



# **Stakeholder Recommendations for Efficient Water Rights Processing and Effective Water Management**

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# **Stakeholder Recommendations for Efficient Water Rights Processing and Effective Water Management**

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Water Resources Program  
Washington State Department of Ecology  
Olympia, Washington

The mission of the Water Resources Program is to support sustainable water resources management to meet the present and future water needs of people and the natural environment, in partnership with Washington communities.

## Authorizing Laws

- *RCW [18.104](#), Water Well Construction Act (1971)*
- *RCW [43.21A](#), Department of Ecology (1970)*
- *RCW [43.27A](#), Water Resources (1967)*
- *RCW [43.83B](#), Water Supply Facilities (1972)*
- *RCW [43.99E](#), Water Supply Facilities – 1980 Bond Issue (Referendum 38) (1979)*
- *RCW [86.16.035](#), Department of ecology control of dams and obstructions (1935)*
- *RCW [90.03](#), Water code (1917)*
- *RCW [90.08](#), Stream patrolmen (1925)*
- *RCW [90.14](#), Water rights claims registration and relinquishment (1967)*
- *RCW [90.16](#), Appropriation of water for public and industrial purposes (1869)*
- *RCW [90.22](#), Minimum water flows and levels (1969)*
- *RCW [90.24](#), Regulation of outflow of lakes (1939)*
- *RCW [90.28](#), Miscellaneous rights and duties (1927)*
- *RCW [90.36](#), Artesian wells (1890)*
- *RCW [90.38](#), Yakima river basin water rights (Trust Water) (1989)*
- *RCW [90.40](#), Water rights of United States (1905)*
- *RCW [90.42](#), Water resource management (Trust Water) (1991)*
- *RCW [90.44](#), Regulation of public groundwaters (1945)*
- *RCW [90.46](#), Reclaimed water use (1992)*
- *RCW [90.54](#), Water resources act of 1971 (1971)*
- *RCW [90.66](#), Family farm water act (1977)*
- *RCW [90.80](#), Water conservancy boards (1997)*
- *RCW [90.82](#), Watershed planning (1997)*
- *RCW [90.86](#), Joint legislative committee on water supply during drought (2005)*
- *RCW [90.90](#), Columbia River basin water supply (2006)*
- *RCW [90.92](#), Pilot local water management program (Walla Walla) (2009)*

## Case law

Washington case law plays a vital role in providing determinations and rulings that also govern water resources management. The Water Resources Program's website on laws, rules, and case law can be found at <http://www.ecy.wa.gov/programs/wr/rules/rul-home.html>.

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# Purpose

In May 2011, the Legislature enacted 2ESHB 1087 and directed Ecology to consult with key stakeholders on statutory barriers to effective water management, and to report those recommendations to the appropriate legislative committees. The bill states:

*(a) The department shall consult with key stakeholders on statutory barriers to efficient water rights processing and effective water management, including identification of obsolete, confusing, or conflicting statutory provisions. The department shall report stakeholder recommendations to appropriate committees of the legislature by December 1, 2011, and October 1, 2012.*

This is the first report.



# Introduction

In the 2011 Operating Budget, [2ESHB 1087](#), the Legislature directed the Department of Ecology to gather and provide comments from key stakeholders and report to the Legislature in 2011, and 2012. The proviso stated:

*(a) The department shall consult with key stakeholders on statutory barriers to efficient water rights processing and effective water management, including identification of obsolete, confusing, or conflicting statutory provisions. The department shall report stakeholder recommendations to appropriate committees of the legislature by December 1, 2011, and October 1, 2012.*

## Process of soliciting comments from key stakeholders

In order to meet that directive, Ecology consulted with and solicited comments from stakeholders for the first report in July 2011. On July 14, 2011, we announced to our key stakeholder committee, the Water Resources Advisory Committee (WRAC), that we were looking for their comments on “*What is wrong with existing water law and how would I fix it?*”

We posted a web form for comments that has been available to stakeholders since July. The web form contained a drop-down box with several topics listed for stakeholders to provide brief summaries of their recommendations for statutory changes. We also provided the ability for stakeholders to attach a document with additional narrative as needed.

We also attended the Columbia River Policy Advisory Group, another key stakeholder group, and announced that we were looking for their suggestions.

Ecology actively solicited comments by attending meetings, emailing, mailing, and calling stakeholder groups over several months, including:

- Association of Washington Cities
- Ecology’s Columbia River Policy Advisory Group
- Ecology’s Water Resources Advisory Committee
- Washington Conservation Districts
- Washington Environmental Council
- Washington Farm Bureau
- Washington Public Utilities Districts
- Washington State Association of Counties
- Washington Tribes
- Washington Water Policy Alliance
- Washington Water Utilities Council
- Watershed Planning Units

Throughout the summer, we received only a few comments. In September, we extended the deadline until the end of October. By October 31, we had received comments from 40 individuals, covering 11 categories.

## Summary of comments received

Ecology received a broad variety of comments, with recommendations to improve the water code and make the administration of Washington State's water resources more effective and efficient, from:

- Water utilities
- Water attorneys
- Municipal water suppliers
- Farm groups
- Tribes
- Individual water right holders
- Home builders
- Government representatives

Taken as a whole, these recommendations reflect strong historical divisions of opinion on water resource issues. Three issues received the most comments: relinquishment, efficient water right processing, and permit exempt wells. Comments received in these three areas reflect a wide diversity of water perspectives and illustrate why water resource legislation has had such a contentious history in our state.

### Efficient water rights processing

Several stakeholders submitted suggestions for making the water rights application process more efficient, ranging from granting Ecology the authority to collect fees that reflect actual processing costs to a total reorganization of the program.

The Water Resources Program is currently reviewing the existing water right application processes with the intention of creating a process that is more efficient, takes less time and adds more value for the customer. Please see *2011 Report to the Legislature: Water Resources Program Reforms and Efficiencies*, which summarizes efficiency reforms implemented to date. Another report on Water Resources Program reforms and efficiencies is due to the Legislature in October 2012. We will give the stakeholder recommendations our careful consideration as we work to implement efficiencies to our water rights processing procedures.

### Permit-Exempt Wells

Considerable disagreement exists about issues related to permit exempt wells, ranging from allowing them in all circumstances to restricting them, lowering the quantity limit, and metering use. Several commenters stated that the statute needed to be reviewed, revised, or clarified. The statute as it is currently written has been argued from many perspectives, resulting in four

Attorney General Opinions between 1992 and 2009. There is also significant case law regarding the groundwater permit exemption. Several recent State Supreme Court decisions have been issued with regard to the groundwater exemption, including *Ecology v. Campbell & Gwinn* (2002), *Five Corners Family Farmers v. State* (2011), and *Kittitas County v. Eastern Washington Growth Management Hearings Board* (2011). However, since there has been no agreement on how to change the statute, it stands as currently written, despite new legislation being introduced nearly every year.

## Relinquishment

Relinquishment was another popular issue for stakeholder comments. Under the current statute a water right is relinquished after a period of five years of non-use unless the water right holder qualifies for one of the exceptions. The numerous relinquishment recommendations Ecology received range from stepping up enforcement of relinquishment provisions to repealing statutory relinquishment provisions entirely.

