



How to Protect Your Water Rights

Kristina Ribellia
Washington Water Trust

Jacquelyn Wallace
Trout Unlimited



Okanogan Conservation District

- Voluntary, non-regulatory services to landowners and land managers to address natural resource concerns.
- Connect landowners with financial and technical assistance



Irrigation Upgrades & Rebates

Save water, and energy on your Okanogan PUD power bill

Equipment improvements, examples:

Pump efficiency testing	\$50- \$300
Variable Frequency Drives	\$60.00 per hp installed

Sprinkler repair & upgrades

Replace worn nozzles	\$4.00 per nozzle
Replace leaking drain gaskets:	\$1.00 per drain
<u>And many more</u>	

Call the Conservation District to start planning: 509-422-0855



Whitestone Reclamation District Canal piping



On-Farm efficiency assistance



Call the Conservation District to start planning: 509-422-0855



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Today's Presentation

- About Washington Water Trust & Trout Unlimited
- Washington Water Problem
- Washington Water Law
- Water Rights 101
- Trust Water Rights Program (TWRP)
- Top 7 Ways the TWRP Can Work for You
- Trust Water in Action
- Questions

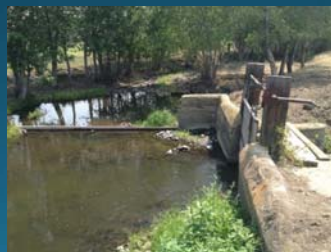
Washington Water Trust & Trout Unlimited

- Non-regulatory, 501(c)3 nonprofits
- Restore flow-limited streams
- Help people better understand and protect their water rights
- Utilize voluntary, market-based transactions and cooperative partnerships to create win-win solutions
- WWT offices in Ellensburg & Seattle
- TU Washington offices in Twisp, Wenatchee & Yakima



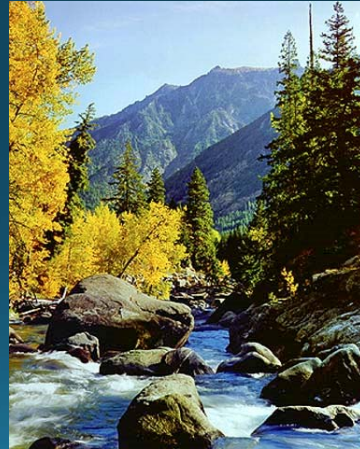
Washington Water Problem

- 80% of Washington water withdrawals for agriculture & systems often inefficient
- Many streams over-allocated
- Late summer water needs in conflict



Washington Water Law

- In Washington State, water is a public resource owned by all the people.
- Individuals and entities who hold water rights have the right to use water but do not own it.
- A water right is a right to use water with certain limitations described in a water right document (permit, certificate or claim).



Washington Water Law

- First in time, first in right: based on seniority (prior appropriation)
- A junior water right cannot impair a senior right
- Use it or lose it: 5 yr+ of nonuse = relinquishment (RCW 90.14)
- Maintain right through “beneficial use”
- Place of use and point of diversion: water rights are appurtenant to land.
- Different elements of a water right can be changed, but Ecology rarely issues new water rights, given most water has already been allocated.

"Paper" Water Right vs. "Actual" Water Right

- Water right certificates and water right claims are "paper water rights."
- A person's "actual water right" is the amount of water they have beneficially used over time.
- A paper water right **may** describe the actual water right, but often it does not.
- In an adjudication of rights, the court determines the actual extent and validity of water rights.



