

Deschutes Watershed (WRIA 13) Watershed Restoration and Enhancement Committee *Meeting Agenda*

1. Welcome!
2. Introductions
3. Overview and Task at Hand
4. Group Activity
5. Next Steps
6. Public Comment



RCW 90.94 STREAMFLOW RESTORATION



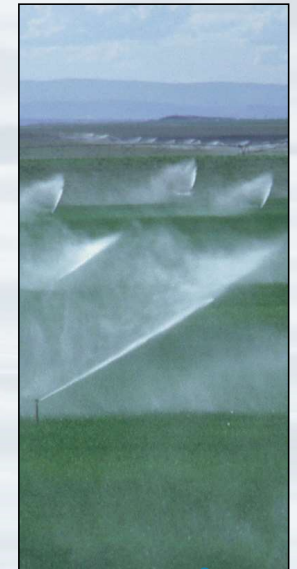
Watershed Restoration and Enhancement Committee Kickoff Meeting

Deschutes Watershed (WRIA 13)

October 25, 2018

Overview

- Background and the *Hirst* decision
- Key elements of RCW 90.94
 - Planning
 - Project Funding
 - Net Ecological Benefit
- Committee formation and role
- Timeline



Background



- 29 of our 62 basins have adopted instream flow rules.
 - New water rights are largely unavailable without “water-for-water” mitigation.
 - Changes to existing rights must result in no impairment to instream flows.

Key State Supreme Court Decisions

- *Postema v. Pollution Control Hearings Board* (2000)
- *Swinomish v. Ecology* (2013)
- *Foster v. Ecology* (2015)

Result

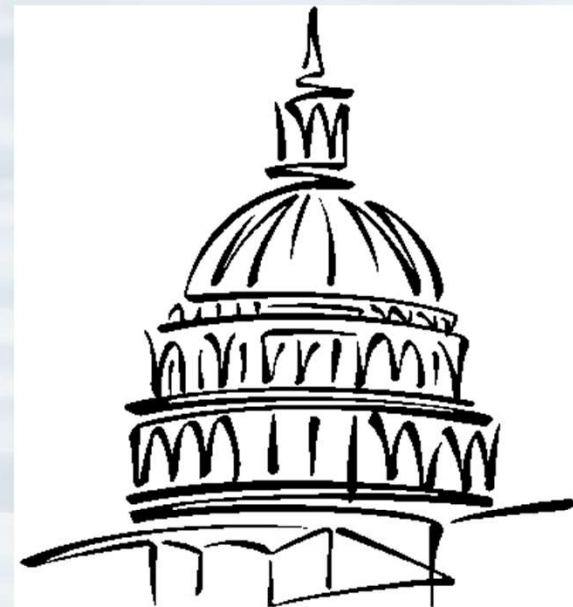
- No impairment to instream flows
- “Perfect mitigation” required for new water users
 - In-kind, in-time, in-place

Hirst, Futurewise, et al v. Whatcom County **(2016)**

- Appeal of Whatcom County's Comprehensive Plan.
- Failure to sufficiently protect water resources under the Growth Management Act.
- Counties have an independent responsibility to ensure that new permit-exempt uses do not impair senior uses, including instream flows.
- Counties cannot allow even *de minimus* impairment to instream flows.

Legislative Response

- **2017 session:** No agreement, even after longest session in state's history.
- **2017/2018 interim:** Significant discussion continued; progress towards agreement.
- **2018 session:** Agreement reached very early in session.



Negotiated Solution: ESSB 6091 - now RCW 90.94

ENGROSSED SUBSTITUTE SENATE BILL 6091

Passed Legislature - 2018 Regular Session

State of Washington 65th Legislature 2018 Regular Session

By Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Van De Wege, Rolfes, and Frockt)

READ FIRST TIME 01/12/18.

1 AN ACT Relating to ensuring that water is available to support
2 development; amending RCW 19.27.097, 58.17.110, 90.03.247, and
3 90.03.290; adding a new section to chapter 36.70A RCW; adding a new
4 section to chapter 36.70 RCW; adding a new chapter to Title 90 RCW;
5 creating a new section; providing an expiration date; and declaring
6 an emergency.