## Report organization

This report to the legislature is organized topically within the following categories:

- Adjudication (6 comments)
- Compliance with Water Laws (9 comments)
- Efficient Water Rights Processing (19 comments)
- Permit-Exempt Wells (14 comments)
- Relinquishment (21 comments)
- Stream flows/Restoration (8 comments)
- Water Banking/Mitigation (10 comments)
- Water Data Management (1 comment)
- Water Use Efficiency/Conservation (12 comments)
- Watershed Management (5 comments)
- Other (19 comments)

Within each category, comments are listed in alphabetical order by the commenter's last name. We provide page references to attached commenter letters where commenters chose not to provide a concise summary statement.

## Next steps

Ecology remains committed to working with stakeholders, governmental entities, and the Legislature to identify and pursue legislative opportunities to remove statutory barriers to efficient water rights processing and more effective water resource management. Over the interim, Ecology will solicit additional comments for the October 2012 report and will offer additional consultations with stakeholders who made recommendations in this report. This will include discussion of the various legislative and administrative options available: repeal of

obsolete portions of the water code, removal of conflicting language within the water code, clarification of confusing water code provisions, or policy or rulemaking opportunities to implement improvements within Ecology's current administrative authority.

## Adjudication

<p><b>Carla Carlson</b></p> <p>Water Resources Analyst/Hydrologist, Muckleshoot Indian Tribe</p>	<p>Multiple comments are included in a letter on page 51</p>
<p><b>Kathleen Collins</b></p> <p>Washington Water Policy Alliance</p>	<p>Multiple comments are included in a letter on page 55</p>
<p><b>Rachel Paschal Osborn</b></p> <p>Staff Attorney, Center for Environmental Law and Policy</p>	<p>Multiple comments are included in a letter on page 97</p>
<p><b>Richard Price</b></p> <p>General Manager/Engineer, Stevens Public Utility District</p>	<p>The adjudication law should specify at least one group of water users such as exempt well owners that certify they use less than 5,000 gpd that can simply sign a standard legal document sent to them by Ecology that legally affirms their exempt water right and thereby removes them from all further action in the adjudication process. This should resolve 80-95% of the parties in the adjudication case very early in the process without undue unnecessary legal intimidation of the exempt well owners, and significantly reduce the cost of the adjudication and angst by the general public.</p>
<p><b>Naomi Stacy</b></p> <p>Confederated Tribes of the Umatilla</p>	<p>Concern: Tribal Water Rights Affects: Tribes have two options to adjudicate water rights 1) a general stream adjudication and 2) litigation. Both are lengthy, contentious, and costly processes and run counter to a collaborative process between stakeholders. Completed adjudications do not quantify nor</p>

	<p>protect Indian water rights reserved by federal treaties.</p> <p>Recommendation: Adopt a streamlined process that gives Washington the authority to negotiate with tribes and stakeholders to quantify and establish Indian water rights without a general stream adjudication or litigation.</p> <p>Purpose: Establish a clear and consistent legal mechanism to quantify Indian water rights that Tribes can rely on and use in collaborative efforts with stakeholders to restore Treaty rights. Reduce the time and cost to quantify Indian water rights and begin honoring federally reserved instream water rights. Provide water right certainty for existing users. Additional Resources: Oregon Water Law Chapter 539 (539.300 539.350).</p>
<p><b>John Stuhlmiller</b></p> <p>Director of Government Relations, Washington Farm Bureau</p>	<p>We support the use of limited area general adjudications as conducted from the 1920s up to the early 1970s. The Department has many examples of streams that have been adjudicated, bringing a level of certainty to water right holders and a simpler permit processing. Whole basin adjudications are costly and complex. Focusing on reaches or other limited scope adjudications will be less expensive.</p>

## Compliance with Water Laws

<p><b>Susan Adams</b></p> <p>Executive Director, Washington Water Trust</p>	<p>With respect to efficient water right processing:</p> <ol style="list-style-type: none"> <li>1) Make a determination or just say no to applications for new water rights that are not viable upon submittal rather than placing them in the queue for further consideration.</li> <li>2) Complete more administrative divisions linking water rights to parcel records.</li> <li>3) Allow for a longer term look back period (beyond 5 years) for restoration projects.</li> <li>4) In 90.14.140 2c, clarify what is meant by “determined future development.”</li> <li>5) Address conflicts between various trust water statutes to streamline the review process.</li> </ol> <p>With respect to water law compliance:</p> <ol style="list-style-type: none"> <li>1) Consistently enforce existing regulations</li> <li>2) Actively pursue more voluntary relinquishments</li> </ol>
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<p><b>Carla Carlson</b></p> <p>Water Resources Analyst/Hydrologist, Muckleshoot Indian Tribe</p>	<p>Multiple comments are included in a letter on page 51</p>
<p><b>Dan Class</b></p> <p>Water Right Holder</p>	<p>Multiple comments are included in a letter on page 53</p>
<p><b>Jeff Johnson</b></p> <p>Legislative Committee Chair, Water Cooperative of Pierce County</p>	<p>Multiple comments are included in a letter on page 63</p>
<p><b>David McClure</b></p> <p>Director, Natural Resources Department, Klickitat County</p>	<p>Issue: The current application/interpretation of the anti-degradation provision contained in the State of Washington's Groundwater Quality Standards is currently a constraint to timely permitting and cost effective implementation of ASR in Washington, both for municipal and other (e.g. agricultural) uses.</p> <p>Recommendation: Pursue statutory and/or regulatory policy change specific to ASR, which allows for de minimus impact to the quality of the receiving body of groundwater, as long as beneficial use of the groundwater resource is not impaired and it is not detrimental to the public interest.</p> <p>The policy should consider:</p> <ol style="list-style-type: none"> <li>1) the possibility for generating disinfection byproducts in the aquifer, due to residual chlorine reacting with natural organic matter, such that the byproducts persist at concentrations above drinking water standards; and</li> <li>2) the possibility of groundwater discharge to surface water as an additional beneficial use of groundwater, and the resulting possibility of impacts to aquatic resources if water containing elevated concentrations of residual chlorine and/or byproducts were to discharge to sensitive streams. The policy should outline monitoring requirements and a guideline for establishing water quality action limits for disinfection byproducts in the event that in-situ degradation of these constituents does not occur.</li> </ol>



