

ECOLOGY UPDATE:

IMPLEMENTING RCW 90.94 (STREAMFLOW RESTORATION)



Bennett Weinstein

Water Resources Program
Washington State Department of Ecology

September 14, 2020
WRAC

Today's Discussion

- Mission
- Planning
- Grants



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- Mission
- Planning
- Grants



We manage water resources to meet the needs of people and the natural environment, in partnership with Washington communities.



WATER for PEOPLE, FARMS & FISH



9094 Implementation Targets

1. Stewardship of Taxpayer Funds.
2. 15 Plans by Statutory Deadlines.
3. By 2022: Several Rounds of Grant Funds Obligated to Projects that are Delivering Demonstrable* Stream Flows as Planned.
4. Update Instream Flow Rules as Necessary to Ensure Compliance with Relevant Law.

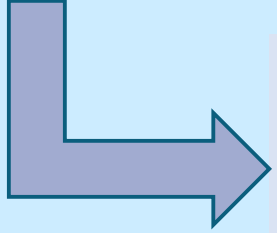
Today's Discussion

- Mission
- Planning
- Grants



NEW PERMIT EXEMPT WELLS

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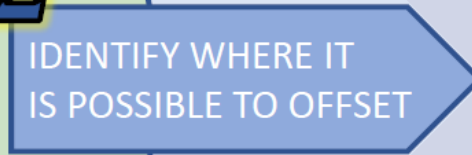
1

QUANTIFY EXPECTED
CONSUMPTIVE
WATER USE
OVER 20 YEARS

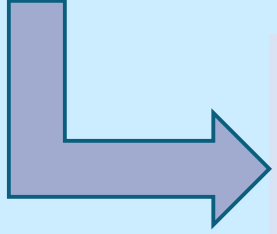


2

IDENTIFY WHERE IT
IS POSSIBLE TO OFFSET



NEW PERMIT EXEMPT WELLS



1

QUANTIFY EXPECTED
CONSUMPTIVE
WATER USE
OVER 20 YEARS



2

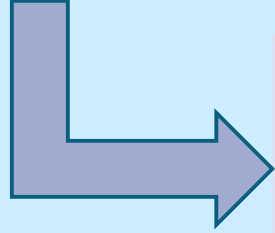
IDENTIFY WHERE IT
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3



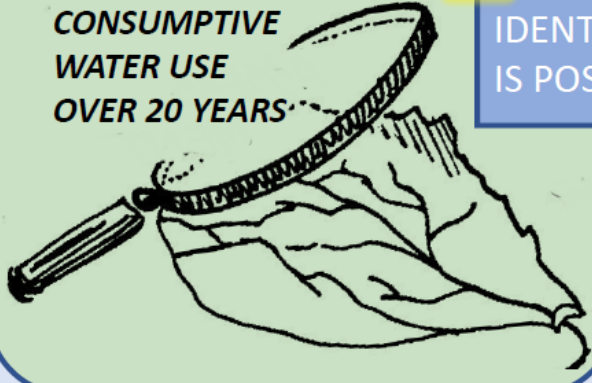
ECOLOGY MUST EVALUATE:
DOES THIS PLAN HAVE A
NET ECOLOGICAL BENEFIT?

NEW PERMIT EXEMPT WELLS



1

QUANTIFY EXPECTED
CONSUMPTIVE
WATER USE
OVER 20 YEARS



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IDENTIFY WHERE IT
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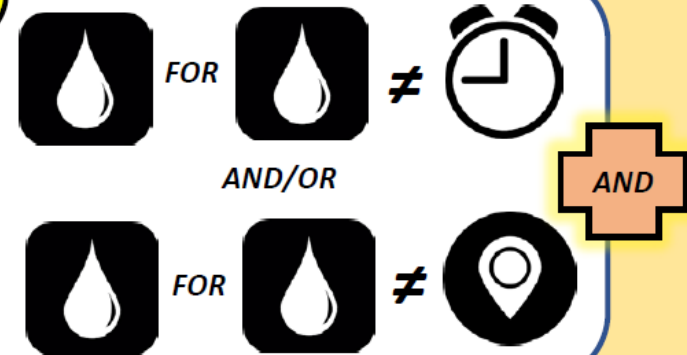


ECOLOGY MUST EVALUATE:
DOES THIS PLAN HAVE A
NET ECOLOGICAL BENEFIT?

FIRST
PRIORITY



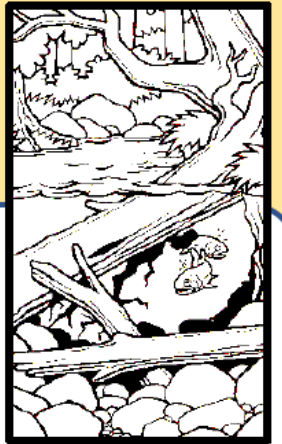
SECOND
PRIORITY



PROJECTS THAT ENHANCE



AND/OR



WATER RESOURCES PROGRAM GUIDANCE

Final Guidance for Determining Net Ecological Benefit

GUID-2094 Water Resources Program
Guidance

**NEB Guidance
Published
July 31, 2019**

Water Resources Program
Washington State Department of Ecology
Olympia, Washington



POL-2094

DEPARTMENT OF ECOLOGY WATER RESOURCES PROGRAM POLICY AND INTERPRETIVE STATEMENT

STREAMFLOW RESTORATION POLICY AND INTERPRETIVE STATEMENT

Effective Date: 07/31/2019

Contact:

References:

Purpose:

Application:

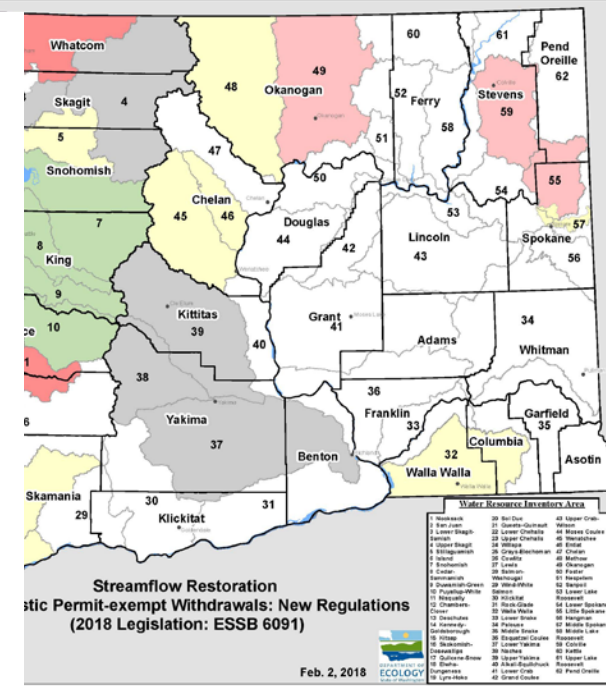
**Program Policy
Published
July 31, 2019**

RCW 19.27.097 and the implementation of activities authorized under chapter 90.94 RCW.

This policy supersedes any previous policy statement with which it conflicts.

