

# Water Marketing Methods

WATER MARKETING METHOD	DESCRIPTION	EXAMPLE USE CASES	CONSIDERATIONS		
			Limitations	Benefits	Challenges
<b>Negotiated Agreement to Lease Water</b>	An independent agreement or written contract between two or more parties (typically lessor & lessee) establishing the terms for transferring the use of a water asset. Lease agreements are the most common form of water marketing. Lease agreements may also be used in conjunction with or as part of other marketing methods.	<ol style="list-style-type: none"> <li>1. Rental of an irrigation company share</li> <li>2. Lease of a private water right</li> <li>3. Option agreement to lease water right</li> <li>4. Multiple other examples, as most water transfers can be structured as a two-party agreement</li> </ol> <p><b>Real World Examples:</b></p> <ul style="list-style-type: none"> <li>• Cache Valley Pilot Report: Negotiated written contract setting the terms to rent available storage water for late season irrigation. <a href="http://Water.utah.gov/water-marketing/cache-county-water-bank-pilot-project">Water.utah.gov/water-marketing/cache-county-water-bank-pilot-project</a></li> <li>• Weber Basin Water Conservancy District Replacement Water and Exchange Contract Program: Allows for water users not connected to a municipal water system to contract for the use of storage water by utilizing a hydrologically connected groundwater well. <a href="http://WeberBasin.gov/CustomerService/ReplacementWater">WeberBasin.gov/CustomerService/ReplacementWater</a></li> </ul>	Generally none. Agreement terms can be drafted to address identified limitations. All agreements and written contracts are still governed by and must comply with local law.	<ol style="list-style-type: none"> <li>1. Terms are customized to meet parties needs</li> <li>2. Clearly defines the tasks needed and responsibilities necessary to execute a water transaction</li> <li>3. High comfort level due to familiarity</li> <li>4. Generally no governmental involvement unless compliance with a governmental process is a condition or necessary requirement of the agreement</li> </ol>	<ol style="list-style-type: none"> <li>1. Designed to meet the conditions of an isolated independent transaction between discreet parties and agreement may not be able to be replicated or scaled to meet other conditions</li> <li>2. Relatively high transaction and overhead cost to draft agreement</li> <li>3. Enforcement is generally brought as breach of contract claim in the local court system (unless the parties have agreed otherwise)</li> </ol>

to be continued

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<b>Auction</b>	An organized process to openly advertise the availability of a water asset for lease and for interested parties to bid for a lease of that water. The lessor generally sets the terms for what constitutes an acceptable offer and winning bid. In cost auctions the highest price generally wins, but auctions can be set to meet all kinds of conditions.	<ol style="list-style-type: none"> <li>1. Sale of large water right holding, such as an industrial or large farm water portfolio</li> <li>2. Lease of storage water allocations to multiple bidders</li> </ol> <p><b>Real World Examples:</b></p> <ul style="list-style-type: none"> <li>• Selah Moxie Irrigation District Surplus Water Rights Auction <a href="http://WesternWaterMarket.com/smid">WesternWaterMarket.com/smid</a></li> <li>• Price River Water Users Association/PacifiCorp Water Auction <a href="http://PriceRiverWaterUsers.com">PriceRiverWaterUsers.com</a></li> </ul>	Often limited to clearly defined water assets or simple water assets that do not require negotiation and discussion to generate offers.	<ol style="list-style-type: none"> <li>1. Attracts highest price in competitive markets, or otherwise acts as a price discovery mechanism for the value of local water</li> <li>2. Set auction rules provides certainty to participants and can avoid or limit individual negotiations</li> <li>3. Forces buyer or lessee to conduct due diligence efforts of water asset to determine value and interest</li> <li>4. Provides efficient method of breaking up larger water assets into multiple transactions</li> </ol>	<ol style="list-style-type: none"> <li>1. Typically not conducive to complex water holdings or transaction structures</li> <li>2. Limited ability to negotiate independent terms per transaction</li> <li>3. Requires lessor/seller to formally organize and oversee auction activities or partnering with an organization who can assist with those activities</li> </ol>

