



NUTS AND BOLTS SUCCESSFUL
PERMITTING

WA Water Right
Permitting

LET'S TALK ABOUT

- Water Rights in Washington
- Ways to get your application processed
- Anatomy of water right decision
- Water Conservancy Boards
- Cost Reimbursement process



WASHINGTON WATER

- Department of Ecology – regulatory agency
- New water rights are hard to get but are still possible
- Changes and transfers still a good option
- Investment in process can be considerable
- Cost Reimbursement and Water Conservancy Boards are predictable and timely



WASHINGTON WATER

- 1917 Surface Water and 1945 Groundwater Code
- Instream flows in most watersheds AND legal precedent to apply those to groundwater applications
- Special regulations that impact exempt groundwater development in several areas
- Significant backlog of pending applications



TRENDS IN WASHINGTON . . .

- Increasing importance on mitigation and technical studies such as groundwater models
- More Cost Reimbursement and more batch CRA work
- Rise of water banks – Kittitas, Skagit, Clallam County



BASIC STEPS IN WASHINGTON

- Filing a new Application or Application for Change
- Publishing Notice
- **Conduct Investigation and Prepare ROE**
- Get Ecology's Approval
- Perfecting the right or completing the change



NEW APPLICATIONS

- 4-tests (Availability, Impairment, Beneficial Use and Public Interest)
- How are other rights affected?
- How are surface water bodies affected?
- Will mitigation address those effects?



APPLICATIONS FOR CHANGE

- Attributes of your water rights
- Legal standing - relinquishment
- Quantification – Tentative determination
- Role of other water rights
- Public Interest
- HG Considerations – same body/impairment
- Impairment – and Mitigation



WAYS TO GET PROCESSED

- Direct “In house”
Processing by Ecology
- Water Conservancy
Boards (Changes)
- Cost Reimbursement
Program (All)



ECOLOGY “IN HOUSE” PROCESSING

- Two Lines – Changes and New Application
- “Hillis” Rule Priorities
 - Public Health and Safety
 - Substantial Environmental Benefits
 - Public Water supply for Regional Areas
 - Court ordered – Adjudications
 - Water Budget Neutral Requests
- “Pet” Project Areas



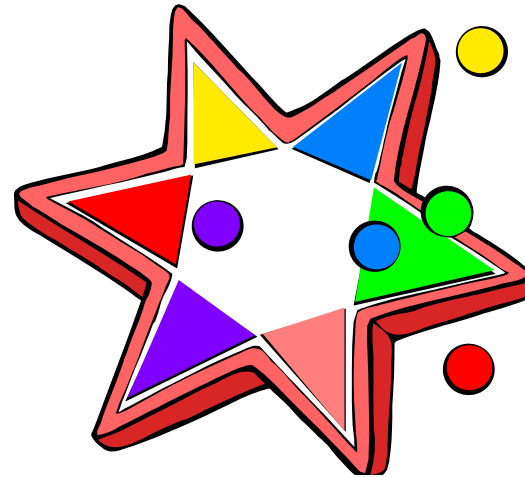
WHERE IS THE WATER?

- Marine discharge areas
- Areas that are tidally influenced
- Areas with groundwater reservations
- Places that you can provide mitigation for
- Non-consumptive water use



COST REIMBURSEMENT

- Classic Pay-to-Play
- Agreement between Ecology and Applicant to pay for processing
- Can be used for Change Applications or New Applications
- Can be the only game in town



COST REIMBURSEMENT

- Work done by pre-approved consultant roster
- Consultants hired to conduct investigation
- Consultants draft ROE and make recommendations to Ecology



