



CLEAN, FLOWING WATERS FOR WASHINGTON

The Center for
Environmental Law & Policy

2016 Annual Report

CELP LEADERSHIP

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OUR MISSION: *The Center for Environmental Law & Policy is a statewide organization whose mission is to protect, preserve, and restore Washington's waters through education, policy reform, agency advocacy, and public interest litigation.*

OUR VISION: *Washington State will have adequate and sustainable water supplies to support healthy ecosystems, thriving fish and wildlife, and robust communities.*

CELP LEADERSHIP

Center for Environmental Law & Policy (CELP) has been the voice for sound water resource management in Washington State for over 20 years. During that time CELP has seen many victories and many challenges.

I joined CELP in December of 2014, and along with the board of directors, we began to re-build and strengthen the organization. In 2015 we completed a new 5 year strategic plan, hired a full time staff attorney, and added a new program on Climate and Stream Flows. In 2016 we added several new board members, hired a new Outreach and Development Coordinator and increased our budget by 27% over 2014. None of this would have been possible without the support of our loyal members, steadfast partners, dedicated volunteers including our wonderful board, and our highly capable staff.

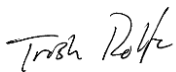
The last few years have also seen some monumental water resource rulings from the Washington Supreme Court that have helped strengthen protections for instream flows. In 2013's *Swinomish v. Ecology*, the Court ruled that Ecology could not impair an instream flow by amending the rule to set aside a reservation for future use using "overriding concern of public interest," or OCPI. In its 2015 *Foster v. Ecology*, the Court ruled that Ecology could not use OCPI to approve a permit that would impair an instream flow, and that Ecology could not use "out of kind" mitigation for an impairment of an instream flow. Finally in October of 2016, the Court ruled in *Whatcom County v. Hirst* that counties have a responsibility under the Growth Management Act to make a determination that water is both legally and physically available before granting a building permits for structures that rely on permit exempt wells for their water. In many watersheds around the state the proliferation of these wells has impacted stream flows, and now with this ruling any new wells will need to be mitigated if they impair an instream flow.

These rulings have helped protect instream resources, but pressure to provide water for development has resulted in increased attempts to overturn these decisions in the legislature. That's why CELP's work is so important – we are there in the courts and the legislature to demand and defend these protections.

The 2015 drought in Washington State was a wake-up call. Washington's rivers and streams were flowing at all-time lows and experienced record high water temperatures. It highlighted the need for Washington to adopt and implement a sustainable water management plan that protects the ecosystems that rely on healthy stream flows. This makes CELP's work to protect Washington's water resources even more vital and urgent.

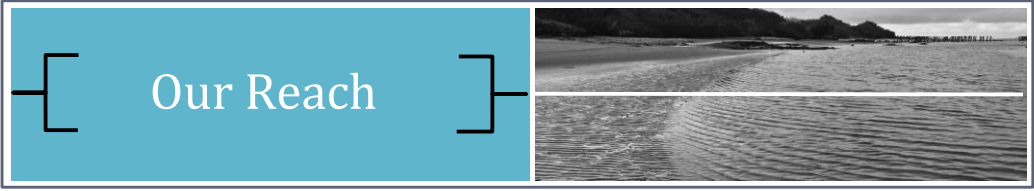
CELP has accomplished much in the last few years with limited resources thanks to our dedicated volunteers and supporters, but big challenges are on the horizon with the Trump Administration. CELP is in a solid position; however, we will need more resources to take on some of these challenges. We will need your help to encourage friends and colleagues to join CELP, to advocate for sustainable use of water at public meetings and with elected officials, and to help CELP raise the funds for additional staff. In the future, CELP will anticipate and adapt to the challenges ahead, which are compounded by climate change, while remaining true to our core mission: protecting the public's interest in water. CELP can only achieve its mission **to protect, preserve, and restore Washington's waters** with the help of our loyal members, supporters, and volunteers. I hope you will join us!

Many thanks to you all,



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CELP's work spans the state, impacting all of our sixty-two watersheds.



How we work:

- 

Litigation to Protect the Public's Interest in Water
 CELP is the principal organization in Washington litigating to protect the public's interest in our rivers and aquifers.
- 

Agency Advocacy and Legislative Reform
 We work in Olympia with legislators, agency staff and regulators to advocate for science-based water management.
- 

Public Education and Media
 CELP educates the public through seminars, stories in the media, newsletters and outreach events. We also issue law review articles and white papers on critical water issues.



Our Impact

Climate Change and Water Scarcity

Water scarcity is becoming one of the biggest climate change issues in Washington State, and our current water policy is not taking climate change impacts into account. As climate change shifts the timing and volume of streamflow and reduces snowpack, lower flows during the summer will make it more difficult to maintain an adequate supply of water for communities, agriculture, and fish and wildlife. Lower summer flows and higher stream temperatures will continue to degrade our water quality and place further stress on salmon. Preparing for and adapting to the impacts of climate change will require new management approaches that take into account how future conditions are likely to change.

