

# WRIAs 3 & 4 Skagit Watershed Water Availability



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## Overview

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## What is a watershed?

Washington is divided into 62 major watersheds or Water Resource Inventory Areas (WRIAs), which are areas that each capture precipitation and funnel rain and snowmelt through smaller subbasins into streams, tributaries, and rivers and typically drain to marine waters or the Columbia River.

## Introduction to WRIAs 3 & 4

The Skagit Watershed or water resource inventory areas (WRIA) 3 and 4, are jointly defined as the area that drains to the Skagit River, but also includes the Samish River basin. The area is comprised of the northern part of Puget Sound east of the San Juan Islands, the majority of Skagit County, and the eastern portions of Snohomish and Whatcom counties.

The Skagit River’s major tributaries are the Cascade, Sauk, and Suiattle rivers. The watershed includes various other tributary streams such as Fisher, Carpenter, Jones, and Day creeks.

## How can I get water?

Depending on your proposal, you may have more than one option to acquire a reliable water supply:

- Connecting to an existing water system is usually the fastest and easiest option if your project is within the system’s service area.
- Using a permit-exempt well in limited areas of the watershed or with mitigation if you meet the limits under state law.
- Installing a cistern and capturing rainwater may be possible.
- Purchasing an existing water right and transferring it to the new use.
- Applying for a new water right, which may need mitigation.



See *Options for Acquiring Water* section for more information about water right permit options and when to meet with Ecology staff.

Washington Water Law Waters of the state belong to the public and can't be owned by any one individual or group. Water right holders have the right to use water, from a set source, for a particular purpose, in a specific location.

The Department of Ecology is responsible for managing the water resources of the state, including issuing the right to use water as well as protecting the instream resources for the benefit of the public.

Washington water law is based on the "prior appropriation" system, often called "first in time, first in right." Applications for water from the same source must be processed in the order they are received, although there are certain exceptions.

#### Applicable Laws and Regulations

- [RCW 90.03](#): Washington Water Code
- [RCW 90.44](#): Regulation of Public Groundwaters
- [RCW 90.54](#): Water Resources Act of 1971
- [RCW 90.94](#): Streamflow Restoration
- [WAC 173-503](#): The Instream Flow Rule for WRIAs 3 and 4

#### Case Law

- [Swinomish Indian Tribal Community v Washington State Department of Ecology](#) (2013)

## Water Availability Factors

Due to Washington's varied land uses, terrain, and precipitation levels, water availability for new water right permits varies dramatically across the state. In the Skagit Watershed, key factors affecting water availability include:

- Instream flow rule
- Indian Tribe Reservations
- Wild and Scenic Rivers
- Precipitation
- Seawater Intrusion

### Instream flow rule

Instream flow rules are an element of water and river management that help maintain healthy ecosystems that support fish, communities, and economies. The Lower and Upper Skagit WRIAs have an instream flow rule (WAC 173-503), adopted in 2001 to preserve the uses and values of individual rivers and streams within the WRIA. Note: This rule applies only to the Skagit River and its tributaries. It does not apply to the Samish River basin or on Fidalgo, Cypress, Guemes, Hope, and Goat islands.

The instream flow rule:

- Protects the river by settings minimum flow levels, which are like water rights for the stream. Instream flows do not put water in the streams and do not affect existing (senior) water rights.
- Creates year-round or seasonal closures for some streams, protecting existing flows from new appropriations.

Ecology revised the Skagit River Instream Flow Rule in 2006 to establish finite "reservations" of surface and groundwater for future out-of-stream uses. The reservations provided uninterrupted water supplies for future water users that could be legally used even if flows in the Skagit River fell below the regulatory flow levels.

On Oct. 3, 2013, the Washington State Supreme Court ruled that Ecology exceeded its authority in creating reservations that would impair the protected instream flow levels. **All new ground and surface water uses in the Skagit watershed** requiring a year-round reliable source of water, **including permit-exempt wells, must be mitigated to prevent impairment of the instream flows.**

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For more information, see Ecology publications “Frequently Asked Questions: Water Availability for Skagit Basin Landowners.”