1. Background

In January 2018, the Washington State Legislature passed Engrossed Substitute Senate Bill (ESSB) 6091 (session law 2018 c 1). This law was enacted in response to the State Supreme Court's 2016 decision in *Whatcom County vs. Hirst, Futurewise, et al.* (commonly referred to as the "Hirst decision")¹. The law, now primarily codified in chapter 90.94 RCW, clarifies how local governments can issue building permits for homes intending to use a permit-exempt well for their domestic water supply. The law also requires that local watershed planning efforts take place in 15 WRIsAs. Plans must be developed that identify projects to offset the potential consumptive impacts of new permit-exempt domestic groundwater withdrawals on instream flows over the next 20 years (2018-2038), and provide a net ecological benefit to the WRIA. Additionally, the law provides opportunities for Ecology to issue water right permits to authorize pilot projects related to the State Supreme Court's 2015 decision in *Foster vs. Ecology, City of Yelm, et al.* (commonly referred to as the "Foster decision")². Such permits may be issued if impacts on streamflows can be mitigated based on criteria provided in the new law. This document provides policy statements as it relates to Ecology's interpretation and implementation



2

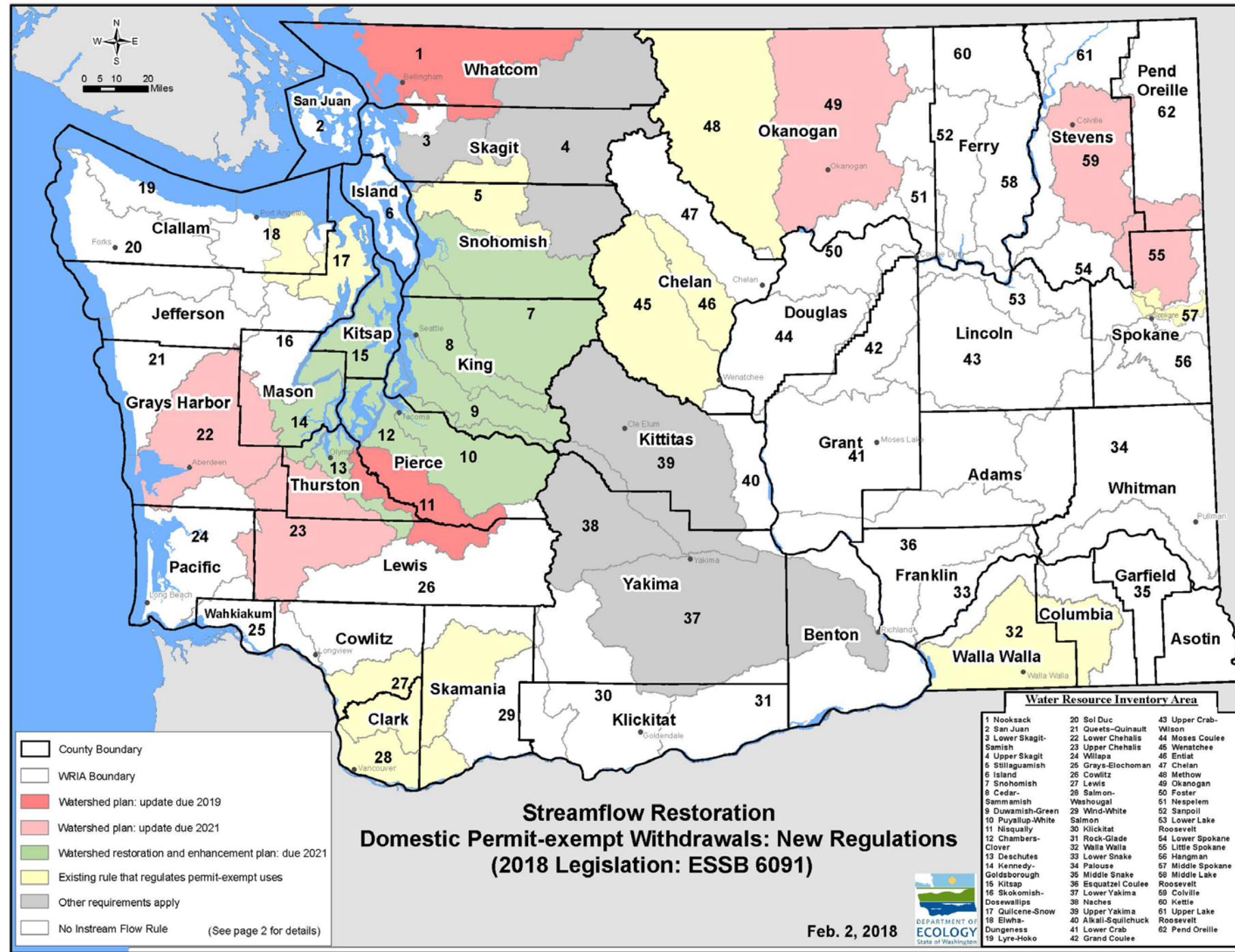
"202" Local Led
*Plans Adopted By
Ecology: Feb 1, 2019

5

"202" Local Led
*Plans Adopted By
Ecology: Feb 1, 2021

8

"203" Ecology Led
*Plans Adopted By
Ecology: June 30, 2021



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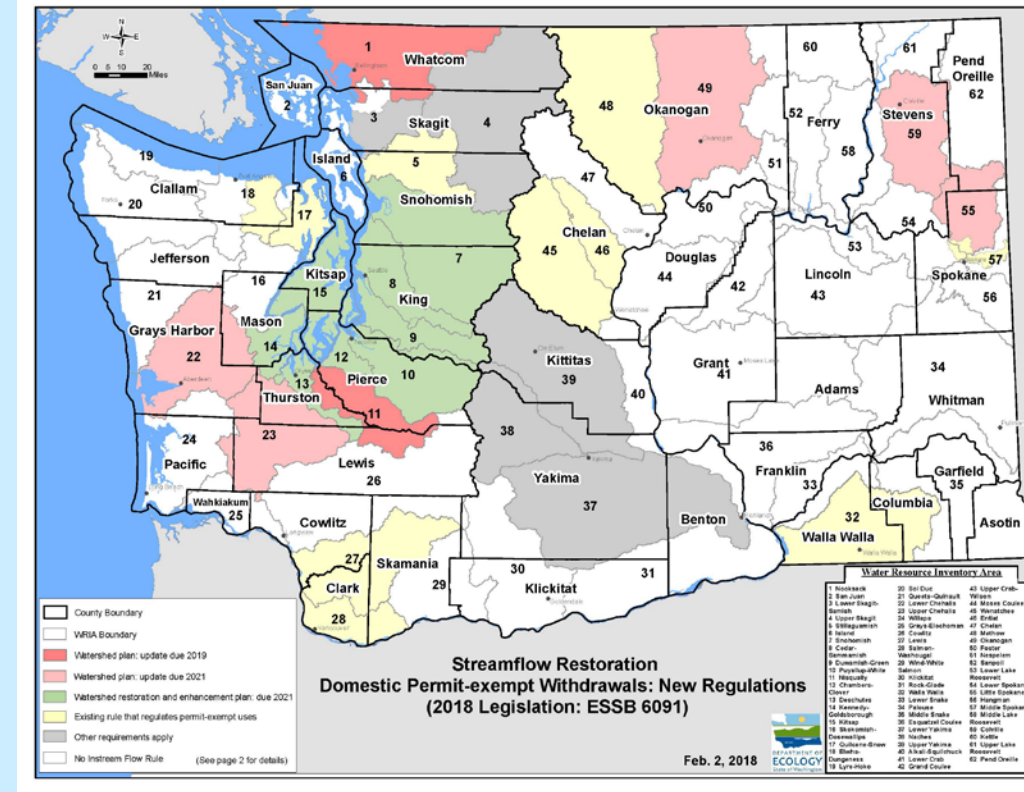
Planning Group
Formation

