Dear friends of CELP,

This year started off unusually warm and wet with Seattle experiencing its 3rd warmest January on record, and the wettest start to the year in over a decade. January was Washington's 12th warmest on record and among its least snowy. February has also had record breaking warm days and there were numerous floods across Western Washington. This trend is worrisome for our water resources with more rain and less snow during the winter months leading to droughts during the summer. Thankfully we have received a lot of snow in the mountains in the last few weeks and our snowpack is now over 100% of normal. We will be monitoring what happens in the next few months to see if we will experience another drought. Stay tuned.

Meanwhile, we have been working hard in Olympia to protect Washington's waters. This year's legislative session has kept CELP very busy dealing with over a dozen water bills. But our hard work would not be possible without you. We rely on generous donations from our members and supporters to hold our lawmakers and agencies accountable for protecting Washington's rivers and streams. If you haven't renewed your membership for 2020, you can do it today on our secure website, www.celp.org.
In this issue you will find information about water banking, water bottling, the legislative session, a call to action, Clean & Abundant Waters lobby day, the Spokane River Instream Flow Rule, upcoming events, and Water Stories.

Sincerely,

Trish Rolfe
Executive Director
trolfe@celp.org

Understanding Water Banking

Water is a public resource that is stewarded by the WA Department of Ecology. The state issues water rights, entitling the owner to beneficially use a specified quantity of water for a certain purpose in a certain place. Washington follows the prior appropriation system. The basic principle of prior appropriation is "first in time, means first in right". This means that a water user who began their use earlier (a "senior" user) has priority over a later, or "junior" user. In times of shortage, a senior water right can receive its full allocation, before junior water rights receive anything. In the Yakima Basin for example, junior water users regularly receive less than their full allocation of water. The oldest rights are held by Native American Tribes, whose rights to water instream to support fish populations and cultural values date back to time immemorial.

Water banks are set up to facilitate sales or leases of water rights between users. 25 water banks have been created since 2004. Typically a water bank will hold senior water rights and sell or lease the water to users who lack water rights or who have rights that are too new or too small to fulfill their needs. While this is often a useful way to manage water resources, state law has not kept pace with recent trends in water banking. Because of unclear definitions and inadequate regulation, water banks can also be used for water speculation.

In this Crosscut article, Levi Pulkkinen breaks down Washington's complex water law, the history of water banking and its issues, and proposed legislation to protect Washington's water from commercial speculators. Legislation to regulate the sale of water rights and water banking did not make it out of committee this legislative session. However, how the state manages these tools to protect Washington's waters will continue to be worked on to find better solutions.
Water Bottling

Crystal Geyser in Randle
Last May, Crystal Geyser Roxane LLC, a California water bottling company, applied for a permit to annually withdraw 360 acre-feet of groundwater (400 gallons per minute) from a parcel along the Cowlitz River in the small community of Randle. The Cowlitz remains unprotected from new appropriations of water, as a proposed instream flow rule which would have closed the basin was never finalized. The proposed 100,000 square foot plant would reduce flow in a reach of the Cowlitz that is home to fish species, including Coho salmon, Cutthroat trout, and lamprey. Strong opposition to Crystal Geyser's proposed plant from local residents, the Lewis County Water Alliance, and the Cowlitz Tribe was amplified when an internal company e-mail discussing a potential strategy of filing spurious lawsuits against local landowners was accidentally sent to a Lewis County newspaper.

The community in Randle has stopped the water bottling plant from moving forward because they were able to get ahead of the process and advocate for their public interest. On Monday Feb. 24th, the Lewis County Commissioners passed an ordinance that changed the county code to prohibit bottled water plants in rural Lewis County. This was possible because the local citizens were well-organized and learned of Crystal Geyser's plans at an early stage.

But this fight is far from over. Any of Washington's rivers that are unprotected by instream flow rules would be vulnerable to exploitation by this industry, and there has been an increasing number of proposals to locate commercial water bottling plants in Washington. These plants would allow Washington's waters, which belong to the people of Washington, to be taken for the benefit of corporations and users outside of the local area and likely out-of-state.

The Lewis County Water Alliance and Cowlitz Indian Tribe have played a large role in pushing for legislation to protect Washington's waters from future attempts to take local water from the environment for out-of-basin commercial exploitation.