Key Elements of 90.94: Homebuilding

In basins impacted by the bill:

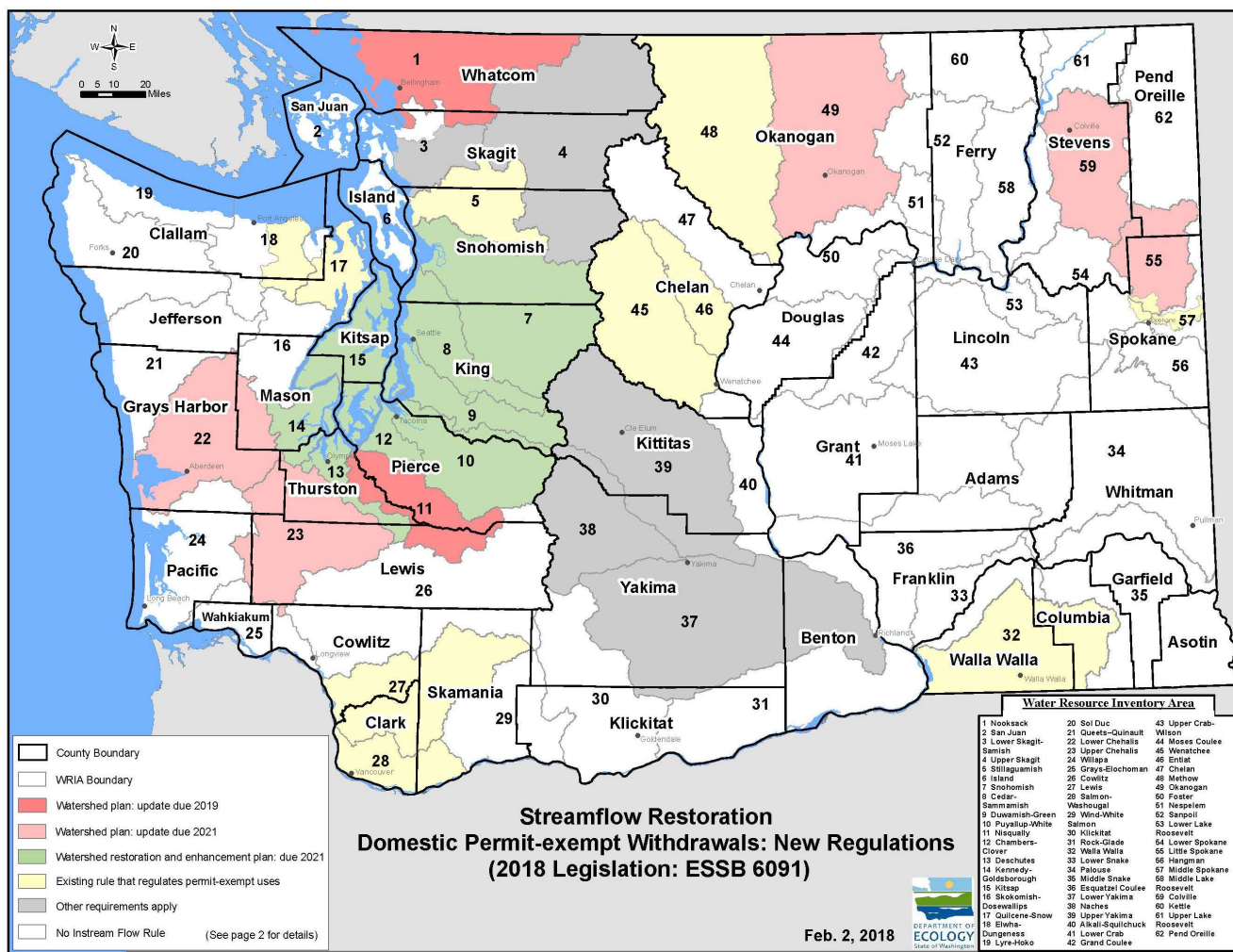
- Homebuilding allowed.
- \$500 fee.
- Water use restrictions.

Did not affect:

- Basins with instream flow rules with specific requirements for permit-exempt uses, the Skagit, and the Yakima.
- Wells drilled before the bill passed.
- Commercial, industrial buildings, or buildings not needing a building permit.