Data
Gathering

Plan
Drafting

Finalization

Complete



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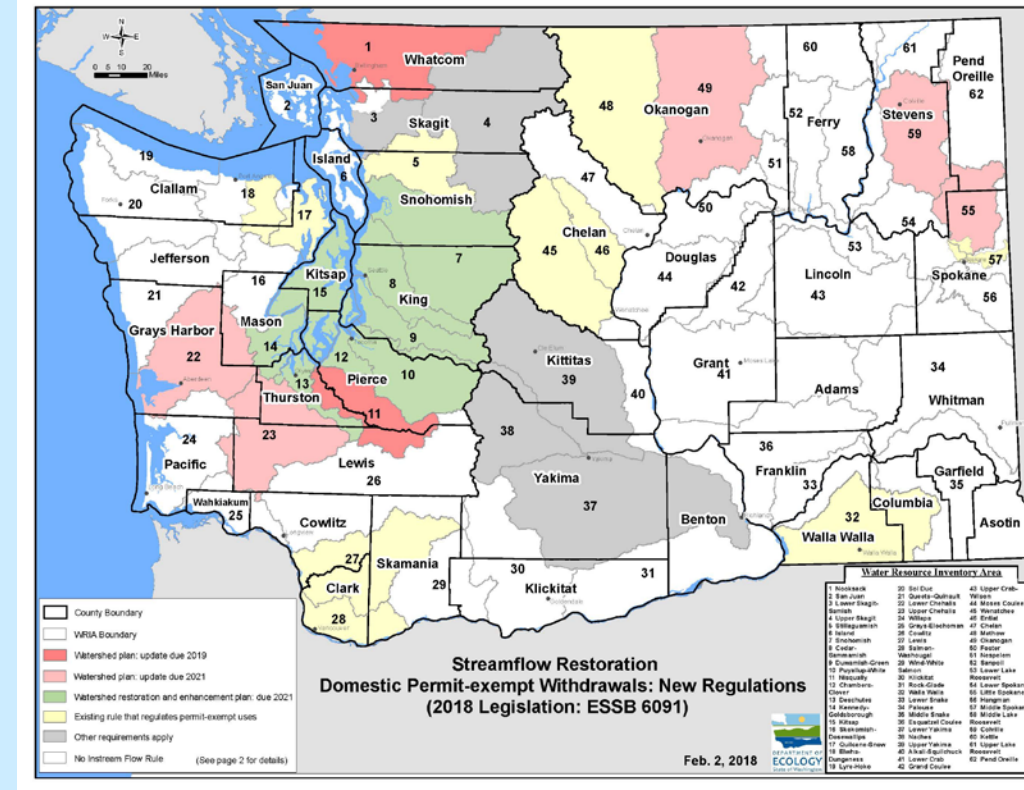
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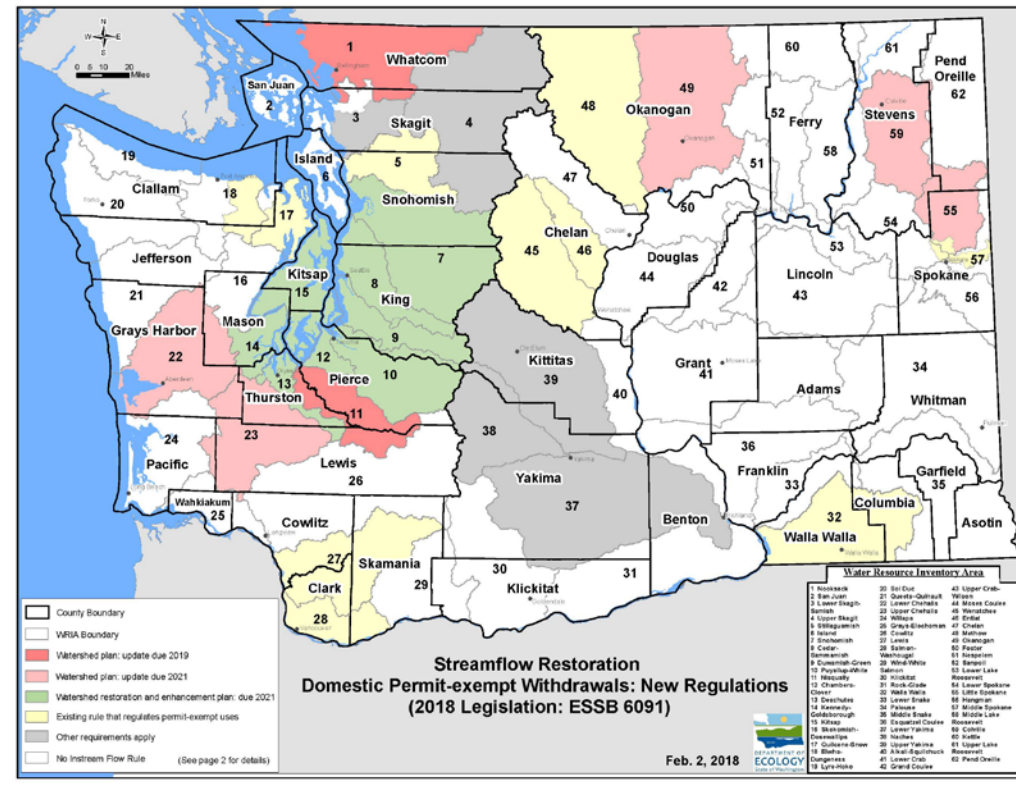
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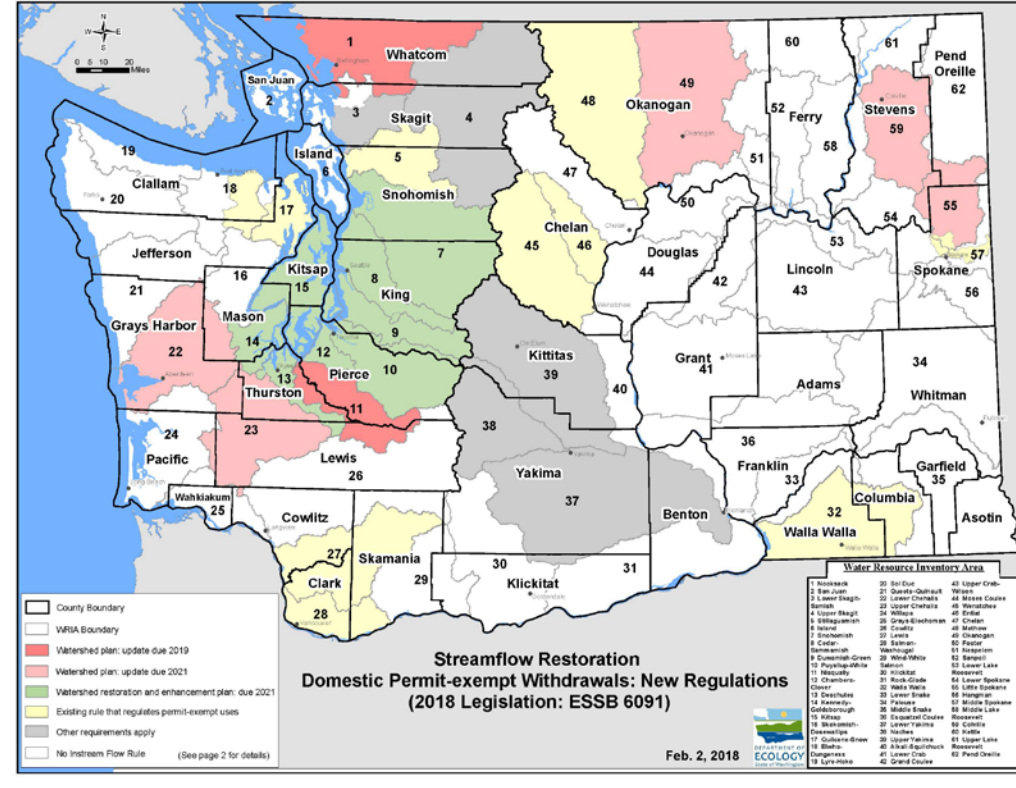
"202" Local Led
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Ecology: Feb 1, 2021

