



Conservation Conversations: Water Rights

February 9, 2023



**WALLA WALLA COUNTY
CONSERVATION DISTRICT**
ESTABLISHED 1941



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Washington Water Trust



- Non-regulatory, nonprofit organization
- Founded in 1998
- Working to improve and protect stream flows
- Seeking “win-win” solutions through cooperative partnerships
- Voluntary, market-based transactions
- Funding from private and public sources
- Almost 20 years in the Walla Walla Basin

Presentation Agenda

- Water Law Basics
- Water Right Basics
- Programs & Resources
- Discussion



Washington Water Law Basics

- Property rights to "use" public resource
- First in time, first in right
- 5-year "use it or lose it" rule (*However, there are 21 exceptions including when in "Trust"*)
- All surface and groundwater rights must be permitted except permit-exempt wells
- Generally new water rights are not available in WA

What is a Water Right?



- Legal authorization to beneficially use a predefined quantity of public water for a designated purpose over a specified length of time
- Managed by the Washington Department of Ecology, locally regulated by Eric Hartwig, Ecology Water Master

Anatomy of Water Right

- Original name on water right
- Purpose of use
- Instantaneous quantity (Qi)
- Season of use
- Annual quantity/water duty (Qa)
- Priority date
- Point of diversion (PoD)
- Place of use (PoU)

Certificate of Water Right

THIS IS TO CERTIFY:

That by virtue of a decree of the Superior Court of the State of Washington in and for Walla Walla County, made and entered on the 19th day of September, 1929, and recorded in Volume 18 of the Superior Court Journal of said County at page 1, from which decree no appeal was taken, and which decree determined the rights of all known claimants to the use of the waters of the Touchet River, a tributary of the Walla Walla River

F. D. SHARP

Box 91

Seaside, Oregon

is entitled to use, subject to provisions set forth in said decree, and the laws of the State of Washington, the waters of said Touchet River

for the purpose of irrigation of 110.0 acres of land.

That the amount of water to which said water right is entitled is limited to the quantity which is reasonably and actually necessary for the purpose aforesaid and shall not exceed 1.466 second feet from April 1st to Sept. 15th and 2.200 second feet from Sept. 15th to April 1st, with the following exception:

After all rights scheduled in the above mentioned decrees are filled, the surplus water is allotted in the order of priority in amounts sufficient to increase the rate to the quantity allotted for the period from September 15th to April 1st. The total diversion shall not exceed 6 acre feet per acre for any one year beginning September 15th.

That the date of priority of said water right is 1912; that the decree aforesaid establishes said right in Class Forty-one.

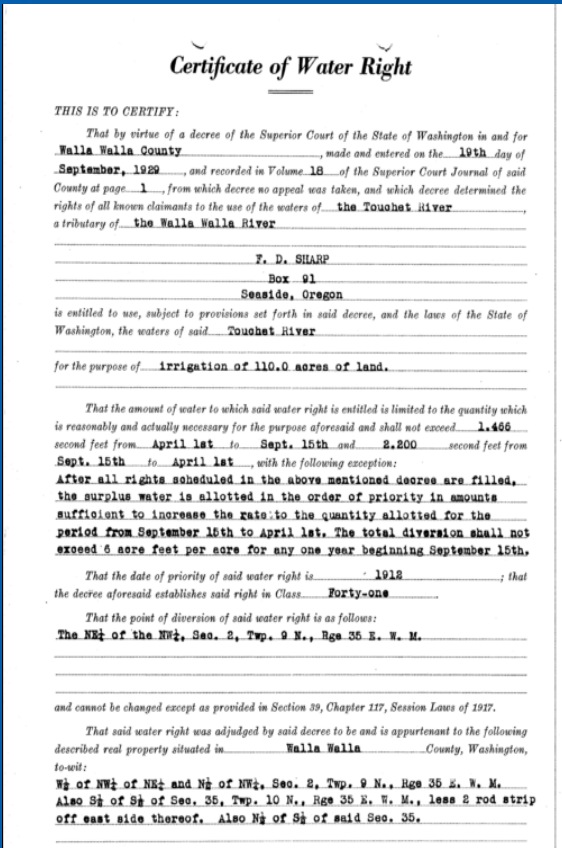
That the point of diversion of said water right is as follows:
The NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, Sec. 2, Twp. 9 N., Rge 35 E. W. M.

and cannot be changed except as provided in Section 39, Chapter 117, Session Laws of 1917.

That said water right was adjudged by said decree to be and is appurtenant to the following described real property situated in Walla Walla County, Washington, to-wit:

W $\frac{1}{2}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$ and N $\frac{1}{2}$ of NW $\frac{1}{4}$, Sec. 2, Twp. 9 N., Rge 35 E. W. M.
Also S $\frac{1}{2}$ of S $\frac{1}{2}$ of Sec. 35, Twp. 10 N., Rge 35 E. W. M., less 2 rod strip off east side thereof. Also N $\frac{1}{2}$ of S $\frac{1}{2}$ of said Sec. 35.