Types of Water Right Documents

- Water right claim
- Water right permit
- Water right certificate
- Irrigation districts
- Exempt wells

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
WATER RIGHT CLAIM REGISTRATION

WATER RIGHT CLAIM

NAME: Rex
ADDRESS: ENTIAL WA 99125

1. SOURCE FROM WHICH THE RIGHT TO TAKE AND MAKE USE OF WATER IS CLAIMED: SUBSURFACE

A. IF SURFACE WATER, THE SOURCE IS: ENTIAL RIVER

2. THE QUANTITIES OF WATER AND TIMES OF USE CLAIMED:

A. QUANTITY OF WATER CLAIMED: 32.1 CFS PER SECOND OF FLOWING WATER
B. ANNUAL QUANTITY CLAIMED: 32.1 CFS PER SECOND OF FLOWING WATER
C. IF FOR IRRIGATION, ACRES CLAIMED: 00 PERCENT IRRIGATED: NONE

3. TIMES DURING EACH YEAR WHEN WATER IS USED: APRIL - SEPT

4. DATE OF FIRST PUTTING WATER TO USE: APRIL 1981 YEAR: 1981

5. LOCATION OF THE POINTS OF SURFACING/INTAKE: 1/2 MI. NW COR. SEC. 33
FROM THE N.W. CORNER CORNER OF SECTION 33
BEING WITHIN 1/4 - 1/4 OF SECTION 36 T. 26 N. R. 20 E. S. 36
IF THIS IS WITHIN THE LIMITS OF A REGISTERED PLATIED PROPERTY, LOT _____ BLOCK _____ OF _____

6. THE LEGAL DESCRIPTION OF LANDS ON WHICH THE WATER IS USED: N.W. 1/4 SEC. 33 AND S.W. 1/4 SEC. 36 T. 26 N. R. 20 E. S. 36
SEE LEGAL DESCRIPTION ATTACHED

COUNTY: CHelan

7. PURPOSES FOR WHICH WATER IS USED: IRRIGATION, STOCK

8. THE LEGAL DISTRICTS UPON WHICH THE RIGHT OF CLAIM IS BASED: CHelan CO.
WATER RIGHT A CIVIL DISTRICT
SEE LEGAL DESCRIPTION ATTACHED

9. SIGNATURE OF CLAIMANT: [Signature]

10. DATE: 2-2-81

Elements of a Water Right

- Point of diversion or withdrawal
- Instantaneous quantity (Q_i)
- Annual quantity (Q_A)
- Purpose of use
- Place of use
- Season of use
- Priority date

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

CERTIFICATE OF WATER RIGHT

☒ Surface Water *Shall be subordinate with the priorities of Chapter 173, Laws of Washington to 1981, and amendments thereto, and the rules and regulations of the Department of Ecology.*
☐ Ground Water *Shall be subordinate with the priorities of Chapter 90A, Laws of Washington to 1984, and amendments thereto, and the rules and regulations of the Department of Ecology.*

PRIORITY DATE: December 17, 1994 APPLICATION NUMBER: 84-28582 PERMIT NUMBER: 84-28582P CERTIFICATE NUMBER: 84-28582C

NAME: **WILLIAM J. ANDERSON**

POINT OF DIVERSION: **Columbia River** POINT OF USE: **750 feet south and 350 feet west from the southwest corner of Section 28**

This is to certify that the holder of this permit has made good to the satisfaction of the Department of Ecology and to the use of the public waters of the State of Washington as herein defined, and under and specifically subject to the provisions contained in the Permit issued by the Department of Ecology, and that said right to the said water has been purchased and conveyed to the State of Washington, and is being maintained by the Department of Ecology and entered of record as shown, but is limited to an amount actually beneficially used.

PUBLIC WATER TO BE APPROPRIATED

WATER: **Columbia River (via the Cannon-Anderson Ditch)**

QUANTITY OF WATER TO BE USED: **1.5 cfs** MAXIMUM DURATION PER YEAR: **30** MINIMUM DURATION PER YEAR: **30**

PERMIT TO BE USED FOR: **Per Irrigation of 1500 Acres from April 15 to October 15**

