



Washington's Water Challenges

Mike Gallagher
Water Resources Program
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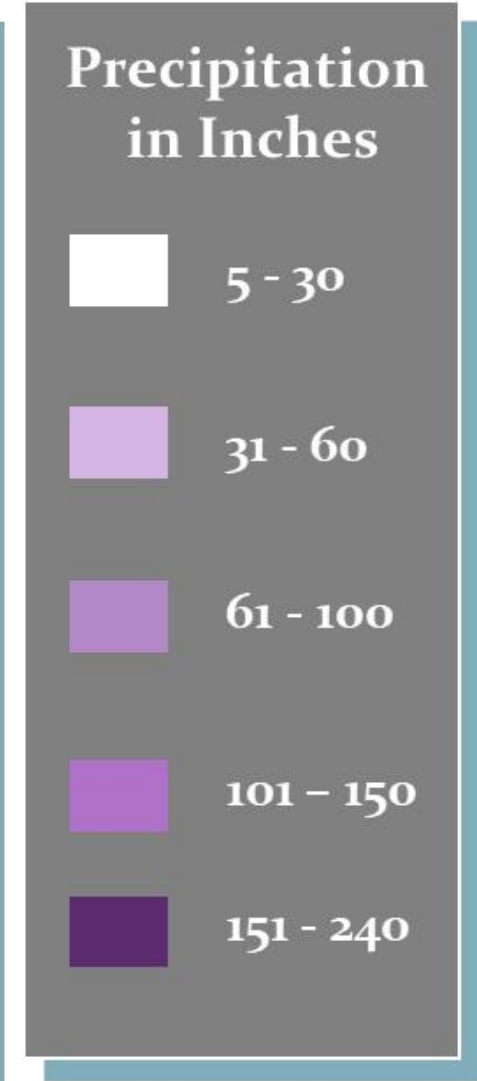
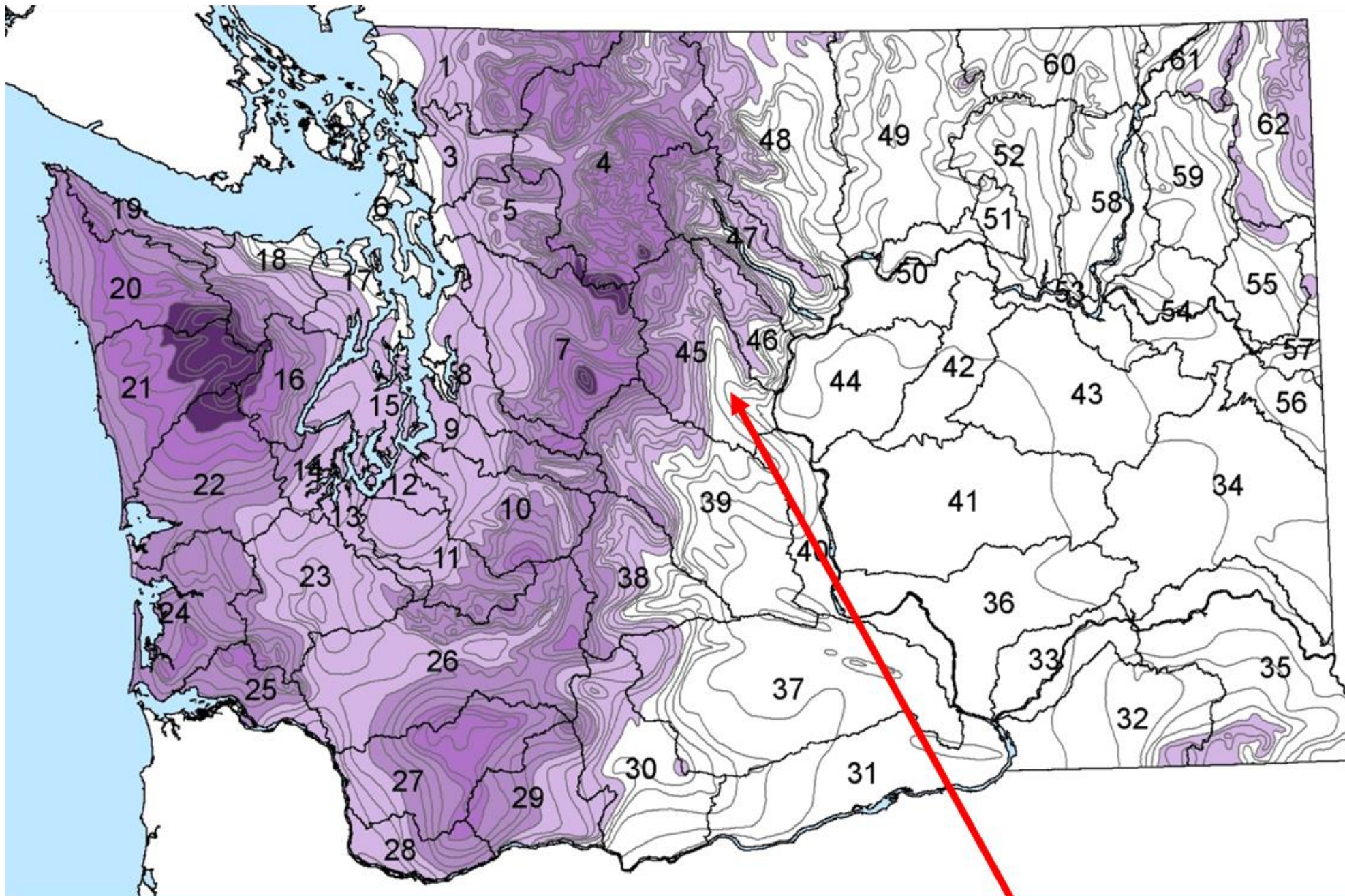
Presented to:
Western States Water Council
Summer Meeting – Leavenworth, WA