Water Bottling Legislation
Commercial water bottling was the subject of **SB 6278**, introduced in the State Senate by Sen. Reuven Carlyle. The bill would declare that use of water for commercial bottling is detrimental to the public welfare and the public interest. This would bar Ecology from issuing new water rights for commercial water bottling purposes. It would have made Washington state the first in the nation to ban water bottling companies from exploiting spring-fed sources. As Sen. Reuven Carlyle said about water bottling "I was jolted to the core to realize the depth and breadth and magnitude of how they have lawyered up in these small towns to take advantage of water rights".

This legislation gained national attention and passed the Senate, but unfortunately died in the House late in the session.
Legislative Session 2020

It is a big year for water and we are working hard in Olympia to protect the public interest in our waters and preserve and restore our rivers and aquifers.

We are urging our legislators to adopt sound and sustainable policies to better manage and protect our water resources.

Passed the Senate and House
Low-Water Landscaping (HB 1165)

Passed the Senate
Commercial Water Bottling (ESSB 6278) - did not pass out of committee in the House

Reusable Bag Bill (ESSB 5323) - Is scheduled for executive session in the House Committee on Finance at 8:00 AM on March 4th

Styrofoam Ban (E2SSB 6213) - did not pass out of committee in the House

Passed the House
Motorized/Suction Dredge Mining Ban (ESHB 1261) - Placed on second reading by Senate Rules Committee on March 2nd

Water & Energy Conservation C-PACER (E2SHB 2405) - Passed to Senate Rules Committee for second reading on March 3rd

Ecology's Drought Legislation (ESHB 1622) - Passed to Senate Rules Committee for second reading on March 3rd.

Track the bills here

CALL TO ACTION

Find your district and contact your legislators: https://app.leg.wa.gov/districtfinder

Please call your Senator and ask them to protect our waters. Ask them to vote in support of Suction dredge mining reform to protect salmon, steelhead, and bull trout, the C-PACER bill to conserve energy and water, and Ecology's drought legislation for proactive drought action.

Example script: "Hi, my name is [name] and I am a constituent in your district from [zip code]. I'm calling because I am an advocate for our waters and fish. Please vote to pass ESHB 1261 to help update our state regulations on suction dredge mining in critical endangered fish habitat. This commonsense legislation had bipartisan support in the House and had bipartisan support in the Senate when they passed the same bill last session to protect fish and waterways.

I would also like to urge you to support a few other bills that protect or water resources. Once they are on the Senate floor for a vote, please vote to pass E2SHB 2405, C-PACER for water and energy conservation and ESHB 1622 Ecology's Drought Legislation for proactive drought action. Thank you!"

You can also use this form from Trout Unlimited to contact your Senator regarding suction dredge mining.
Contact your Representative and ask them to pass the Reusable Bag Act. This legislation protects our waterways and environment. You can use this form from Puget Soundkeeper Alliance to contact your Representative.

Example script: "Hi, my name is [name], and I am a resident in your district from [zip code]. I would like you to do whatever you can to pass ESSB 5323, a bill prohibiting single-use thin plastic bags from grocery and retail establishments. Single use plastics bags are a major constituent of marine debris and banning single use plastic carry out bags is a common sense measure to improve environmental quality of Puget Sound. Plastic bags are unsustainable, their pollution impacts wildlife, and they cause operational problems at recycling facilities. A state-wide ordinance would allow greater clarity for grocery retailers and the public. It’s time to reduce pollution from plastic bags and establish a minimum state standard. Please vote in support of the Reusable Bag Act. Thank you!"

**Clean & Abundant Waters Lobby Day 2020**

The Center for Environmental Law & Policy and Puget Soundkeeper Alliance coordinated our second annual Clean & Abundant Waters Lobby Day on February 25th.

We had over 60 attendees from 27 legislative districts come together to receive hands-on advocacy training and dive into lobbying our priority bills.

Our six priority bills were the reusable bag bill, the commercial water bottling bill, the Styrofoam ban, the suction dredge mining ban, Ecology's drought legislation, and the C-PACER bill. We were able to meet with more than 45 legislators or their staff to show our support for these bills to protect our waters and environment.

Special thanks to Puget Soundkeeper Alliance for coordinating lobby day with us. Thanks to Waterkeeper Alliance groups, Columbia Riverkeeper, Spokane Riverkeeper, North Sound Baykeeper, Twin Harbors Waterkeeper, and to Trout Unlimited, RE Sources for Sustainable Communities, the Lewis County Water Alliance, Cowlitz Indian Tribe, and everyone else who made it to Olympia to support clean and abundant water.