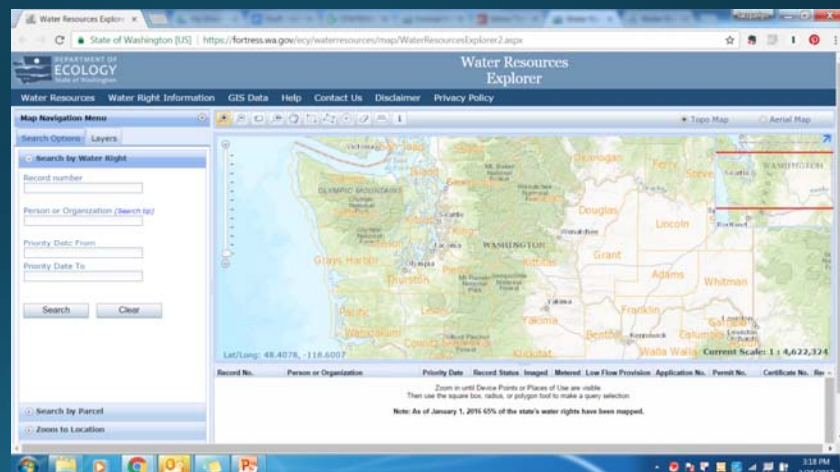
LOCATION OF DIVERSION WITHIN: **750 feet south and 350 feet west from the southwest corner of Section 28**

DEPARTMENT OF ECOLOGY: **DOE** PERMIT NO.: **84-28582P** CERTIFICATE NO.: **84-28582C**

LEGAL DESCRIPTION OF PROPERTY IN WHICH WATER IS TO BE USED: **Within the NW1/4, lying southeasterly of the Columbia River, in Section 33, T. 36 N., R. 20 E., S.W., in Chelan County.**

Where Do I Find Information About My Water Rights?

- Check DOE Water Resources Explorer
- Contact DOE records department



Water Resources Explorer

State of Washington [US] | <https://fortress.wa.gov/ecy/waterresources/map/WaterResourcesExplorer2.aspx>

DEPARTMENT OF ECOLOGY
State of Washington

Water Resources | Water Right Information | GIS Data | Help | Contact Us | Disclaimer | Privacy Policy

Map Navigation Menu

Search Options | Layers | Selected Record

Record No. : S4-094511CL

Quantities:
38.0000 GPM
60.8000 Acre Feet
3.0000 Irrigated Acres

Purposes:
Domestic General
Irrigation

Source Names:
RAMSEY CREEK

Source Types:
Headworks (Gravity Flow)

[Submit Record Correction](#)

No diversion information available at this time.

Images:
Pre 97-98 Claim
[Black and White 150 dpi](#)

Lat/Long: 48.5554, -120.1930

Current Scale: 1 : 36,112

Record No.	Person or Organization	Priority Date	Record Status	Imaged	Metered	Low Flow Provision	Application No.	Permit No.	Certificate No.	Rev
S4-095223CL	Chewuch Canal Company *	05/01/1910	Active	N	N	N				Cl
S4-094511CL	Lundgren, Ralph L	01/01/1948	Active	N	N	N				Cl
S4-300643CL	Lundgren Family Ltd Partnership	06/01/1902	Active	N	N	N				Cl
S4-300641CL	Lundgren Family Ltd Partnership	11/01/1907	Active	N	N	N				Cl
S4-300642CL	Lundgren Family Ltd Partnership	04/01/1889	Active	N	N	N				Cl

1:27 PM
4/6/2017

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
WATER RIGHT CLAIMS REGISTRATION

WATER RIGHT CLAIM

RECEIVED
DEPARTMENT OF ECOLOGY
Apr 22 10 92781
CASH OTHER NONE

1. NAME _____
ADDRESS _____
CITY _____
STATE _____
ZIP CODE _____

2. SOURCE FROM WHICH THE RIGHT TO TAKE AND MAKE USE OF WATER IS CLAIMED: SURFACE
(SURFACE OR GROUND WATER)
W.R.J.A. (LEAVE BLANK) 148

