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SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

FIVE CORNERS FAMILY FARMERS;
SCOTT COLLIN; THE CENTER FOR
ENVIRONMENTAL LAW AND POLICY;
and SIERRA CLUB,

Plaintiffs,

vs.

STATE OF WASHINGTON;
WASHINGTON DEPARTMENT OF
ECOLOGY; and EASTERDAY RANCHES,
INC.,

Defendants.

and

WASHINGTON CATTLEMEN'S
ASSOCIATION; COLUMBIA SNAKE
RIVER IRRIGATORS ASSOCIATION;
WASHINGTON STATE DAIRY
FEDERATION; NORTHWEST DAIRY
ASSOCIATION; WASHINGTON CATTLE
FEEDERS ASSOCIATION; CATTLE
PRODUCERS OF WASHINGTON;
WASHINGTON STATE SHEEP
PRODUCERS; AND WASHINGTON
FARM BUREAU,

Intervenors-Defendants.

No. 09-2-51185-6

EASTERDAY RANCHES, INC.'S
REPLY MEMORANDUM

1 stock watering exemption. That word does not appear in the statute nor does it appear in any
2 allegation or defense made by Easterday Ranches. The amount of water needed for dairy and
3 beef cattle is not an unknown quantity. For example, the Department published an information
4 bulletin in July 1973, explaining the process for claiming water rights and conveniently
5 supplied a means to calculate water use if the applicant did not have a meter on his well. Beef
6 cattle use approximately a half acre foot per year for every 25 head. See, Exhibit A, p.6.
7 Applied to Easterday's 30,000 cattle that would be 600 acre feed, which comports quite nicely
8 with the 505 acre feet Easterday and the Department actually expect to be used for stock
9 watering. There is not, and never was, any claim by Easterday or the Department of Ecology
10 that the amount to be used here for Easterday's cattle operation is "unlimited." Five Corners
11 repeats this falsehood an additional 20 times in its reply brief for a total of 50.

12 **III. ALL THE PLAINTIFFS LACK STANDING**

13 **A. Five Corner's Evidence of Standing is Inadmissible.**

14 Easterday's response included a separate motion to strike various portions of the
15 declarations submitted by Five Corners in Support of its Motion for Summary Judgment. Five
16 Corners did not respond to that motion and our objections are unrefuted. Five Corners now
17 relies on the declarations of Sheila Poe, Scott Collins and Ralph Jones, and specifically relies
18 on paragraphs of their declaration that are inadmissible, because the declarants lack the
19 expertise, personal information or knowledge, necessary to make the statements. Mot. to Strike
20 §§ III, VI & VII. All of the evidence Five Corners present to support its standing is
21 inadmissible. There is no evidence to support the Five Corner's standing. Response, ¶ VI, B.

22 **B. The Court may review standing.**

23 Five Corners claims that the court's order denying Easterday's Motion to Dismiss,
24 entered December 3, 2009, is "the law of the case." Response, ¶ IV, A. The court's order,
25

1 however, did not address standing. It just denied Easterday's motion to dismiss in its entirety,
2 because the case presented a legal question of statutory interpretation. Five Corners' argument
3 is wrong for two reasons. First, the law of the case doctrine provides that when there has been
4 a determination of applicable law on a prior appeal, it precludes an appeal of the same legal
5 issues and determines the legal questions that were determined or might have been determined
6 had they been presented in a subsequent appeal. *Roberson v. Perez*, 119 Wn. App. 928, 83
7 P.3d 1026 (2004), *affirmed*, 126 Wn.2d 33. Second, the court's decision denying Easterday's
8 Motion to Dismiss is an interlocutory order, because it does not resolve the case. Interlocutory
9 rulings are subject to change any time prior to the entry of final judgment. *Sinnes v. Daggett*,
10 80 Wash. 623, 142 Pac. 5 (1914). Five Corners makes its allegations of immutability without
11 citation of any authority. The court is at liberty to review the total lack of any allegation of
12 substantive injury by any of the plaintiffs.