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<b>Reverse Auction (RFP Process)</b>	An organized process where a potential lessee/ buyer advertises a need for water and reviews bids from interested lessors/sellers, similar to an RFP process. Typically, the lowest cost qualifying bid wins the contract.	<ol style="list-style-type: none"> <li>1. Industrial water user seeking temporary water supplies for operations</li> <li>2. Municipal water utility seeking to develop a new source of supply</li> <li>3. Water trusts or other NGOs seeking water for environmental needs</li> </ol>	Often limited to high-value buyers who can provide financial assurance & clear metrics on their objective. Located where there are multiple sources of potential supply and willing sellers/lessors.	<ol style="list-style-type: none"> <li>1. Provides an opportunity for buyers/sellers to initiate water market activities</li> <li>2. Allows buyer to review multiple proposals in single effort</li> <li>3. Provides clear demand signal to sellers</li> </ol>	<ol style="list-style-type: none"> <li>1. Requires time &amp; cost for seller to develop proposal,</li> <li>2. Requires time &amp; cost for buyer to develop RFP process,</li> <li>3. Requires unique circumstances where multiple options exist for water supply</li> </ol>
<b>Bulletin Board</b>	A public or otherwise open listing where water users can post the availability of water for sale or lease or post a need for water. Similar to the classified section of a newspaper.	<ol style="list-style-type: none"> <li>1. Annual leases of irrigation company shares</li> <li>2. Water rights for sale</li> </ol> <p><b>Real World Examples:</b></p> <ul style="list-style-type: none"> <li>• Western Water Market: <a href="http://WesternWaterMarket.com">WesternWaterMarket.com</a></li> <li>• KSL Classifieds: <a href="http://Classifieds.ksl.com/search/Other-Real-Estate/Water-Rights">Classifieds.ksl.com/search/Other-Real-Estate/Water-Rights</a></li> <li>• CUWCD Water Share Purchase Program: <a href="http://CUWCD.com/watershares.html#gsc.tab=0">CUWCD.com/watershares.html#gsc.tab=0</a></li> </ul>	Generally none. If desired, organizers can set limits or rules for posting on the bulletin board.	<ol style="list-style-type: none"> <li>1. Low cost and efficient method of communicating information</li> <li>2. Reflects local market conditions</li> <li>3. Familiarity in real estate sector</li> </ol>	<ol style="list-style-type: none"> <li>1. Requires a hosting organization</li> <li>2. Relies upon active participation by interested parties</li> <li>3. Connects parties but requires the parties to independently negotiate the terms of a sale or lease</li> <li>4. Requires due diligence by the buyer/lessee; generally no quality check on postings</li> </ol>

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<b>Rental Pool</b>	A formal program to temporarily lease water supplies from a common source of supply.	<ol style="list-style-type: none"> <li>1. Annual lease of storage water allocations</li> <li>2. Annual lease of irrigation company shares</li> </ol> <p><b>Real World Examples:</b></p> <ul style="list-style-type: none"> <li>• Cache Valley Pilot Report: Negotiated written contract setting the terms to rent available storage water for late season irrigation. <a href="https://water.utah.gov/water-marketing/cache-county-water-bank-pilot-project">Water.utah.gov/water-marketing/cache-county-water-bank-pilot-project</a></li> <li>• Price River Water Improvement District leasing pool: <a href="https://minutes.prwid.com/uploads/minutes/2023/Minutes_2-21-2023.pdf">Minutes.PRWID.com/uploads/minutes/2023/Minutes_2-21-2023.pdf</a></li> </ul>	Typically limited to a well-defined source of supply from which it is easy to administer from and account for a number of water leases. Does not require negotiation and discussion to generate offers.	<ol style="list-style-type: none"> <li>1. Typically low-cost method of transferring water</li> <li>2. Structure can often be replicated over multiple years</li> </ol>	<ol style="list-style-type: none"> <li>1. Generally limited to annual or temporary water supplies</li> <li>2. Requires multiple interested buyers to make process worthwhile</li> <li>3. Requires a hosting agency with sufficient capacity to run and administer the rental program</li> </ol>

