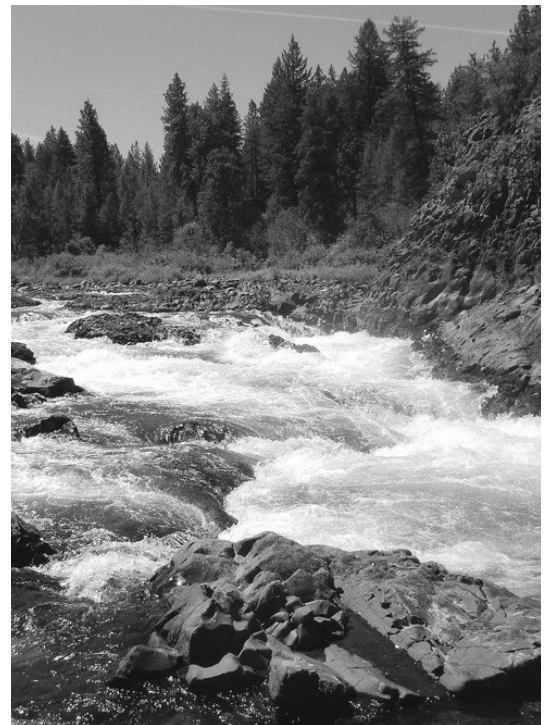
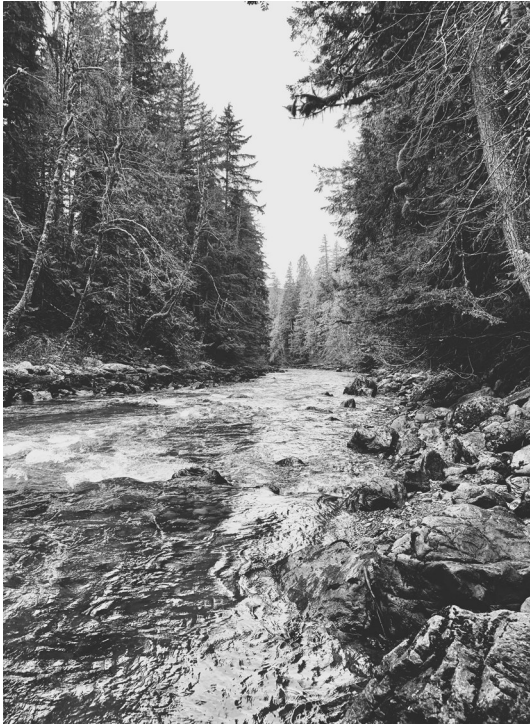




CLEAN, FLOWING WATERS FOR WASHINGTON

The Center for Environmental Law & Policy



2020 Annual Report

Our Mission is to protect, preserve and restore Washington’s waters through education, policy reform, agency advocacy, and public interest litigation.

Our Vision for the future is that Washington State will have adequate and sustainable water supplies to support healthy ecosystems, thriving fish and wildlife, and robust communities.

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Nick Manning, Water Policy & Outreach Organizer (2018– June 2020)
Kayla Magers, Communications & Development Coordinator
Ted Howard, Environmental Legal Fellow (March 2019-March 2020)
Julie Kageler, Bookkeeper

LETTER FROM THE EXECUTIVE DIRECTOR

2020 marked the Center for Environmental Law & Policy (CELP)'s 25th anniversary as a nonprofit. In January we had no idea the challenges the year would bring. We started the year with a successful second annual Clean & Abundant Water lobby day assembling a coalition of organizations, activists, scientists, and fishermen to advocate for smart water resource management. But soon after that everything changed as the COVID-19 virus was in Washington State. CELP staff made the decision to move to working from home, and we had to reimagine how to continue to do our important work to protect Washington's water resources. Our staff attorney, Dan Von Seggern, gave his first oral argument in front of the Washington State Supreme Court via zoom, and all our advocacy, education and outreach work was transformed to on-line virtual activities. We had to move our annual event, Celebrate Waters, to a virtual event as well as we honored former UW Professor Bob Anderson with our Water Hero Award.

We also faced challenges to our work caused by a long lasting and widespread drought that sparked wildfires across the west, the Trump Administration's continued roll back of environmental protections including the Clean Water Act, increased demand for Washington's already over allocated water resources, and widespread impacts to our rivers and streams from climate change.

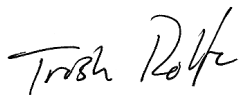
CELP faced these challenges head on. We worked with Watershed Restoration Planning groups to find solutions to instream flows impaired by new permit exempt wells, and with stakeholders to find solutions to water speculation and improve our water trust and water banking systems. We collaborated with tribes, government agencies, partner organizations, and community members to advocate for and secure more sustainable water management practices for Washington.