Water Availability driven by

- **Precipitation** – varies widely across the state
- **Subsurface geological conditions** – varies widely
- **State laws and rules** – prior appropriation doctrine
- **Court cases** – “water for water” mitigation often needed
- **Tribal treaties** – water rights from time immemorial

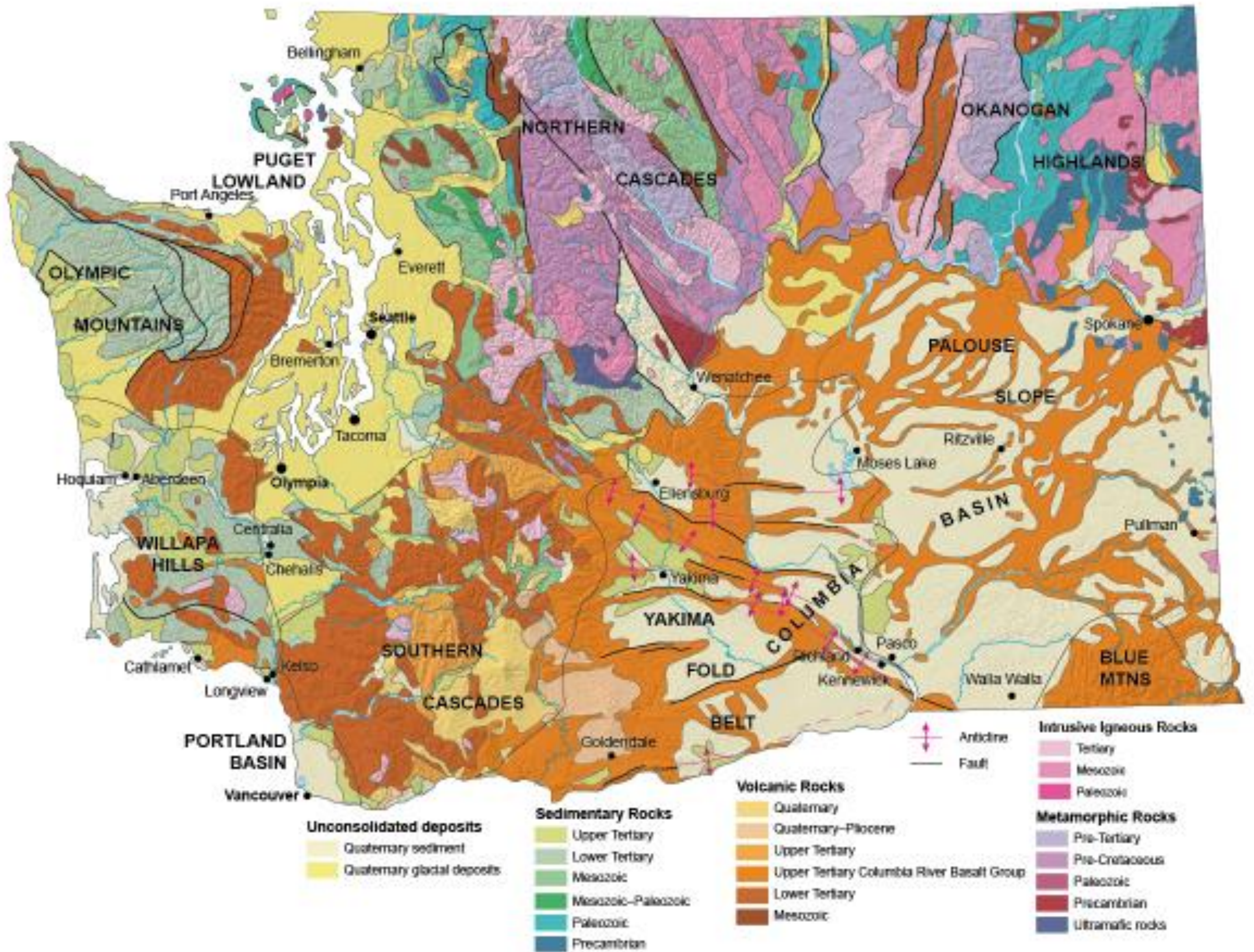


Annual Precipitation in Washington



We are here



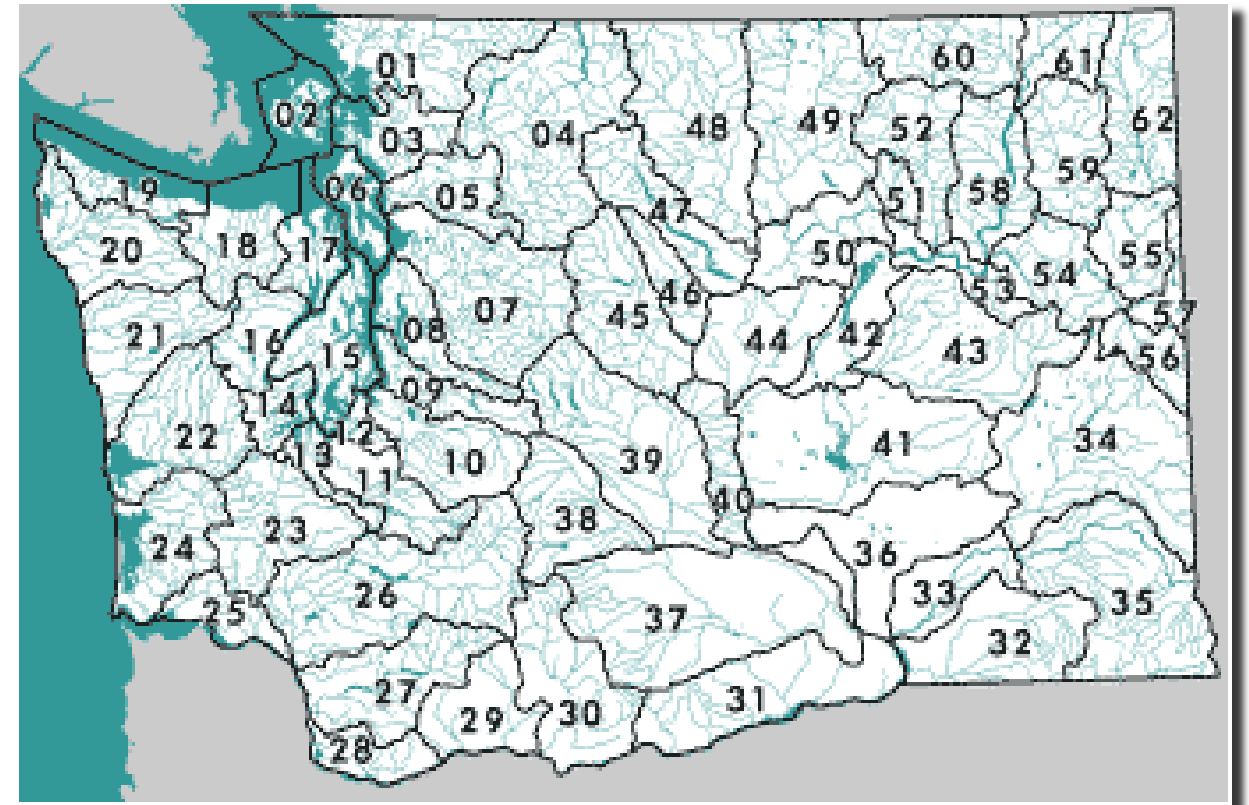


Water Rights in Washington

Watersheds: 62

Water Rights: 53,000

50,000 Certificates issued
3,000 Permits in development
4,800 pending applications



