

Research on Water Intake Right and Water Use Right development of water resources under the background of new era

新时代背景下水资源取水权与用水权发展研究

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01 Background of water right trading system

(水权交易制度背景)

- **The water right trading system** is an effective system for modern water resources management, it is an important way to allocate water resources scientifically and efficiently under the condition of market economy, it is also an important part of establishing a modern water governance system with both government and market forces.

水权交易制度是现代水资源管理的有效制度，是市场经济条件下科学高效配置水资源的重要途径，也是建立政府与市场两手发力的现代水治理体系的重要内容。

- In recent years, the CPC Central Committee and the State Council **have repeatedly put forward clear requirements for the establishment and improvement of the national water rights system**, establish and improve the water rights system, actively cultivate the water market, encourage the development of water rights transactions, and use the market mechanism to rationally allocate water resources

近年来，党中央国务院多次对建立和完善国家水权制度提出明确要求，建立健全水权制度，积极培育水市场，鼓励开展水权交易，运用市场机制合理配置水资源。



01 Background of water right trading system

(水权交易制度背景)

In 2005, the State Council took the construction of national water right system as the key content of deepening economic system reform.

2005年，国务院将国家水权制度建设作为深化经济体制改革的重点内容

In 2011, the conference proposed to establish and improve the national water right system.

2011年，中央1号文件和中央水利工作会议提出要建立和完善国家水权制度

In 2013, the conference clearly pointed out that it is necessary to improve the property rights system of natural resource assets and implement the water right trading system.

2013年，十八届三中全会中明确指出要健全自然资源资产产权制度，推行水权交易制度



In 2022, the Ministry of Water Resources pointed out that it is necessary to improve the water rights trading mechanism and establish a unified national water rights trading market.

2022年，水利部等机构指出，要明确建立水权初始分配制度，完善水权交易机制，建立全国统一的用水权交易市场

In 2021, the initial distribution system of water right will be clearly established, and the right to use water resources for water users will be clearly defined.

2021年，中共中央办公厅等机构指出要明确建立水权初始分配制度，明确取用水户水资源使用权

In 2014, the Ministry of Water Resources organized a pilot project on water right.

2014年，水利部组织开展水权试点工作

(1) The content of water right (水权的内容)

The definition of **water right** in existing laws and regulations includes both the ownership of water resources and the right to use water resources derived from ownership.

现有法律法规关于水权的定义，既包括水资源所有权，也包括从所有权衍生出的水资源使用权。

(2) The definition of water right (水权的定义)

■ **In a broad sense**, the water right is a general term for various rights related to water resources, including the ownership of water resources and the right to use water resources derived from ownership.

广义上，水权是与水资源有关的各种权利的总称，包括水资源所有权和从所有权衍生出的水资源使用权

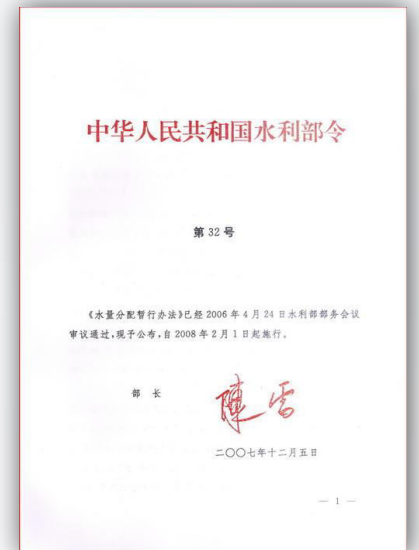
■ **In a narrow sense**, the water right only refers to the right to use water resources.

狭义上的水权仅指水资源使用权

(3) Water resources use right (水资源使用权)

Includes the water intake right and the water use right, the water intake right involves the allocation of water resources, which is mainly led by the government; water use right involve the market, mainly through the regulation of market economy.

包含取水权和用水权，取水权涉及水资源配置，主要由政府主导；用水权涉及市场，通过市场经济调节



(1) Water intake right (取水权)

The **water intake right** is the right to take water as the subject matter. Water intake refers to the use of water conservancy projects to directly take water from rivers, lakes or underground.