### **Indian Tribe Reservations**

The Swinomish Indian Reservation and Upper Skagit Reservation lands are located within WRIAs 3 and 4. Federally reserved rights are not quantified at this time and therefore the legal availability of water in these areas is undetermined.

### **Wild and Scenic Rivers**

The Skagit River and the Cascade, Sauk, and Suiattle tributaries are designated as Wild and Scenic Rivers by the U.S. Wild and Scenic Rivers Act (16 USC 1271-1287). Any water withdrawals that would interrupt the free-flowing condition of these rivers, such as run-of-the-river hydropower projects, would not be approved.

### **Seawater intrusion**

The movement of salt water into freshwater aquifers, known as seawater intrusion, is a concern for coastal areas of Puget Sound. Any groundwater withdrawals located in the coastal areas are evaluated for the risk of seawater intrusion into existing fresh groundwater supplies. Guemes Island, for example, has experienced historical and ongoing seawater intrusion in certain areas.

### **Surface Water Source Limitations**

The Samish subbasin within the watershed has administrative restrictions known as Surface Water Source Limitations (SWSLs), limiting most water sources in that subbasin. This determination comes from the Washington Department of Fish and Wildlife that flows be protected to maintain fish populations.

### **Existing water rights**

Water rights have been issued in the Skagit Watershed for over 100 years, and as a result most water in the watershed is already legally spoken for or “appropriated.”

### **Summary**

Increasing demands for water over time, from ongoing population growth, agriculture, and other consumptive uses as well as associated land use practices, have resulted in lower streamflows in some areas. These decreases have impacted important resources for fisheries and general stream health. The impacts of climate change in WRIAs 3 and 4 are also yet to be fully realized. However, it is apparent that water availability is limited throughout the Skagit Watershed.



## Options for Acquiring Water

### Permit-exempt options

Use of water under the permit-exempt state law, RCW 90.44.050, are extremely limited in WRIAs 3 and 4. Please contact Ecology for site-specific information for your proposed project.

### Potential mitigation for domestic uses

The Skagit River Basin Mitigation Program, established by Ecology, creates a process for landowners along an area of the main stem of the Skagit River seeking water for new domestic uses to apply to Ecology for approval. For more information, see Ecology publication “Frequently Asked Questions: Skagit River Basin Mitigation Program.” The Big Lake mitigation program also provides mitigation opportunities for homes north of Big Lake, along Nookachamps Creek. For more information, see Ecology publication “Focus on: Skagit Basin’s Big Lake Water Bank.”

### Permit options

If your project cannot access water from an existing water purveyor and doesn’t qualify for use of a permit-exempt well, you will need to apply for and receive a new water right or buy an existing water right and change or transfer it to the new use.



**Ecology asks anyone who needs a water right** (new, change, or transfer) to submit the pre-application consultation form and meet with us to review your water supply needs and project proposal. See the resources section for forms and other information.

### New water right

Attempting to acquire new water rights within areas regulated with either instream flows or closures will likely be a very difficult and expensive process. It requires the hiring of qualified, licensed consultants and submitting a comprehensive mitigation and monitoring plan. This does not guarantee approval of a water right. Mitigation can be any action or group of actions that offset the impact of the water withdrawal or diversion on instream flows or other senior water rights.

Projects proposing non-consumptive uses of water may be approvable in both closed areas and areas with instream flow regulations.

Mitigation refers to measures taken to prevent any impact on streamflow during the period that water is not available, by either:

- Halting the diversion or withdrawal, or
- Replacing the water taken—in time and in-place.

A common form of mitigation is to retire an existing water right upstream from the new use.

### Change or transfer of an existing water right

It can be easier to buy an existing water right and change the purpose and/or place of use. Changing either of these aspects of a water right can be challenging if the change creates a new or different impact on a stream. It is important that the water right be in good standing by regular use over its lifetime.