WRIAs 22, 23, 49, 55

8

"203" Ecology Led
*Plans Adopted By
Ecology: June 30, 2021

WRIAs 7, 8, 9, 10,
12, 13, 14, 15



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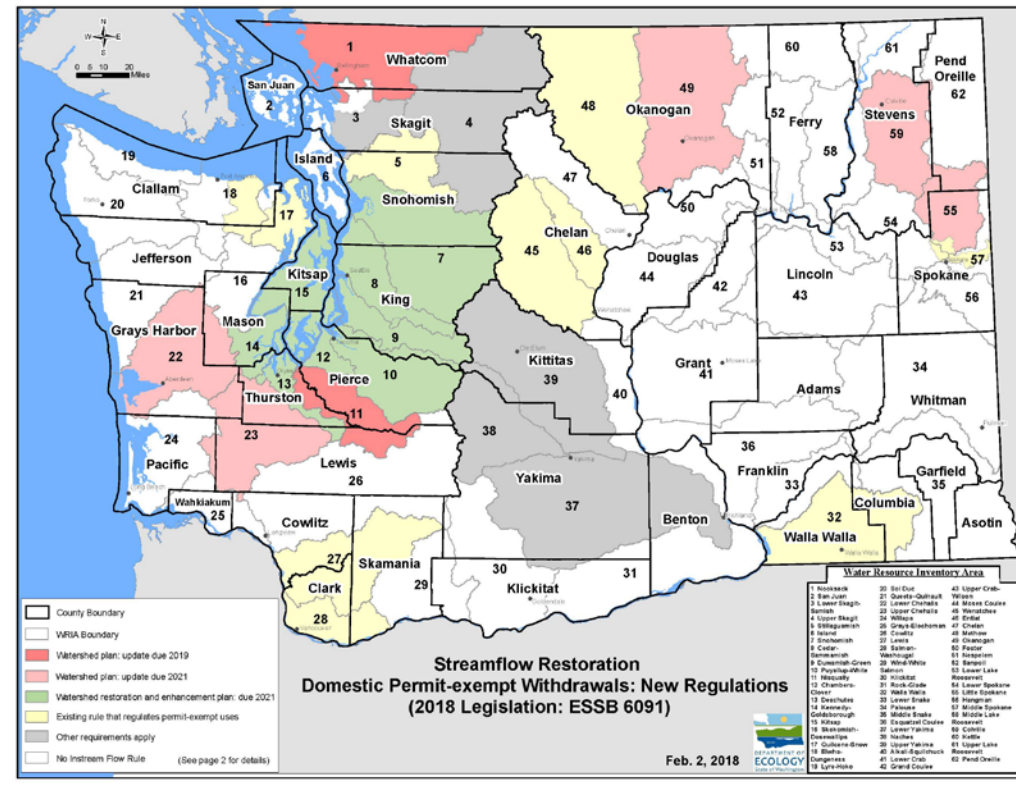
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Ecology: Feb 1, 2019

WRIAs 1, 11

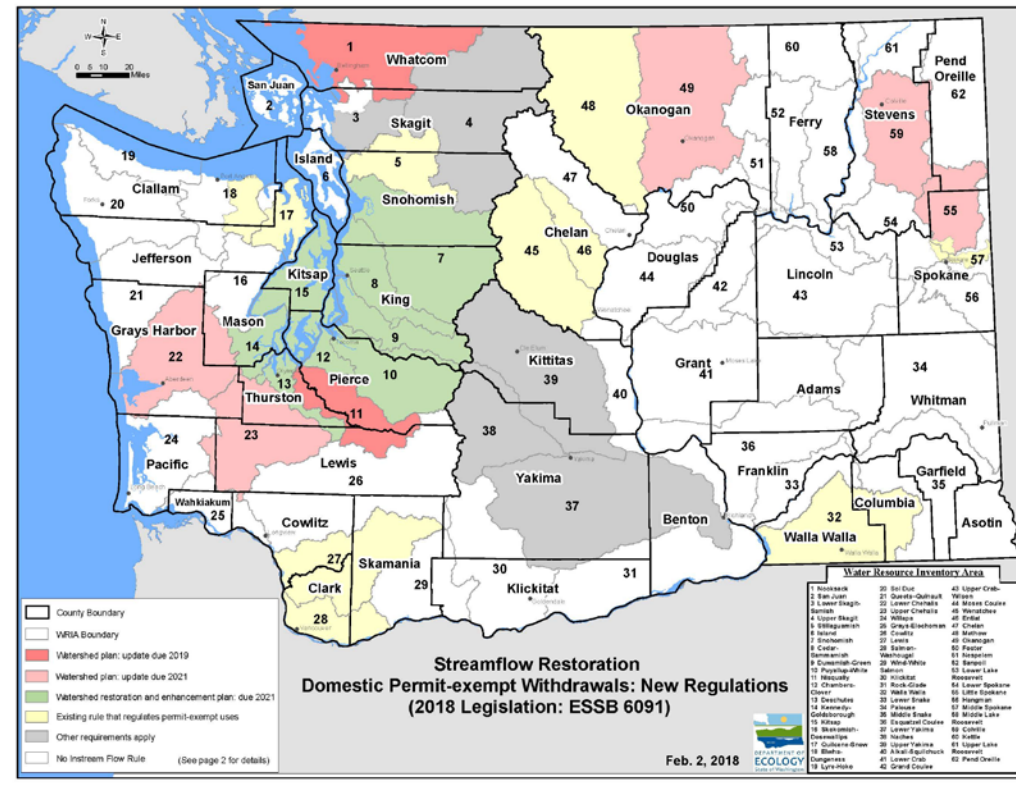
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"202" Local Led
*Plans Adopted By
Ecology: Feb 1, 2021

WRIA 59

8

"203" Ecology Led
*Plans Adopted By
Ecology: June 30, 2021



Planning Group
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Drafting

Finalization

Complete

Highlights: WRIA 11

STREAMFLOW RESTORATION PROGRAM Nisqually Watershed (WRIA 11) Plan Update



The Nisqually River by Mike Noone, Department of Ecology

In January 2018, the Legislature passed the Streamflow Restoration law that helps restore streamflows to levels necessary to support robust, healthy, and sustainable salmon populations while providing water for homes in rural Washington.