<p><b>Rachel Paschal Osborn</b></p> <p>Staff Attorney, Center for Environmental Law and Policy</p>	<p>Multiple comments are included in a letter on page 97</p>
<p><b>Richard Price</b></p> <p>General Manager/Engineer, Stevens Public Utility District</p>	<p>Inchoate Water Rights: Inchoate water rights for municipal water providers must be clearly protected by the law. Ecology should offer to purchase agricultural irrigation and inchoate water rights that they consider were mistakenly issued over the actual water available.</p>
<p><b>Naomi Stacy</b></p> <p>Confederated Tribes of the Umatilla</p>	<p>Concern: Inadequate funding for Monitoring, Reporting and Regulation.</p> <p>Affects: Illegal withdrawals; Unreliable water supply/demand data; and impacts to senior water rights, including instream flows.</p> <p>Recommendation: Mandatory monitoring and reporting for ALL water use and increased funding for enforcement/Water Masters</p> <p>Purpose: Adequate funding is needed to ensure legal use of water to protect valid water rights and substantial investments in stream flow restoration.</p>
<p><b>Kathleen Whalen</b></p> <p>Administrator, Thurston Conservation District</p>	<p>Here are the recommendations from our staff:</p> <ol style="list-style-type: none"> <li>1) DOE needs to inventory water right claims and determine what the true withdrawals are so that a determination can be made about water availability.</li> <li>2) If there is to be any agriculture in Western Washington, then some water for irrigation must be made available to new producers so they are not forced into illegal usage situations.</li> <li>3) Agriculture water should remain available for agriculture only, rather than given up to municipalities. The way it is now, it pushes the value of existing water rights out of the reach of farmers. Agriculture cannot remain viable in most regions without irrigation.</li> </ol>

## Efficient Water Right Processing

<p><b>Henry Bierlink</b></p> <p>Bertrand Watershed Improvement District</p>	<p>Multiple comments are included in a letter on page 35</p>
<p><b>Randall Black</b></p> <p>General Manager, Lakewood Water District</p>	<p>Multiple comments are included in a letter on page 39</p>
<p><b>Kathleen Collins</b></p> <p>Washington Water Policy Alliance</p>	<p>Multiple comments are included in a letter on page 55</p>
<p><b>Glen George</b></p> <p>Water Supply Manager, Tacoma Water</p>	<p>Multiple comments are included in a letter on page 57</p>
<p><b>Jeff Johnson</b></p> <p>Legislative Chair, Water Cooperative of Pierce County</p>	<p>Multiple comments are included in a letter on page 63</p> <p>Please see the E-mail sent to Barbara Anderson that includes a document with a series of issues and possible solutions and a brief white paper on the state’s approach to the determination withdrawal “impacts” relative to other water rights and instream flows.</p>
<p><b>John Kounts</b></p> <p>Water Program Director, Washington Public Utility Districts Association</p>	<p>Multiple comments are included in a letter on page 73</p>

<p><b>Don Lee</b></p> <p>Co-Chair, Island County Water Resource Advisory Committee</p>	<p>The Island County Water Resource Advisory Committee supports statutory changes supporting improved water right processing and fees. The State Department of Ecology (DOE) should have adequate staffing for working through the water rights backlog and keeping up with applications. Fees should reflect current processing costs. The cost of processing a water right should also reflect costs of addressing protests.</p>
<p><b>Sarah Mack</b></p> <p>Attorney, Tupper, Mack, Jensen, and Wells, PLLC</p>	<p>Eliminate Ecology review of Water Conservancy Board decisions. Provide for appeal of Water Conservancy Board decisions to the PCHB within 30 days pursuant to RCW 43.21B.110. Authorize the director to appeal any WCB decision to the PCHB, with the same rights as any other aggrieved party -- similar to appeal to the Shorelines Hearings Board of shoreline substantial development permits.</p> <p>Ecology routinely takes 75 days to “review” a WCB decision, and at the end of that lengthy period, Ecology issues decisions that are completely irrelevant in the PCHB’s de novo appeal process. See Painted Summer Hills, LLC v. Ecology, PCHB No. 09-006; Orondo Fruit Company v. Ecology, PCHB No. 10-164. In light of the PCHB’s de novo review, it would eliminate burdensome delays and streamline the water right change process for Ecology to simply appeal a decision with which it disagrees.</p>
<p><b>Marc Marcantonio</b></p> <p>General Manager, Mt. View-Edgewood Water Company</p>	<p>Multiple comments are included in a letter on page 79</p>
<p><b>Jim Miller</b></p> <p>City of Everett</p>	<p>Multiple comments are included in a letter on page 91</p>
<p><b>Darryll Olsen</b></p> <p>Columbia-Snake River Irrigators Association</p>	<p>Multiple comments are included in a letter on page 93</p>

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I have a few observations as to what contributes to and could potentially resolve some of the inefficiencies that I hope are helpful.

**Burden of Proof:** As in any civil procedure the burden of proof on an application of any kind is by a preponderance of the evidence which is merely “more likely than not.” DOE staff do not get this. They are trained mostly as scientists so when they hear the words “burden of proof” they think scientific theory which is not thought of as “proven” until there has been rigorous data collection and pretty much everyone agrees that there is no other possible explanation. Taking this position may be appropriate from a scientific point of view but it far exceeds the legal requirement and imposes a burden beyond what is allowed by law.

**Example (I have many actual examples):** A well is located within 400 feet of the Columbia River. The water level in the well is the same as the river. When the river was dammed the water rose 100 feet in the well just like the river did. The area is a very arid desert and the subject well is very high production. The nearest other well is a mile away in similar substrata farther from the river and has been pumped hard for 30 years or more with no indications that the aquifer is stressed. Most attorneys and judges would be ecstatic to have evidence this strong in favor of hydraulic continuity in a civil trial. DOE agrees that more probably than not that is the case, but because the well penetrates basalt layers they argue (as always can be argued) that there might be something restricting the flow from the river to the aquifer. 2 years and \$50K+ later we finally agree that there is sufficient hydraulic continuity.

The scientific virtue that DOE pursues is nearly always perceived by outsiders as abusive, and legally it is. It also is highly inefficient and pervades nearly every task DOE undertakes. It manifests most strongly where the work associated with achieving scientific virtue can be pawned off on others and when that also means that DOE work on the application can pause in the mean time.

I am personally acquainted with most CRO staff that deal with water rights. Nearly all of them are hard working conscientious persons. But when trained to scientific rather than legal virtue, and in the face of strong moral hazards I do not think it is reasonable to expect them to understand or resist such inefficiency.

**Triage:** Some decisions matter more than others. Spend DOE time and effort accordingly. Resource decisions that involve 20 gpm on the main stem Columbia are not even worthy of comment if there is any indication that there has been a good faith effort towards

	<p>compliance. 20 cfs in a critical habitat tributary that averages 200 cfs deserves more effort. Set a policy that once a threshold of 1/10000 is reached that the DOE will move on to bigger and better things. This threshold should be low enough to assure that even cumulative effects will not matter, but high enough to keep from arguing about how many angels can dance on the head of a pin.</p> <p>Presumptions: a policy of presumptions in favor of common findings under common circumstances (e.g. a presumption of hydraulic continuity when within 400 feet of the river) would streamline many processes.</p> <p>Deregulation: Many of a water rights restrictions could be interpreted more broadly or even done away with, alleviating the need for many water right changes.</p> <p>Voluntary Compliance: The web based GIS information on water rights enormously facilitates persons efforts to comply with the law. Allowing consultants to attend DOE trainings would disseminate rules and reasoning and enhance the likelihood of mutual understanding. It could also provide revenue to pay for the costs of training.</p> <p>I believe much of this could be effected with policy changes. Rule making and Legislative changes could also help a lot but the bulk could be accomplished by mere policy changes.</p>
<p><b>Don Phelps</b></p>	<p>The Department of Ecology spends an inordinate amount of time in reviewing every detail of a Water Conservancy Board decision including redoing the mapping, etc. The review is much more stringent than the review conducted on a change prepared in-house by a staff member.</p> <p>The Boards never increase the authorized quantity so Ecology should focus on the significant issues rather than the minutia. I have yet to see a Conservancy Board decision appealed by a third party - appeals are almost exclusively between the applicant and Ecology when the change is denied.</p>