CELP works in the courts, legislature, and communities to ensure the consideration of climate change in water management decisions.

Legislative & Agency Advocacy

CELP's work in the legislature is three pronged: **1) developing relationships** with legislators, tribal lobbyists, and environmental lobbyists prior to the session; **2) calling on those relationships during the session** to support good water bills or to fix regressive legislation; and **3) working for real reform** of water policies. 2016 was a short legislative session due to the upcoming November elections, which intensified discussions and limited the number of bills being considered in the state legislature. Despite the short session, CELP managed to defend Washington's waters from detrimental legislation as well as pass multiple bills to advance sustainable water management.

CELP worked with tribal and environmental allies to amend and pass two bills:

- ◆ **SB 6179** - Water Banking. This bill added transparency in the practice of Water Banking. CELP supported an amendment to add language that water supplies for water banking must be adequate and reliable, however, the bill passed without the amendment.
- ◆ **SB 6589** - Water storage/exempt wells study. This bill authorized a study that would examine options for storage projects to mitigate development in Skagit basin. CELP supported amendments to this bill that would include Tribes in any agreement on how the study is conducted.

Throughout 2016, CELP also participated in Ecology Water Resource Advisory Committee meetings, and provided comments on Ecology's agency actions like new rulemaking and permits.

Public Education & Outreach

🔹 In March, CELP organized a **conference at Boise State University on Ethics, Hells Canyon Dams, and the Columbia River Treaty**. This was the third in a conference series titled “One River, Ethics Matter,” ~~to explore the moral dimensions of dam building~~ modeled after South Africa’s post-apartheid Truth and Reconciliation public dialogue, ~~in the wake of apartheid~~ to explore the moral dimensions of dam-building.

🔹 CELP held **two Continuing Legal Education seminars** with a total of HOW MANY attendees in 2016. The first was

held in June, and featured a talk from Earthjustice’s Managing Attorney for Oceans, Steve Mashuda, on dams and salmon in the Columbia basin. CELP also sponsored its annual full-day CLE in December, focused on climate and water issues in Washington State. These conferences are open to the public.

🔹 Throughout 2016, CELP staff and volunteers tabled at **four community outreach events** handing out educational materials and engaging community members on water issues in Washington State.

🔹 In 2016, CELP produced **nine issues of Washington Water Watch**, a newsletter including educational articles on watersheds around the state, water law news, and policy and advocacy updates.



CELP volunteer Gwyn Perry talks to community members at the Stillaguamish Festival of the River in Arlington, WA

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Litigation to Restore Rivers

2016 was a busy year for CELP’s litigation work. Led by Staff Attorney Dan Von Seggern, CELP has been able to expand its impact in the courts by continuing work on a number of ongoing cases as well as filing a new case to challenge Ecology’s Spokane River Instream Flow Rule.

🔹 **CELP, American Whitewater, & North Cascades Conservation Council v. Ecology and PUD No. 1 of Okanogan County (Court of Appeals, No. 74841-6-1)**

CELP has been involved in a ten-year effort to restore and protect the Similkameen River. The Enloe Dam has not produced power since 1958. CELP and partners appealed a decision by Ecology to issue a water right to the Okanogan PUD for renewed operation of the Enloe Dam. On July 11, 2016 the Washington Court of Appeals denied CELP’s appeal of the water right issued to the Okanogan County PUD.

🔹 **CELP and Wild Fish Conservancy v. Fish & Wildlife Service (Eastern District Washington, No. 2:15-cv-02464-SMJ)**

The Leavenworth National Fish Hatchery discharges its waste into Icicle Creek, and has not had a permit to do so since 1979. CELP filed suit for violations of the Clean Water Act in September of 2015. In early January 2016, Judge Mendoza granted CELP’s motion for summary judgment on the issue of liability, finding that the Hatchery had not had a valid permit and that their discharges are ongoing violations of the CWA.

🔥 **CELP & American Whitewater v. Department of Ecology (Thurston County Superior Court No. 16-2-02161-34)**

Ecology is required to protect instream values including fish & wildlife, recreation, and navigational use when establishing an instream flow. In the Spokane River, Ecology set a very low summer flow of 850 cfs (essentially drought level) based solely on considerations of fish habitat. Ecology ignored overwhelming evidence that this flow was too low to allow for recreational use of the river by kayakers and rafters, and that it was too low to protect aesthetic values. CELP filed a Petition for [Rule Amendment](#) in early 2016, which was denied. CELP will continue work on this case to prepare for a June 2017 hearing in Olympia.

