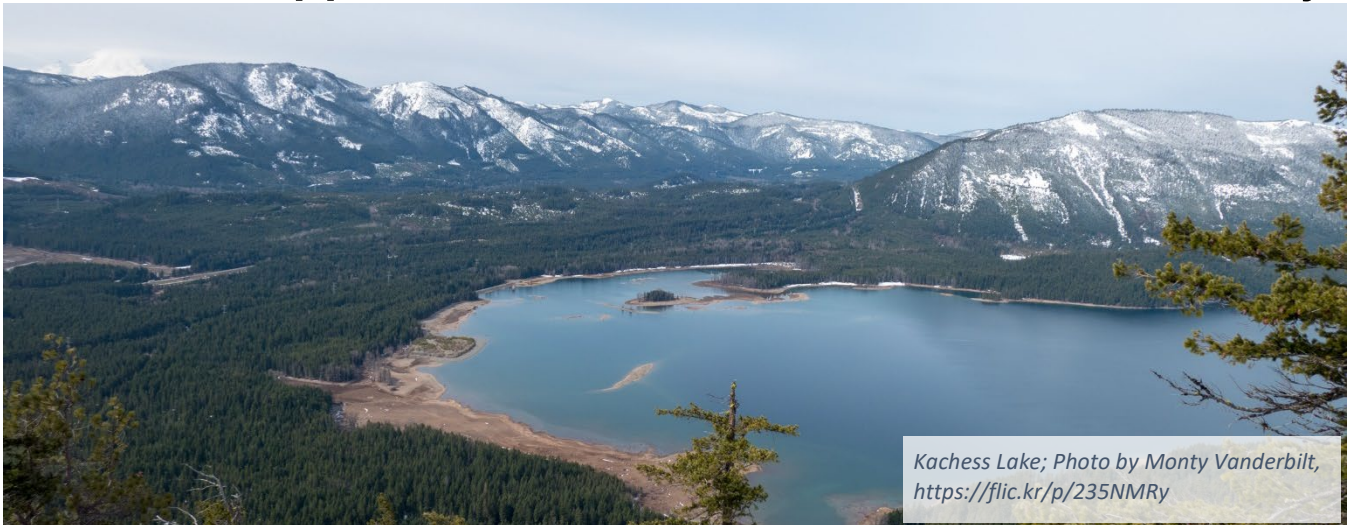


# WRIA 39 Upper Yakima Watershed Water Availability



Kachess Lake; Photo by Monty Vanderbilt, <https://flic.kr/p/235NMRy>

## Overview

- Introduction to WRIA 39
- Water Availability Factors
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## Introduction to WRIA 39

The Upper Yakima Watershed or Water Resource Inventory Area (WRIA) 39 is defined as the area that drains to the Yakima River above its confluence with the Naches River. It is located in central Washington, covering most of Kittitas County and a small northern portion of Yakima County. It includes the cities of Cle Elum, Ellensburg, and Roslyn.

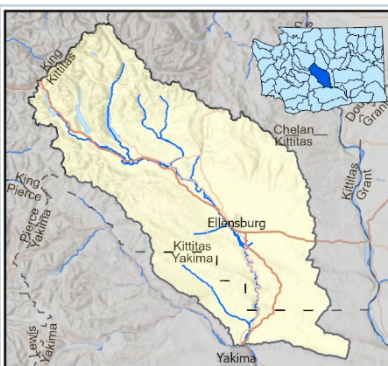
## How can I get water?

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 if you meet the limits under state law, as long as you are not within the area specified in WAC 173-539A.
- Purchasing an existing water right and transferring it to the new use.
- Applying for a new water right, which will likely need mitigation.



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



### 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.

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.” New water rights may not harm older water rights. 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 77.57](#): Fishways, Flow, and Screening
- [WAC 173-539A](#) is the Upper Kittitas Groundwater rule

## 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 Upper Yakima Watershed, key factors affecting water availability include:

- Precipitation.
- Existing water rights.
- Tribal interests.
- Federal flow regulations.
- Upper Kittitas Groundwater Rule.

Refer to the map at the end of the document.