Our successes in 2020 were because of our dedicated board, staff, partners, volunteers, and supporters, like you. We also took the unique opportunity to look for new inspiration and begin re-thinking how we can accomplish our mission of protecting, preserving, and restoring waters across the state by envisioning a water management system in Washington state that is more equitable and sustainable to support healthy ecosystems, thriving fish and wildlife, and robust communities.

As we emerge from the unique challenges of 2020 you will find us collaborating with elected officials, Native American tribes, agency staff and community members every day to pursue this goal. CELP's work is critical to our state's growth and future, and we are ready for the new challenges ahead. We will work to anticipate and adapt to these challenges, and we hope you will join us! You can advocate for sustainable water use by attending public meetings or contacting your elected officials, and by encourage friends and colleagues to support CELP so we can expand our reach.

Thank you again for your continued support in our mission to protect, preserve and restore Washington's waters!

Sincerely,



Trish Rolfe
Executive Director



Our Reach



CELP's work spans the state, impacting all of our 62 watersheds.

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.



Water Report & Climate Change

2020 was brought in with winter storms that built up a good snowpack in Washington. We had great snowpack levels, even above 100% of normal on April 1st. This date is important because, generally, the amount of snowpack we have on April 1st is what there is to make it through drier summer months. This was a good sign, but there were concerns on the east side of the Cascades, where soil moisture was lower than usual. The Upper Yakima area snowpack decreased quickly to 85% of normal the second week of April. Lower spring precipitation brought drought to Central Washington and the Inland Northwest as early as April. In May, only the northwest corner of the state was free of any drought, but even there, warmer temperatures meant snowpack was melting faster. Melt season ended 1-3 weeks early. Elevated fire risk was declared in May. Heatwaves spread across the state through the summer and increased in intensity in August. With warmer temperatures and strong easterly winds, fires erupted everywhere. Labor Day weekend, unprecedented fires spread across the state, including the rainforest. Washington had its second worst fire season on record, after 2015. As September continued, extreme critical fire weather was issued. Drought continued with 6% of the state in extreme drought, 17% in severe drought, and 42% in moderate drought. Washington was not the only state experiencing unprecedented fires as huge areas of the west burned and fires spread quickly due to dry conditions. The skies turned orange and air quality reached unhealthy and hazardous levels. The Western U.S. is drying out and experiencing megadrought and aridification. We are already facing the impacts of climate change and need to plan for better management and adaptation. CELP helped advocate for and pass Ecology's drought legislation to improve preparedness and response. **To mitigate the effects and adapt to the changing climate, CELP works tirelessly in the courts, legislature, and our communities to secure better management decisions for our waters.**



Our Impact

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) **Supporting good water bills** or to fixing regressive legislation by calling on these relationships during the session; and
- 3) **Working for real reform** of water policies.

CELP managed to defend Washington's waters from detrimental legislation as well as pass multiple bills to advance sustainable water management. We organized our **second Clean & Abundant Water lobby day**, in partnership with Puget Soundkeeper Alliance, assembling a group of organizations, activists, scientists, and fishermen from across Washington representing **27 different legislative districts**. We had over **60 attendees** receive hands-on advocacy training and met with over **45 legislators** and legislative aids to advocate for smart water resource management.

Outcomes

- Four of our priority bills were signed into law. Reusable Bag Bill (ESSB 5323), Motorized Suction Dredge Mining Ban (ESHB 1261), Water & Energy Conservation C-PACER (E2SHB 2405), Ecology's Drought Legislation (ESHB 1622).
- We grew our partnership with waterkeeper organizations, citizen groups, and tribes. Including Puget Soundkeeper Alliance, Columbia Riverkeeper, Spokane Riverkeeper, North Sound Baykeeper, Twin Harbors Waterkeeper, Trout Unlimited, RE Sources, Lewis County Water Alliance, Cowlitz Indian Tribe, concerned citizens, volunteers, and more.
- CELP also advocated for the Low-Water Landscaping bill (HB 1165) which was signed into law.



Agency Advocacy

Throughout 2020, CELP also participated in Ecology Water Resource Advisory Committee meetings and provided comments on Ecology's agency actions like new rulemaking and permits.

In May of 2020, CELP provided comments on the Chehalis River Basin Flood Damage Reduction Project Draft Environmental Impact Statement (DEIS) in opposition to the proposed dam.

In July of 2020, CELP wrote a letter to the Washington Department of Ecology urging them to select the Nooksack River for the next basin to be adjudicated.

