



**Lesson Plan: Who Owns It?**

Handout #1

**THE CHARACTERISTICS OF PROPERTY RIGHTS**

Directions: Consider each of the items listed below. Could you own this item? Decide how well you think each item meets the characteristics for private property rights. The first

Item	Well-defined? (How?)	Exclusive?	Transferable?	Enforceable? (How?)
Skateboard	yes	yes	yes	
Lift Ticket	yes (see print on back of ticket)	yes	no	yes (but may be difficult to do)
Gun	yes: local, state, and federal laws	yes	yes, with limits	to some extent—illegal weapons and a black market exist
Library book				
Hamburger				
Beautiful view of a garden				

Three are completed for you.



**Lesson Plan: Who Owns It?**

Handout #2

**THE IMPACT OF WATER LAW ON PEOPLE'S CHOICES**

<b>Riparian Common Law</b>	People who own land along streams, lakes, springs, etc. have the right to “reasonable use” of the water.
<b>Prior Appropriation (First-in-Time, First-in-Right)</b>	The first person to divert water (take out of the stream) and use it has a right to what he used. People who come later may only claim rights to what, if any, is left.
<b>Forfeiture Law (Use-It-Or-Lose-It)</b>	If a water rights holder doesn’t use all the water he has a right to, he permanently loses his right to the unused portion.
<b>Salvaged Water Rule</b>	If a rights holder saves water (by using better irrigation technology, for example, ownership of the saved water reverts to the state. The rights holder may not sell the conserved water.
<b>Beneficial Use</b>	People may establish water rights only for “beneficial use” as established by state law. (For example, agriculture is a beneficial use in all states, but only some states list recreation or fishing as a beneficial use.)
<b>Public Interest</b>	Water rights, especially the right to transfer, are limited by the public interest as defined by law and court rulings. Common examples are protection of an economic area, preservation of the environment, or public health and safety.

Directions: Study the definitions of U.S. water law that appear below. Read the case studies that follow and answer the questions.



## **Assessment Case Studies: The Impact of Water Law on People's Choices**

Each group will prepare a well organized PowerPoint presentation that explains the facts of the case, the different positions of the parties to the case and the legal reasoning to be applied. Each presentation will be scored according to the GRASPS rubric provided.

### **Case Study #1**

#### **Farmers:**

Joe and Jim are farmers who have adjacent farms along a river. Joe grows alfalfa in his irrigated fields, and he could grow hay without irrigation. Jim lives downstream and grows hay, but he really wants to grow pumpkins. He could earn a great deal more money from pumpkins than he earns from hay. Unfortunately for Jim, pumpkins require more water than is left in the stream below Joe's farm. Joe and Jim are unable to reach an agreement on their own, and decide to take their disagreement to court.

Assuming that the water law applied in this case is Riparian Common Law, what will the outcome be for Joe and Jim?

### **Case Study #2**

#### **Gold Miners:**

Jen and Jan are gold miners. Jen sets up camp on a stream, builds a sluice (a device that channels water with a gate to control flow) and diverts water at 10 cubic feet per second (cfs) through the sluice. Jan arrives 2 months later, builds her camp upstream from Jen and sets up her sluice which uses 5 cfs of water. In August, the stream begins to run very low, and after Jan takes out her water, only 5 cfs are left for Jen. Jen sues Jan for interfering with her ability to mine for gold.

Assuming that the water law applied in this case is Prior Appropriation (First in Time, First in Right) what will the outcome be for Jen and Jan?



## **Case Study #3**

### **Conservation:**

Bert and Ernie are vegetable farmers who want to expand their operation to try growing some new types of vegetables. They currently use water from a stream that adjoins their property, and they understand that their new growing plan will require additional water. A friend of theirs, Grover tells them that they could use 2/3 less water if they installed a drip irrigation system. Grover offers to sell them the irrigation equipment for a reasonable price.

If the Salvaged Water Rule is in effect, should Bert and Ernie purchase the drip irrigation equipment from Grover? Why or why not?

## **Case Study #4**

### **Environmentalists**

Jason currently operates a vegetable farm on his property that adjoins a stream, and he uses water from the stream to irrigate his fields. In his community, a local environmental activist group is concerned because in dry years the stream is so low that fish die by the thousands. They want Jason to leave more water in the stream, and prepare a request that he reduce his water usage by one half. Jason is sympathetic to the environmental concerns of the group, but he must also earn a living.

If the Forfeiture (use it or lose it) rule is in effect, how should Jason respond to the environmental group's request? Why?



**Case Study #5**

**Ground Water**

Jeffrey decides to start a bottled water company, pumping water from a large underground aquifer to his bottling plant. The aquifer is shared by his neighbors who are farmers, and the nearby town. The City Council is alarmed by a report that more water is being taken from the aquifer than is being replaced by natural sources such as rainwater. They tell Jeffrey that he must stop using the aquifer as the source for his bottled water so that more water is available for the town.

If the Public Interest rule is in effect, should Jeffrey agree to the request by the City Council?