The law directs local planning groups to develop watershed plans that offset impacts from new domestic permit-exempt wells and achieve a Net Ecological Benefit (NEB).

The law is codified as Chapter 90.94 RCW.

The Nisqually planning group, led by the Nisqually Indian Tribe, updated their watershed management plan to meet the requirements of the law.

Plan Update Summary

The Nisqually Watershed, or the Water Resource Inventory Area (WRIA) 11, covers parts of Thurston, Pierce, and Lewis counties.

As required, the Nisqually planning group forecasted rural growth in their watershed as well as the impact of permit-exempt wells through 2040. The planning group then identified 22 projects and actions to offset the impacts from new permit-exempt wells on rivers and streams and result in a net ecological benefit.

Ecology adopted the plan update on time, after a rigorous review process on February 1, 2019.

Projected rural growth over 22 years (2018 - 2040)



2,987
Permit-exempt wells



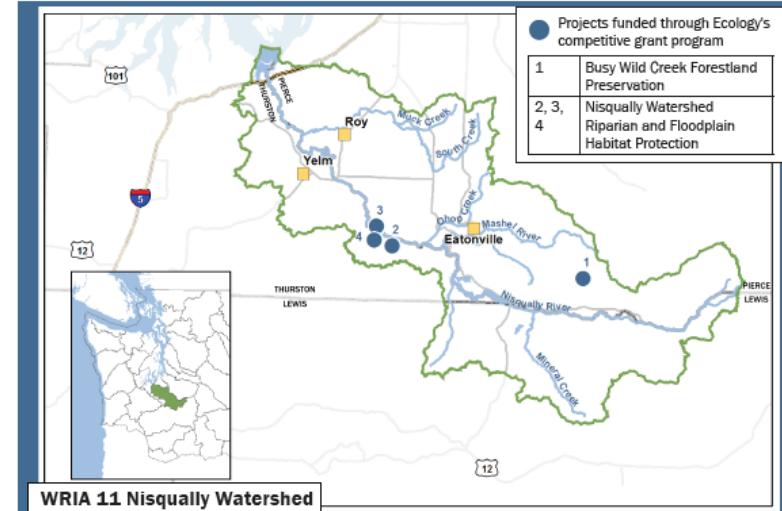
1.03 cfs
Water consumption

Streamflow benefits from projects and actions



2,114 cfs
Water added from Tier 1 projects

cfs = cubic feet per second



Net Ecological Benefit

The Streamflow Restoration law requires Ecology to determine that the projects in the plan will result in a Net Ecological Benefit (NEB) in the WRIA.

The Nisqually planning unit identified 22 projects to achieve NEB. Projects included are:



Water acquisition



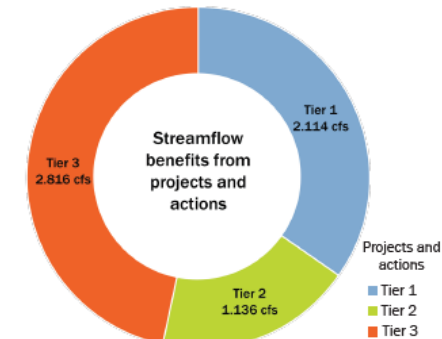
Water storage



Use of reclaimed water



Habitat restoration



During the plan review process, Ecology organized the 22 projects into three categories based on Ecology's determination of their likelihood to benefit rivers and streams. Tier 1 has projects with the highest likelihood, followed by Tiers 2 and 3.

To learn more about Streamflow Restoration please visit: ecology.wa.gov/Streamflowrestoration

ADA Accessibility: To request an ADA accommodation, call Ecology at 360-407-6872 or email at WRpublications@ecy.wa.gov, or visit ecology.wa.gov/accessibility. For Relay Service or TTY call 711 or 877-833-6341.



Highlights: WRIA 59 *(preview draft)*

STREAMFLOW RESTORATION PROGRAM Colville Watershed (WRIA 59) Plan Update



In January 2018, the Legislature passed the Streamflow Restoration law that helps restore streamflows to levels necessary to support robust, healthy, and sustainable salmon populations while providing water for homes in rural Washington.

The law directs local planning groups to develop watershed plans that offset impacts from new domestic permit-exempt wells and achieve a Net Ecological Benefit (NEB).

The law is codified as Chapter 90.94 RCW.

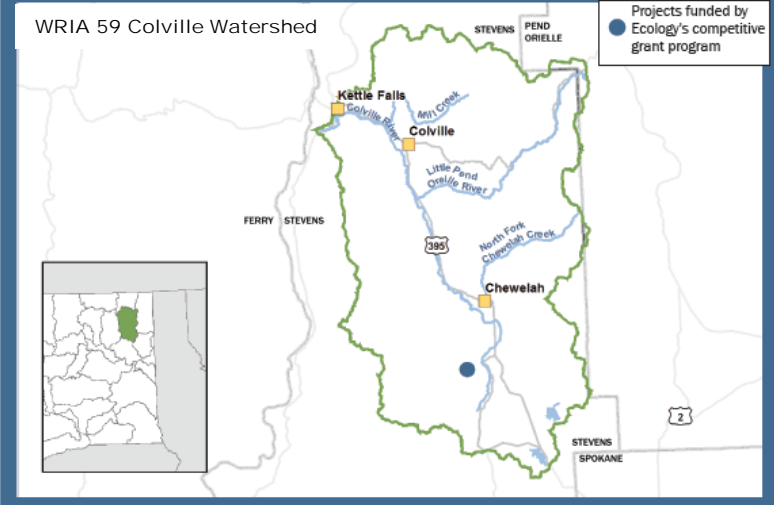
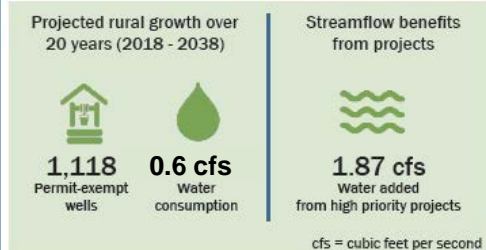
The Colville planning group updated their watershed management plan to meet the requirements of the law.

Plan Update Summary

The Colville watershed or the Water Resource Inventory Area (WRIA) 59 covers most of Stevens county. It includes 1,000 square miles of land that is divided into 19 subbasins.

As required, the Colville planning group forecasted rural growth in their watershed as well as the impact of permit-exempt wells through 2038. The planning group then identified 16 projects and actions to offset the impacts from new permit-exempt wells on rivers and streams and result in a net ecological benefit.

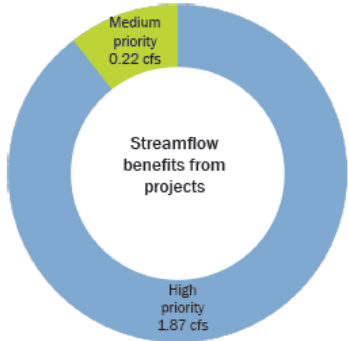
Ecology adopted the plan update on time, after a rigorous review process on June 25, 2020.



Net Ecological Benefit

The Streamflow Restoration law requires Ecology to determine that projects in the plan will result in a NEB in the WRIA.