13 **C. The plaintiffs' standing has not been proven.**

14 None of the plaintiffs have presented any evidence to support their contentions of
15 injury. A motion for summary judgment, now that their standing has been called into question,
16 obligates the plaintiffs to produce admissible evidence to support their standing. They have
17 failed to do so, and the claims should be dismissed in their entirety. In a summary judgment, a
18 party may not rest on its mere allegations or denials but must make its response by affidavits
19 that would be admissible at trial. *Aaro Med. Supplies v. Dept. of Revenue*, 132 Wn. App. 709,
20 132 P.3d 1143 (2006). This evidence must also support the plaintiffs' standings.
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22
23
24
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1 **IV. THE GROUNDWATER CODE ALLOWS EASTERDAY TO DIG A STOCK**
2 **WATER WELL WITHOUT A PERMIT**

3 **A. Contemporaneous accounts are of little use.**

4 Five Corners claims that “contemporaneous newspaper accounts” of the statutes
5 passage are of some use to the court in understanding a large and complex piece of litigation.
6 For example, the article submitted as part of Ex. J, describes the bill as follows:

7 H.R. 538-Rosellini (D, Pierce), provides for the granting of permits by the
8 Hydraulic Department for the withdrawal of groundwater, except wherein the
9 volume is less than 5,000 gallons per day, provides procedure and appropriates
10 \$30,000.

11 Such a comment, on a page that contains similar such summaries of dozens of other pieces of
12 adopted legislation, is hardly indicative of a contemporaneous discussion of the law. We will
13 not belabor the point, but none of Five Corner’s examples are the careful and thorough analysis
14 that is helpful to understanding the technical issues in the Groundwater Code. They are not
15 helpful to the Court.

16 **B. Lies, damn lies and statistics.**

17 The plaintiffs spend three pages of their brief, § III E, complaining of the defendant’s
18 use of statistics owning up as they might be “possibly even true.” They challenge nary a one.
19 They cite not a single case or relevant authority to support their contentions. Easterday’s use of
20 a handful of statistics is hardly showering the court with tables and reports. The purpose of real,
21 irrefutable facts put life into this dispute. This is not an academic exercise, but real issues that
22 affect real people and the reality that Washington livestock has not drastically changed in the
23 last 65 years is an important consideration. *DeVries Dairy v. Department of Ecology*, PCHB
24 No. 1, 073 (2001), prompted the inquiry that lead to the current, correct interpretation of the
25 statute. This was the interpretation placed upon the law by ranchers digging wells in eastern
Washington, as evidenced by the memoranda of the interveners.



STATE WATER PROGRAM

PUBLIC INFORMATION
BULLETIN

ISSUE 4
JULY 1973



Water Right Claims . . . Why and How

Water has always been important to this ever-green state, and in the very first legislative session, in 1890, the State Legislature passed laws relating to surface water irrigation rights. The 1891 Legislature passed a law intended to solve problems concerning surface water rights and water uses, particularly irrigation. The solution was to have the divertor first post a notice in a conspicuous place ("on a tree") near the intended point of diversion, then file a copy of this notice with the county recorder. The notice was to describe the amount of water to be diverted, the purpose and place of use, and the means of diversion. This early law gave the individual six

months to: dig the ditches, clear the land to be irrigated, and put the water to beneficial use. By virtue of diligence, he gained a water use priority as of the date he posted the notice on the tree. This early law created as many problems as it solved. There was no way to tell whether the diversion was ever accomplished; nor was there any way to tell the difference between the genuine diversion claim and the mere nuisance notice. How about streams flowing through more than one county? And of course these water rights "appropriated" by posting the notice were subject to existing or vested rights.

