

ILRU Case Note: Water Law

We have started working in three British Columbia regions that are currently experiencing critical water scarcity with the overarching goal of facilitating collaborative water stewardship and watershed management. We will explore how Indigenous communities and licenced water users in the agriculture and utility sector use water in the context of both Indigenous and Canadian law.

The project brings together three research streams in each region: (i) substantive articulation and restatement of Indigenous law, namely Tsilhqot'in, Cowichan, and Lower Similkameen; (ii) settler water users and the articulation of informal water management practices which do not map onto formal legislation, but through which water users organize access, trade and sharing, and allocation of water; (iii) and an analysis of formal state legal processes that govern water including the new BC *Water Sustainability Act*. These research streams will enable the development of a more responsible, effective, and environmentally sound water stewardship that will bring together Indigenous and settler communities, and will serve as an exemplar for other regions in Canada and elsewhere.

The questions we will explore are:

1. Irrespective of the *Water Sustainability Act* and new legislation, how do farmers, water users, and Indigenous communities steward water?
2. Does the way these Indigenous communities use water fit within the categories drawn by the *Water Sustainability Act* and new laws?
3. How might the new *Water Sustainability Act* assist farmers, water utilities, and Indigenous communities to steward water in a way that reflects local and Indigenous law, social relations, economic realities, and ecological conditions.

At the end of this project, we will:

1. *Produce* a body of water law and legal processes, and range of legal resources from each Indigenous legal order and from the informal non-Indigenous normative order in each watershed.
2. *Collaborate* with the partner communities to restate local water practices and law for future use, application, critical evaluation, and refinement, and that will inform the collaborative initiatives for watershed-based stewardship and planning.
3. *Reveal* local non-Indigenous water stewardship and management practices that are based on watershed-specific socio-ecological and economic needs that can inform the implementation of the *Water Sustainability Act* and build toward the reconciliation of Indigenous and colonial legal systems.