<p><b>Richard Price</b></p> <p>General Manager/Engineer, Stevens Public Utility District</p>	<p>Pending Applications: Pending applications for new water rights and for changes/transfers should be verified every 2 or 3 years by Ecology sending a certified letter, requiring the applicant to respond by certified letter that they want their application to remain active. Ecology’s letter should also provide the applicant information on the status of their application, estimated processing time, and any other possible options for proceeding sooner with processing their application. If no response is received from the applicant within 45 days, the application is denied. The denial letter would also be sent certified and should have a reasonable appeal procedure.</p>
<p><b>George Sevier</b></p> <p>Chairman, Mason County Water Conservancy Board</p>	<p>ECY has implemented the present water law legislation into policy/regulation in the most bureaucratic way possible and in doing so punted their execution responsibilities to the State’s legal system. The Department needs to redo their policy and process to one that expeditiously makes bureaucratic decisions based on the information presented. They need to set time objectives/limits for their deliberations and decisions. If the claimants then want to move through the courts that is their burden. The present system has no way of meeting the problems and decisions needed to meet the problems faced in Eastern Washington today, not soon to be faced in the Western side in the near future.</p>
<p><b>Naomi Stacy</b></p> <p>Confederated Tribes of the Umatilla</p>	<p>Concern: Too much focus on processing water right applications in basins that are not involved with water rights adjudications.</p> <p>Affects: Lack of funding for collecting sufficient data for water management and enforcement.</p> <p>Recommendation: Prioritize funding for water management and enforcement.</p> <p>Purpose: To slow down process that creates new/modified water rights that will increasingly compete with unquantified senior water rights and instream flows necessary to restore and maintain ecological health of a vital public resource.</p>
<p><b>John Stuhlmiller</b></p> <p>Director of Government Relations, Washington Farm Bureau</p>	<p>Efficient water right processing depends and clarity of the statute and clear standards by which the department measures the validity of water rights. The department has been doing well on cleaning up internal processes related to permit processing.</p> <p>To bring better clarity and efficiency, we need to limit the number of years of evidence related to water use that must be submitted by an applicant and reviewed by Ecology. We have supplied countless versions of legislation that would limit the look-back period and also to modify the relinquishment standard. Each of these would</p>

	bring certainty to Ecology water right holders, applicants for water rights, and entities who would like to purchase water rights. Great cost savings, efficiencies, and economic activity would be achieved following this course.
<b>John Weidenfeller</b>  General Manager, Public Utility District #1 of Thurston County	Multiple comments are included in a letter on page 109
<b>Josh Weiss</b>  Washington State Association of Counties (WSAC)	Certainty and efficiency in processing water rights is crucial to rural economic development. The water right permitting process needs to be reformed to make the process move faster. The agency’s current efforts to “lean” the process should be commended and given a chance to determine the level of efficiencies that will be gained before making further changes.

## Permit Exempt Wells

<b>Patricia Arnold</b>  Owner, Green Pastures Farm	The exempt well permit is, in my opinion, widely overused and abused. Withdrawals from exempt wells should be metered and monitored and Ecology should be able to limit exempt wells when and in locations where their withdrawals threaten to diminish ground water supplies to a detrimental degree or to threaten other pre-existing or senior users, especially those with water rights.
<b>Carla Carlson</b>  Water Resources Analyst/Hydrologist, Muckleshoot Indian Tribe	Multiple comments are included in a letter on page 51
<b>Art Castle</b>  Interim Executive Vice President, BIAW	Additional comments  Problem: There is no recognizable, watershed specific, groundwater supply dedicated to new, or even existing, statutorily permit exempt wells. In some areas of the state, Ecology has adopted rules limiting exempt withdrawals that directly conflict with local land use plans.

	<p><b>Solution:</b>  Within each watershed, dedicate an amount for existing and future permit exempt wells sufficient for 50 years demand, based on projected needs from locally-adopted land use plans.</p> <p><b>Narrative:</b>  The state’s Water Resource Act provides that a fundamental obligation of the state, through the Department of Ecology, is that “adequate and safe supplies of water shall be preserved and protected in potable condition to satisfy human domestic needs.” RCW 90.54.020(5). Outside of areas served by water systems, this means “preserving and protecting” a quantity of water than can be used under the groundwater permit exemption in RCW 90.44.050 to implement local land use plans. Compared to other categories of uses (industrial, agricultural, municipal), exempt wells use an insignificant quantity of water, but nonetheless should be part of local groundwater planning efforts. In certain areas of the state, Ecology should create a reserve of groundwater that is available for exempt uses by identifying available groundwater, enhancing storage, water acquisition, water banking, aquifer recharge, or through other strategies.</p>
<p><b>Dan Class</b></p>	<p>Multiple comments are included in a letter on page 53</p>
<p><b>Glen George</b>   Water Supply Manager,  Tacoma Water</p>	<p>Multiple comments are included in a letter on page 57</p>
<p><b>Ted Knight</b>   Attorney, Spokane  Tribe of Indians</p>	<p>(1) The legislature should review and revisit the law/policy that has allowed the expansion of permit exempt wells, and should consider substantial revisions to the law/policy that would protect senior water rights and provide certainty into the future for fish and wildlife managers.</p> <p>(2) The State should consider a substantial resource allocation to begin adjudications within the State of waterbodies that cross State borders. For example, the Tribe is very concerned that the State of Idaho has an adjudication well underway for the Spokane River Basin, while Washington State’s adjudication is still in its infancy.</p> <p>Thank you for the opportunity to provide comments. Sincerely,</p>



	<p>Ted Knight Attorney for the Spokane Tribe of Indians</p>
<p><b>John Kounts</b></p> <p>Water Program Director, Washington Public Utility Districts Association</p>	<p>Multiple comments are included in a letter on page 73</p>
<p><b>Jim Miller</b></p> <p>City of Everett</p>	<p>Multiple comments are included in a letter on page 91</p>
<p><b>Rachel Paschal Osborn</b></p> <p>Staff Attorney, Center for Environmental Law and Policy</p>	<p>Multiple comments are included in a letter on page 97</p>
<p><b>Steve Senger</b></p> <p>President, Central Washington Home Builders Association</p>	<p>Multiple comments are included in a letter on page 103</p>
<p><b>Naomi Stacy</b></p> <p>Confederated Tribes of the Umatilla</p>	<p>Concern: Depletion of groundwater supply/surface water impact.</p> <p>Affects: Lack of groundwater return flows reduces surface flow quantity. Cold water influence from hyporheic zone connectivity is lost.</p> <p>Recommendation: One- to-one in place and time mitigation in all basins with:</p> <ol style="list-style-type: none"> <li>1) declining groundwater supplies/already unsustainable use</li> <li>2) Hydraulic connectivity between ground and surface water where surface water rights are over- appropriated, ESA species present or Tribal water rights not adjudicated.</li> </ol> <p>Purpose: Cease continued pressure on negative impacts of declining groundwater supplies and to ensure ability to use by future generations.</p>

