

In Water We Trust

Landowners can earn tax breaks and help the environment by depositing their water rights into a trust.

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Even though it seems like a drop in the proverbial bucket, and may not be enough to meet the state's environmental flow needs, the 1,236 acre-feet of water in the Texas Water Trust represents a promising step in the right direction. In 1997, the Texas legislature created the trust as a repository to hold water rights dedicated to environmental needs, including instream flows, water quality, fish and wildlife habitat and freshwater inflows to bays and estuaries. In essence, the trust is a legal mechanism that allows water to remain in Texas rivers and streams for the benefit of the environment.



The Texas Parks and Wildlife Department holds the title of inaugural depositor to the Texas Water Trust. The true honor, however, belongs to C. R. “Kit” Bramblett, the Hudspeth County rancher who donated to TPWD two water rights on the Rio Grande. Simply put, Bramblett says, “I just wanted to see some water left in the river.” Bramblett asked TPWD to deposit the rights in the trust, and he hoped his actions would inspire others to protect instream flows.

Consider Texas State University inspired, as it has followed Kit Bramblett’s lead and deposited 33,108 acre-feet of San Marcos River water rights in the Texas Water Trust. Andrew Sansom, executive director of the River Systems Institute at Texas State University, remarks that water plays a defining role at the university. “Having the headwaters of the San Marcos River on campus and having strong aquatic resource programs in the biology and geography departments make water a major part of the school’s culture. The university’s deposit in the trust represents a particularly meaningful and very real commitment to protecting water as a core value.” Sansom personally believes that protection of river flows and freshwater inflows to bays and estuaries is the single most important natural resource issue facing Texas today.

Facing mounting competition for a finite resource, Texas continues to search for ways to provide water for environmental needs. Only since 1985 has the state imposed a duty on surface water rights to provide protection for fish and wildlife. Texas governs water rights under the doctrine of prior appropriation, which can be summed up as “first in time is first in right.” Senior water rights must be satisfied before junior rights; this makes older rights considerably more reliable and valuable than junior rights. One way to convert senior rights to environmental flow protection is through the use of the Texas Water Trust.

Administered by the Texas Water Development Board, the Texas Water Trust allows for the voluntary assignment of water rights to meet environmental needs but does not require the right holder to relinquish ownership. Water rights may be deposited for a term specified by contract or in perpetuity to protect rivers, bays and estuaries. While on deposit, rights retain their seniority and are protected from cancellation by the state.

The concept of voluntary private participation in conserving river flows is sparking interest throughout the state. Several nonprofit organizations are now operating or developing private water trusts.

Founded in 2001, the nonprofit Guadalupe-Blanco River Trust promotes the conservation, stewardship and enjoyment of the land and water resources of the Guadalupe River watershed. In its first foray into instream flow protection, the trust took the creative approach of securing river flows through a water right lease. Pursuant to an agreement between the Guadalupe-Blanco River Authority and Thornton Family Investments, L.P., the river trust now serves as guardian for a five-year lease of 70 acre-feet of historic senior water rights on the San Marcos River. Todd Votteler, Guadalupe-Blanco River Trust executive director, says the organization is focused on attracting unused rights and creating a positive outcome for the environment and the property owner. “Similar to entering into land conservation easements, by donating water rights to a nonprofit trust, property owners can realize federal income or estate tax benefits as well as achieve environmental benefits.”

In water-scarce far West Texas, the newly formed Trans-Pecos Water Trust is dedicated to protecting the “Forgotten River,” that stretch of the Rio Grande that winds from Fort Quitman to Amistad Reservoir. Low river flows are a fact of life in the Rio Grande Basin, but Board President Mike Davidson says the TPWT is dedicated to helping build a process to better determine the value of individual water rights and to seeking voluntary market-based solutions including but not limited to donation, lease, barter or outright purchase, to support instream flows. Davidson notes that river-based recreation can be an important economic factor in small rural communities near scenic navigable streams, and along with the wildlife viewing opportunities that a healthy river ecosystem offers, the long-term economic sustainability of the rural Big Bend region is inexorably bound to the relative health of the Rio Grande. Plus, says Davidson, when you work to protect instream flows, “You get the personal satisfaction of being a part of a basin-wide community of incredibly optimistic people who are working towards goals that may well take longer than our remaining lives to accomplish. It brings out the inner Don Quixote.”

Believing that a local water trust would best serve the needs of its water-dependent community, the board of the Menard County Water Control and Improvement District No.1 has authorized District Manager Caroline Runge to form the San Saba River Trust. “For a small river like ours, the best way to achieve instream flow protection is through a private community-based organization run by trusted locals,” Runge says. The nonprofit group will seek donation of water rights and funding to purchase water rights.

Whether through private or state trusts, dedicating water rights to protecting environmental flows gives Texans the opportunity to participate in conserving the fish and wildlife that depend upon healthy rivers, bays and estuaries.

Related Links

- Texas Water Trust (<http://www.twdb.state.tx.us/assistance/WaterBank/waterbankMain.asp>)
- Trans-Pecos Water Trust (<http://www.transpecoswatertrust.com/>)
- Guadalupe-Blanco River Trust (<http://www.gbrtrust.org>)