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## Processing options

The wait for your water right application to be processed can be years. An option to speed up the process:

- Submit your new or change water right application through the [Cost Reimbursement Program](#).

For more information on this and other options, refer to [Alternatives for Water Right Application Processing](#).

You can discuss all of your options to supply water to your project at your pre-application consultation with Ecology. To schedule, submit the [pre-application consultation form](#).



## Resources

### Contact Information

Ecology Northwest Region Office  
15700 Dayton Ave N, Shoreline, WA  
Mail: PO Box 330316  
Shoreline, WA 98133  
(206) 594-0000

### More Information

Visit our website for the most current information.

[ecology.wa.gov/Water-Shorelines/Water-supply](https://ecology.wa.gov/Water-Shorelines/Water-supply)

Publications and forms are searchable in the online database. [ecology.wa.gov/publications](https://ecology.wa.gov/publications)



### Forms

- [Water Right Pre-Application Consultation form](https://apps.ecology.wa.gov/publications/summarypages/ecy070440.html), Form ECY 070-440  
<https://apps.ecology.wa.gov/publications/summarypages/ecy070440.html>
- [Skagit River Basin Mitigation Program Application Form](https://apps.ecology.wa.gov/publications/summarypages/ecy070647.html), Form ECY 070-647  
<https://apps.ecology.wa.gov/publications/summarypages/ecy070647.html>
- [Application for a New Water Right](https://apps.ecology.wa.gov/publications/summarypages/ecy040114.html), Form ECY 040-114  
<https://apps.ecology.wa.gov/publications/summarypages/ecy040114.html>
- [Application to Change or Transfer a Water Right or Claim](https://apps.ecology.wa.gov/publications/summarypages/ecy040197.html), Form ECY 040-197  
<https://apps.ecology.wa.gov/publications/summarypages/ecy040197.html>