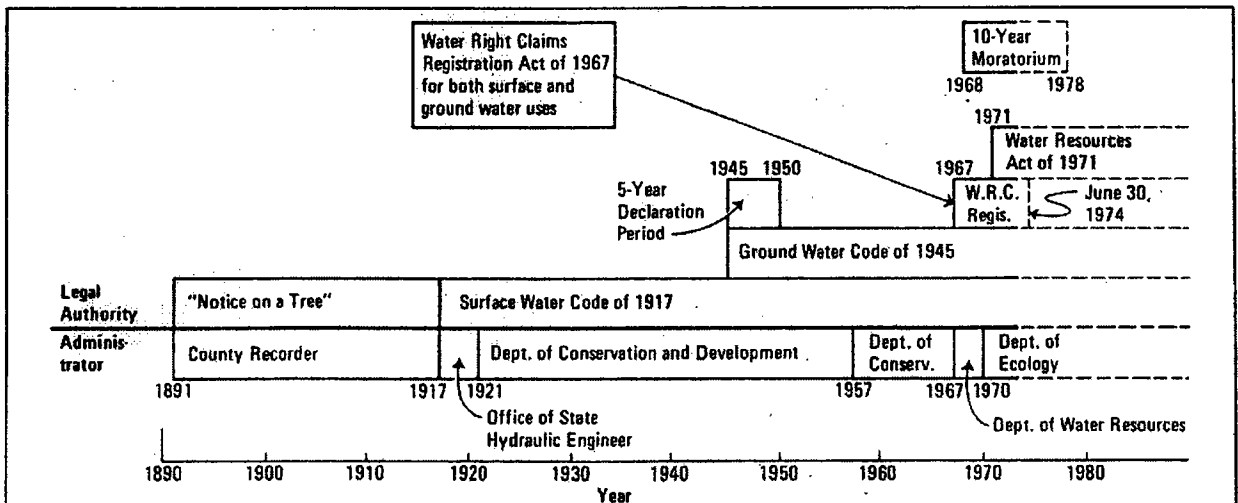


Figure 1. Water Resource Management Program Chronology.

SURFACE WATER RIGHTS

Records were poor, and it was impossible to get a true picture of water diversions. The great demand for the limited water in eastern Wash-

ington led to many conflicts over water in the early 1900's. In 1913, the Governor established an ad hoc committee to compile a State Surface Water Code. The result was a law consisting of some 44 sections, enacted in 1917. This law

provided that all surface water within the state belonged to the state, and any right to use the water could be obtained only after an application had been filed with the Office of State Hydraulic Engineer, and he had granted a permit for development of the water system. Rights established under this law were also made subject to existing or vested rights.

GROUND WATER RIGHTS

Development and use of public ground waters took place at a slower rate than surface waters, so the need for regulatory control came much later. However, with improvements in drilling techniques and the expansion of industrial, municipal, and agricultural requirements in Washington, it became apparent that we needed a law relating to the appropriation and use of ground waters. In 1945, the Ground Water Code was enacted.

These statutes were similar to the Surface Water Law, extended to include ground water. However, this law specifically exempted any need to apply for a permit when withdrawal was less than 5,000 gallons per day and was used to irrigate less than one-half acre of land. The right to this exempted use (generally domestic wells) was equal to that established by a permit issued by the Department of Conservation and Development (successor to the Office of State Hydraulic Engineer). All ground water rights established were subject to existing rights, which were to be recorded under a "declaration" system (RCW 90.44.090), which was effective for a maximum of five years. The declaration system was not well publicized, and only 1,079 declarations were filed during the five-year period from 1945 to 1950.

THE CASE OF "EXISTING RIGHTS"

A very important part of each law enacted stated that all new water rights were "subject to existing rights." These old rights can, and certainly do, exist without benefit of any public record. There was no penalty in the 1891 "notice-on-a-tree" system for not posting and recording a notice; nor was there a penalty for not "declaring" an existing ground water source and uses after the 1945 Act. We are now faced with the problem of regulating use according to existing rights and not issuing new rights that may interfere, when in fact, these existing rights may never have been recorded.

Why aren't we aware of existing rights when the "notice-on-a-tree" system was followed? Most people are unfamiliar with water quantities and usage, so some of these notices contained entirely unrealistic quantities of water and usages. In addition, technical improvements in farming and water delivery systems have, in many cases, changed the quantities of water diverted, and even the time of year that irrigation is used. So, even when we can find a copy of an old "notice of appropriation," the facts it recorded may not be usable today.

WHY ARE WE WORRYING ABOUT WATER RIGHTS ANYWAY?

Many of you may remember the national news coverage in the 1960's of a general proposal that water flowing to the Pacific Ocean from the Columbia River could be put to better use by diverting it for export to the arid Southwest states. The Northwest states reacted with a shocked "NEVER!" But when asked "How much of that water are you actually using?" and "What are you using it for?" we found, to our chagrin, that we didn't have the answers. For a while, it was touch and go, but in 1968, Congress granted a ten-year moratorium on studies for exportation of Pacific Northwest water to the Southwest. During this time, we were advised that we must assess our present water uses and our future water needs. Water claims registration is one part of this program.

