



CLEAN, FLOWING WATERS FOR WASHINGTON

The Center for  
**Environmental Law & Policy**

## Washington Water Watch

February 2014

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### Save the Date

**February 21, 2014:** Join CELP for Winter Waters 2014 in Spokane, WA. Scroll down for more information or [click here for tickets](#).

**April 25, 2014:** Save the Date and join CELP, Futurewise, and Seattle University for our first Continuing Legal Education workshop of 2014 titled **Climate Change: The Rules are Changing**.

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## Letter from the Executive Director

### Greetings!

First and foremost, we would like to thank all of our generous members who contributed to CELP over the holidays. Your support helps fund CELP's many programs to protect and restore rivers and ground water throughout Washington State. **We could not do this important work without your generosity.**

This year has already been busy at CELP. We hope you will take a few minutes to read our [Legislative Update](#), [Legislative Report Card](#), and [Columbia River Treaty Update](#) later in this email.

To all our members in the Spokane Area, please join us for Winter Waters 2014 at the Pasty Clark Mansion on Friday, February 21. [Click here](#) or scroll down for more information. It will be an evening to remember.

Please also save the date for our first Continuing Legal Education Workshop of 2014 on Friday, April 25 in partnership with Futurewise and Seattle University Law School. Climate Change: The Rules are Changing will take place in Seattle at Seattle University. More information will be released in the next few weeks, so keep an eye to your inboxes and our [Facebook page](#) for more details.

Thank you for your continued support and passion,

Suzanne Skinner  
Executive Director

## Legislative Round Up

2014 is a short legislative session and, for water, it has been an unusually quiet year. As of today, most of the worst bills look like they will not survive. This year, most of the action has been on water quality bills, rather than water quantity bills-but not all.

**The most significant water quality and quantity bills have been in response to recent Washington State Supreme Court cases.**

Last fall, the Washington State Supreme Court upheld in *Lemire v. State of Washington Department of Ecology Case No. 87703-3* a Department of Ecology administrative order requiring a cattle operator to take steps to keep his cows from polluting Pataha Creek by fencing the creek off. Before issuing the order, Ecology had tried unsuccessfully for **six years** to work with the operator to fix the problem. The Court's decision affirmed Ecology's authority to prevent pollution from non-point sources under Washington's Water Pollution Control Act.

The *Lemire* decision stirred up the agricultural community: several bills were introduced to "rein in" the Department of Ecology. Six years of working with the operator before issuing an order can hardly be called "overregulation," but that is exactly the language used in SB 6087.

**SB 6087, if enacted into law, would strip Ecology of all its authority to regulate non-point agricultural run off under the state Water Pollution Control Act.** The only authority Ecology would retain would be under the federal Clean Water Act to regulate point source discharges from agricultural operations via NPDES permits-and there only a handful of those. Aquifers in Yakima and Whatcom county are already polluted from agriculture waste-we need more state regulation-not less. **SB 6087 puts our drinking water and rivers at risk.**

### CELP fought hard against SB 6087.

**SB 6288/HB 2472** is another anti-*Lemire* bill. If passed, the bill would not let Ecology take any regulatory action unless it had actual site based, source specific evidence. Given that the legislature has drastically cut Ecology's staff and budget, Ecology's already cautious use of its power to keep streams free of manure would simply shut down.

### CELP fought hard against SB 6288.

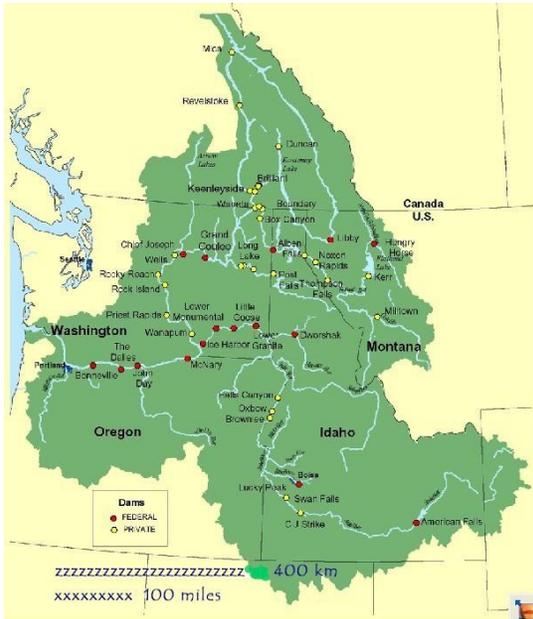
The third bill, **SB 6467**, is a response to the Supreme Court decision in *Swinomish Indian Tribal Community v. Ecology*, which affirmed that the Skagit instream flow rule was a water right that Ecology could not subsequently abrogate for private economic development. CELP filed an amicus brief in support of the Tribe in this important case.

The effect of the Court's decision was to reinstate the 2001 Skagit instream flow rule-a great win for sustainable flows in river. But it also meant that the new wells that Ecology had allowed after 2001 (about 400) could be interrupted if flows in the Skagit fell below the minimum flow levels set in the 2001 rule. With the Tribe's support, Ecology is working to find alternative water for these 400 wells to use if and when instream flow levels in the Skagit fall below the minimum flows in the rule. That is the right solution.

SB 6467 is the wrong solution. The bill is a legislative magic wand: pretending to solve the problem by making the 400 wells in the Skagit non-interruptible-which means that when water is short in the Skagit fish, wildlife and water quality would suffer. It would be horrible precedent in addition to the harm it would cause the Skagit.