Watershed Restoration Plans

In its 2016 *Whatcom County et al. v. Western Washington Growth Management Hearings Board*, 168 Wn.2d 648 (2016) decision (often referred to as “Hirst”), the Washington Supreme Court ruled that the county had failed to comply with the Growth Management Act’s requirements to protect water resources. The Hirst ruling required that counties make an independent decision about legal water availability before determining where homes that would rely on permit-exempt wells can be built. In January 2018, the Washington State Legislature passed the Streamflow Restoration Act (RCW 90.94) in response to Hirst. RCW 90.94 clarifies how local governments can issue building permits for homes intending to use a permit-exempt well for their domestic water supply and requires local watershed planning in 15 WRAs. The watershed planning groups must evaluate the projected water use by new permit-exempt wells and identify sources of water to offset the new water use by augmenting streamflows.



Cedar River by Kayla Magers

The Department of Ecology, planning groups, and technical consultants have been working to update watershed plans in the 15 WRAs since January 2018. Ecology has led the Watershed Restoration and Enhancement Committees in developing Watershed Restoration and Enhancement Plans (watershed plans). Watershed plans must estimate the potential consumptive impacts of new permit-exempt domestic groundwater withdrawals on instream flows over 20 years (2018-2038), identify projects and actions to offset those impacts, and provide a net ecological benefit to the WRA. All of these groups have until June 30th, 2021 to approve these plans. In any WRA where a plan is not approved by the deadline, Ecology will begin rulemaking to address the requirements of the law.

Under the Streamflow Restoration Act: Watershed plans are prepared, approved, and submitted by watershed planning groups. The Department of Ecology reviews the approved watershed plans and determines whether they meet the minimum requirements of the law. Ecology then adopts submitted watershed plans by the deadlines set by legislation or moves into rulemaking.

As part of CELP’s work to protect and restore Washington’s rivers and streams, CELP staff and board members have spent the last two and a half years as members of some of these planning groups. CELP staff represented the environmental community on the Snohomish, Cedar-Sammamish and Duwamish-Green watershed planning units, and our volunteers participated in several others. Our work centered on making sure that the estimate of water use by new permit exempt wells is an accurate assessment, and that the plans find water for water mitigation projects that will truly restore that water to the impacted streams in the WRA. CELP will continue to monitor the plans and provide comments. We will ensure that Ecology’s rule-making meets the requirements of the Streamflow Restoration Act and adequately protects river and stream flows. We will also work to get water projects funded in each round of funding from Ecology.

Litigation to Restore Rivers

CELP continued to fight for Washington’s rivers in court throughout 2020. Despite a disappointing reversal in the Washington Supreme Court, we are undeterred from our mission to protect rivers and streams. CELP is now litigating to clean up PCB contamination in the Spokane River, and supporting two groups of young people who have sued to protect their rights to grow up in a stable and healthful climate.

💧 CELP, American Whitewater, and Sierra Club vs. Washington Department of Ecology

The Spokane River's Instream Flow Rule (WAC Chapter 173-557) was adopted in 2015. Instream flow rules are intended to protect a wide variety of instream values and uses, including fish & wildlife, recreation, navigation, and aesthetic values. However, in adopting the Spokane River Rule, Ecology's summer instream flow of 850 cubic feet per second considered only the needs of fish while ignoring other instream values. This is a near-drought level for the river and would be devastating to whitewater rafting, kayaking and other recreational uses of the Spokane.

CELP, American Whitewater and the Sierra Club challenged the Rule, arguing that the state was required to consider all uses of the river, not just habitat needs of fish. The challenge was initially denied in Thurston County Superior Court. On appeal, the Court of Appeals, ruled in favor of CELP and the Spokane River advocates, finding that Ecology failed to protect summertime flows needed by the river and other instream flow values. Ecology then requested review by the Washington State Supreme Court. Unfortunately, the Supreme Court overturned the Court of Appeals' decision in August 2020. While this is a setback, be assured that CELP's commitment to have instream flows established at levels that protect fish, wildlife, and the river communities is undiminished and we will continue to fight for river protections.