Key Elements of 90.94: Basin Planning



Planning groups:

- Existing Watershed Planning Units (Section 202)
- New Watershed Restoration and Enhancement Committees (Section 203)

Planning elements:

- Actions to offset the consumptive use from new permit-exempt wells.
 - Prioritize “in-time and in-place”.
- “Net ecological benefit” standard.

Planning requirements:

- Timeframes for completion – 1 or 3 years.

Key Elements of 90.94: Funding

- **Projects and Funding:** \$300 million over 15 years for streamflow restoration projects statewide.
 - Priority watersheds
 - Priority projects
- Current round closes Oct 31
- Rule Making



Photo from Kitsap Sun

Key Elements of 90.94: Other Provisions

- **Growth Management Act:** Counties can rely on Ecology rules for GMA compliance related to groundwater protection.
- **Metering:** Pilot program for metering new domestic uses in the Dungeness and Kittitas.
- **Foster:** Legislative task force to study the WA Supreme Court's *Foster* decision. 5 *Foster* pilot projects authorized.
- **Reporting:** Reports to the Legislature in 2020 and 2027.

Planning Requirements

Section 020

- Updates to watershed plans prepared under RCW 90.82, the Watershed Planning Act

Section 030

- Watershed restoration and enhancement plans



Net Ecological Benefit



Considerations for Net Ecological Benefit

- Offset projected 20-year consumptive use from new permit-exempt domestic withdrawals
- Non-water projects are in addition to the required water offset



Water and Non-Water Project Examples

Water Offset Projects

- Water right acquisition
- Off-channel storage
- Shallow aquifer recharge (SAR)
- Floodplain restoration/levee removal
- Streambed elevation restoration/alluvium aggradation
- Streamflow augmentation

Non-Water Offset Projects

- Strategic land acquisition
- Streambank stabilization/riparian restoration
- Water quality improvements
- Channel habitat improvements



Picture of Indian Creek in the Teanaway Community Forest, near Cle Elum, WA. Headwaters to the Yakima River and spawning area for Steelhead and other salmonids in the Columbia River Basin. | Photo: Jonathon Loos

Watershed Restoration and Enhancement Committee Formation

- Ecology as chair
- Ecology invited entities identified in legislation
 - Tribes (reservation, U&A)
 - Counties
 - Cities
 - Largest Irrigation District
 - Largest Non-Municipal Water Purveyor
 - Department of Fish and Wildlife
- Nomination and survey process
 - Environmental interest
 - Agricultural interest
 - Residential Construction interest





Committee Plan Approval

- If the Committee **approves** a plan, by consensus...
- If the Committee **cannot** reach consensus...
- Rule making triggers...

Anticipated timeline

- **2018-2019**

- Operating Principles and Charter
- Trainings
- Growth Projections
- Consumptive Use Estimates