PURPOSE

- A. COMPLETE APPRAISAL OF WATER NOW IN USE.
- B. PEOPLE TO RETAIN LEGAL RIGHTS TO ITS CONTINUED USE.
- C. CONGRESS GAVE THE NORTHWEST A 10 YEAR MORATORIUM ON DIVERSION OF SOME OF OUR WATERS TO THE DRY SOUTHWEST STATES.
- D. DETERMINE OUR NEEDS FOR THE FUTURE.



As a direct result of the moratorium, and to end the uncertainty and confusion surrounding vested water rights, the 1967 Washington State Legislature passed the Water Right Claims Registration Act. It was funded by the 1969 Legislature, and went into effect in January 1970. This law requires the holder of each and every one of these vested rights (which predate the water

codes) to file a statement of his claim to a water right no later than June 30, 1974.

WHEN TO FILE ? . . .

- A. ON OR BEFORE **JUNE 30, 1974** .
- B. FAILURE TO REGISTER BY THE ABOVE DATE, AS REQUIRED BY LAW, WILL RESULT IN A WAIVER AND RELINQUISHMENT OF THE CLAIMED WATER RIGHT .



This program does not include registration of nondiversion water uses like boating, fishing, or swimming. It does not require, but does allow, registration of stock watering when the stock drink directly from a surface water source. The only true exemptions to this law are users and uses of water that are presently on record in the form of valid permits or recorded certificates issued by the Department of Ecology, the Department of Water Resources, the Department of Conservation and Development, or other predecessor agencies. Registration is not required by the holder of a water right that has been determined by court decree and recorded through issuance of a Certificate of Water Right by the Department of Ecology or one of its predecessor agencies.

WATER RIGHTS AND WATER RIGHTS "CLAIMS"

A word of advice. Registering a water right claim does not necessarily mean that the claimant holds a water right. It is only a water right "claim." To obtain a recorded water right, an entirely different procedure is followed. To bring surface water diversions that first occurred after 1917 into compliance with the law or to establish a new surface water right requires an application for a permit. An application for ground water permit is required for ground water withdrawals that first took place after 1945, that are greater than 5,000 gallons per day, or that are used to irrigate more than one-half acre.

WHO SHOULD FILE ? . . .

GENERALLY, ALL PERSONS CLAIMING THE RIGHT TO THE USE OF WATER UNDER STATE LAW

EXCEPTIONS

A. PERSONS WITH A RECORDED PERMIT OR CERTIFICATE . . .



B. PERSONS WITH A COURT DECREED CERTIFICATE . . .



C. STOCK-WATERING . . .



What is a water right claim for, if an application for a permit is required to establish a water right? The water right claim form is used to document:

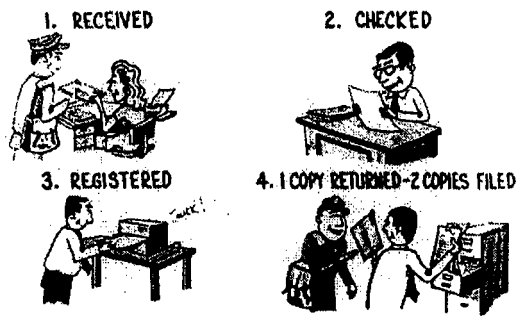
- Surface water diversions that first occurred *before* 1917
- Ground water withdrawals that:
 - First occurred *before* 1945, or
 - Started after 1945, but were exempt (less than 5,000 GPD and less than one-half acre under irrigation).

THERE IS NO EXPIRATION DATE ON THE PROCEDURE OF FILING AN APPLICATION FOR A PERMIT. THE EXPIRATION DATE OF JUNE 1974, REFERS ONLY TO THE FILING OF WATER RIGHT CLAIMS.

WHY SHOULD I PAY THE STATE \$2.00 FOR WATER I PAID A DRILLER TO GET FOR ME?

The \$2.00 charge is a statutory filing fee. That means it was set by the Washington State Legislature as part of the Water Right Claims Registration Act. This fee covers just a small part of the actual costs involved in printing, receiving, and registering these claims. It is a very small cost compared to the important service rendered to the water user by documenting present and/or past water use.

CLAIM IS PROCESSED . . .



IF I REGISTER MY CLAIM, WILL THE STATE TAX ME ON THE WATER I AM USING?

Taxation of recorded water right claims is extremely unlikely. The appropriation procedure has been in effect since 1917 for surface water and 1945 for ground water with well-documented facts in considerable detail. Yet *these rights have never been taxed. If rights have never been taxed, why would claims be taxed?* Of course, we cannot predict the future any more than you can, but only the Legislature can enact laws, and the Legislature represents you.