Spokane River by Eric Muhr

💧 Climate Change Litigation

Groups of young people who have been and will be harmed by the effects of climate change have filed suits against both the state and Federal governments in many courts. These youth plaintiffs know that climate change threatens their futures and that strong governmental action is needed. They ask that the courts order governments to limit harmful emissions of greenhouse gases. CELP is involved in two of these cases. In *Aji P. et al. v. Washington*, the youth plaintiffs are Washington residents who are asking that the state be ordered to act to reduce greenhouse emissions. CELP filed an amicus brief on behalf of itself and a coalition of 10 other environmental groups, explaining to the Court the importance of a stable and healthful climate to the American concepts of life, liberty, and the pursuit of happiness. After a King County judge dismissed the case, the Washington Court of Appeals affirmed, stating that there was no "fundamental right" to a healthful environment. The youth plaintiffs have asked the Washington Supreme Court to accept review. CELP is again providing an amicus brief explaining why the fundamental right to a stable and healthful climate underlies the other rights of citizens.

Staff attorney Dan Von Seggern has also taken over as counsel for an amicus curiae group of history professors in *Juliana et al. v. United States*, a suit whose plaintiffs are asking for action at the Federal level to stop greenhouse emissions. After the 9th Circuit Court of Appeals reversed the trial court decision in favor of the youth plaintiffs, the case has returned to the trial court. CELP is prepared to offer amicus support as the litigation continues.

💧 Spokane River PCBs

Litigation has resumed in CELP and the Sierra Club's long-running fight to control PCB contamination of the Spokane River. Several industrial and municipal facilities discharge large amounts of PCBs that contribute to violations of water quality standards and make fish unhealthy for consumption. In violation of the Clean Water Act, the Department of Ecology and the United States Environmental Protection Agency have failed to adopt limits on total PCB discharges to the river. Following a strongly-worded 2015 decision in which the court ordered EPA to develop a schedule for adopting PCB limits and controlling pollution, EPA issued an inadequate plan for PCB reduction and the case was stayed. CELP and Sierra Club, represented by the firm of Smith & Lowney, resumed the litigation in 2020. We hope to see the court order, at long last, that EPA must adopt actual limits on PCB discharges to the river.

Public Education & Outreach

💧 After postponing our summer events due to COVID-19, CELP hosted its annual **Celebrate Waters** fundraising event virtually in September. We commemorated our 25th anniversary and awarded **Robert Anderson** the **Ralph W. Johnson Water Hero Award** to honor his career as Director of the Native American Law Center, and his work protecting waters, natural resources, and tribal interests across the state and country. We also hosted a guest speaker, **Dr. Gary Morishima**, who discussed the **Chehalis River Basin Strategy** and its twin goals of reducing damage from flooding and restoring aquatic species. With the support of numerous tribes, organizations, sponsors, and supporters **we raised over \$24,000**, including a **\$5,000 match** from a generous donor.



💧 In December 2020, CELP helped organize and support the **seventh** conference in the **“One River, Ethics Matter”** series. **River of Time: From Canoes to Freighters to 2160 and the 7th Generation** was hosted virtually by the **Cowlitz Indian Tribe** and **Washington State University – Collective for Social and Environmental Justice**, and Native American Affairs. The conference covered Cowlitz tribal history and their work to restore rivers of the Estuary, climate change impacts, youth empowerment, flood risk analysis for Portland-Vancouver, and systemic racism remedies.

💧 The first two weeks of December, CELP hosted **three 2-hour virtual Continuing Legal Education workshops**. The workshops series, **“Where are we now? Water law, tribal rights, and climate change”** included 8 speakers covering the topics **Water Trading and Speculation**, **River Basin Adjudications and Tribal Rights**, and **Climate Change and Water Rights**. We had about **40 attendees** for each workshop.

💧 CELP's **Water Policy Coordinator**, Nick Manning spent the beginning of the year organizing Clean & Abundant Water lobby day. Prior to COVID he was continuing **outreach in Southwestern Washington** to build a community around preserving streamflow and water resources. He graduated in June with his MPA and moved on to another organization.

💧 CELP published **6 issues of Washington Water Watch**, a newsletter featuring articles on our state's watersheds, water law news, and legislative and advocacy updates.

💧 We continued our weekly social media campaign, **#WaterWednesday**, to increase education and awareness of water issues.



Spotlight

Daryl Williams



CELP was honored to have Daryl as a board member from 2013-2015 and Board Chair from 2016-2020. We are incredibly grateful for all his work and support and wish him the best. Daryl is a member of the Tulalip Tribes, and has been on staff with the Tribe since 1977 in many capacities. While he is now retired as the Environmental Liaison for the Natural Resources Division, he continues to work to protect natural resources and tribal interests. Daryl serves as President of Adopt A Stream Foundation and President of Qualco Energy. Daryl is a member of the Washington State Conservation Commission and was a member of the National

Tribal Environmental Council. Thank you ,Daryl, for your continued support and everything you do to protect waters in Washington.