Claims: 170,000

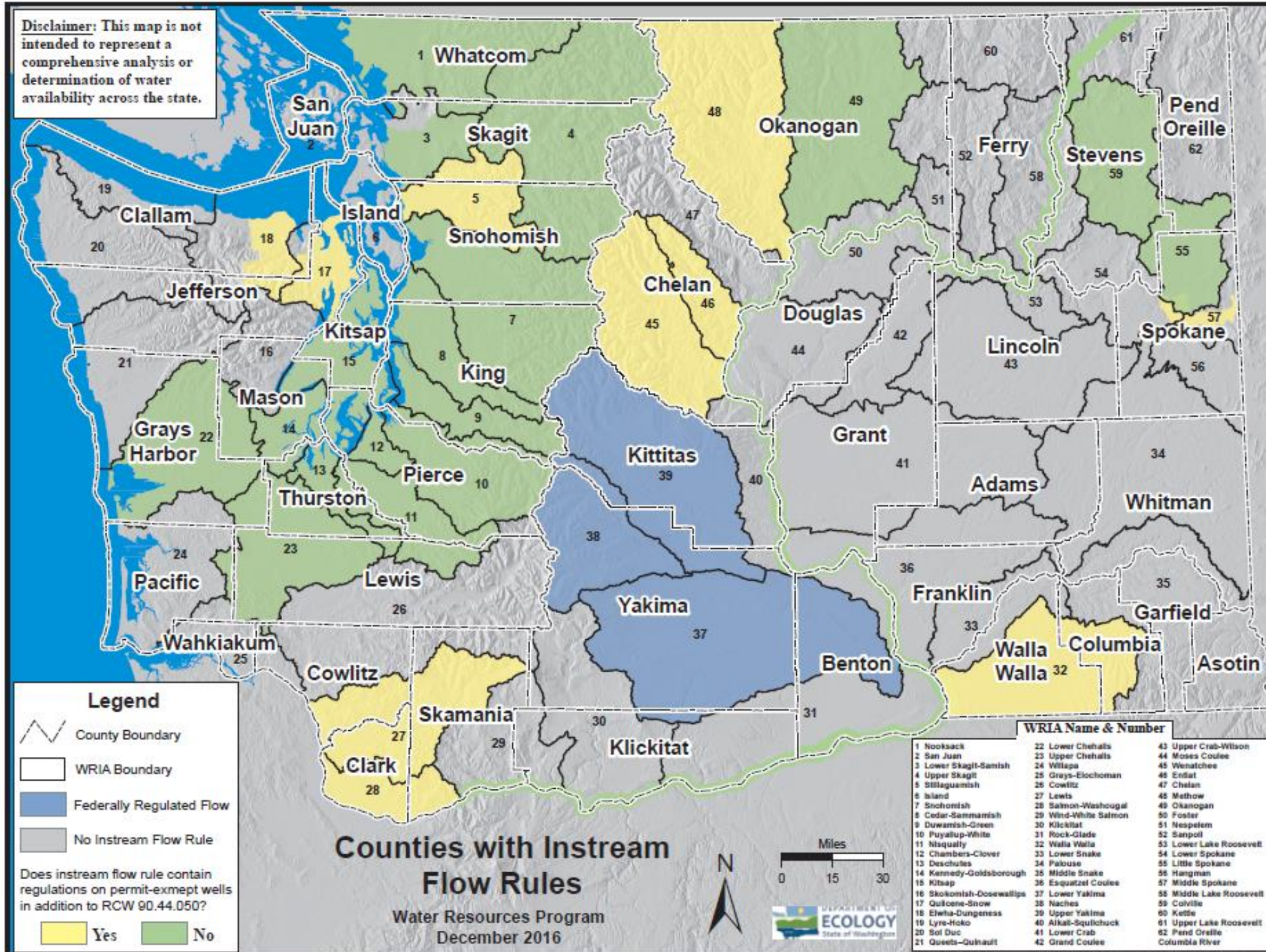
Claims to use surface water and groundwater pre-date modern water law (1917 and 1945) and are called *claims* – not water rights.