- **2019-2020**

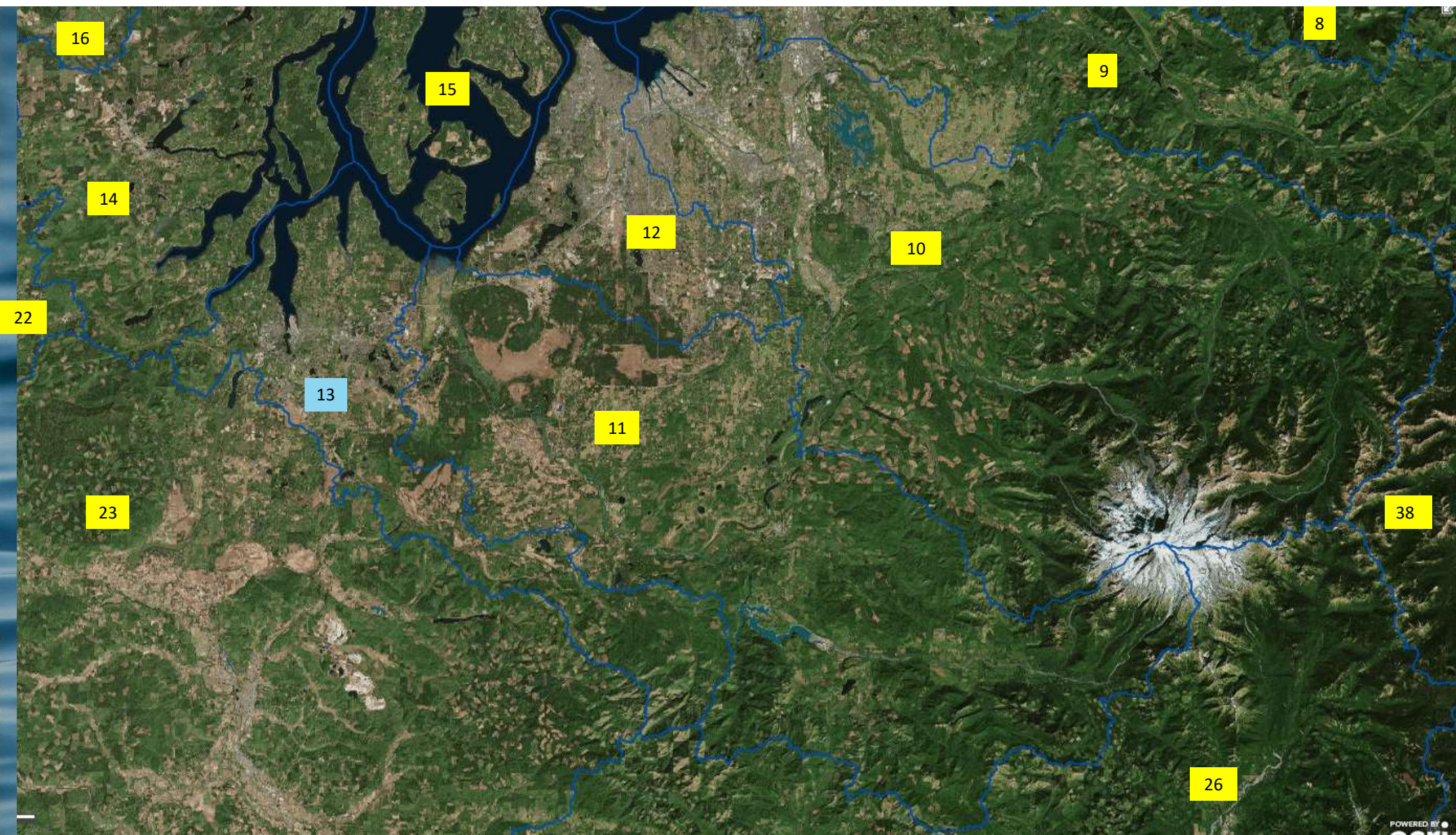
- Project Identification
- Draft Plan

- **2020-2021**

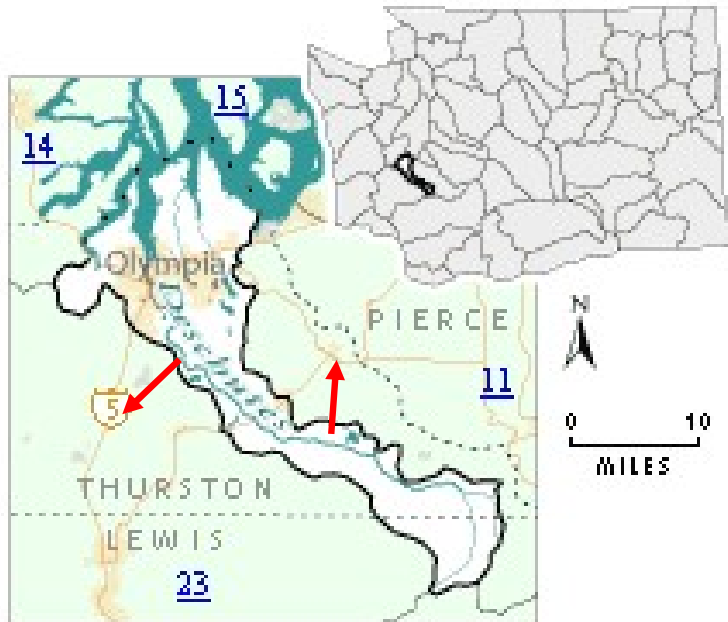
- Local Plan Review and Approval
- Net Ecological Benefit Determination
- Final Approval June 2021