The Colville planning group identified 16 projects to achieve NEB. The group completed the Waitts Creek water acquisition project before plan adoption. This project alone offsets the impact from permit-exempt wells. Other projects included are:



The planning unit divided the 16 projects into two categories: 10 high priority and 6 medium priority projects, based on their likelihood to benefit rivers and streams.

To learn more about Streamflow Restoration please visit: ecology.wa.gov/StreamflowRestoration

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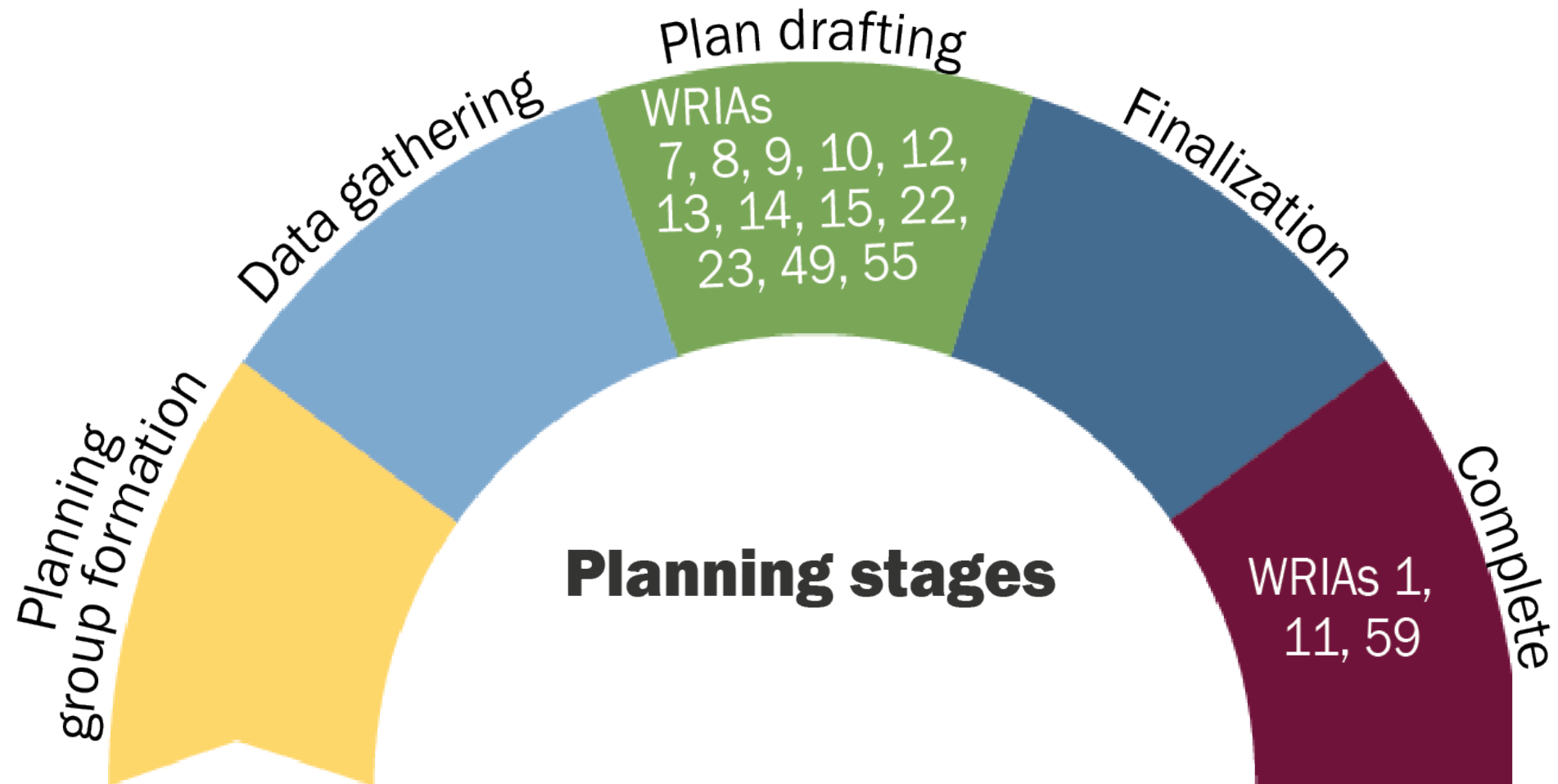


Highlights: WRIA 1

UNDER CONSTRUCTION

COMING SOON





Today's Discussion

- Mission
- Planning
- **Grants**



90.94 Grants

- Annual Participation Grants
- State-wide Project Grants



90.94 Grants

- Annual Participation Grants
 - Tribal Governments
 - Counties



90.94 Grants



Eligible Grantee	Base Participation Grant	Additional Participation Grants Funds
Tribal Governments	\$25k/ yr. 1 st WRIA	\$15k/ yr. each additional WRIA
"202" Lead Agency	\$50k /yr. Lead WRIA	\$150k* "Planning Support"
"202" Non-lead Counties	\$25k /yr. 1 st WRIA	\$15k / yr. each additional WRIA
"203" Counties	\$25k /yr. 1 st WRIA	\$15k / yr. each additional WRIA

* These Funds Are One-Time for Planning Support

90.94 Grants

- Annual Participation Grants
 - Tribal Governments
 - Counties
- State-wide Competitive Grants