WHAT BENEFITS DO I GET IF I REGISTER MY CLAIM?

At the end of the registration period, when all claims have been registered, if a conflict develops, any claimant may request an "adjudication" or determination of his water rights. The Department of Ecology then prepares maps and statements of facts concerning water use. The Department conducts a title search to determine ownership of all land involved and notifies each owner that he must file a statement with the court if he wants to be heard and have his water rights determined. A claimant who does not file

REGISTERED CLAIM IS NOT . . .

- A. A VALIDATION OF YOUR WATER RIGHT.
- B. AN ADJUDICATION OF YOUR WATER RIGHT.
- C. AN APPLICATION FOR A NEW WATER RIGHT.

IT IS A REGISTRATION OF YOUR CLAIM ONLY.



a statement of claim and who does not take part in these proceedings shall be "estopped" (prohibited) from asserting any right to the use of such waters.

IT HAPPENED SO LONG AGO

The biggest problem has been the passage of time. Since claims for surface water rights involve diversions made before 1917, it is increasingly difficult for claimants to produce competent witnesses to testify concerning times and particulars of water usage that occurred near the turn of the century. A section of the Water Right Claims Registration Act permits a statement of claim to be admissible in a general adjudication of water rights as evidence of the times of use and the quantity of water the claimant was withdrawing or diverting as of the year of filing, if the quantities and time of use when adjudication occurs are substantially the same as those in the statement of claim.

Thus, the statement of claim is evidence that supports your claimed water right and will go on long after all the old-timers are long dead. There is no other way to accomplish this documentation. These vested rights may well be perfectly legal diversions. In your best interests and for your protection, you should make a statement of claim to retain your legal right to use these waters.

WATER RIGHTS CLAIM FORMS

In the three years that water rights claims forms have been coming in, we have found that the majority record existing domestic wells. The complexity of water rights has made it necessary to have a form that is also complicated. People who are unfamiliar with water quantities and usage often have difficulty with the forms and fill them out incorrectly. For this reason, the 1973 Washington State Legislature established a "short form" that can be used by anyone whose usage is less than 5,000 gallons per day except where the water is used for commercial irrigation or for watering a lawn or noncommercial garden larger than one-half acre.

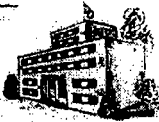
The new form has been printed and is available for use. It is available at watermasters offices, county court houses, and Department of Ecology offices, along with the standard form. The standard water right claim form can be used, but the short form will be much easier for most persons who fit in the "domestic use" category.

WATER RIGHT CLAIM FORM MAY BE OBTAINED FROM

1. WATERMASTER.....



2. COUNTY COURTHOUSE.....



3. OLYMPIA OFFICE...



Before you start filling out either form, you need a copy of the legal description of your property. You will find it on the deed, purchase contract, mortgage agreement, title insurance, or abstract of title (tax notice descriptions are generally incomplete and inadequate for this purpose). It also helps to have a map or a good sketch of your property so that you can readily identify the point of diversion or withdrawal relative to the property lines. For a nominal fee you can usually get a section plat map from the county assessor showing your property.

Figure 2. Short Form.

HOW TO FILE...

- A. CLAIM MUST BE SUBMITTED ON FORMS PREPARED BY THE DEPARTMENT OF ECOLOGY.
- B. SEPARATE FORM MUST BE FILED FOR EACH RIGHT CLAIMED.
- C. A COMPANY, DISTRICT, PUBLIC OR MUNICIPAL CORPORATION, OR THE UNITED STATES SHALL HAVE THE RIGHT TO FILE ONE CLAIM ON BEHALF OF ALL PERSONS SERVED UNDER ONE RIGHT - ON A SPECIAL FORM ACCEPTABLE TO THE DEPARTMENT OF ECOLOGY.

SHORT FORM

The following items appear on the short form (see Figure 2). Let's go through the items one at a time:

- 1. The source from which water is taken.
Surface Water Ground Water
- 2. Purpose(s)
Domestic supply; includes normal household uses.
Stock; water for any stock—horses, cattle, swine, raccoons, what have you.
Irrigation: This is for lawn and garden use only and 1/2 acre or less in area. If more than 1/2 acre is irrigated, use the standard form.

