights from one party to another, for benefit. 'Benefit' recognises that the parties will generally complete some form of transaction as part of this process, although this might not be financial. Trading is an entirely voluntary process and this leaflet responds to an increasing interest in trading expressed by abstractors.

The changes proposed in the Government's draft Water Bill are intended to facilitate water rights trading in the future. However, some trading is possible under the current legislation and the purpose of this leaflet is to inform holders of abstraction licences and other interested parties:

- about the current scope for trading;
- how the Agency will deal with associated abstraction licence applications;
- what those seeking to trade under the current system should expect from the Agency.

Under current legislation it will usually be necessary for the parties to make an application to the Agency for a new or varied licence in order to complete a trade. When issuing or varying an abstraction licence, the Agency ensures that the environment is adequately protected and that new proposals do not have an unacceptable impact on the rights of other water users. Discussing a potential water rights trade with the Agency at an early stage will enable relevant issues to be identified and addressed. The Agency's involvement in water rights trading extends only to

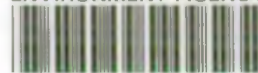
managing water resources and the abstraction licensing system. The Agency does not become involved in negotiating the price of a trade.

For more information about the abstraction licensing system in England and Wales please contact your local Water Resources Regulatory Team, using the details on the reverse of this leaflet.

Why trade water rights?

Water rights trading will give a realisable value to the rights contained in abstraction licences. By trading in water rights abstractors will have greater flexibility in how they manage their water needs as part of their business, through buying or selling rights in order to accommodate varying demands. Trading markets are likely to be most active where water resources are already fully committed, although there may also be a market in other catchments for specific quantities of water or for water to be available in a particular location.

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What is the relationship between water rights trading and CAMS?

Catchment Abstraction Management Strategies (CAMS) are strategies for the sustainable management of abstraction at a local level. They will make more information on water resources and licensing practice publicly available and allow the balance between the needs of abstractors, other water users and the aquatic environment to be considered in consultation with the local community and interested parties. CAMS will identify whether water is available for abstraction within a particular area. This will help resource developers to identify situations where a licence trade may be the best or only way to achieve their objectives and provide information that will help identify possible trading areas.

More information on CAMS can be found in the Environment Agency publication *Managing Water Abstraction*, which is available at www.environment-agency.gov.uk/cams and from local Environment Agency offices.



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What happens next?

The draft Water Bill is likely to contain provisions that will facilitate water rights trading. The Agency will be consulting in early 2003 on how water rights trading will be managed following the expected enactment of this proposed new legislation. This consultation will cover issues such as:

- the role the Agency should play in the water rights trading process;
- how water rights trading should take place and be managed under proposed new legislation.



Following consultation the Agency will then finalise its approach to water rights trading and further information will be available to interested parties.

If you wish to be involved in the consultation process or would like to receive further information please contact the Agency at the Head Office address on the reverse of this leaflet or by e-mail at alr@environment-agency.gov.uk.

What do I need to do to trade water rights?

All applications to trade an abstraction licence should involve thorough pre-application discussion with the Agency. **Pre-application consultation with the Agency is extremely important** in order to avoid unexpected costs or delays obtaining approval from the Agency for the proposed trade. Early consultation will also enable parties to decide whether a trade is viable before spending time and money on negotiations between themselves.

To help to decide whether a trade is likely to be acceptable the Agency will, as a minimum, require information on:

- the licence number(s) of the licence or licences to be traded,
- the parties involved
- the proposed changes to the existing licence
- the proposed new or varied licence (including estimated quantities of water required and the proposed end use)
- whether the proposed trade is on a short-term or permanent basis

The same rules and guidance will apply to applications required to complete a trade as to all other applications submitted to the Agency for a new or varied abstraction licence. For more information on these processes please contact your local Water Resources Regulatory Team, using the details on the reverse of this leaflet.

Can I sell my licence without involving the Agency?