- **What happens after June 2021?**

- Rulemaking Likely
- Plan Implementation
- Grant Program Management (ongoing)



Deschutes Watershed – some factual information



- About 270 square miles in area.
- A very “narrow” watershed
- Elevation ranges from sea level to 4000+’
- Average Annual Precipitation: 50” – 80”/year
- A “mixed rain and snow” basin
- About 2.5 miles wide at its narrowest point
- Deschutes River loses its last ~100 feet of elevation in last river mile at Tumwater Falls
 - All other major Puget Sound rivers have a floodplain area where tides extend inland on the mainstem river
- Deschutes River *may* be naturally *losing* some flow to Nisqually and Upper Chehalis Watersheds

Existing Water Rights in the Deschutes Watershed (WRIA 13)



	WRIA 13
New Applications	17
Change Applications	2
Existing Water Right Certificates	1,042
Existing Water Right Permits	40
Existing Water Right Claims	3,931

Hydrology and Quality of Ground Water in Northern Thurston County, Washington

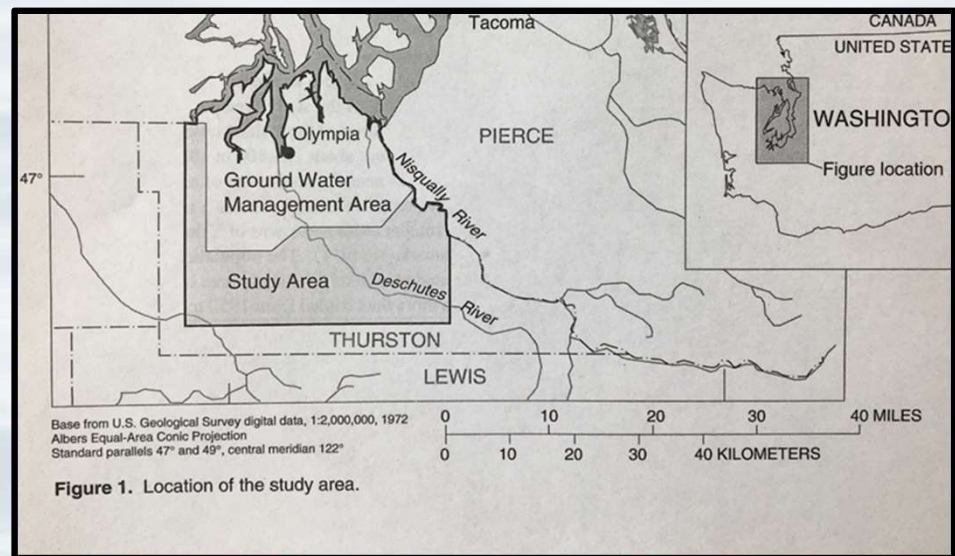
By B.W. Drost, G.L. Turney, N.P. Dion, and M.A. Jones

U.S. Geological Survey
Water-Resources Investigations Report 92-4109 [Revised]

Prepared in cooperation with
THURSTON COUNTY DEPARTMENT OF HEALTH

Tacoma, Washington
1998

USGS Water Resources Investigations Report on Ground Water in Thurston County - 1998



USGS Delineated Hydrogeologic Units and Conceptual Cross-Section (looking west) of regional groundwater aquifers in Thurston County – useful for Thurston County portions of Nisqually (WRIA 11), Deschutes (WRIA 13) and Upper Chehalis (WAIA 23) Watersheds

Table 1. Lithologic and hydrologic characteristics of geohydrologic units in northern Thurston County