<p><b>John Stuhmiller</b></p> <p>Director of Government Relations, Washington Farm Bureau</p>	<p>Permit exempt wells are the lifeblood of small development and agricultural activity. Restricting such use only hinders economic activity in the rural area without benefiting water resource management. Since permit exempt wells do not take precious review time away from Ecology, they help the agency focus on major resource impacts, further holding costs of the agency down.</p> <p>We need to continue to allow these statutory uses without hindrance.</p>
<p><b>John Weidenfeller</b></p> <p>General Manager, Public Utility District #1 of Thurston County</p>	<p>Multiple comments are included in a letter on page 109</p>
<p><b>Josh Weiss</b></p> <p>Washington State Association of Counties (WSAC)</p>	<p>Counties are struggling with the ambiguity surrounding the use of permit exempt wells. There is uncertainty about when a water right is needed and what constitutes a “project” under Campbell and Gwinn. Clarity is needed in this area in order to ensure that rural development is not unnecessarily hindered.</p>

## Relinquishment

<p><b>Henry Bierlink</b></p> <p>Bertrand Watershed Improvement District</p>	<p>Multiple comments are included in a letter on page 35</p>
<p><b>Randall Black</b></p> <p>General Manager, Lakewood Water District</p>	<p>Multiple comments are included in a letter on page 39</p>
<p><b>Mike Buckley</b></p> <p>Irrigator, Walla Walla</p>	<p>Multiple comments are included in a letter on page 49</p>

<p><b>Carla Carlson</b></p> <p>Water Resources Analyst/Hydrologist, Muckleshoot Indian Tribe</p>	<p>Multiple comments are included in a letter on page 51</p>
<p><b>Art Castle</b></p> <p>Interim Executive Vice President, BIAW</p>	<p>Water Resources Advisory Committee (WRAC) regarding the directive from the Legislature. In response to the Department of Ecology request for input. September 30, 2011</p> <p>Problem: There is no recognizable, watershed specific, groundwater supply dedicated to new, or even existing, statutorily permit exempt wells.</p> <p>Solution: From the DOE recognized “Waters of the State” inventory within each watershed, dedicate an amount for existing and future permit exempt wells sufficient for 20 years demand. Consideration should be to apply this to Kittitas County, evaluate the result and consider whether it’s appropriate to apply more broadly around the state.</p> <p>Narrative: For many years the DOE has accumulated a volume of water and groundwater rights from wells and surface diversions through a process known as “Relinquishment”, or as more commonly called, “use it or lose it”. In that same period of time DOE has also “conserved” many acre-feet of water by funding irrigation district water preservation measures. An accurate accounting of this ‘state controlled” ground and surface water inventory should reveal a reserve from which an appropriation could be made of an amount of water sufficient to provide for both current and future rural domestic use under the groundwater exemption to meet the comparatively insignificant demands of permit exempt wells.</p>
<p><b>Kathleen Collins</b></p> <p>Washington Water Policy Alliance</p>	<p>Multiple comments are included in a letter on page 55</p>
<p><b>Glen George</b></p> <p>Water Supply Manager, Tacoma Water</p>	<p>Multiple comments are included in a letter on page 57</p>

<p><b>Jeff Johnson</b></p> <p>Legislative Committee Chair, Water Cooperative of Pierce County</p>	<p>Multiple comments are included in a letter on page 63</p>
<p><b>John Kounts</b></p> <p>Water Program Director, Washington Public Utility Districts Association</p>	<p>Multiple comments are included in a letter on page 73</p>
<p><b>Sarah Mack</b></p> <p>Attorney, Tupper, Mack, Jensen, and Wells, PLLC</p>	<p>Amend RCW 90.14.150 to read as follows: Nothing in this chapter shall be construed to affect any rights or privileges arising from any permit to withdraw public waters or any application for such permit, or from any authorization to change, transfer, or amend any water right permit, certificate, or claim. The department of ecology shall grant extensions of time to the holder of a preliminary permit only as provided by RCW 90.03.290.</p>
<p><b>Marc Marcantonio</b></p> <p>General Manager, Mt. View-Edgewood Water Company</p>	<p>Multiple comments are included in a letter on page 79</p>
<p><b>David McClure</b></p> <p>Administrative Assistant, Klickitat County Water Conservancy Board</p>	<p>The Klickitat County Water Conservancy Board recommends that the water right relinquishment needs to be changed. The Board’s suggestion is to go from beneficial use of 1 out of 5 years to 1 out of 15 and use the peak year of the 15 to determine beneficial use. This is needed because of the change in crop rotations in the modern agricultural world. Agriculture has to adapt to extreme changes in economic thresholds and needs to be able to sustain its water usages even when there is a period of low crop demand. Rotations for sustainable agriculture are proven by universities to be longer than the current five-year cycle dictated by current statute. The word “permanent” crop no longer applies to agriculture.</p>
<p><b>Jim Miller</b></p> <p>City of Everett</p>	<p>Multiple comments are included in a letter on page 91</p>

<p><b>Darryll Olsen</b></p> <p>Columbia-Snake River Irrigators Association</p>	<p>Multiple comments are included in a letter on page 93</p>
<p><b>Elaine Packard</b></p> <p>Chair, Water &amp; Salmon Committee, Washington Chapter Sierra Club</p>	<p>The Washington Chapter of the Sierra Club is the largest grassroots environmental organization in Washington State. We support laws that promote the elimination of unused and wasted water rights and want to see more and better laws promoting the efficient use of water.</p>
<p><b>Rachel Paschal Osborn</b></p> <p>Staff Attorney, Center for Environmental Law and Policy</p>	<p>Multiple comments are included in a letter on page 97</p>
<p><b>Richard Price</b></p> <p>General Manager/Engineer, Stevens Public Utility District</p>	<p>The relinquishment period should be extended from 5 to 15 years.</p>
<p><b>Steve Senger</b></p> <p>President, Central Washington Home Builders Association</p>	<p>Multiple comments are included in a letter on page 103</p>
<p><b>Naomi Stacy</b></p> <p>Confederated Tribes of the Umatilla</p>	<p>Concern: Incentive to use entire water right. Affects: Water that could be left instream to the benefit of fish or downstream users is diverted at least once every five years solely to retain ability to use the entire water right if needed. Recommendation: Relax relinquishment requirements in return for mandatory real-time measurement and reporting requirements that will allow efficient and responsive water management. Purpose: Provides water right flexibility to avoid wasteful use of water supplies in return for enhancing real-time water management capability.</p>