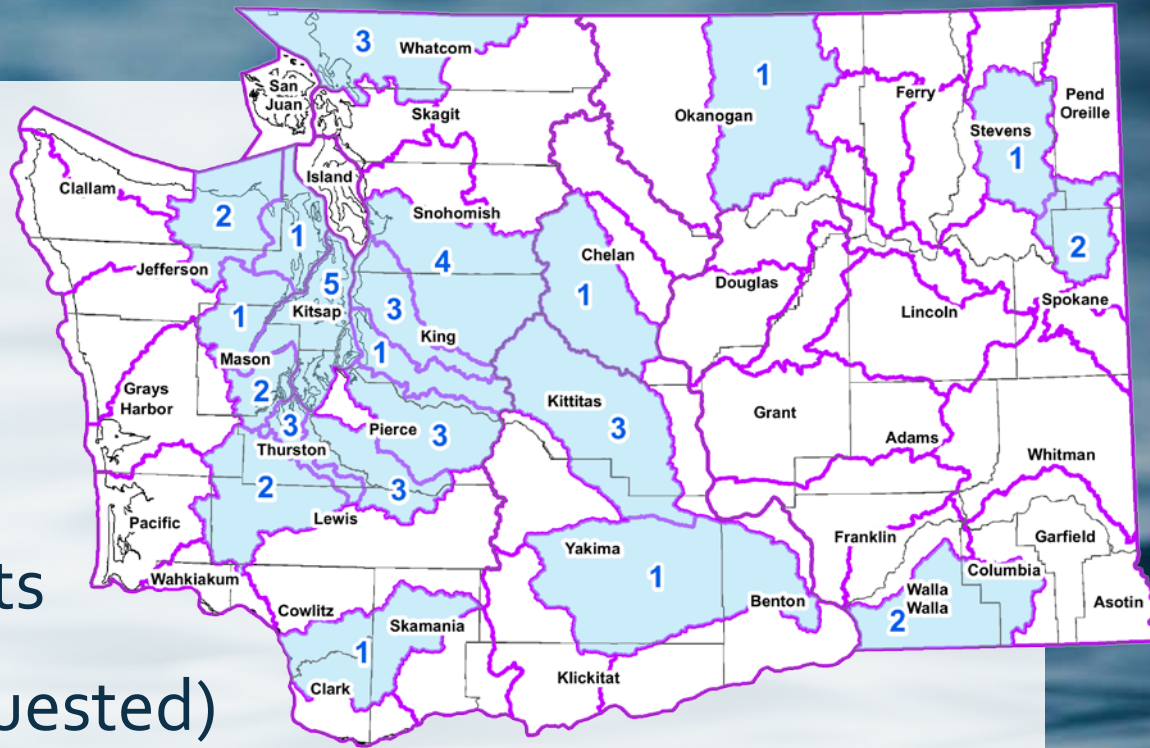
90.94 Grants

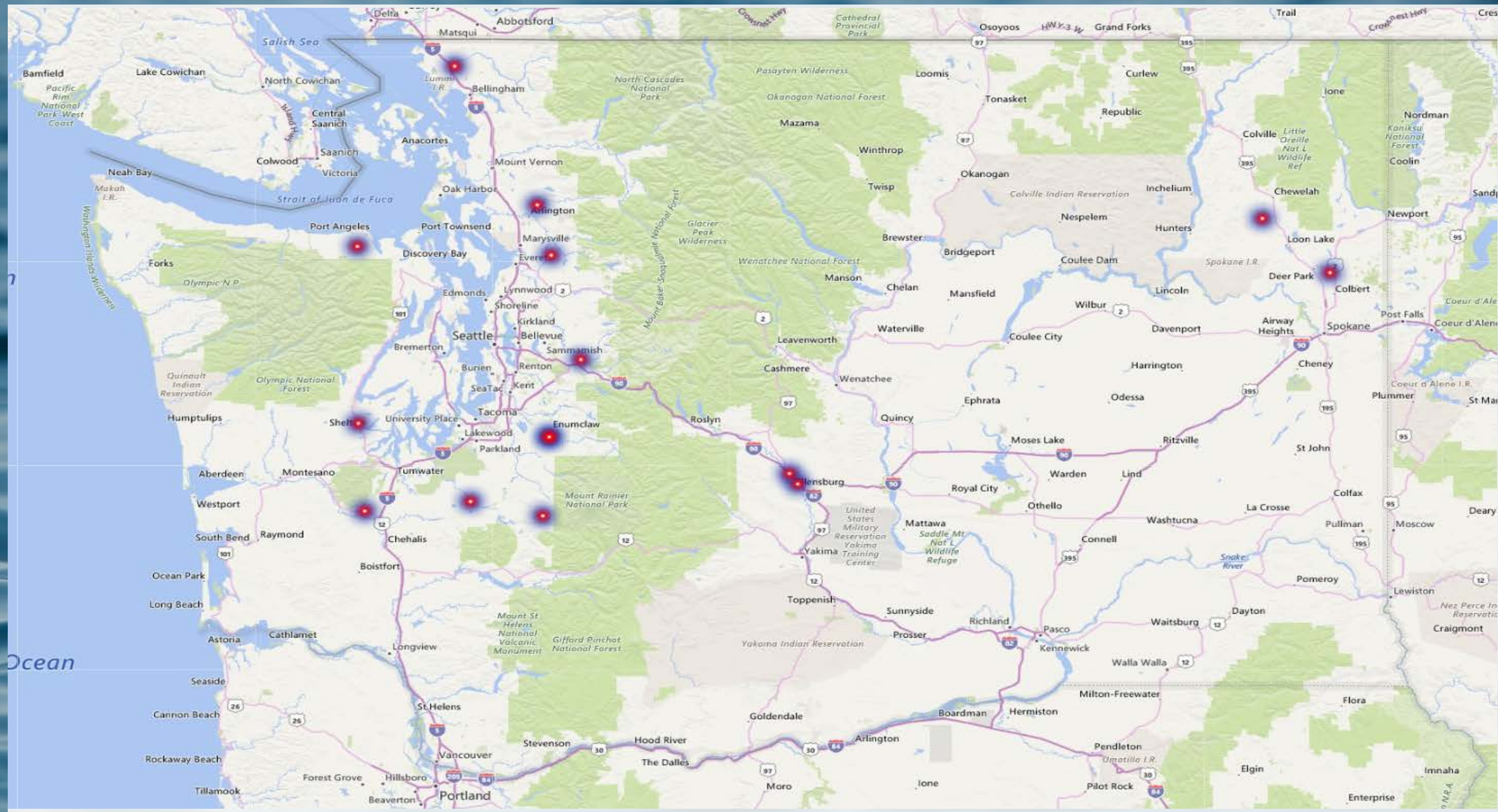
- Annual Participation Grants
 - Tribal Governments
 - Counties
- State-wide Competitive Grants
 - Pilot Round: 2018/2019
 - 2020 Round



90.94 Competitive Grants State-wide Pilot Round (Fall 2018-Winter 2019)

- ~\$20 Million Granted to **16** Projects
- **46** Applications (≈\$74 Million Requested)
 - **10** Water Rights Acquisition
 - **9** Land Acquisition
 - **9** Habitat Improvement
 - **7** Habitat Restoration
 - **4** Water Conservation
 - **4** Water Recharge
 - **1** Water Transfer
 - **1** Water Storage
 - **1** Study





90.94 Grants

- Annual Participation Grants
 - Tribal Governments
 - Counties
- State-wide Competitive Grants
 - Pilot Round: 2018/2019
 - 2020 Round



90.94 Competitive Grants Current State-wide Round (Winter 2019-Summer 2020)

- Priorities
- Current Status



90.94 Competitive Grants Current State-wide Round (Winter 2019-Summer 2020)

Key Organizing Principle:
Environmental Justice

transparency + extensive customer service =

The Best Projects for the Best Value



STREAMFLOW RESTORATION COMPETITIVE GRANTS

Guidance for project applicants

90.94 Competitive Grants Current State-wide Round (Winter 2019-Summer 2020)

Three Funding Priorities

1. 90.94 Planning WRIA
2. 90.94 Ecology Adopted Plan
3. Improves Streamflows
 - Benefit Threatened or Endangered Salmonids
 - Benefit Other Native Fish or Aquatic Species of Concern