Volunteers

Evan Frey, Andrew Hill, Aya Mears, Tiffany Sevilla

Pro Bono Counsel/Volunteer Professionals

Christina Faliero, Liz Hebel, Rosemary Moore, Robert Sappington, Jennifer Seely, Ben Simpson

Foundations

Horizons Foundation, Liberty Hill Foundation Satterberg Fund, NW Fund for the Environment, Patagonia Foundation, Satterberg Foundation,

Tribes

Jamestown S’Klallam Tribe, Nisqually Tribe, Quinault Indian Nation, Suquamish Tribe, Tulalip Tribes, Upper Columbia United Tribes

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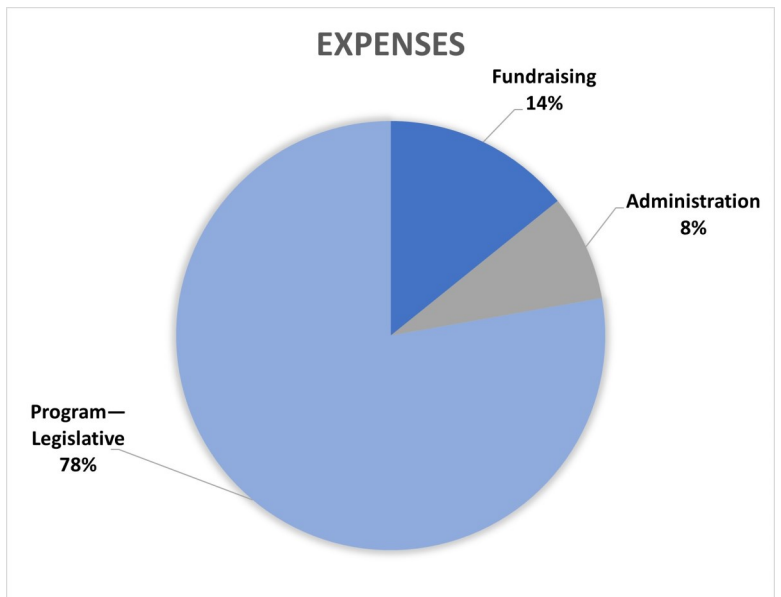
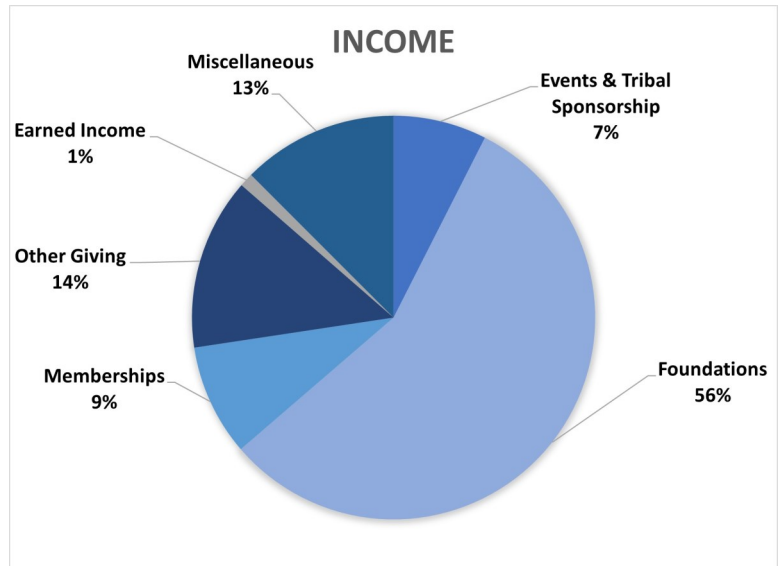
Organizations

Columbia Institute for Water Policy, Hydropower Reform Coalition, NW Whitewater Association, South Sound Group Sierra Club

By the Numbers



INCOME	Amount
Events & Tribal Sponsorship	\$22,654.10
Foundations	\$170,000
Memberships	\$26,999.97
Other Giving	\$41,685.26
Earned Income	\$3,334.88
Other Income	\$37,811.01
TOTAL	\$302,307.22
EXPENSES	Amount
Fundraising	\$35,545
Administration	\$20,025
Program—Legislative	\$194,710
TOTAL	\$250,280



Photos:

Cover upper left clockwise: Nooksack River by Jonathan, Columbia River by Michael Denning, Spokane River by John Osborn, Elwha River by Tom Ring
 P.4 Olympic National Park, Port Angeles by Jachan Devol
 P.5 Chehalis River
 P. 9 Snohomish River by Julie Titone
 P.10 Panther Creek Falls by Justin W

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