### Precipitation

Many areas of central Washington are arid, receiving less than 20 inches of rain annually. Most of this precipitation arrives during the winter months when water demands are the lowest. During the summer, the snowpack is mostly gone, there is little rain, and naturally low stream flows are dependent on groundwater inflow. At the same time the demand for water for human uses, including irrigation, are at the yearly maximum. This means that groundwater and surface water are least available when water demands are the highest.

### Existing water rights

Water rights have been issued in the Upper Yakima Watershed for over 100 years. The Yakima basin has the most intensive development and use of water in the state of Washington. As a result, most water in the watershed is already legally spoken for or “appropriated.”

A major surface water adjudication has recently been completed in the Yakima basin—*Acquavella*. Prior adjudications are an indication that most, if not all, of the available water has already been allocated.

### Tribal interests

Federal Reserved Water Rights for the Yakama Nation for on-reservation irrigation and for on- and off-reservation instream flows were confirmed in the Yakima Basin adjudication.

Water right applications and mitigation plans are routinely sent to the Tribe for review and comment.

## Federally managed water

When the U.S. Bureau of Reclamation developed a water project to expand the available supply of water, water rights were issued for the project with priority dates of May 10, 1905. Irrigation districts are the primary recipients and distributors of this federally developed water. Drought conditions periodically require the regulation of junior surface water rights in the basin, and those with priority dates after May 10, 1905 may be shut off until drought conditions end.

## Upper Kittitas Groundwater Rule (WAC 173-539A)

Within WRIA 39, Ecology has the Upper Kittitas Groundwater Rule, WAC 173-539A, covering a portion of the WRIA. Within this rule area, all new uses in the defined area of the rule are required to be water budget neutral. For a project to be water budget neutral, the applicant is required to provide mitigation, which is a portion of a trust water right that is at least equivalent to the consumptive use of the project. This rule applies to both new water right applications and new permit exempt uses. If you have questions about WAC 173-539A, please contact the Water Resources Program at Central Regional Office. If you have questions about what mitigation is available for your project, please contact Kittitas County Department of Public Works.

## Potential new supplies

Projects developed under the Yakima River Basin Integrated Water Management Plan work to support the water needs of this top agricultural-producing region and important fish-bearing watershed. You can find more information on the [Eastern Washington water projects webpage](#)<sup>1</sup>.

Water acquisition options include the use of water banking. It is an institutional tool, used to facilitate the legal transfer and market exchange of various types of surface, groundwater, and storage entitlements. Water banks can provide senior water rights for use in mitigating the impacts on the water source from a new use. Visit Ecology's [Water banks webpage](#)<sup>2</sup> for more information.

County water bank programs for mitigation of some new uses is also available in [Kittitas County](#)<sup>3</sup>, [Yakima County](#)<sup>4</sup>, and [Benton County](#)<sup>5</sup>.

## 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 streamflow and declining groundwater levels in some areas. These decreases have impacted important resources for fisheries and general stream health. The impacts of climate change in WRIA 39 are also yet to be fully realized. However, it is apparent that water availability is limited throughout the Upper Yakima Watershed.

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<sup>1</sup> <https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-supply-projects-EW>

<sup>2</sup> <https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-rights/Trust-water-rights/Water-banks>

<sup>3</sup> <https://www.co.kittitas.wa.us/public-works/water-bank/default.aspx>

<sup>4</sup> <https://www.yakimacounty.us/2095/YCWRS---Water-Availability---Well-Permit>

<sup>5</sup> <https://www.co.benton.wa.us/pview.aspx?id=21075&catID=0>



## Options for Acquiring Water

### Permit-exempt options

State law, [RCW 90.44.050](#)<sup>6</sup>, exempts the following uses from the water right permitting process:

- Single or group domestic uses, not exceeding 5,000 gallons per day (gpd).
- Irrigation of up to a half-acre of non-commercial lawn or garden.
- Industrial purposes (such as water for a store, restaurant, or small industrial facility, or irrigation of a small commercial farm), not exceeding 5,000 gpd.
- Stockwater to provide drinking water for stock animals. Other stock-related purposes (such as washdown of a milking parlor or irrigation for growing hay for stock animals) may require a water right permit.

