Introduction to Water Rights

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Our mission

Support sustainable water resources management to meet the present and future water needs of people and the natural environment, in partnership with Washington communities.
Full Disclosure

- I am not an attorney 😊
- Water rights are complicated.
- The validity of a right is highly case-specific.
- The legal availability of water is highly location-specific.
- Use your resources!

  - Water Rights Attorneys
  - Department of Ecology Staff
  - Local Governments
  - Local Water Conservancy Boards
  - Certified Water Rights Examiners
  - Consulting Firms
Presentation
Overview

What is a water right?

Investigating a right

New water supplies
What is a Water Right?
The right to use water for:

- A specific beneficial use.
- A specific quantity.
- During a specified season.
- From a specific point of diversion or withdrawal.
- At a specific location.
Establishing a right

- Claim (use prior to water code)
- Application to Ecology
- Permit-exempt Use
- Instream flows
Maintaining a right
Exempt wells

- Under RCW 90.44.050, permit-exempt uses include:
  - A single home or groups of homes (up to 5,000 gpd*);
  - Livestock (no gallon per day limit);
  - A non-commercial lawn or garden one-half acre in size or less (limited to reasonable use); and
  - Industrial purposes, including irrigation (up to 5,000 gpd).

* Slight difference in basins addressed in RCW 90.94
Instream flows
Investigating the Validity of a Water Right
Certainty is relative

- Only a court can adjudicate a right.
- Ecology performs a “tentative determination of extent and validity” when making decisions.
- Helpful information can be found in associated documents, specifically the Report of Exam.
Questions to ask…

- When was the water first used on the property?
- Has the right been continuously put to beneficial use?
- Has there been 5 or more years of consecutive nonuse or partial use?
- Does the current use match the elements on the water right?
- Are there neighbors, family members, employees, etc. that can attest to the use over time?
- A picture is worth a thousand words…
New Water Supplies
“New” water is hard to find

Availability depends on the watershed and proposed use.

- In limited circumstances, Ecology may be able to grant new permits.
- Many applicants have to mitigate for all or a portion of the consumptive use.

Many water rights are now acquired through a change/transfer of an existing right.

- Generally, existing right needs to be a good fit for the proposed use.
- Can be expensive and time consuming.
- No “one stop shop” for available rights.
- Buyer beware!
Alternative Water Supplies

- Water Banks
- Retiming Projects
- Reclaimed Water
- Rainwater Collection
For more information:

- Ecology.wa.gov
- Regional office staff
- “A Landowners Guide”

Thank you!