Permit exempt individual wells: 400,000 +

5,000 gallons/day limit unless otherwise specified in statute



Instream Flow Regulations

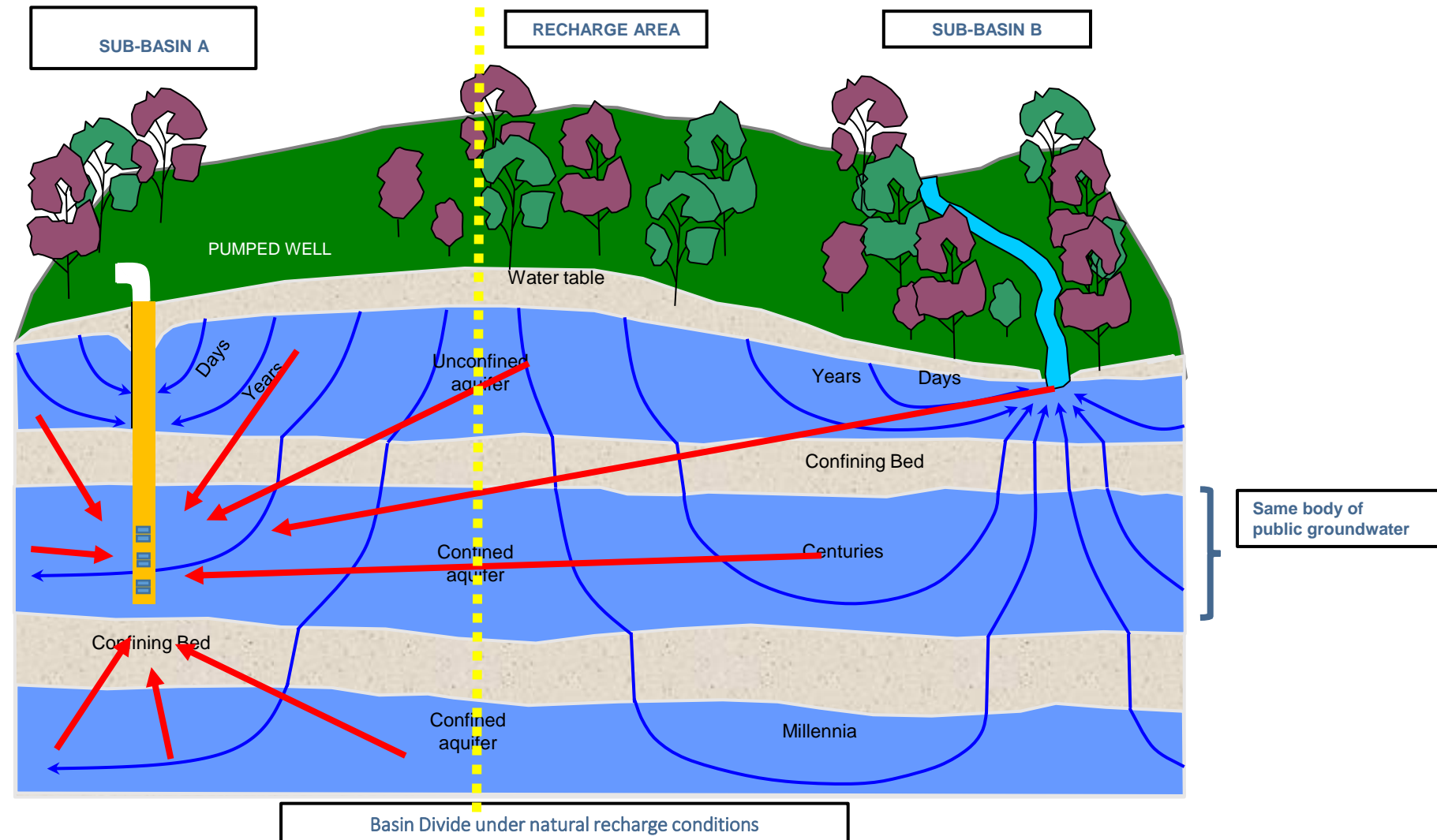


27 state

3 federal



Case law has made hydraulic continuity more complex



Hydraulically connected ground and surface water cannot be considered independently.

A withdrawal from one will have some effect on the other.



Recent State Supreme Court decisions drastically impacted water management

1) **Postema v. PCHB** **October 2000**

No “de-minimus” impairment of existing water rights.

2) **Swinomish Tribe v. Ecology** **October 2013**

Overriding Consideration of the Public Interest (OCPI) cannot be used to justify water use that impairs existing instream flows.

3) **Foster v. City of Yelm and Department of Ecology** **October 2015**

Ecology cannot use “out-of-kind” mitigation to offset impairment of instream flows or use OCPI to justify permanent allocations of water.