Other: Specify
This could include dairy operation, restaurant, service station, fish propagation, wildlife pond, and other miscellaneous uses. Please be specific.

- 3. The legal description of land on which water is used. Copy this description from your deed, title insurance, contract of sale, or abstract. Descriptions taken from tax statements are usually too abbreviated for this purpose. If your land is located within a recorded plat (Smith's Sunnyvale Acres, Division One) please include the lot, block, and name of the plat. In addition, please include the section, township, and range in which your lot is located. If these numbers do not appear on your deed, or other title conveyance, you may obtain them at your county courthouse.
- 4. Sign the form and date it.
- 5. A two-dollar (\$2.00) statutory filing fee must accompany the Water Right Claim.
- 6. Return the Water Right Claim, in triplicate, to the following address:
Department of Ecology
WATER RIGHT CLAIMS REGISTRATION
Olympia, Washington 98504

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
WATER RIGHT CLAIMS REGISTRATION
WATER RIGHT CLAIM

1. NAME _____
ADDRESS _____
CITY _____ STATE _____ ZIP _____

2. SOURCE FROM WHICH THE RIGHT TO TAKE AND MAKE USE OF WATER IS CLAIMED _____ (WELL OR SURFACE WATER)

A. IF GROUND WATER, THE SOURCE IS _____ (WELL TYPE)
B. IF SURFACE WATER, THE SOURCE IS _____

3. THE QUANTITIES OF WATER AND TIMES OF USE CLAIMED

A. QUANTITY OF WATER CLAIMED _____ PRESENTLY USED _____
(CUBIC FEET PER SECOND OR GALLONS PER MINUTE)

B. ANNUAL QUANTITY CLAIMED _____ PRESENTLY USED _____
(ACRE FEET PER YEAR)

C. IF FOR IRRIGATION, ACRES CLAIMED _____ PRESENTLY IRRIGATED _____

D. TIME(S) DURING EACH YEAR WHEN WATER IS USED _____

4. DATE OF FIRST PUTTING WATER TO USE: MONTH _____ YEAR _____

5. LOCATION OF THE POINT(S) OF DIVERSION/WITHDRAWAL _____ FEET _____ AND _____
FEET _____ FROM THE _____ CORNER OF SECTION _____
BEING WITHIN _____ OF SECTION _____ T. _____ N. _____ R. _____ (E. OR W.) 1/4 M.
IF THIS IS WITHIN THE LIMITS OF A RECORDED PLATTED PROPERTY, LOT _____ BLOCK _____ OF _____
PLAT _____

6. LEGAL DESCRIPTION OF LANDS ON WHICH THE WATER IS USED _____
_____ COUNTY _____

7. PURPOSE(S) FOR WHICH WATER IS USED _____

8. THE LEGAL DOCTRINE(S) UPON WHICH THE RIGHT OF CLAIM IS BASED _____

THE FILING OF A STATEMENT OF CLAIM DOES NOT CONSTITUTE AN ASSIGNMENT OF ANY CLAIM TO THE DEPT. OF ECOLOGY OR ANY OTHER AGENCY. THE WATER USER CLAIMING THE WATER SHALL BE RESPONSIBLE FOR THE PROTECTION AND MAINTENANCE OF THE WATER RIGHT. THE DEPT. OF ECOLOGY SHALL NOT BE RESPONSIBLE FOR THE PROTECTION AND MAINTENANCE OF THE WATER RIGHT.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THE DEPT. OF ECOLOGY, WATER RIGHTS DIVISION, 1000 N. 34TH ST., SEASIDE, WA 98138. PHONE: (206) 467-1000.

Figure 3. Standard Form.

works) or the rate at which water is taken from the source in the case of gravity systems. This answer may be expressed in either gallons per minute (GPM) or in cubic feet per second (CFS). Actual measurements can be difficult. A pump distributor or serviceman may be able to give you an estimate of your pump capacity from the information on the data plate attached to the pump.

NOTE: If your system supplies only normal domestic needs for one household, including lawn and garden watering, you would be within reasonable limits to claim 10 GPM.

B. This should be the actual amount of water claimed and used in a year; but, unless you have a meter, you can only estimate. Department of Ecology records indicate that these quantities would be reasonable for use in the absence of a meter.

