

Focus on: Future Adjudications



More information

Visit our [Adjudications page](https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-rights/Adjudications):
ecology.wa.gov/Water-Shorelines/Water-supply/Water-rights/Adjudications

Contact information

Robin McPherson
 Adjudication Assessment Manager
 360-407-7244
robin.mcpherson@ecy.wa.gov

ADA accommodations

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-6872 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

Adjudications Protect Water and Water Users

Adjudications are lawsuits that verify all water rights on a water source, including Tribal water rights and stream flows. All water users receive notice and have a chance to prove their right in court. The court rules on each water right's quantity and history, and ranks rights on a "first in time, first in right" schedule. In times of water scarcity, a water master manages the rights so that newer ("junior") rights are curtailed before the older ("senior") rights. This is the most fair and complete method of managing a source of water.

Following *Ecology v. Acquavella*, the adjudication recently completed in the Yakima Basin, the Legislature has asked Ecology to recommend whether and where the next adjudications should take place.

Where Will Adjudications Help the Most?

Adjudication are big undertakings, and the State needs to prioritize where they will make the most difference. Ecology is identifying basins where adjudication is the right tool to protect water and water users. In some watersheds, the history of water rights is unclear, making regulation difficult. Ecology cannot enforce one water user's claim against another – water users must sue each other to stop impairment by junior users. Water users face uncertainty from year to year because they are vulnerable to interruption. An adjudication brings certainty and protection to all water rights, including stream flows.

How Adjudications Begin

Ecology prepares for an adjudication by defining a water source and identifying all uses of that source, including streamflow. Water users, claimants, and the public all receive notice of the adjudication. Then Ecology files a lawsuit in state superior court naming all users and claimants as defendants. Ecology assists water users by providing available state documentation of their water rights. Water users may also present evidence of their historic water use. Any legal questions on the legal status of a water right are addressed by the court.

Tribal and Federal Reserved Water Rights

Federal law allows Ecology to join Tribes and the Federal Government in state court for general water adjudications.

Tribes may prove a number of claims to a water source including water for instream flow, agriculture, or other purposes. The court determines the quantity and priority date of Tribal rights along with all others. Depending on the history of the water right, the priority date might be “time immemorial,” the date of a federal land reservation, or the date water was acquired by the Tribe.

Before bringing any lawsuit against a Tribe, Ecology will comply with the Attorney General’s Tribal Consent and Consultation Policy.

Adjudicating Groundwater

A water source often includes both surface and ground waters that are connected. All water users, as well as stream flows, are entitled to the security and protection of an adjudication.

In a new adjudication, Ecology will describe the water source for the court, including maps and hydrology to show whether groundwater wells impact rivers and streams.

If they are connected to the water source, groundwater claimants may prove their history and legality of use, and the court will enter them on the final decree with a priority date.

Adjudications Get Results

An adjudication verifies valid water rights based on their past use and any legal exemptions. This keeps water uses fair and legal.

A final adjudication decree has the force of law. Verified rights receive adjudicated certificates stating their priority date, quantity, and use. Unlike state-issued permits and certificates, these are not “tentative” decisions. The adjudication is the final word on a water user’s relative priority. This includes many very old claims to water that the State cannot otherwise regulate.

Adjudications can take a number of years, depending on how many water users are involved. The adjudication of the Yakima River system in *Acquavella* included 33 subbasins and took over 40 years. Future adjudications will be more efficient due to changes in the law and advances in technology.

Collaboration and Settlement

The law encourages Ecology to settle water rights disputes. This includes adjudications. Adjudications can encourage settlement and partnership because all water users are joined together in a uniform process. Any final settlement in an adjudication is presented to the court for approval of the agreed water right quantities. This provides transparency and due process throughout the watershed.

Ecology’s Next Steps

Ecology is looking statewide to assess watersheds that might benefit from adjudication. We are considering basins with senior Tribal water rights, streamflow needs, and challenges caused by water user uncertainty and conflict.

Ecology will incorporate its assessment and recommendations into an in-depth report to the Legislature. The report will describe the challenges and benefits of adjudicating certain watersheds.

Before filing an adjudication, Ecology must consult with the courts and legislature about budget and resources. Ecology is consulting with the courts in preparation for its Adjudication Assessment Legislative Report, required by September 1, 2020.