A. IF GROUND WATER, THE SOURCE IS _____

B. IF SURFACE WATER, THE SOURCE IS Ramsey Creek-Tributary of Chewach River

3. THE QUANTITIES OF WATER AND TIMES OF USE CLAIMED:

A. QUANTITY OF WATER CLAIMED 38 G.P.M. PRESENTLY USED 38 G.P.M.
(CUBIC FEET PER SECOND OR GALLONS PER MINUTE)

B. ANNUAL QUANTITY CLAIMED 60.8 PRESENTLY USED 60.8
(ACRE FEET PER YEAR)

C. IF FOR IRRIGATION, ACRES CLAIMED 3 PRESENTLY IRRIGATED 3

D. TIME(S) DURING EACH YEAR WHEN WATER IS USED: Year Around

4. DATE OF FIRST PUTTING WATER TO USE: MONTH January YEAR 1948

5. LOCATION OF THE POINT(S) OF DIVERSION/WITHDRAWAL: 2000 FEET West AND 800 FEET South FROM THE N.E. CORNER OF SECTION 11 BEING WITHIN 1/4 OF SECTION 11 T. 35 N. R. 21 E. (E.O.W.) W.M. IF THIS IS WITHIN THE LIMITS OF A RECORDED-PLATTED PROPERTY, LOT _____ BLOCK _____ OF _____

6. LEGAL DESCRIPTION OF LANDS ON WHICH THE WATER IS USED:
SE 1/4 of SW 1/4, Sec. 2, and NE 1/4 of NW 1/4 and NW 1/4 of NW 1/4, Sec. 11, ALL in Twp. 35 N., R. 21 E. W.M.

7. PURPOSE(S) FOR WHICH WATER IS USED: Domestic and Irrigation

8. THE LEGAL DOCUMENT(S) _____

Extent & Validity Determination

- Goal is to determine whether “paper” water rights associated with a particular property are “actual” water rights.
- Determine current and historical water use
 - number of acres irrigated + amount of water used
- Methods to determine use
 - Aerial photos/LIDAR images
 - Well logs/metering records
 - Historical photos
 - Affidavits/declarations of landowners/neighbors
 - Water duty calculations

Extent & Validity Determination



2010 irrigated acres



2017 irrigated acres

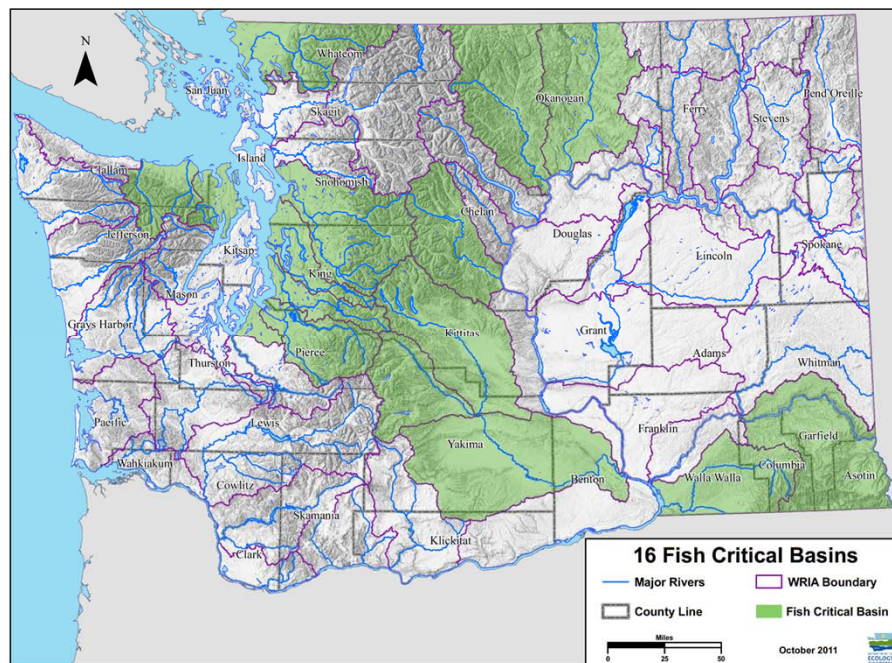
If aerals only show limited irrigation between 2010 and 2017, and water was available, part of “paper” water right has likely been relinquished unless water was placed in WA Trust Water Program.