**Spokane River Instream Flow Rule Update**

CELP Fights for Adequate Summer Instream Flows

The Spokane River's Instream Flow Rule (WAC Chapter 173-557) was adopted in
2015. As a "water right for the river", an instream flow is intended to protect fish, wildlife, recreation, navigation, and other instream values. In adopting the Spokane River Rule, Ecology considered only the needs of fish and adopted a summer flow of 850 cubic feet per second. This is considered near-drought level for the river and would be devastating to whitewater rafting, kayaking, and other recreational uses of the Spokane. Because water rights can be issued based on the 850 cfs flow, in the future the river is likely to flow at this very low level every summer.

In 2016, CELP, along with American Whitewater and the Sierra Club, filed a challenge to the Rule’s summer instream flow. We argued that the state was required to consider all uses of the river, not just habitat needs of fish, in adopting instream flow rules. The challenge was initially denied in the Thurston County Superior Court.

In 2017, we appealed the Superior Court's decision to the Court of Appeals, Divison II. In June 2019, the court ruled in favor of CELP and the Spokane River advocates, finding "Ecology's explanations for establishing instream flows based only on fish habitat studies without regard to how its proposed flow would protect other values was arbitrary and capricious. Therefore, the resulting Rule is invalid." (Opinion, p.21)

Ecology requested review of the Court of Appeals’ decision by the Washington State Supreme Court, which accepted the case. The case will be argued before the Court on May 14th, 2020. We will continue to fight for an instream flow rule that protects the Spokane River and its users.
Winter Waters
Join us this Friday, March 6th to celebrate the Spokane River

Summary: Our annual event, Winter Waters Celebration, supports the essential water advocacy of CELP and the Upper Columbia River Group of Sierra Club. Enjoy a night of celebrating river advocacy with music, small foods, desserts, and wines.

We will be honoring our River Flow Champions:

American Whitewater - Thomas O'Keefe
ROW Adventures - Peter Grubb
Silver Bow Fly Shop - Sean Visintainer
FLOW Adventures - Jon Wilmot

The event will also launch a statewide campaign to protect a clean, flowing Spokane River.

When: Friday, March 6th, 2020 6:00 pm-9:00 pm
Where: Patsy Clark Mansion (2208 W 2nd Ave Spokane, WA 99201)
Tickets: $40 per person or $70 for two people (purchase here)
Read more about the event

This event wouldn't be possible without our generous sponsors

Public Meeting on Lower Snake River Dams
The Federal government has released its draft Environmental Impact Statement for the Columbia-Snake River hydropower system. The Preferred Alternative selected by the agencies does not include breaching the four lower Snake River Dams, which scientists have identified as the action most likely to lead to restoring salmon runs. The EIS can be found at https://www.nwd.usace.army.mil/CRSO/#top. You can comment here. A public meeting will be held on Friday, March 19th at 4:00 PM at the Hilton Seattle Airport, 17620 International Boulevard, Seattle, WA 98188. More on the public hearing here.

Celebrate Waters
Save the date June 18th, 2020

Water Stories

Our Communications & Development Coordinator, Kayla, wants to hear why water is important to you. What is your favorite watershed? Do you have a water story you would like to share?
"The single greatest achievement in my life is watching my daughter already show signs of compassion and dauntless protectionism for water and everything living in it because I know my baton has been handed off successfully." - Dave McCoy

"Water has restored my life in some unfathomable ways, and it is my turn to pay it backwards and forwards." - Bridget Moran

"I know each turn in the river intimately and I feel compelled to be an advocate for it and it’s fish."- Josh Mills

Check out our Water Stories campaign here. The purpose of sharing these celebrations of water is to highlight the vital importance of healthy amounts of clean, flowing water in our communities. If you are interested in participating and sharing your water story reach out to Kayla at development@celp.org. We can use our voices together to create awareness, educate each other, inspire our communities, and protect our rivers and streams.

Thanks for taking the time to read Washington Water Watch! Thanks to your help, CELP has accomplished much but, as you can see, more needs to be done. You can support our work by making a donation online here, or mailing a check to: 85 S Washington St #301, Seattle, WA 98104

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.

If you care about a future with water, please become a CELP member today! You can reach us at (206) 829-8299 or email us.