A project proposal is also limited to the use of one exemption for each type of use, so a housing subdivision, for example, cannot use a series of wells to exceed the 5,000 gpd limit or the half-acre of non-commercial lawn and garden. The entire subdivision, collectively, cannot exceed either limitation.

Water rights developed through the permit exemption are not exempt from the water right seniority system and could be regulated during future drought periods. The Upper Kittitas Groundwater rule, [WAC 173-539A](#),<sup>7</sup> limits all new permit-exempt groundwater uses in the area regulated, but mitigation may be available. For more information, see the map on page 7 and [Ecology's Focus on: Upper Kittitas County Mitigation Suitability Maps](#)<sup>8</sup>. If you have questions about mitigation and what mitigation is available for your project, please contact Kittitas County Department of Public Works.

### 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. This option could be subject to limitations. Having a pre-application consultation will help identify the feasibility of your application.



**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 links to forms and other information.

### 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

<sup>6</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=90.44.050>

<sup>7</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-539A&full=true>

<sup>8</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1711011.html>

impact on a stream. It is important that the water right be in good standing by regular use over its lifetime.

Water acquisition options include the use of [water banking](#)<sup>9</sup>. It is an institutional tool, used to facilitate the legal transfer and market exchange of various types of surface, groundwater, and storage entitlements. Water banks can provide senior water rights for use in mitigating the impacts on the water source from a new use.

### New water right

Attempting to acquire new water rights within areas with limited water availability will likely be a very difficult and expensive process. It requires the hiring of qualified professionals 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 address, in-time and in-place, 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 without mitigation.

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 buy and retire an existing water right upstream from the new use.

### Processing options

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

- Submit your new or change water right application through the [Cost Reimbursement Program](#)<sup>10</sup>. Due to staffing limits, we may not be able to accept your application into the Cost Reimbursement Program. We strongly recommend first requesting a pre-application consultation, which can be done through the submission of a [Water Right Pre-Application Consultation Form](#)<sup>11</sup>.
- Process your change application through your local [Water Conservancy Board](#)<sup>12</sup>.

For more information on these and other options, refer to [Alternatives for Water Right Application Processing](#)<sup>13</sup>.

You can discuss all options to supply water to your project at your pre-application consultation with Ecology. To schedule, submit the [Water Right Pre-Application Consultation Form](#)<sup>8</sup>.

<sup>9</sup> <https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-rights/Water-banks>

<sup>10</sup> <https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-rights/Cost-reimbursement>

<sup>11</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/ECY070440.html>

<sup>12</sup> <https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-rights/Water-conservancy-boards>

<sup>13</sup> <https://apps.ecology.wa.gov/publications/summarypages/1111067.html>

## Resources

### Contact Information

Ecology Central Regional Office  
1250 West Alder Street  
Union Gap, WA 98903-0009  
Phone: 509-575-2490

### 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](#), Form ECY 070-440  
<https://apps.ecology.wa.gov/publications/summarypages/ecy070440.html>
- [Application for a New Water Right](#), Form ECY 040-114  
<https://apps.ecology.wa.gov/publications/summarypages/ecy040114.html>
- [Application to Change or Transfer a Water Right or Claim](#), Form ECY 040-197  
<https://apps.ecology.wa.gov/publications/summarypages/ecy040197.html>

## Publications

- [Cost Reimbursement Program](#), Publication 22-11-022  
<https://apps.ecology.wa.gov/publications/SummaryPages/2211022.html>
- [Alternatives for Water Right Application Processing](#), Publication 11-11-067  
<https://apps.ecology.wa.gov/publications/summarypages/1111067.html>
- Focus on: [The Groundwater Permit Exemption](#), Publication 19-11-090  
<https://apps.ecology.wa.gov/publications/SummaryPages/1911090.html>

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

- Visit the [water rights permits page](#) for more information and helpful links.  
<https://ecology.wa.gov/WaterRightPermits>
- Use the [Water Rights Search](#) to locate and research water rights on land parcels anywhere in the state. <https://appswr.ecology.wa.gov/WaterRightsSearch>
- Learn more about the work being done by our [Office of the Columbia River](#).  
<https://ecology.wa.gov/OCR>

### 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.

# Map