System	Series	Geologic unit	Geohydrologic unit, in this report ¹	Typical thickness (feet)	Lithologic characteristics	Hydrologic characteristics
Quaternary	Holocene	Alluvium	Qvr Qvrm	10-50	Alluvial and deltaic sand and gravel along major water courses. Moderately to well-sorted glacial sand and gravel, including kettled end moraine	An aquifer where saturated. Groundwater is mostly unconfined. Perched conditions occur locally.
		Vashon Drift	Qvr ²	20-60	Unsorted sand, gravel, and boulders in a matrix of silt and clay.	Confining bed, but can yield usable amounts of water. Some thin lenses of clean sand and gravel.
		Advance outwash	Qva	15-35	Poorly to moderately well-sorted, well-rounded gravel in a matrix of sand with some sand lenses.	Ground water mostly confined. Used extensively for public supplies near Tumwater.
	Pleistocene	Kitsap Formation	Ql ³	15-70	Predominantly clay and silt, with some layers of sand and gravel. Minor amounts of peat and wood.	Confining bed, but in places yields usable amounts of water.
		Salmon Springs(?) Drift (Noble and Wallace, 1966)	Qc	15-50	Coarse sand and gravel, deeply stained with red or brown iron oxides.	Water is confined. Used extensively for industrial purposes near Tumwater.
		Deposits of "penultimate" glaciation (Lea, 1984)	TQu	Not known	Various layers of clay, silt, sand, and gravel of both glacial and nonglacial origin.	Contains both aquifers and confining beds. Water probably confined.
Tertiary	Miocene and Eocene	Bedrock	Tb	Not known	Sedimentary rocks consisting of claystone, siltstone, sandstone, and minor beds of coal. Igneous bodies of andesite and basalt.	Poorly permeable base of unconsolidated sediments. Locally an aquifer, but generally unreliable. Water contained in fractures and joints. Well yields relatively small. Numerous abandoned wells.

¹The identification of geohydrologic units in this report is a "best estimate" based on drillers' logs and existing surficial geology maps.

²Includes "late Vashon lake deposits" (Washington State Department of Ecology, 1980). May include till of "penultimate" glaciation (Lea, 1984).

³Includes alluvium younger than Kitsap Formation in Nisqually River delta. May include some Vashon till (where multiple tills are present). May include till of "penultimate" glaciation (Lea, 1984).

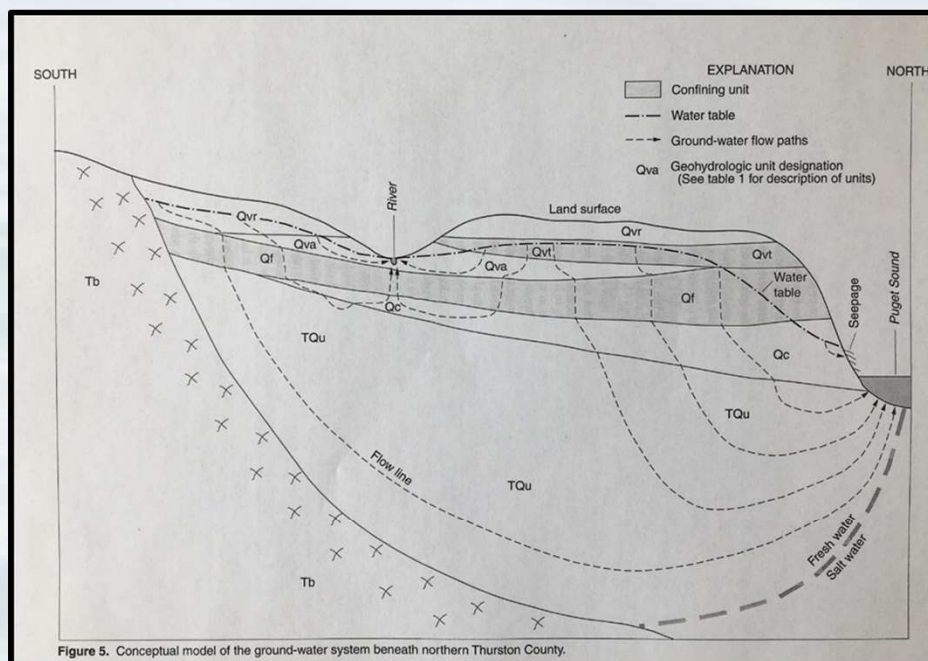
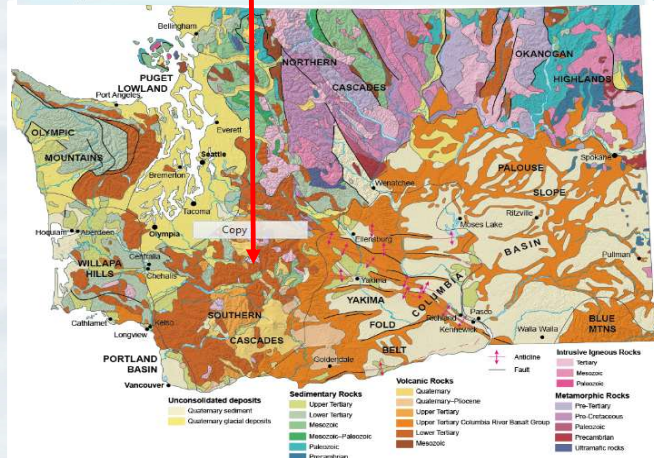
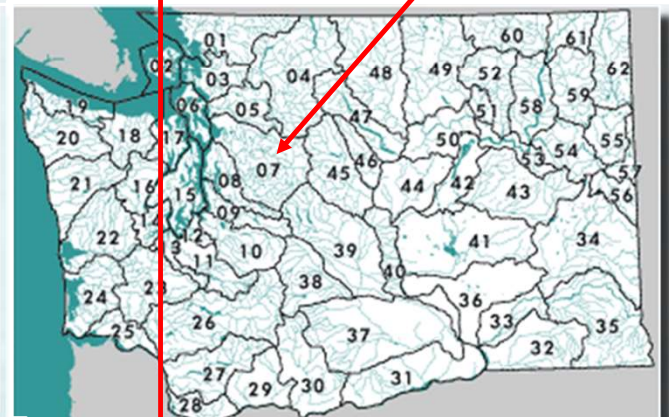
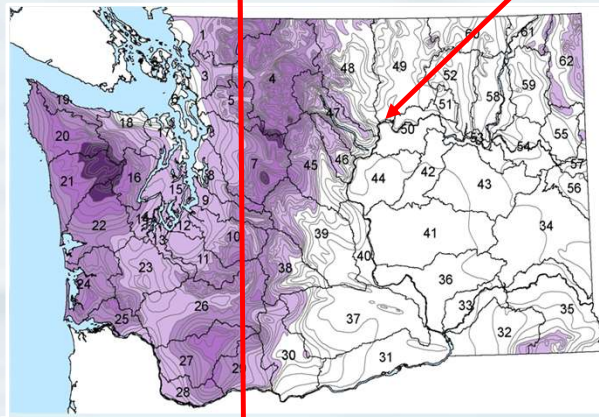