<p><b>Naomi Stacy</b></p> <p>Confederated Tribes of the Umatilla</p>	<p>Concern: Lack of enforcement</p> <p>Affects: Without enforcement of relinquishment, water right managers, as well as fish managers, do not have a clear picture of how much water will be used in any given year.</p> <p>Recommendation: Utilize relinquishment enforcement and resulting water supply to meet instream flow needs, municipal needs and new applications.</p> <p>Purpose: Actual enforcement of water rights would provide a much clearer baseline water use picture that could be used by water resource managers and fishery managers.</p>
<p><b>John Stuhlmiller</b></p> <p>Director of Government Relations, Washington Farm Bureau</p>	<p>Having already commented on relinquishment under the subject of efficient permit processing I will simply reiterate that relinquishment is an ill-conceived policy that should be repealed. Reliance on the common law notion of abandonment is a better standard.</p> <p>Short of repeal, we need to bring reason to the statute by limiting the look-back period for non-use and cleaning up the requirements necessary to prove full usage of a right.</p> <p>We can save water and better use what is now in play by simply encouraging users to conserve water. This will help take pressure off Ecology related to new rights and will help spur economic activity by giving users the certainty they need to engage in water right transactions.</p>

## Stream flows/Restoration

<p><b>Randall Black</b></p> <p>General Manager, Lakewood Water District</p>	<p>Multiple comments are included in a letter on page 39</p>
<p><b>Mike Buckley</b></p> <p>Irrigator, Walla Walla</p>	<p>Multiple comments are included in a letter on page 49</p>

<p><b>Jeff Johnson</b></p> <p>Legislative Committee Chair, Water Cooperative of Pierce County</p>	<p>Multiple comments are included in a letter on page 63</p>
<p><b>Marc Marcantonio</b></p> <p>General Manager, Mt. View-Edgewood Water Company</p>	<p>Multiple comments are included in a letter on page 79</p>
<p><b>Rachel Paschal Osborn</b></p> <p>Staff Attorney, Center for Environmental Law and Policy</p>	<p>Multiple comments are included in a letter on page 97</p>
<p><b>Yancey Reser</b></p>	<p>Small Stream Weed Control: Many small streams are having their flows reduced to near zero or zero by an invasive weed known as Reed Canary Grass. The literature states that eradication is nearly impossible, only control with treatment. A statute requiring that reasonable access be granted to the property through which an infested stream flows for the purpose of treating streambed weeds to any Federal or State Agency or their Contractor or to any downstream water right holder is needed. Miles of streambeds are choked with this weed, denying water to fish, birds, amphibians, fur bearers, and irrigators. This should be no controversial. Old watermasters used to always tell farmers complaining about low flow, "Clean your ditch." Respectfully, Yancey Reser</p>
<p><b>Steve Senger</b></p> <p>President, Central Washington Home Builders Association</p>	<p>Multiple comments are included in a letter on page 103</p>
<p><b>Naomi Stacy</b></p> <p>Confederated Tribes of the Umatilla</p>	<p>Concern: Instream Flow Rule recognizes stream flows as a beneficiary use but where established are inadequate because they have very junior priority date. Affects: Inadequate stream flows and environmental impacts. Recommendation: Establish instream flow rights senior to all out-of-</p>

	<p>stream water rights and establish a schedule and explore the possibility of eminent domain cost-benefit, which includes avoidance of protracted adjudication, and improved compliance with ESA water needs.</p> <p>Purpose: Ensure the public resource provides the greatest public good and recognize the potential solution provides certainty and a solution to the chronic lack of instream flows to support the biological needs of fish and associated habitat.</p> <p>Concern: Lack of protection for Trust instream flow water rights Affects: Illegal water withdrawals and water management uncertainty. Financial investments made for flow restoration undermined.</p> <p>Recommendation: Prioritize water master/stream patrolmen funding and water law enforcement.</p> <p>Purpose: Properly regulate water rights and protect those that do not get attention from individual users.</p> <p>Concern: Where established, WA instream flow rules are junior to all other water rights existing at the time of establishment. Affects: Private individuals reap the benefits of a public resource to the detriment to the public's use of the resource</p> <p>Recommendation: Establish instream flow rights with priority date senior to all out-of-stream uses and establish a schedule for meeting the instream flow water rights with a general stream adjudication as the backup mechanism</p> <p>Purpose: Manage the water supplies for all of those with water rights, including the right to instream flows.</p>
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## Water Banking/Mitigation

<p><b>Randall Black</b></p> <p>General Manager, Lakewood Water District</p>	<p>Multiple comments are included in a letter on page 39</p>
<p><b>Glen George</b></p> <p>Water Supply Manager, Tacoma Water</p>	<p>Multiple comments are included in a letter on page 57</p>



<p><b>John Kounts</b></p> <p>Water Program Director, Washington Public Utility Districts Association</p>	<p>Multiple comments are included in a letter on page 73</p>
<p><b>Jeff Johnson</b></p> <p>Legislative Committee Chair, Water Cooperative of Pierce County</p>	<p>Multiple comments are included in a letter on page 63</p>
<p><b>Marc Marcantonio</b></p> <p>General Manager, Mt. View-Edgewood Water Company</p>	<p>Multiple comments are included in a letter on page 79</p>
<p><b>Jim Miller</b></p> <p>City of Everett</p>	<p>Multiple comments are included in a letter on page 91</p>
<p><b>Rachel Paschal Osborn</b></p> <p>Staff Attorney, Center for Environmental Law and Policy</p>	<p>Multiple comments are included in a letter on page 97</p>
<p><b>Steve Senger</b></p> <p>President, Central Washington Home Builders Association</p>	<p>Multiple comments are included in a letter on page 103</p>
<p><b>Naomi Stacy</b></p> <p>Confederated Tribes of the Umatilla</p>	<p>Concern: Place and time of mitigation. Affects: Water purchased that does not fully mitigate the impact. Recommendation: Mandate strict ratio of one-to-one, for the same place and time standard for mitigation. Purpose: True mitigation for new and/or modified uses/no impact to existing water rights.</p>

	<p>Concern: Market-based water banking strategy.  Affects: Consumptive uses generate the most money and will dominate the market.  Recommendation: Develop categories of water banking with new development the lowest priority where current water supplies do not meet existing demands.  Purpose: Discourage unsustainable development of new water uses in water scarce areas and create an incentive to develop means to meet growth with existing resources (conservation-efficiency/reallocation).</p>
<p><b>John Weidenfeller</b>   General Manager,  Public Utility District  #1 of Thurston County</p>	<p>Multiple comments are included in a letter on page 109</p>

## Water Data Management

<p><b>Naomi Stacy</b>   Confederated Tribes of  the Umatilla</p>	<p>Concern: Inadequate baseline water use data.   Affects: Unfair, insufficient, and inefficient water management.  Recommendation: Local control and responsibility with Ecology oversight.   Purpose: Beneficiary investment in process.</p>
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## Water Use Efficiency/Conservation