🔥 **Sierra Club & CELP v. EPA et al. (E.D. Wash.)**

The Spokane River is heavily PCB-contaminated. The Department of Ecology has failed to establish a Total Maximum Daily Load (known as TMDL) for PCBs, which would in turn lead to limits on discharges by major polluters. Based on Ecology's failure, CELP contends that EPA had a duty to set the TMDL. In March 2015, EPA was ordered by Judge Rothstein to develop a schedule for adopting a TMDL. EPA's response was a plan that could take as long as 20 years to establish the TMDL. In response, CELP filed an amended complaint in 2016 alleging that EPA's plan violated the Clean Water Act. While the suit was pending, in late 2016 Ecology issued draft permits for several of the largest polluters that set PCB limits at the level CELP hopes to achieve. [This litigation has been stayed until final permits are issued.](#)

🔥 **Basset et al. v. Ecology (Thurston County Superior Court No. 14-2-02466-2)**

In 2014, a group of developers [and landowners](#) in Clallam County sued the Washington State Department of Ecology to overturn the instream flow rule for the Dungeness River adopted in 2013. CELP intervened in the lawsuit in support of the Department of Ecology because we believe that the Dungeness Rule is protective of instream resources and provides a pattern for future mitigation programs. Judge Gary Tabor denied the challenge to the rule in October 2016. Plaintiffs appealed the court's ruling and have asked the Washington Supreme Court for direct review. CELP will continue work on this case in 2017 to ensure that instream flows on the Dungeness River remain protected.



Melissa Bates, CELP Volunteer and Supporter

Melissa Bates is co-founder of Aqua [Permanenté](#), a citizens group that works to protect water resources in the Kittitas Valley and statewide. In 2008, Aqua Permanenté petitioned the Department of Ecology to close the Upper Kittitas Valley to all new groundwater withdrawals, including permit-exempt wells. In 2011, that closure became reality, when the state adopted a rule prohibiting new, unmitigated wells in Upper Kittitas. Melissa and her family have been invaluable volunteers for CELP. **"No one defends our water resources like CELP, so CELP has to be tough because once the water has been taken for out-of-stream use; you rarely get it back in-stream! At the same time, CELP works on drafting policy in order to proactively create protections."**

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THANK YOU TO OUR 2016 SUPPORTERS

Our work is possible because of your generosity — Thank you!

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The Catholic Bishop of Spokane
 Columbia Institute for Water Policy
 Eastern Washington & Idaho Synod
 League of Women Voters of
 Washington Education Fund
 Save a Valuable Environment
 Silver Valley Community Resource
 Center
 South Sound Sierra Club Group
 Western Environmental Law Center

Tribes:

Kalispel Tribe and Northern Quest
 Resort & Casino
 Quinault Indian Nation
 Squaxin Island Tribe
 Swinomish Tribe
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Jeff Dickison; Fish Tale Brewing; Zena Hartung; Eymann Allison Hunter Jones, P.S.; Walt Jorgensen; Dave Monthie; Sue Patnude; Steve Robinson; Denise Smith; Karen Valenzuela.

Volunteers and Interns

Melissa Bates; Carla Carlson; Tom Fox; Kathryn Jones; John Osborn; Mara Page; Gwyneth Perry; Elaine Packard; Megan Rehder; John Roskelley; Joyce Roskelley; Marc Schillios; Denise Smith; Reverend W. Thomas Soeldner; Julie Titone; Adam Wicks-Arshack; Teri Wright.

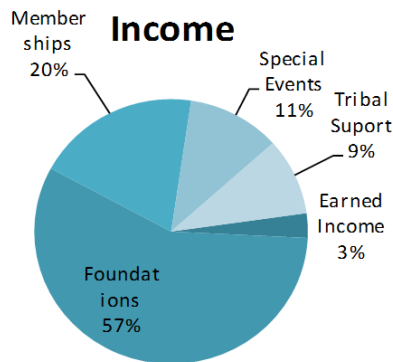
Pro Bono Counsel, Volunteer Professionals

Lara Whitley Binder; Janette Brimmer; Neil Caulkins; Amanda Cronin; Steve Farquhar; Sharon Haensly; John Hollowed; Kai Hiatt; Brady Johnson; Paul Kampmeier; Brian Knutsen; Suzanne Liberman; Steve Mashuda; Tom McDowell; Jean Melious; Dave Monthie; Kimberly Orden; Rachael Paschal Osborn; Andrea Rodgers; Thomas Schlosser, Lindsey Schromen-Wawrin; Richard Smith; Tim Trohimovich; Patrick Williams; Jonathan Yoder.

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By the Numbers

<u>INCOME</u>	<u>Amount</u>
Earned Income	\$5,410.00
Foundations	\$103,195.00
Memberships	\$35,111.00
Special Events	\$19,900.00
Tribal Support	\$17,000.00
TOTAL	\$180,616.00
<u>EXPENSES</u>	<u>Amount</u>
Fundraising	\$35,000.00
Administration	\$13,000.00
Program—Legislative	\$11,000.00
Other Programs	\$131,200.00
TOTAL	\$190,200.00



Expenses

