

# Water Collaboration Among Sovereigns

*Spokane River Forum  
2017 Conference*

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# Overview

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## ■ *Acquavella Waning*

- Case update Washington's adjudication
- *Observations on negotiated resolutions*

## ■ Washington's Joint Municipal Utility Services Authority

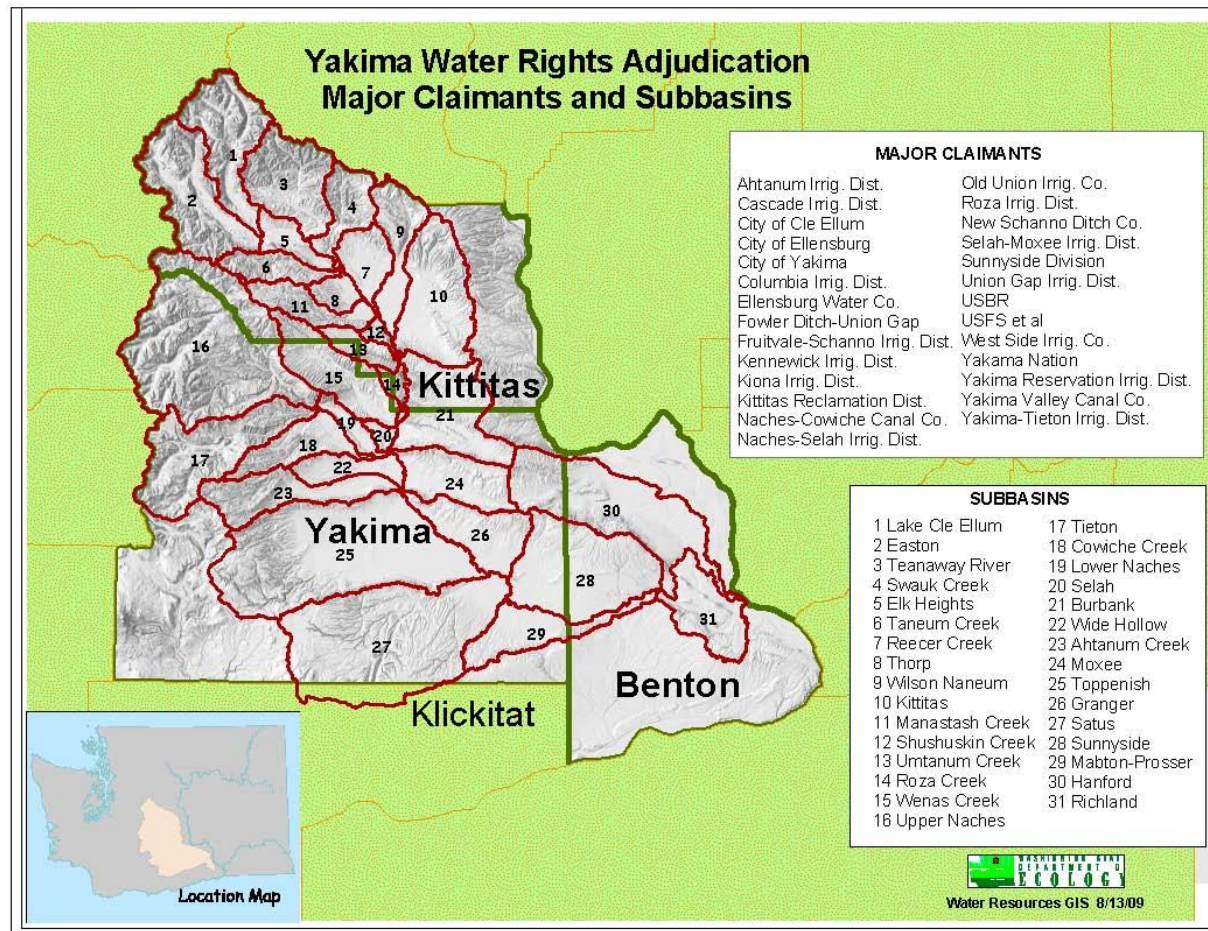
- *Tool for collaboration*

# Dep't of Ecology v. Acquavella

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- *Initiated in 1977*
- *Targeted for conclusion in 2018*
- *Proposed Final Decree*
- *Draft Schedule of Rights (~2,500 certificates)*
- *Today is the last day to file objections!*

# Yakima Water Rights Adjudication Major Claimants and Subbasins



# Mediation and Settlement

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- *Mediation and ADR can reduce time and cost of adjudication.*
- *Risk of increased costs to parties if not well timed and planned.*
- *Deploy mediation resources after planning and with care.*
- *Red flag: timing mediation for convenience of agencies.*

# Mediation and Settlement

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- *Key consideration: posture of water right claimants.*
  - *Small / large claimants*
  - *Litigating and settling*
  - *Mediation is voluntary*
- *Claimants need:*
  - *To “catch up” in litigation mindset.*
  - *Reliable information about case developments.*
  - *Case progress on contested legal issues and fact hearings.*
  - *Perception of risk.*

# Washington's Joint Municipal Utility Services Act

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- *A new mechanism for cooperation among local utilities*
- *Laws of 2011 – Ch. 39.106 RCW*
- Enables formation of an “Authority”
  - *Joint Municipal Utility Service Authority*

*Cascade formed in 1999 as a non-profit corporation providing water to almost 400,000 residents. Membership is open to any public water utility in the Puget Sound region.*

- *City of Bellevue*
- *City of Issaquah*
- *City of Kirkland*
- *City of Redmond*

- *Sammamish Plateau  
Water & Sewer District*
- *Skyway Water & Sewer  
District*
  - *City of Tukwila*



# Service Area

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# Day to Day Challenges as Non-Profit

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- *Basic questions of joint exercise authority:*
  - *Interlocal agreements*
  - *Contracting, procurements, audits*
  - *Financing, bonding, grants*
  - *Governance*
  - *Risk Management*
  - *Eminent Domain*
  - *What are you?*

# Chapter 39.106

## Code of Washington

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- *Authority formed by agreement of 2 or more members to perform or provide any or all utility services that all of its members, other than tribal government members, perform or provide.*
- *Authorities are municipal corporations.*

# A Joint Authority Agreement is the Key

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- *The formation is quite flexible, enabling the members to determine by agreement:*
  - *Range of utility services*
  - *Governance and voting*
  - *Designation of treasurer and other financial matters*
  - *Choice of applicable public works, personnel, eminent domain and other laws*

# Who can join an Authority?

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**“Member”** means a city, town, county, water-sewer district, public utility district, other special purpose district, municipal corporation, or other unit of local government of this or another state that provides utility services, and any Indian tribe recognized as such by the United States government, that is a party to an agreement forming an authority.

RCW 39.106.020(4)

# Authority Functions

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## “Utility services”

*The provision of retail or wholesale water supply and water conservation services; the provision of wastewater, sewage, or septage collection, handling, treatment, transmission, or disposal services; the provision of point and nonpoint water pollution monitoring programs; the provision for the generation, production, storage, distribution, use, or management of reclaimed water; and the management and handling of stormwater, surface water, drainage, and flood waters.*

*RCW 39.106.020(5)*

# As a Model for Governance

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- *Consolidate one or more water utility functions in a single new entity to provide essential public services*
- *Regionalize supply planning and implementation*
- Promotes “One Water” governance

*For more information:*

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