是以取水行为为标的的权利，取水是指利用水利工程直接从江河、湖泊或者地下取水



(2) Confirmation of the water intake right (取水权的确权)

According to the existing laws and regulations, the **water intake right** of water users is confirmed by issuing water intake permits. As a kind of usufructuary right, the water right holder has the right to occupy, use and benefit the water resources according to law.

按照现有法律法规，确认给取用水户的取水权，通过发放取水许可证进行确认。作为一种用益物权，取水权人依法对取用的水资源享有占有、使用和收益的权利

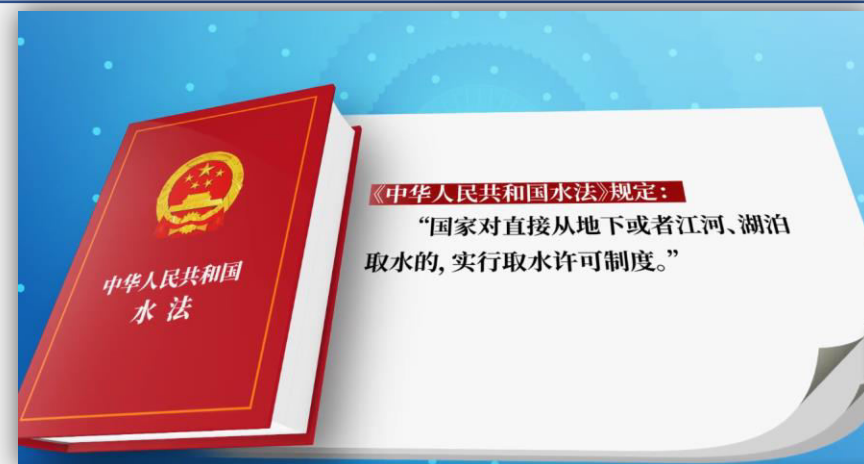


Some areas have further explored the dynamic management of water intake permits.

部分地区进一步探索开展取水许可动态管理

For example, Gansu Province has made it clear that after the completion of water intake projects or facilities, experts will be organized by the examination and approval authorities to conduct on-site verification

甘肃省明确要在取水工程或设施竣工后，由审批机关组织专家进行现场核验。



(3) The water intake right of supply side (供给侧的取水权)

■ Public water supply units and self-provided water users (公共供水单位和自备水源取用水户)

① Water users who take water from their own water sources need to use water after taking water, which belongs to "taking and using"

自备水源取用水户，在取水之后还需要用水，属于“既取又用”

② The core of public water supply units such as reservoir management units is to engage in water supply services, which belongs to "only take no use," so it is essentially a franchise.

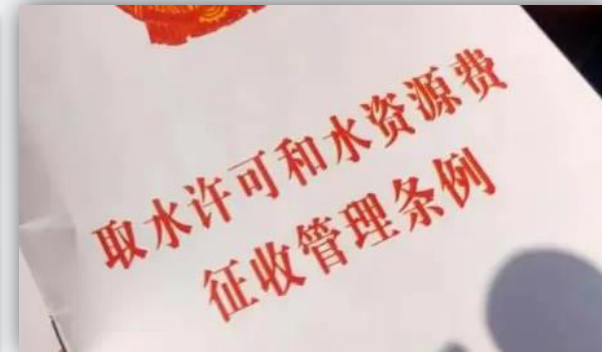
水库管理单位等公共供水单位，核心在于从事供水服务，属于“只取不用”，因而其本质上属于特许经营

③ The water users who 'take and use' and 'only take and not use' have the characteristics of water supply projects and belong to the supply side of water resources.

“既取又用”与“只取不用”的取用水户，均是直接从江河、湖泊或者地下“取”水资源，均具有供水工程的特点，属于水资源供给侧

■ The **water intake right** is the **exploitation right** of water resources. It has the right to exploit water resources. It changes the spatial and temporal distribution of water resources. It belongs to the supply of resources and belongs to the supply side.

取水权是水资源的开采权，具有开采水资源的权利，将水资源的时空分布进行改变，属于资源的供给，归属于供给侧



04 Analysis of water use right in water resources

(水资源用水权辨析)

(1) Water use right (用水权)

The **water use right** is a right to **consume water resources** in order to meet the basic needs of life and social and economic production needs based on the total water consumption control index system.