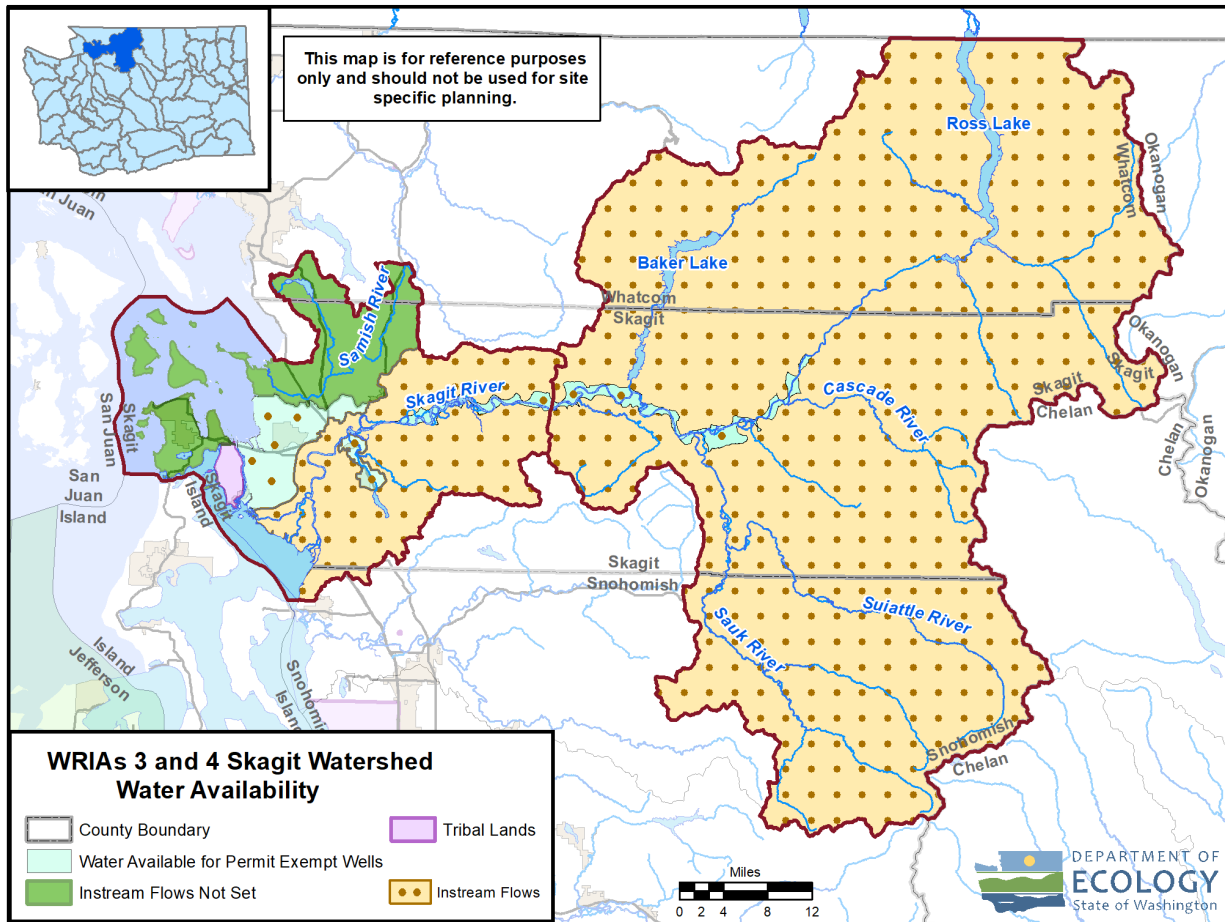
### Publications

- [Frequently Asked Questions: Water Availability for Skagit Basin Landowners](https://apps.ecology.wa.gov/publications/summarypages/1311006.html). Publication 13-11-006,  
<https://apps.ecology.wa.gov/publications/summarypages/1311006.html>
- [Frequently Asked Questions: Skagit River Basin Mitigation Program](https://apps.ecology.wa.gov/publications/summarypages/2111006.html), Publication 21-11-006  
<https://apps.ecology.wa.gov/publications/summarypages/2111006.html>
- [Focus on: Skagit Basin's Big Lake Water Bank](https://apps.ecology.wa.gov/publications/SummaryPages/1911066.html), Publication 19-11-066  
<https://apps.ecology.wa.gov/publications/SummaryPages/1911066.html>
- [Cost Reimbursement Program](https://apps.ecology.wa.gov/publications/SummaryPages/0511016.html), Publication 05-11-016  
<https://apps.ecology.wa.gov/publications/SummaryPages/0511016.html>
- [Alternatives for Water Right Application Processing](https://apps.ecology.wa.gov/publications/SummaryPages/1111067.html), Publication 11-11-067  
<https://apps.ecology.wa.gov/publications/SummaryPages/1111067.html>
- [Focus on: The Groundwater Permit Exemption](https://apps.ecology.wa.gov/publications/SummaryPages/1911090.html), Publication 19-11-090  
<https://apps.ecology.wa.gov/publications/SummaryPages/1911090.html>

### Website – [ecology.wa.gov](https://ecology.wa.gov)

- The [Skagit basin water availability page](https://ecology.wa.gov/SkagitWaterSupply) provides information on mitigation programs and options for new uses in the Skagit basin. <https://ecology.wa.gov/SkagitWaterSupply>
- Visit the [water rights permits page](https://ecology.wa.gov/WaterRightPermits) for more information and helpful links.  
<https://ecology.wa.gov/WaterRightPermits>
- Use the [Water Rights Search](https://appswr.ecology.wa.gov/WaterRightsSearch) to locate and research water rights on land parcels anywhere in the state. <https://appswr.ecology.wa.gov/WaterRightsSearch>

# Map



## ADA accommodations

The Department of Ecology is committed to providing people with disabilities access to information and services by meeting or exceeding the requirements of the Americans with Disabilities Act (ADA), Section 504 and 508 of the Rehabilitation Act, and Washington State Policy #188.

To request an ADA accommodation, contact Ecology by phone at 360-407-6872, or visit <https://ecology.wa.gov/accessibility>. For Relay Service or TTY call 711 or 877-833-6341