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<b>Agricultural Water Optimization Project / Program</b>	Temporary (one-year or multi-year) program to incentivize agricultural water optimization/conservation and, in some cases, to lease water for other purposes.	<ol style="list-style-type: none"> <li>1. Full Season fallowing</li> <li>2. Split Season fallowing</li> <li>3. Deficit irrigation</li> <li>4. Non-diversion agreement</li> <li>5. Quantifiable agricultural optimization savings</li> </ol> <p><b>Real World Examples:</b> Upper Colorado River Commission - System Conservation Pilot Program: <a href="http://UCRCommission.com/system-conservation-pilot-program-for-2023">UCRCommission.com/system-conservation-pilot-program-for-2023</a></p>	<ol style="list-style-type: none"> <li>1. Generally limited to irrigation season supply</li> <li>2. Limited to instream flow uses in some cases</li> <li>3. Lack of easily quantifiable market data makes pricing difficult</li> </ol>	<ol style="list-style-type: none"> <li>1. Ability to scale up volume of transfer</li> <li>2. Objective to manage secondary impacts of transfer</li> <li>3. Other benefits similar to leases stated above</li> </ol>	<ol style="list-style-type: none"> <li>1. Distributing leased water may be difficult in areas with limited flow-monitoring infrastructure</li> <li>2. Novelty of programs may run into regulatory delays</li> <li>3. Each transaction may require a unique agreement, adding time and expense</li> <li>4. Heavily dependent on the ability of the sponsoring organization to pay market rates</li> <li>5. Requires monitoring and enforcement to make sure fields are followed as agreed to</li> </ol>

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<b>Utah Contract Water Bank</b>	A contract to lease water that has been approved by the Utah Board of Water Resources to be a Contract Water Bank and extended the benefits of the Utah Water Banking Act.	<ol style="list-style-type: none"> <li>1. Environmental water leasing program (to date)</li> </ol> <p><b>Real World Example:</b></p> <ul style="list-style-type: none"> <li>• Price River Water Bank <a href="https://water.utah.gov/water-marketing/price-river-water-bank-pilot-project/">https://water.utah.gov/water-marketing/price-river-water-bank-pilot-project/</a></li> </ul>	Defined by approved water bank conditions and contract terms agreed to by the parties.	<ol style="list-style-type: none"> <li>1. Provides benefits of Utah Water Banking Act (protection from forfeiture, flexible uses, streamlined administrative process)</li> </ol>	<ol style="list-style-type: none"> <li>1. If the water users do not benefit from the provisions of the Utah Water Banking Act, applying to be a Contract Water Bank may add additional time and cost with comparable outcomes to a common lease</li> <li>2. More public exposure to water transfer</li> <li>3. Lacks the annual reliability and long-term certainty that some water demands require</li> </ol>
<b>Utah Statutory Water Bank</b>	A legal entity organized for the purposes of facilitating water leases between generally unknown parties within a designated bank service.	<ol style="list-style-type: none"> <li>1. Annual water leases between agricultural water users</li> <li>2. Environmental water leasing programs</li> <li>3. Facilitating municipal or wholesale deliveries of water</li> </ol> <p><b>Real World Example:</b></p> <ul style="list-style-type: none"> <li>• Vernal Water Bank <a href="https://water.utah.gov/wp-content/uploads/2023/10/First-Water-Bank-of-Utah-Application.pdf">https://water.utah.gov/wp-content/uploads/2023/10/First-Water-Bank-of-Utah-Application.pdf</a></li> </ul>	Defined by the entity's organizational documents and the requirements for Statutory Water Banks under the Utah Water Banking Act	<ol style="list-style-type: none"> <li>1. Allows multiple similar transfers to happen efficiently</li> <li>2. Provides benefits of water bank (protection from forfeiture)</li> <li>3. Allows deposited water rights to be available for multiple different and undefined uses</li> <li>4. Acts as centralized entity who can collect pricing data</li> </ol>	<ol style="list-style-type: none"> <li>1. If the water users do not benefit from the provisions of the Utah Water Banking Act, applying to be a Statutory Water Bank may add additional time and cost with comparable outcomes of organizing a leasing program or rental pool</li> <li>2. Will work best where there is a committed local sponsor committed to creating and administering the bank</li> </ol>