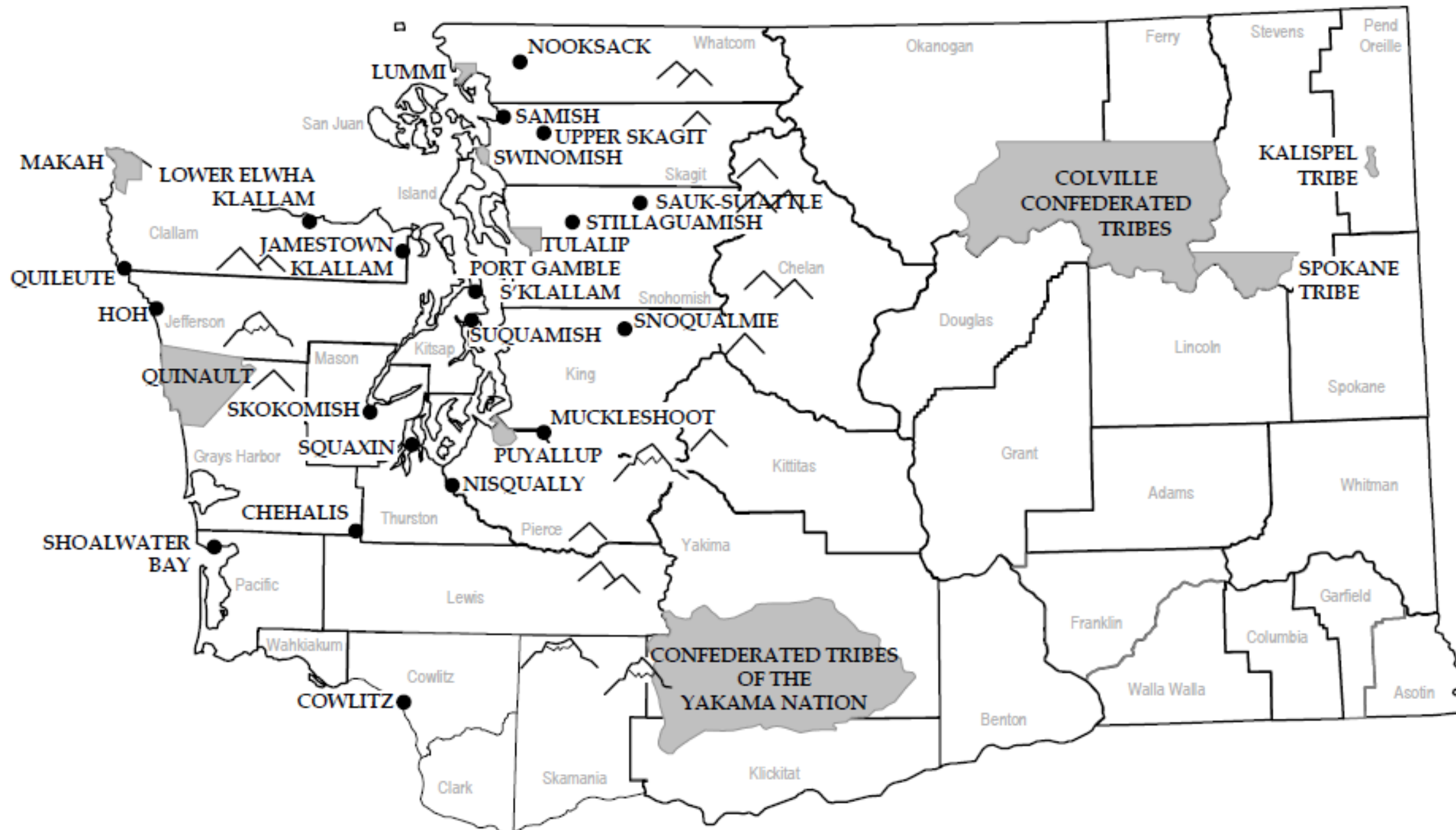
4) **Whatcom County v. Hirst and Futurewise** **October 2016**

A county has an independent obligation to ensure that new private wells do not impair flows and closures.



Working with tribal governments

FEDERALLY RECOGNIZED TRIBES OF WASHINGTON STATE



1855 Treaties between United States & Puget Sound area Tribes

“...The right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians in common with all citizens of the Territory...”

