



# Water Quantity in Washington

## A Brief Regulatory Perspective

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Spokane River Forum

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# Introduction

- A little about my background
- No regulatory jargon
- Washington State-specific
- Permitted point-source discharges (Clean Water Act)
- An emerging issue of significance in low flow streams
- Think 'systems' and not programs or people



# The Premise

“With integrated water resource management, you can’t talk about water quality without talking about water quantity.”



# The Disconnect

- Water quality regulations (i.e., TMDLs) are dynamic, generally becoming more stringent over time, and are not always achieved. They are based on the federal Clean Water Act.
- Water resource practices (i.e., water rights, instream flow rules) are legally established rights that do not change over time and are enforceable. They are based on the doctrine of prior appropriation.



# The Conflict

- Water right owners and rivers with instream flow rules may depend on the water from upstream dischargers to meet their needs
- Dischargers may be unable to achieve increasingly stringent water quality standards

# The Conflict

- The Discharger Dilemma:
  - Stay in the river and risk a 3<sup>rd</sup> party 'private right of action' per the Clean Water Act
  - Get out of the river and risk legal action by the downstream water right holder



# Potential Solutions?

- Engineered – the discharger provides alternate water to the water right holder
- Regulatory – the Agency makes a determination of “Overriding Public Interest” to ease water quality standards

Like most natural resource matters – these issues will be most likely be resolved in the court room



# The Message

In an environment of increasingly stringent water quality standards and fully allocated water basins, sometimes something has to give...

Because  
You can't have your cake and  
eat it, too.



The background of the slide is a dark blue field filled with various sizes of light blue and white gears, creating a mechanical or interconnected theme. On the far left, there is a vertical strip of colorful, abstract, and pixelated patterns in shades of orange, yellow, and red.

Thank You

Questions?