Generally, no. The Water Resources Act 1991 specifies that an applicant is usually required to make an application to the Agency in order to get a new or varied licence. The simplest type of transfer is one involving the sale of *all* of the land on which a licence authorises the use of water, with no change to anything else on the licence. In such a case, it is simply necessary for the buyer and/or seller to notify the Agency within 15 months of the change. In cases where more changes to the licence are sought, the

requirements are correspondingly more complicated and may involve the need to assess the impacts on the environment and other holders of water rights. For further information please contact your local Water Resources Regulatory Team, using the details on the reverse of this leaflet.



How do I submit an application to the Agency for a water rights trade and what do I need to show?

The requirements for a licence application as a result of a trade are the same as for other licence applications. Applications need to show that;

- there is a reasonable need for the water applied for;
- water will be used efficiently;
- there will be no environmental damage or unacceptable impact on other water users as a result of the proposed abstraction.

The exact details and extent of what is required will depend upon the particular proposal and the results of discussions with your local Water Resources Regulatory Team. A proposed trade which requires no other approval, e.g. a discharge consent, may therefore be completed more quickly and cheaply in certain circumstances. Situations where this may be possible include:

- an overall reduction in the volume of water authorised to be abstracted;
- changes to the land on which water can be used (provided there are no potential environmental impacts);
- a change in the licence which the Agency considers is likely to be environmentally beneficial.

How can I trade water rights?

Ways in which water rights trading currently takes place include:

- An abstractor applies to revoke or permanently reduce the volume on an existing licence in a catchment where the Agency would otherwise be unable to issue new licences. This enables another abstractor, who has traded with the original licence holder, to apply for a licence to take up the rights previously held by the original licence holder. The terms of any new licence granted as a result of a trade may differ from the terms of the original licence.
- An abstractor applies to change his or her licence so that they can abstract less water for a set period of time. This enables another abstractor to increase the quantity authorised on their licence during the corresponding period.

The Agency is particularly keen to facilitate trades of the type outlined above but there are also other means of transferring water rights that abstractors and others may be interested in. These include:

- A group of farmers build a spray irrigation reservoir supplied with water made available as a result of the revocation of spray irrigation licences previously held for direct abstraction from the same watercourse.
- An abstractor buys a site or part of a site with an existing abstraction licence and applies to the Agency to vary the licence conditions. This could include amending the land on which abstracted water may be used and/or changing the purpose for which the water may be used.
- An abstractor buys, or enters into occupation of, an area of land on which a licence authorises abstracted water to be used.
- An abstractor applies to change the purpose of their licence to private water supply in order to supply others.

Before committing themselves to a trade the parties involved should satisfy themselves that rights which are given up by one licence holder will be acquired by the correct applicant, as the Agency cannot reserve water prior to an application being submitted. Any application to trade would also have to satisfy

the Agency's local policies including those contained in the relevant Catchment Abstraction Management Strategy (CAMS) when completed. The examples outlined above illustrate a few of the ways in which trading currently takes place, but other types of trades have taken place and are also expected to develop in the future.

In what circumstances can I trade?

A water rights trade is generally only possible if the **licences involved are located within the same catchment or groundwater unit**. This is because a reduction in abstraction from one point must result in more water being available at the other so there must be a hydrological link between the two abstractions. The change to the original licence would enable the new licence to be issued only if such a link exists.

The Agency needs to ensure that water rights trading **does not result in environmental damage** where a new licence or a variation to an existing licence is required. This could occur, for example, in an environmentally stressed catchment if as a result of a trade the holder of a new licence uses a significantly greater proportion of the volume of water authorised on their licence than the holder of the original licence. There may also be potentially damaging local impacts that need to be considered, for example the location of the new abstraction. The Agency may therefore place conditions on licences in order to prevent damage to the environment occurring as a result of trading. Early consultation with the Agency on proposed trades will give an indication to applicants of possible licence conditions.



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