### CELP fought hard against SB 6467.

**Let's hope all three bills are really dead this year.**



## The Columbia River Treaty: Public Support grows for a modernized Treaty Thanks to YOU

Last December, the U.S. Entity - led by Bonneville Power Administration and the Army Corps of Engineers - delivered the to the State Department a recommendation from the Northwest about if and how to renegotiate the Columbia River Treaty (CRT) with Canada. The Regional Recommendation clearly endorsed beginning negotiations soon on an updated treaty that adds "restoring ecosystem function" as a third treaty purpose. The 1964 version of the CRT has two purposes: generating hydropower and providing flood control. Environmental concerns and interests of the Columbia River tribes were entirely ignored.

**This is a tremendous victory for the future of the Columbia River and the region. Thanks to**

**each of you who responded to our repeated calls to tell the US Entity to include the region's ecosystem in the Regional Recommendation.** CELP members, and our allies including the Sierra Club, Save our Wild Salmon, Pacific Rivers Council, and Oregon Waterwatch, submitted over 10,000 letters and emails to the US Entity. **We were heard.**

To be sure, some energy utilities and others industrial river users that rely on the Columbia dams for power are concerned that "modernized" Treaty which includes 'ecosystem function' as a third Treaty purpose will cost them more money. But the intensifying impacts of climate change and the need for justice for Native American tribes in the Columbia Basin, who were never consulted or considered when the first Treaty was approved in 1964, demand that ecosystem function - a healthy river - join power and flood control in a new 21st century Treaty

### Now what happens?

The State Department is reviewing the Regional Recommendation, and will decide with the Obama Administration if and when to begin negotiations with Canada. We hope the Administration initiates negotiations with Canada early in 2014, and finalizes a new Treaty before the end of 2015.

In the meantime, CELP and our allies, working with the Columbia River Tribes, will continue reaching out to people, stakeholders, and elected leaders in the Northwest and Washington D.C. to explain why a modernized 21st Century Treaty that protects and restores healthy Columbia Basin waters is so important. **Our message is simple but powerful: the Columbia River is the backbone of the region.** For the environmental and economic health of the region, the people, businesses, and communities of both nations must come together in an updated treaty that allows us to jointly plan for and weather the changes a warming planet is causing in our common waters.

## Join CELP Next Week in Spokane!

CELP and [The Upper Columbia River Group of the Sierra Club \(UCR\)](#) invite you to our 2014 Winter Waters Celebration.

**When:** Friday, February 21 from 6:30-9:30pm  
**Where:** Patsy Clark Mansion, 2208 W. 2nd Ave  
 Spokane, WA

[Click here to purchase tickets and learn more](#)  
*Proceeds will benefit both hosting organizations*



Our annual celebration of water will focus on modernizing the Columbia River Treaty to bring home salmon to the Spokane River and other ancestral spawning waters in our area. D.R. Michel, executive director of Upper Columbia United Tribes will keynote the evening. We'll also provide an update on Oil Trains and Coal Trains by Jace Bylenga, Sierra Club.

The event will honor two WSU emeritus professors -- Norman Whittlesey and Walter Butcher -- for their historic contributions in water economics and ongoing scrutiny of costly federal and state irrigation projects proposed for our region. Their academic integrity in service to the public has helped protect rivers, taxpayers, and ratepayers for decades.

## The CELP Legislative Report Card for Other Bills (as of 2/14/14)

Bill	Description	CELP's Position	Status
HB 1236	Requiring 90 day turn around for agency decisions including water rights and pollution permits	Opposed	DEAD
HB 1438	Specific exemption to 20 berry growers in Whatcom County for changes of use that Ecology failed to process timely	Significantly improved	DEAD
HB 2187	Allowing counties to withdraw agricultural areas from GMA critical areas	Opposed	DEAD
HB 2288	Limiting Growth Management Hearings Board review of permit exempt wells	Opposed	DEAD
HB 2454	Developing water quality trading program as pilot	CELP significantly improved	DEAD
HB 2472	Lemire. See above	Opposed	DEAD
HB 2478	Lemire bill that would have required Ecology to seek voluntary compliance for agricultural pollution	Opposed	DEAD
HB 2596	Rural counties sales & use tax for water banking	Opposed	DEAD
HB 2760	Limiting flexibility to set affordable rates for mitigation water from water banks	Opposed	DEAD
SB 5199	Specific exemption to berry growers in	CELP	DEAD

	Whatcom County for changes of use that Ecology failed to process timely	significantly improved Concerns	
SB 5821	Requiring 90 day turn around for agency decisions including water rights and pollution permits	Opposed	DEAD
SB 5983	Limiting Growth Management Hearings Board review of permit exempt wells	Opposed	DEAD
SB 6087	Lemire. See above	Opposed	DEAD
SB 6239	Rural counties sales & use tax for water banking	Opposed because not fleshed out	DEAD
SB 6288	Lemire. See above	Opposed	DEAD
SB 6467	Skagit bill .See above.	Opposed	DEAD
SB 6516	Joint legislative task force for financing water supply, flood control & stormwater	Opposed because of the water supply	DEAD but could get resurrected in budget

Thanks for taking the time to read Washington Water Watch! Thanks to your support, CELP has accomplished much but, as you can see, more needs to be done.

You can renew your membership for 2014 to CELP [here](#) or send a check to our offices at:  
**911 Western Ave- #305, Seattle WA 98104**

*CELP's mission is to protect and restore Washington's rivers and aquifers through science-based management of our waters. CELP works through public education, grassroots assistance, agency advocacy, legislative reform, 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](#).

**[Forward this email to a friend!](#)**