<p><b>Joe Beaudoin</b>   Owner, Joe's Place  Farms</p>	<p>Washington, unlike Oregon, has no incentive to save water; actually the opposite. The stand Washington seems to take is that if you don't use your allotted amount each year Ecology may take some or all of your water rights away.  Counties and areas around Washington State are aggressively trying to find ways to preserve farmland for the future. This is a fruitless venture unless a guarantee of water rights can go along with the land.  If I am correct, the order of priority of water usage is</p>
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	<p>municipalities first and agriculture #2. However, municipalities can use water anyway they want and supply it for any purpose they want with no effort to conserve water for agricultural crops.</p> <p>In general, agriculture is much better at being frugal with its water. Farmers don't put water on timers whether water is needed or not; farmers only use water when their crops need moisture.</p> <p>Food for our tables should be more important than green lawns, landscapes along public roads and highways, large green areas of large businesses, restaurants, etc. Municipal water should be controlled more to protect agricultural use.</p>
<p><b>Randall Black</b></p> <p>General Manager, Lakewood Water District</p>	<p>Multiple comments are included in a letter on page 39</p>
<p><b>Mike Buckley</b></p> <p>Irrigator, Walla Walla</p>	<p>Multiple comments are included in a letter on page 49</p>
<p><b>Kathleen Collins</b></p> <p>Washington Water Policy Alliance</p>	<p>Multiple comments are included in a letter on page 55</p>
<p><b>Jeff Johnson</b></p> <p>Legislative Committee Chair, Water Cooperative of Pierce County</p>	<p>Multiple comments are included in a letter on page 63</p>
<p><b>Marc Marcantonio</b></p> <p>General Manager, Mt. View-Edgewood Water Company</p>	<p>Multiple comments are included in a letter on page 79</p>

<p><b>David McClure</b></p> <p>Administrative Assistant, Klickitat County Water Conservancy Board</p>	<p>The Klickitat County Water Conservancy Board recommends encouraging water conservation by providing new irrigation acres for using conservation practices that save water on existing acres.</p>
<p><b>Rachel Paschal Osborn</b></p> <p>Staff Attorney, Center for Environmental Law and Policy</p>	<p>Multiple comments are included in a letter on page 97</p>
<p><b>Terry Schaeffer</b></p> <p>Owner, T&amp;S Farms</p>	<p>The need to do away with the “Use it or lose it” law is my biggest concern. As an irrigator from a stream, I have to pump my full water right in order to keep it. Not every year do I need my full right but I can’t afford not to use it in fear of losing part of it. I have already lost part thru the fish screen and water meter programs even though we were told we wouldn’t. Get rid of the USE IT OR LOSE IT so we can leave water in the stream when we don’t need it.</p>
<p><b>Steve Senger</b></p> <p>President, Central Washington Home Builders Association</p>	<p>Multiple comments are included in a letter on page 103</p>
<p><b>Naomi Stacy</b></p> <p>Confederated Tribes of the Umatilla</p>	<p>Concern: Inadequate/improper incentives to make current water uses efficient. Affects: Water right holders are more likely to continue and to a certain extent benefit from maintaining inefficient water use (relinquishment requirements). Recommendation: Define and mandate a “reasonably efficient” standard for beneficial use and relinquish portion of water deemed noncompliant. Purpose: Achieve efficient beneficial use of a vital and declining public resource and penalize inefficient use.</p> <p>Concern: Protection of conserved water. Affects: Conserved water does not have consistent and adequate protection. Recommendation: Prioritize funding for water masters and/or stream patrolmen Purpose: Protect conserved water in way that justifies federal, state and local investments in efficiency projects and conservation.</p>

<p><b>John Stuhmiller</b></p> <p>Director of Government Relations, Washington Farm Bureau</p>	<p>The key to water use efficiency and conservation is addressing the uncertainty introduced into the system by relinquishment. Eliminate or modify the policy so it removes uncertainty and the disincentive to save water, and we will crack the door wide open on efficiency opportunities.</p>
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## Watershed Management

<p><b>Amy Georgeson</b></p> <p>Environmental Health Specialist, Mason County Public Health</p>	<p>Maintaining active watershed planning and implementation groups authorized by the Watershed Planning Act is very important to watershed management. These groups allow for local prioritization of issues and collaboration between state, tribal and local governments and citizens to address watershed needs and opportunities. Please do not let these groups expire during the upcoming legislative session.</p>
<p><b>Katherine Krueger</b></p> <p>Staff Attorney, Quileute Natural Resources</p>	<p>Really same comment for every category. Legislature needs to recognize importance of watershed management, permitting, and every other category related to water quantity and quality and restore staffing of Ecology to reasonable level to deal with its work. However, enforcement is key. Funding? I have lived in other states where enforcement is a reality. WA has taken its resource wealth for granted, living in the past, in some regards. This state shies from enforcement. States back east don't, and enforce. In many eastern states, revenue generated from enforcement is restored to the administering department to do its work. I get snickers when I mention this at Bar CLE or other meetings but these come from ignorance of how this does work in other states of this country. We need to build an enforcement program across the environmental agencies and support their programs with fines from violators. Yes, there may be corruption, but that exists today, every time violations are overlooked or not processed. Let's get a financial program in place and restore function. That will save good water for fish and people.</p>
<p><b>David McClure</b></p> <p>Administrative Assistant, Klickitat County Water Conservancy Board</p>	<p>Effective water resource management requires cooperative effort at the watershed level by citizens, local governments and state agencies. Watershed planning and plan implementation under chapter 90.82 RCW has been successful and cost-effective because it enables the cooperative effort that is necessary. However, the statute provides for only five years of state support for overseeing and coordinating plan implementation. Withdrawal of state support for watershed plan implementation is a barrier to effective water resource management that will affect 30 of the state's water resources inventory areas by the end of the 2011/2013 biennium.</p>

	<p>I recommend amending RCW 90.82.040 to provide an additional five years for watershed plan implementation. I also recommend changing the name of the chapter 90.82 RCW to “watershed planning and plan implementation” or other title that communicates that the statute enables implementation of water resource management strategies and actions, not just planning.</p>
<p><b>Pat Pearson</b>  WSU Jefferson County Extension</p>	<p>Maintaining active watershed planning and implementation groups authorized by the Watershed Planning Act is very important to watershed management. These groups allow for local prioritization of issues and collaboration between state, tribal and local governments and citizens to address watershed needs and opportunities. Please do not let these groups expire during the upcoming legislative session</p>
<p><b>Naomi Stacy</b>  Confederated Tribes of the Umatilla</p>	<p>Concern: Lack of integration between land and water use planning. Affects: Policies that encourage or allow development without assuring adequate and sustainable water resources.  Recommendation: Integrate water supply in land-use planning and require appropriate mitigation where water supplies are already overburdened.  Purpose: Avoid further over-appropriation of water supplies and developing water uses that once established are very difficult politically and financially to undo.  Additional Resources: See Las Vegas, Odessa aquifer subarea, Colorado River, “Integrating Water and Land Use Planning.” Sarah Bates. The Water Report. Issue #88. June 15, 2011. pp 1-17.</p> <p>Concern: Lack of integration between ground and surface water use and management.  Affects: Impairment of surface water quantity through increased seepage in hydraulically connected zones. Impairment of water quality, primarily temperature, due to lack of return flows/connectivity between ground and surface water.  Recommendation: Compile comprehensive report of state controlled surface waters with hydraulically connected aquifers. Require one-to-one in place and time mitigation.  Purpose: Protect ground and surface water rights.</p>