Domestic Supply (household use per year)	
Western Washington	1 acre-foot
Eastern Washington	2 acre-feet
Irrigation (use per acre per year)	
Western Washington	2 acre-feet
Eastern Washington	4 acre-feet
Stockwater (use per 25 head per year)	
Dairy cows	1 acre-foot
Beef cattle	0.5 acre-foot

STANDARD FORM

The standard (long) Water Right Claim Registration form is shown here as Figure 3. Let's go through it step by step and item by item.

1. Name and mailing address.
2. Enter the type of water being used, surface or ground water.
 - A. If ground water, enter the type of withdrawal (well, sump, trench, etc.).
 - B. If surface water, enter name of the source (e.g., Wenatchee River). If source is unnamed, please say so (e.g., unnamed pond).
3. Quantities of water and times of use claimed.
 - A. The amount of water claimed and presently used will often be the same. This should be the actual rate at which water is or has been pumped (from your well or other

C. If you are claiming water for irrigation of more than 1/2 acre of land, enter the number of acres actually irrigated. This figure should not be the number of acres you own, but the number of acres irrigated. Do not enter irrigation as a use if you are

WATER RIGHT CLAIM FORM ...

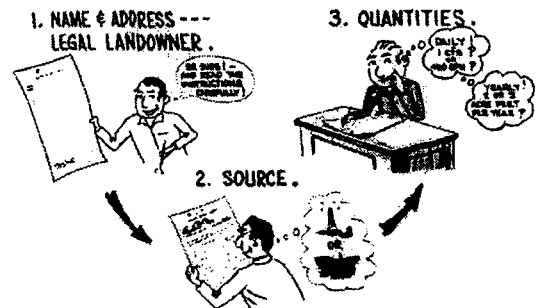


Exhibit A

watering less than 1/2 acre of lawn or garden. This usage is included in the domestic supply category.

D. Enter time(s) during each year when water is used by inclusive dates (e.g., April 1 to October 15). If water is used year-round, enter "continuously."

4. This statement should indicate the earliest date water was used from your system. This is not limited to the time you have personally owned and used the system. If you don't know the date, enter the earliest date of use that can be substantiated.

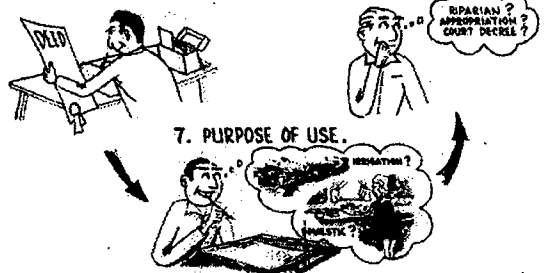
5. Identify, as accurately as possible, the location at which water is taken from the source. Fill in the blanks on the Water Right Claim form using the nearest section or subsection corner to your point of diversion or withdrawal as a reference point. If you have difficulty with this item, a good sketch of your property on a separate piece of paper, showing the property lines and the location of your pump or other water intake in relation to one of your property corners will usually be acceptable, assuming the legal description of your property is completely entered under item 6. In the case of platted property, the tract or lot, block, and name of the plat should be on your deed. If the section, township, and range numbers do not appear, you can get them from your county assessor.

7. Enter each and every use for which water is being (or has been) used. Sample uses are: domestic supply (includes watering lawn and/or garden less than 1/2 acre), irrigation, stock watering, commercial or industrial use, municipal supply, power generation, and fish propagation. If the domestic supply is used for more than one unit, enter the number of homes or units being served. If the water is used for commercial or industrial purposes, enter the specific uses such as: gravel washing, dredge mining, food processing, or lumber mill. These are examples only and are not intended to limit purposes of use to be entered.

WATER RIGHT CLAIM FORM, CONT'D. ...

6. LEGAL DESCRIPTION.

8. LEGAL DOCTRINE.



7. PURPOSE OF USE.

8. State the basic legal doctrine (a "legal doctrine" is a recognized concept or theory of law relating to establishment of water rights) under which this water right claim has been established. If you do not know which legal doctrine supports your claim, an answer of "Appropriation and/or Riparian" will protect your claim. If the claim is based on a court decree, cite the cause number, date of decree, and name of court.

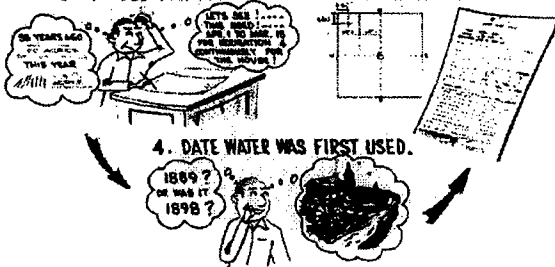
9. Sign the form and date it.