是基于用水总量控制指标体系下的为了满足生活和社会经济需求等需要消耗水资源的一种权利



the water use right of self-provided water users such as industrial enterprises.
工业企业等自备水源取用水户的用水权

the water use right of water users in irrigation areas.
灌区内用水户的用水权

the water use right of rural collective economic organizations and their members.
农村集体经济组织及其成员的用水权

水资源使用权情况登记表			
水资源使用权人	杭州市临安区城桥镇上田股份经济合作社	所在位置	临安区城桥镇上田村
水源类型	山塘水	水域面积(公顷)	1.0888
水资源量(万m ³)	15.95	终止日期	2058/
使用期	40年		

(2) Confirmation of the water use right (用水权的确权)

The confirmation of water use right includes **two situations**. (用水权确认包括两种情形)

- The first is the water users in the public water supply network.
第一种是公共供水管网内用水户，如灌区内灌溉用水户或用水合作组织的用水权
- The second is to confirm the water use right of rural collective economic organizations.
第二种是确认农村集体经济组织的用水权



(3) The water use right of demand side (需求侧的用水权)

- With the deepening of **water right reform** and comprehensive reform of agricultural water price, the **initial distribution system of water right** needs to be further developed.

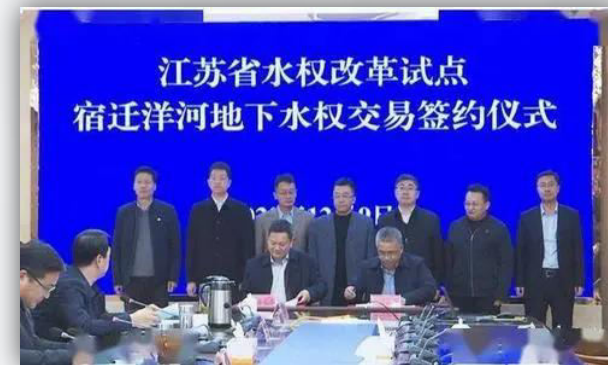
水权改革和农业水价综合改革等的深入推进，用水权初始分配制度需进一步开展。

- ① through the decomposition of the total water consumption index and finally implemented to the region and the water users, clear the water use right quota of the region and the water users
通过用水总量指标层层分解并最终落实到区域和取用水户，明确区域和取用水户的用水权额度
- ② it is necessary to clarify the rights and obligations of water use right and the duration of rights in accordance with the principle of statutory property rights, so as to ensure the realization of water use right.

需要按照物权法定原则，在法律上明确用水权的权利义务和权利期限等，保障用水权的实现

- The **water use right** is the right to use water resources. It has the right to consume and use water resources and belongs to the demand side. The implementation of its rights is **affected by the water intake right**.

用水权是水资源的利用权利，具有消耗利用水资源的权利，仅从需求方面表述其权利，其权利的实施受水资源的时空分布的影响，即受取水权的影响。



05 The relationship between water intake right and water use right (取水权与用水权关系)

(1) Connection (取水权与用水权的联系)

The confirmation of water use right includes **two situations**. (用水权确认包括两种情形)

- The water **intake right** and the water **use right** belong to a kind of **water resources use right**
取水权与用水权都属于水资源使用权的一种
- For ' both take and use ' own water users, the water intake right and the water use right are **coincident**
对于“既取又用”的自备水源取用水户而言，取水权和用水权是重合的
- For the irrigation area, the water use right can be **regarded as a concept** under the water intake right.
对于灌区而言，可以将用水权视为取水权之下的概念

(2) Differences (取水权与用水权的区别)

- The **content** of rights is different
取水权与用水权的权利内容不同
- The **subject** of rights is different
取水权与用水权的权利主体不同
- The **management** of rights is different
取水权与用水权的管理不同

The realization of the value of water resources requires that the water intake right and water use right can be realized at the same time. It is futile to unilaterally emphasize the realization of the water intake right or the realization of the water use right.

Therefore, **the rational allocation of water resources is directly related to the realization of the water intake right and water use right, and is the basis for the formation of water rights market.**

水资源价值的实现，需要取水权和用水权能够同时得以实现，单方面强调取水权的实现或者用水权的实现都是徒劳的。因此，水资源合理配置直接关系到取水权与用水权的实现，是水权市场形成的基础。



Thanks for listening!

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