Instream Flows

- **Instream flows** (base flows) are minimum stream flows set by rule, intended to protect fish and wildlife
- **Instream flows** are senior water rights based on date of instream rules

- VS -

- **Instream flow water rights** are diversionary water rights that have been transferred to the Trust Water Rights Program to be managed for instream flow purposes



Introducing the Best Kept Secret: The Trust Water Rights Program

Trust Water Rights Program



- Created in 1991 to hold and protect water rights for future uses while enhancing stream flows
 - Key: Stops the clock and protects water from relinquishment while benefiting people and the environment
- Managed by the Washington State Dept. of Ecology
- Retains priority date (seniority) and all other attributes
- Offers flexibility: Temporary, permanent, partial, entire

Top 7 Ways the Trust Water Rights Program Can Work for You

#7



Your community is concerned about water supply –
The TWRP can facilitate mitigation (or “water banks”).

#6



You recently bought property and
you're still figuring out your water rights –
Act now before they're gone!

#5



You're looking to change crops
and will be using less water –
Don't lose it when you're not using it!

#4



You're upgrading to a more efficient irrigation system –
Protect the "saved" water just in case!

#3



You need a vacation from irrigating –
And who wants to worry about relinquishment?!

#2



You don't know what you want to do with your water –
But the clock is still ticking.

#1 (And Our Favorite!)



Your water might have instream flow value –
And can help make a difference.

Creative Solutions

- Purchases and Leases
- Late-season
- Drought years
- Source switches
- POD changes
- Irrigation efficiencies
- Water banking & mitigation
- Storage release
- Off-channel storage
- Downstream transfers
- Land use changes

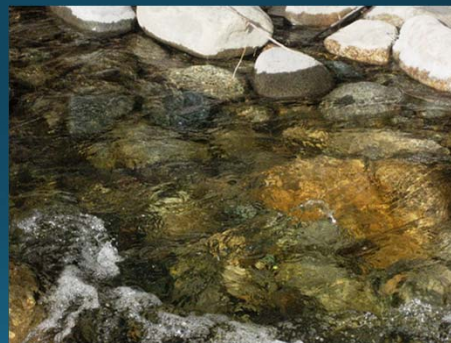


Key Question: Can we do a project that adds water to a stream when and where fish need it?

Trust Water in Action – Salmon Creek



Salmon Creek – Dry (Photo by Jeff Gersh)



Fish Flows Return to Salmon Creek

Trust Water Incentives



Restoring Stream flows, Respecting Landowners

Basic Agreements

- **Lease** – Flexible incentives for temporary trust water
- **Purchase** – Fair market value for permanent trust water
- **Donation** – Protects beneficial use and gives tax incentives

How to Temporarily Donate

1. Download the donation form from Dept. of Ecology's website
2. Submit the form to Dept. of Ecology
3. Provide proof that the water right has been used in the last five years
4. Once Dept. of Ecology's regional office receives the complete form and proof of use, Ecology will send a letter to the water right holder accepting the water rights into the TWRP
5. Ecology will post notice of the water right donation on their website and accept comments

Need Help?
Not a Problem.

Resources

- Washington Water Trust & Trout Unlimited (confidential)
- Water right attorneys and consultants
- Ecology staff: Central Regional Office in Yakima
- Ecology's Water Resources Explorer (online)
- Washington State Water Law: A Primer (online)
- Landowner's Guide to Washington Water Rights (online)



Okanogan County Water Conservancy Board

- Created by the legislature to reduce Ecology's water rights processing backlog
- OCWCB processes water right changes in Okanogan County
 - Purpose of use
 - Place of use
 - Point of withdrawal
 - Place of diversion
- Five member board, trained by Ecology



Water Conservancy Board Process

- Change applications are filled without Board along with a \$1000 fee
- Public notice of the proposed change is printed
- Public comment period
- Board review of proposal
- Board votes on proposal
- If Board approves change, Ecology gets a review period and makes final decision



Contact Us!

- Meetings are the first Wednesday of the month at 2 PM.
- Contact the Clerk of our Board with your questions

Lisa de Vera, Clerk
(509) 860-7466
ldevera@nwi.net



Questions



Jacquelyn Wallace
jwallace@tu.org
(509) 881-7690

Kristina Ribellia
kristina@washingtonwatertrust.org
(509) 607-3513