Paper Water vs Wet Water



May
not
=



Your water right is limited to the amount of water that has historically been put to beneficial use.

Is the water right valid?

If so, to what extent has it been put to beneficial use?

How much "wet water" do you have?

How to Determine if a Water Right is Valid

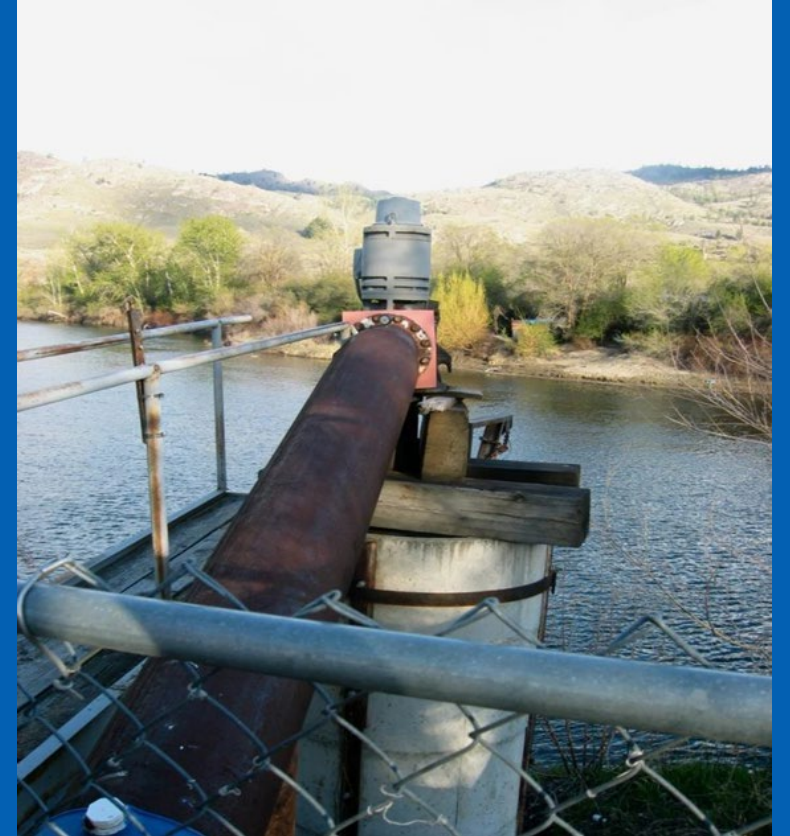


- Obtain a copy of all water right documentation
- Review the property deed
- Obtain records of use
- Determine if right is interruptible (ask Watermaster)
- Check with supplier to confirm water delivery and prior use

How to Protect Your Water Right

Keep good records!

- Meter records
- Pump records
- Cropping/seed receipts
- Photographs of water use
- Affidavits of water use
- Aerial imagery/Google Earth
- Sufficient causes for non-use



Introducing the Best Kept Secret: The Trust Water Rights Program

WA State Trust Water Rights Program

- Hold and protect water rights for future uses while enhancing stream flows
 - Key: Stops the clock and protects water from relinquishment while benefiting people and the environment managed by Ecology
- Managed by WA Dept. of Ecology
- Retains priority date (seniority) and all other attributes
- Offers flexibility: Temporary, permanent, partial, entire



Top 6 Ways the Trust Water Rights Program Can Work for You

#6



You recently bought property and you're still figuring out your water rights –
Act now before they're gone!

#5



You're looking to change crops and will be
using less water –
Don't lose it when you're not using it!

#4



You're upgrading to a more efficient
irrigation system –
Protect the "saved" water just in case!

#3



You need a vacation from irrigating –
And who wants to worry about
relinquishment?!

#2



You don't know what you want to do with
your water –
But the clock is still ticking.

#1



Your water might have instream flow value –
And can help make a difference.

Trust Water Agreements

*Restoring Stream Flows,
Respecting Landowners*

- Lease – Flexible incentives for temporary trust water
- Sale – Fair market value for permanent trust water
- Donation – Protects beneficial use



Creative Solutions

- Purchases and leases
- Late season
- Shift to low or no irrigation crop
- Dry-year option agreements
- Source switches
- POD changes
- Irrigation efficiencies
- Storage release
- Off-channel storage
- Land conservation – CREP, riparian restoration, easements



**Need Help?
Not a Problem!**

Resources Available to You

- Washington Water Trust (WWT)
- Water right attorneys and consultants
- [Ecology's Water Rights Explorer](#) (online)
- Ecology staff and Water Master
- Washington State Water Law: A Primer (online)
- [Landowner's Guide to Washington Water Rights](#) (online)
- Local Conservation District



Questions?



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