Upheld by US Supreme Court

Tribal water rights—priority date is time immemorial



5 ESA-listed species of salmon



Chinook Salmon



Chum Salmon



Steelhead

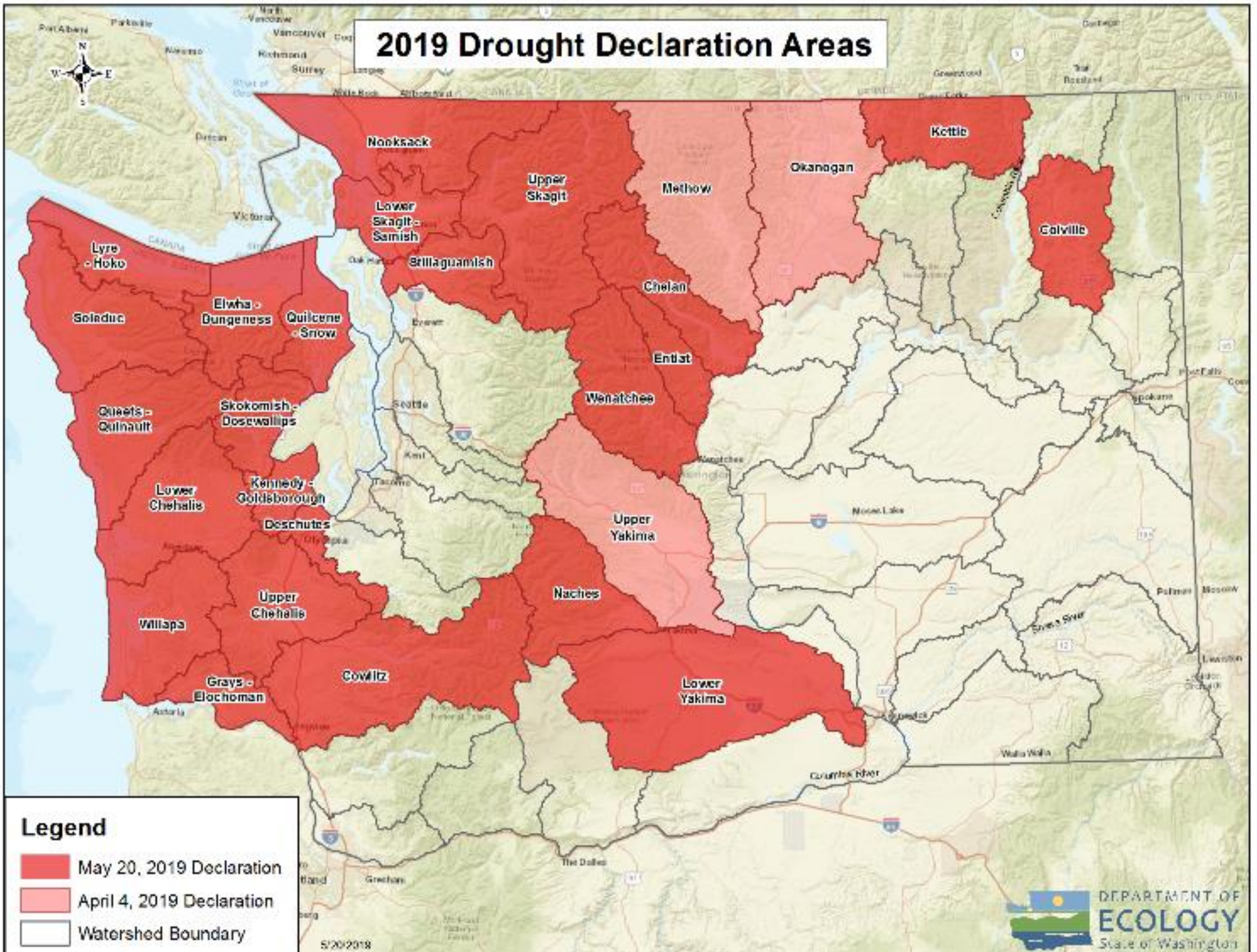


Bull Trout






Sockeye Salmon

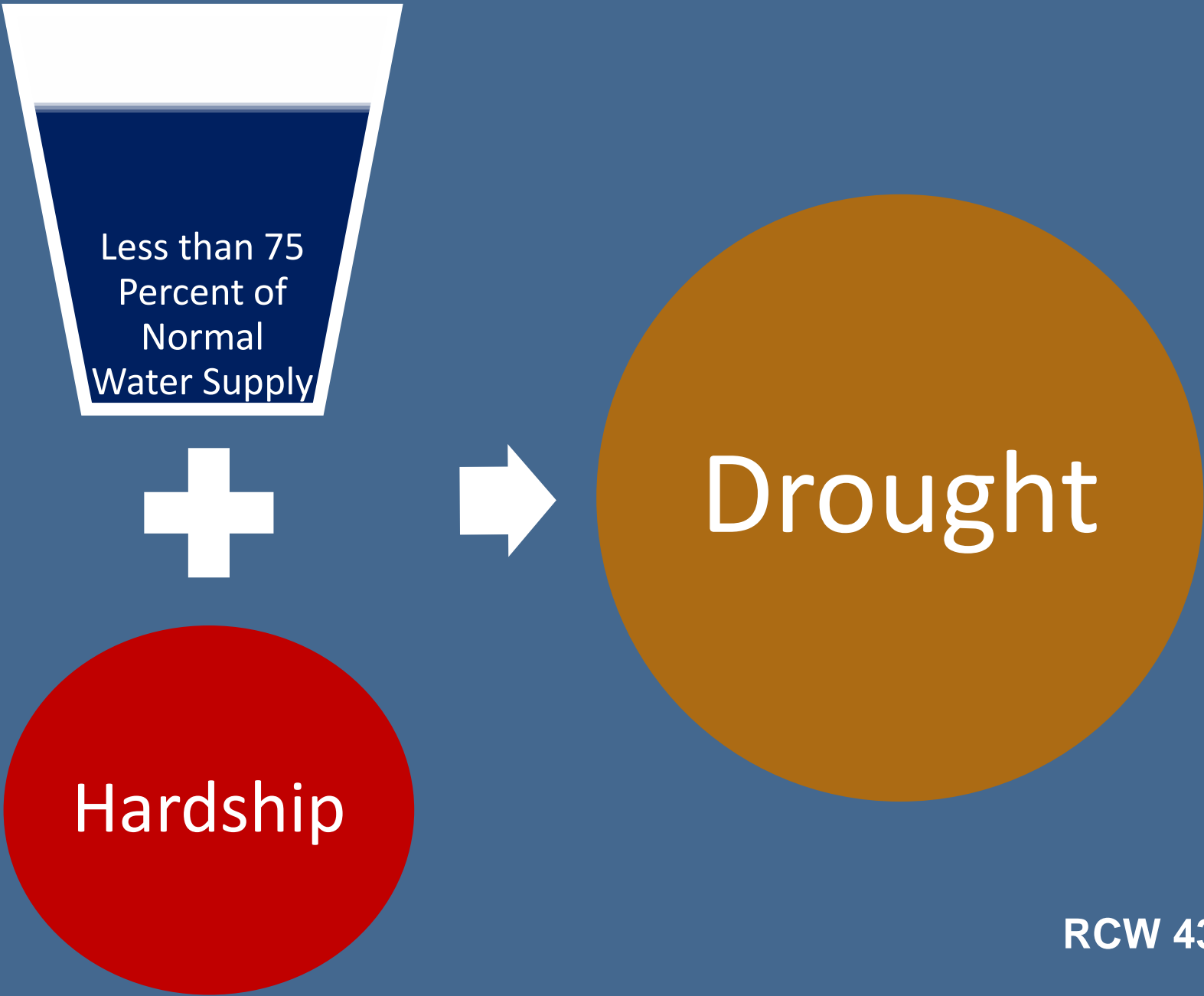