## Other

<p><b>Randall Black</b></p> <p>General Manager, Lakewood Water District</p>	<p>Multiple comments are included in a letter on page 39</p>
<p><b>Carla Carlson</b></p> <p>Water Resources Analyst/Hydrologist, Muckleshoot Indian Tribe</p>	<p>Multiple comments are included in a letter on page 51</p>
<p><b>Kathleen Collins</b></p> <p>Washington Water Policy Alliance</p>	<p>Multiple comments are included in a letter on page 55</p>
<p><b>Diane Freethy</b></p> <p>Skagit River WRAC / member, SCARP</p>	<p>The WATER RESOURCES DIVISION of the Dept. of Ecology should be a separate agency under the direction of a publicly elected individual. The political instability of the department and the employees’ apparent inability or unwillingness to focus on the most basic tasks (e.g. processing water rights), make it difficult for counties and cities to plan for the future.</p>
<p><b>Jeff Johnson</b></p> <p>Legislative Committee Chair, Water Cooperative of Pierce County</p>	<p>Multiple comments are included in a letter on page 63</p>
<p><b>John Kounts</b></p> <p>Water Program Director, Washington Public Utility Districts Association</p>	<p>Multiple comments are included in a letter on page 73</p>
<p><b>Amy Kraham</b></p>	<p>Below please find the City of Bellingham's suggested language for RCW 90.03.380(1):</p>

<p>Assistant City Attorney, City of Bellingham (360) 778-8278</p>	<p>A change in the place of use, point of diversion, and/or purpose of use of a water right to enable irrigation of additional acreage or the addition of new uses may be permitted if: <b><i>(1) the change is to a municipal water right; or</i></b> (2) such change results in no increase in the annual consumptive quantity of water used under the water right.</p>
<p><b>Sarah Mack</b>  Attorney, Tupper, Mack, Jensen, Wells, PLLC</p>	<p>Repeal the Family Farm Water Act and invalidate all restrictions in existing permits and certificates predicated on the FFWA. It is an obsolete, internally contradictory, and unnecessary obstacle to cost-effective transfer and beneficial use of water rights. The FFWA has outlived any usefulness it might have had. It is not preventing the issuance of significant new water rights to giant agribusiness enterprises; new water rights are not being issued anyway. The FFWA has been completely severed from its original purpose of promoting SMALL family farms (6, 000 acres?? give me a break). The only thing the FFWA accomplishes is to prevent existing water right holders (some of whom are actually small family farmers) from making choices about what to do with their land and their water rights, and to enable costly, time-consuming arguments with Ecology staff over whether irrigation is sufficiently “agricultural”, etc., etc.</p>
<p><b>Marc Marcantonio</b>  General Manager, Mt. View-Edgewood Water Company</p>	<p>Multiple comments are included in a letter on page 79</p>
<p><b>David McClure</b>  Administrative Assistant, Klickitat County Water Conservancy Board</p>	<p>Multiple comments are included in a letter on page 89</p>
<p><b>Darryll Olsen</b>  Columbia-Snake River Irrigators Association</p>	<p>Multiple comments are included in a letter on page 93</p>



<p><b>Rachel Paschal Osborn</b></p> <p>Staff Attorney, Center for Environmental Law and Policy</p>	<p>Multiple comments are included in a letter on page 97</p>
<p><b>Richard Price</b></p> <p>General Manager/Engineer, Stevens Public Utility District</p>	<p>Pending Applications</p> <p>Pending applications for new water rights and for changes/transfers should be verified every 2 or 3 years by Ecology sending a certified letter, requiring the applicant to respond by certified letter that they want their application to remain active. Ecology’s letter should also provide the applicant information on the status of their application, estimated processing time, and any other possible options for proceeding sooner with processing their application. If no response is received from the applicant within 45 days, the application is denied. The denial letter would also be sent certified and should have a reasonable appeal procedure.</p>
<p><b>Richard Price</b></p> <p>General Manager/Engineer, Stevens Public Utility District</p>	<p>Inchoate Water Rights</p> <p>Inchoate water rights for municipal water providers must be clearly protected by the law. Ecology should offer to purchase agricultural irrigation and inchoate water rights that they consider were mistakenly issued over the actual water available.</p>
<p><b>Cathy Schaeffer</b></p> <p>Executive Director, Walla Walla Watershed Mgt Partnership</p>	<p>Thank you for the comment opportunity; however, the timeframe for reviewing and commenting is too short for the Walla Walla Watershed Management Partnership (Partnership) to fully comment on existing water law. But the Partnership recognizes the significance of this report to the Legislature and preliminary staff review conducted with Partnership Board input in advance of the comment deadline offers the following suggestions:</p> <p>The Partnership is in a unique position to develop mitigation options to protect other water rights and instream flow resources in the Walla Walla watershed. As the best tool for banking mitigation water, the State Trust Program under RCW 90.42 could benefit from revisions that simplify and clarify the standards and language in the code. Coupled with streamlining the Trust process and using the tools provided to the Partnership under RCW 90.92, these Trust program changes could improve efficiencies in Ecology’s review and decision-making.</p>

	<p>Reform of the relinquishment standard and beneficial use determination would encourage water conservation, provide flexibility to water right holders and reduce the time it takes for water right processing. For more information on reform options, the Partnership can provide details on how the local water management program authorized under RCW 90.92 is piloting flexibilities and conservation activities for the benefit of fish, farms and people in the Walla Walla watershed.</p>
<p><b>Steve Senger</b></p> <p>President, Central Washington Home Builders Association</p>	<p>Multiple comments are included in a letter on page 103</p>
<p><b>Josh Weiss</b></p> <p>Washington State Association of Counties (WSAC)</p>	<p>Water transfers currently require modest environmental review by local Conservancy Boards and the Department of Ecology. Their review should consider the long term impacts to state waters of proposed transfers of water, either individually or through a water bank, to uses in a different watershed. The dewatering of upstream areas is already occurring in our state, and has significant economic repercussions.</p>
<p><b>Josh Weiss</b></p> <p>Washington State Association of Counties (WSAC)</p>	<p>State law must provide clarification of the connection between surface and ground water in a way that can be pragmatically implemented by water users and land use planners.</p>
<p><b>Josh Weiss</b></p> <p>Washington State Association of Counties (WSAC)</p>	<p>State law needs to better institutionalize that Ecology will consult with counties when making water resource decisions. This need was emphasized by the Washington Supreme Court in the Kittitas decision which found that “counties are” required to plan for the protection of water resources in “land use planning” and “Ecology ought to assist counties in their land use planning to adequately protect water resources.” Counties need assistance determining whether adequate water supply is present for land use applications, including data on ground water availability, and total water supply budgets. State law needs to encourage collaboration between counties when meeting their responsibilities to protect water resources as required in the Growth Management Act, and Ecology.</p>

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