Figure 5. Conceptual model of the ground-water system beneath northern Thurston County.

Conclusions

- New law allows rural growth to continue ahead of the water for water solutions
- New law primarily impacts future permit exempt wells and building permits in the 15 “pre-2000 rule” watersheds:
 - WRIAs 1, 7, 8, 9, and 15 in NW Region,
 - WRIAs 10, 11, 12, 13, 14, 15 and 22/23 in SW Region
 - WRIA 49 in Central Region
 - WRIAs 55 and 59 in Eastern Region
- It lays out these interim standards that will apply until local committees develop plans to be adopted into rule:
 - Allows a maximum of 950 or 3,000 gallons per day for domestic water use, depending on the watershed.
 - Establishes a one-time \$500 fee for landowners building a home using a permit-exempt well in the affected areas.
- It retains the current maximum of 5,000 gallons per day limit for permit-exempt domestic water use in watersheds that do not have existing instream flow rules.
- It invests \$300 million over the next 15 years in projects that will help streamflows and fish.

Big Challenge: Fitting the wide variation in precipitation/recharge, surficial water supply and complex hydrogeological conditions with legal and Court directed statutes/decisions...



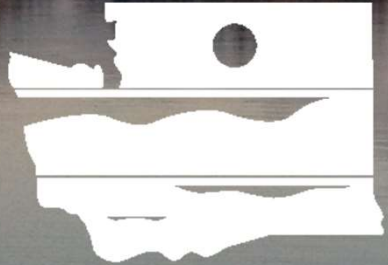
Questions?

Thank you

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DEPARTMENT OF
ECOLOGY
State of Washington

Next Steps

- Next meeting early December
 - Operating Principles and Charter
 - Training needs
- Standing meetings in 2019
- Engagement with other Committees and Boards
- Committee name
- Committee support
- Follow-up



Photo from Kitsap Sun

Questions?