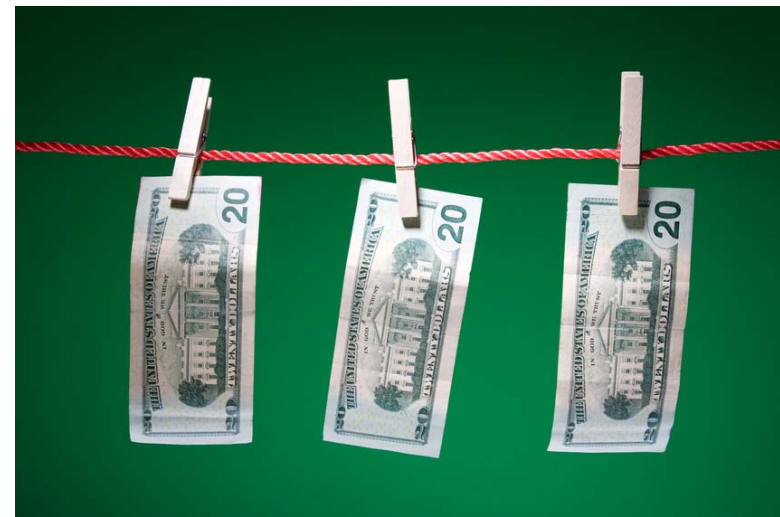
BASIC STEPS

- Starts with a formal request
- Phase 1 prepared that identifies other applicants
- Applicant picks a consultant team
- Consultant prepares a scope and budget
- Consultant proceeds to draft ROE for Ecology



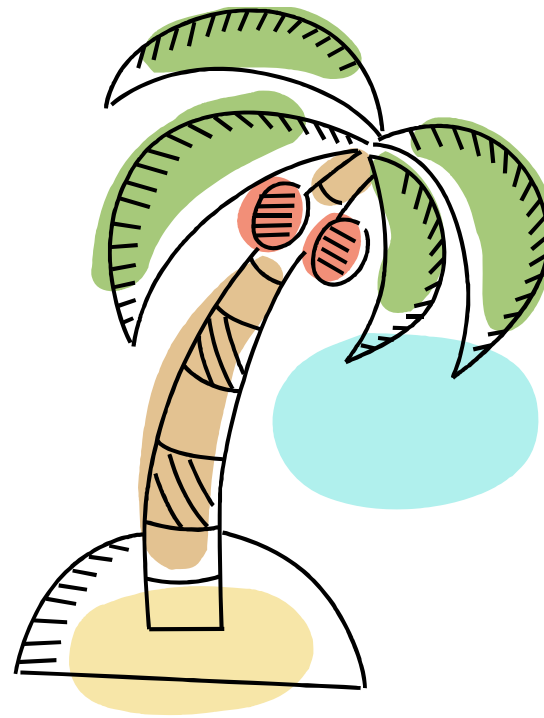
CRA COSTS \$\$\$\$

- You will be paying four times!
 - Your own consultant
 - Ecology's consultant
 - Ecology for Direct Costs
 - Ecology for Backfill



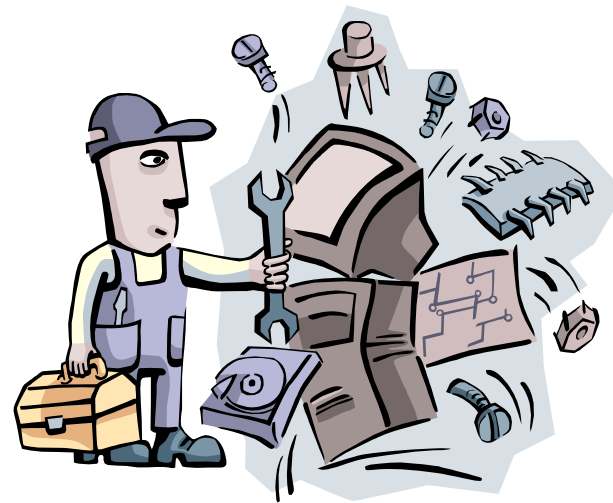
WHO BENEFITS?

- Isolated Applications
- Applications with built-in mitigation
- Water Budget Neutral projects



CONSERVANCY BOARDS

- Work only on Change Applications
- Working in 21 Counties
- Independent fee based
- Recommendations made to Ecology
- Authority to review same as Ecology



TAKE AWAYS

- Know your best permitting route early
- Be proactive about providing information
- Be prepared to trouble-shoot process



THANKS

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