Priorities are Additive



STREAMFLOW RESTORATION COMPETITIVE GRANTS

Guidance for project applicants

90.94 Competitive Grants Current State-wide Round (Winter 2019-Summer 2020)

Current Status



STREAMFLOW RESTORATION COMPETITIVE GRANTS

Guidance for project applicants

90.94 Competitive Grants Current State-wide Round (Winter 2019-Summer 2020)

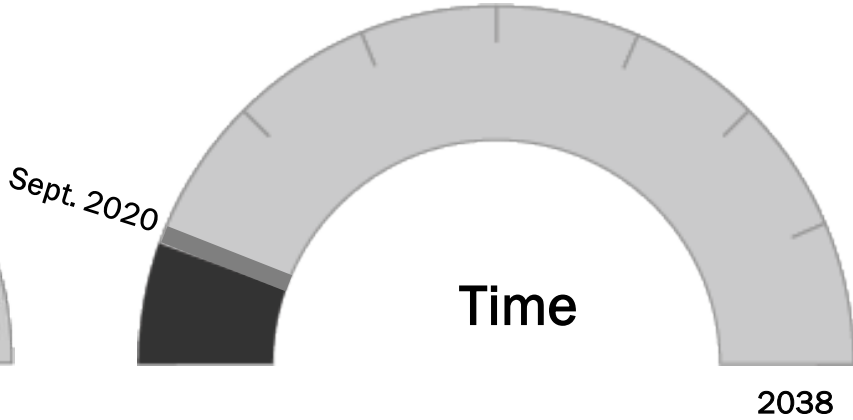
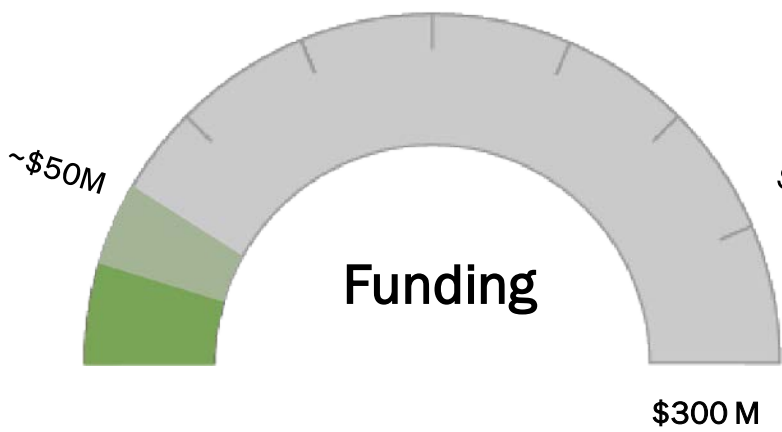
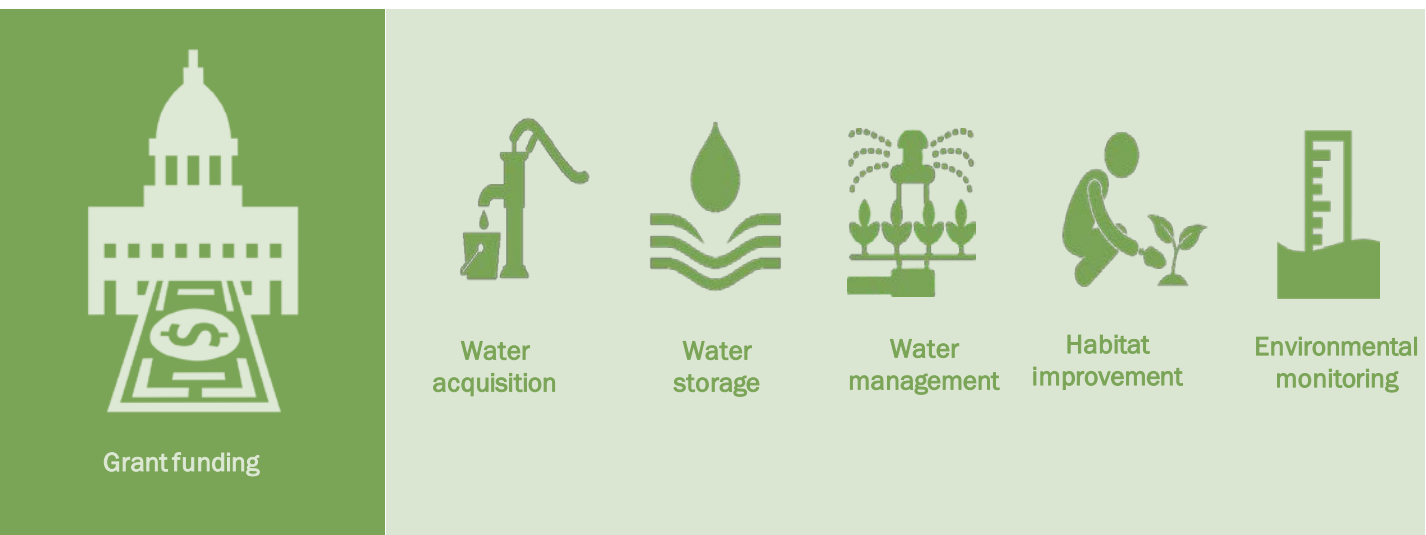
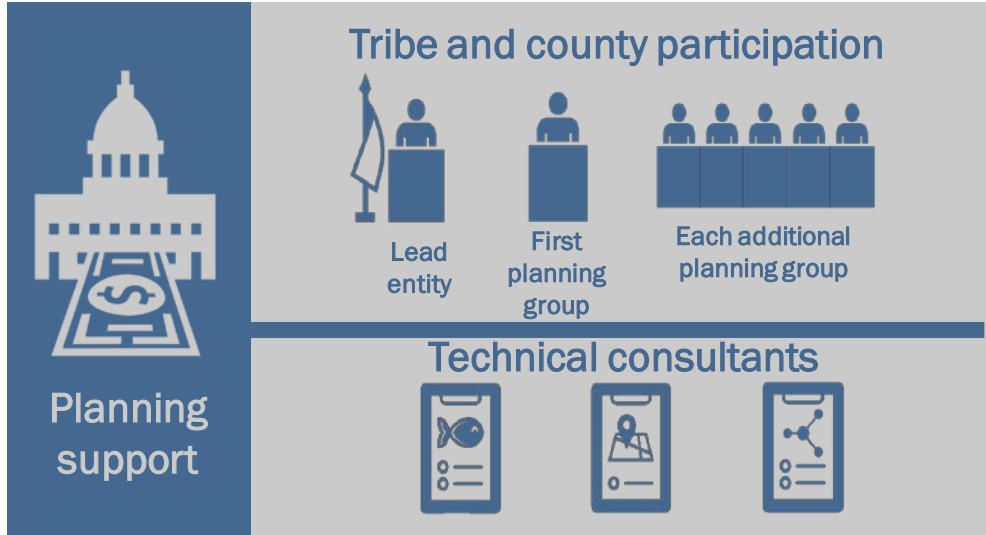
Current Status

- Deadline Extended – April 30, 2020
- 63 Applications
- \$88 Million Requested
- Application Summaries are on-line
- Ecology intends to grant up to \$22 M.
- Offers anticipated in October 2020



STREAMFLOW RESTORATION COMPETITIVE GRANTS

Guidance for project applicants



Today's Discussion -- Recap

- Mission
- Planning
- Grants



Today's Discussion -- Recap

- **Mission**
 - Programmatic Targets
- **Planning**
- **Grants**



Today's Discussion -- Recap

- **Mission**
 - Programmatic Targets
- **Planning**
 - Scope (PEW Offsets and NEB)
 - Foundational Documents
 - Status of the 15 WRIAs
- **Grants**



Today's Discussion -- Recap

- **Mission**
 - Programmatic Targets
- **Planning**
 - Scope (PEW Offsets and NEB)
 - Foundational Documents
 - Status of the 15 WRIAs
- **Grants**
 - Pilot Round (\$20M)
 - 2020 Round (Up to \$22M, Offers by October 2020)



Discussion

Bennett Weinstein
Water Resources Program
Department of Ecology

(360)407-6757



DEPARTMENT OF
ECOLOGY
State of Washington