2019 Drought Declaration Areas



Legend

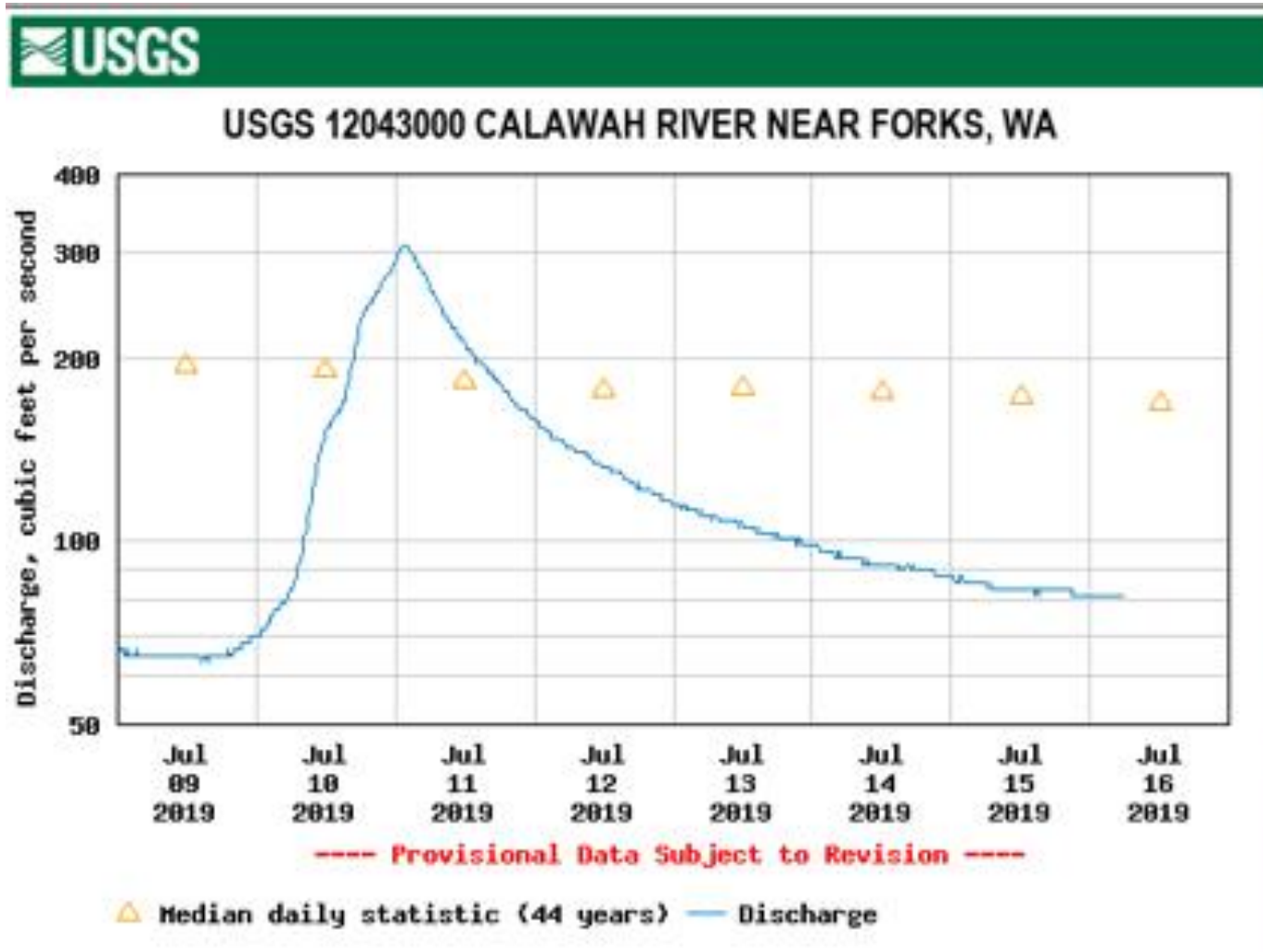
-  May 20, 2019 Declaration
-  April 4, 2019 Declaration
-  Watershed Boundary

Washington State's Drought Trigger



RCW 43.83B.400

Olympic Peninsula



Welcome to water in Washington!