10. A two-dollar (\$2.00) statutory filing fee must accompany the Water Right Claim.

WATER RIGHT CLAIM FORM, CONT'D. ...

3. IF USED FOR IRRIGATION.

5. LOCATION.



4. DATE WATER WAS FIRST USED.

6. Enter the legal description of your property where the water is being used. This information is on your deed, purchase contract, mortgage statement, title insurance, or abstract of title. If the space is not sufficient to enter the complete description, attach a full description to the claim form on a separate sheet of paper.

WATER RIGHT CLAIM FORM, CONT'D. ...

9. SIGN AND DATE FORM.

11. RETURN FORM & FEE IN SELF-ADDRESSED ENVELOPE.



11. Return the Water Right Claim, in triplicate, to the following address:

Department of Ecology
WATER RIGHT CLAIMS REGISTRATION
Olympia, Washington 98504

If you need help in preparing the claim form or determining your need to register a claim or file for a water right, please contact the Department of Ecology Offices at the following locations:

Headquarters Office St. Martin's College Campus Abbot Raphael Hall Olympia, Washington Phone: (206) 753-6190	Northwest Regional Office 15345 N.E. 36th Redmond, Washington Phone: (206) 855-1900
--	--

Southwest Regional Office Olympia Airdustrial Park Olympia, Washington Phone: (206) 753-2353	Eastern Regional Office East 103 Indiana Avenue Spokane, Washington Phone: (509) 466-2926
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In addition, the State Cooperative Extension Service has an agent in each county, usually in the courthouse, who will help you complete the Water Right Claim Form.

DEFINITIONS

ground water source: where water does not naturally appear on the surface of the earth, including, but not limited to wells, sumps, and infiltration trenches or galleries.

surface water source: where water appears naturally on the surface of the earth, including but not limited to creeks, streams, rivers, lakes, springs, ponds, and swamps.

riparian lands: lands abutting upon a lake, stream, or other watercourse; conversely, non-riparian lands are not adjacent to a watercourse.

cubic feet per second (CFS): represents one cubic foot of water (7.5 gallons) flowing past a given point in one second.

gallons per minute (GPM): the number of gallons of water pumped or delivered from the source in one minute.

Conversion:

1.0 CFS = 450 GPM
0.10 CFS = 45 GPM
0.01 CFS = 4.5 GPM

acre-feet per year (af/yr): the measure of the total annual quantity of water for each use. It is the quantity of water required to cover one acre to a depth of one foot, or 43,560 cubic feet.

SUMMARY

In the best interests and protection of the water user, each and every claim to a water right should be recorded on either the short or standard water right claim form. Records of water rights established before 1917 may have been lost (courthouse fires) or the rights may not have been properly recorded in the first place. The purpose of the Water Right Claims Registration Act is to establish a registry of claims to these early uses. A farmer or homeowner whose property is irrigated or supplied by a diversion made before 1917 or a well dug before 1945 might lose the use of this water if the rights are not protected. This bulletin describes the steps required to file a water right claim.

This bulletin is one in a series of public information publications about the State Water Resources Management Program. It is punched to fit a standard three-ring notebook for filing convenience. Each publication in the series contains information about the work of the State Water Resources Management Program, and how you can help make it succeed.

Please keep this bulletin with other issues for ready reference. There is a great deal to learn and a big job to do. We hope you will help us.

If you really want to know what's happening to your water (and your grandchildren's), write to the address below to get on the mailing list for future releases on the program.

If you have any question about the State Water Resources Program or want further information, please contact:

State of Washington
Department of Ecology
WATER RESOURCES PROGRAM
Attention: V. E. Shaver
Olympia, Washington 98504
Phone: (206) 753-6876

or Department Offices in:

Spokane E. 102 Indiana Ave. 99207 (456-2926)
Yakima 504 N. Naches Ave. 98901 (CH 8-0981)
Redmond 15345 N.E. 36th 98052 (855-1900)

Previous bulletins in this series:

Issue 1: Your Water . . . Your Program
Issue 2: Water Resources Act of 1971
Issue 3: What Can I Expect from the State Water Program?