Kennedy-Goldsborough (WRIA 14) 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
Overview

• Background and the Hirst Supreme Court 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)*

**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

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**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 Frocct)

READ FIRST TIME 01/12/18.

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1. AN ACT Relating to ensuring that water is available to support development; amending RCW 19.27.097, 58.17.110, 90.03.247, and 90.03.290; adding a new section to chapter 36.70A RCW; adding a new section to chapter 36.70 RCW; adding a new chapter to Title 90 RCW; creating a new section; providing an expiration date; and declaring an emergency.
Key Elements of RCW 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 RCW 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)
WRIA 14 Highlights
The Kennedy-Goldsborough Watershed

- WRIA 14 includes a significant portion of Mason County and the NW part of Thurston County.
- WAC 173-514 is the instream resources protection program rule for the Kennedy-Goldsborough watershed.
- This rule, adopted in 1984, closes the watershed to new appropriations that would harm stream flows.
- There is no water set aside in reserves for future uses in this watershed.
- Applicants seeking new water appropriations will need mitigation for the impacts of their water use on surface water bodies.
WRIA 14 Highlights
Kennedy-Goldsborough Watershed

- WRIA 14 consists not of a major river, but a grouping of “independent streams”
- Annual streamflow is largely driven by annual rainfall.
- Annual precipitation in the Watershed ranges from 50 to 90 inches per year.
  - Most of this precipitation arrives during the winter months when overall water demands are the lowest.
  - During the summer, there is little rain, and naturally low stream flows are dependent on groundwater inflow.
  - At the same time the demand for water for human uses, including irrigation are at the yearly maximum.

- *Groundwater and surface water are least available when water demands are the highest.*
Kennedy-Goldsborough Watershed

Some factual information

- About 380 square miles in area
- Elevation ranges from sea level to ~1,000’
- Average annual precipitation: 50” – 90”/year
- A “rainfall dominated” basin
- WRJA 14 has an extensive network of independent streams that issue from springs, wetlands, small lakes, and surface water drainages.
- Principal drainages include the following creeks:
  - Cranberry
  - Goldsborough
  - Kennedy
  - Mill
  - Sherwood
  - Johns
  - Deer
  - Skookum
## Existing Water Rights in the Kennedy-Goldsborough Watershed (WRIA 14)

<table>
<thead>
<tr>
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<th>WRIA 14</th>
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<tbody>
<tr>
<td>New Applications</td>
<td>30</td>
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<tr>
<td>Change Applications</td>
<td>5</td>
</tr>
<tr>
<td>Existing Water Right Certificates</td>
<td>1,189</td>
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<tr>
<td>Existing Water Right Permits</td>
<td>50</td>
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<tr>
<td>Existing Water Right Claims</td>
<td>3,503</td>
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</table>
Study area covered 97 square miles in southeastern Mason County, Washington, and includes the Johns Creek subbasin, which drains an area of about 11 square miles.

Study area extended beyond the Johns Creek subbasin to include major hydrologic features that could be used as regional groundwater-flow model boundaries.

Subbasin is underlain by a thick sequence of unconsolidated Quaternary glacial and interglacial deposits, which overlie Tertiary igneous and sedimentary bedrock units.

Geologic units were grouped into eight hydrogeologic units consisting of aquifers, confining units, undifferentiated deposits, and an underlying bedrock unit.

A surficial hydrogeologic map was developed and used with lithologic information from 200 drillers' logs to construct 4 hydrogeologic sections, and unit extent and thickness maps.
### Table 1. Hydrogeologic units defined in this study and correlation with geologic and hydrogeologic units defined by previous investigations.

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<tbody>
<tr>
<td>Holocene</td>
<td>AA – Alluvial Aquifer recent alluvial deposits</td>
<td>Gravel, sand, and silt; clay and peat</td>
<td>Qₐ</td>
<td>Q₆, Q₆p, Q₆r, Q₆(r(m)), Q₇q, Q₇m, Q₇l, Q₇d, Q₇f, Q₇, Q₆, Q₅b, af, ml</td>
<td>Not delineated</td>
<td></td>
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<tr>
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<td>UA – Upper Aquifer recessional outwash deposits</td>
<td>Sand and gravel, lenses of clay, silt, and fine sand</td>
<td>Q₇go, Q₇apo, Q₇gd</td>
<td>Q₇gd, Q₇qic, Q₇qog, Q₇go, Q₇gos, Q₇gik, Q₇ge, Q₇m, Q₇mw, Q₇gd, Q₇gof, Q₇qf, Q₇p</td>
<td>Unit A</td>
<td></td>
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<td>UC – Upper Confining unit glacial till deposits</td>
<td>Unsorted and compacted clay, silt, sand, and gravel, lenses of sand and gravel</td>
<td>Q₇g₁</td>
<td>Q₇gt, Q₇gta, Q₇p, Q₇gof, Q₇m₁</td>
<td>Units B and C</td>
<td></td>
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<td>MA – Middle Aquifer advance outwash deposits</td>
<td>Sand, gravel, and silt; occasional lenses of clay</td>
<td>Q₇g₉</td>
<td>Q₇ga, Q₇po, Q₇g(0), Q₇gik, Q₇gof, Q₇m₁, Q₇s, Q₇pd</td>
<td>Unit D</td>
<td></td>
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<tr>
<td></td>
<td>LC – Lower Confining unit glacilacustrine and interglacial sediments</td>
<td>Clay and silt; some silt; occasional peat and wood</td>
<td>Q₇c(k)</td>
<td>Q₇u(s), Q₇f, Q₇gik, Q₇ts</td>
<td>Unit E</td>
<td></td>
</tr>
<tr>
<td></td>
<td>LA – Lower Aquifer outwash, silt, and glacilacustrine deposits</td>
<td>Sand and gravel, silt and clay; some till</td>
<td>Q₇gp</td>
<td>Q₇go, Q₇pg, Q₇pd, Q₇p</td>
<td>Unit F</td>
<td></td>
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<tr>
<td></td>
<td>UD – Undifferentiated Deposits</td>
<td>Alternating layers of clay and silt, sand and gravel</td>
<td>Q₇gp</td>
<td>Q₇go, Q₇pg, Q₇pd, Q₇p</td>
<td>Unit F</td>
<td></td>
</tr>
<tr>
<td>Tertiary</td>
<td>Eocene</td>
<td>Bedrock igneous and sedimentary rocks</td>
<td>Ev(c)</td>
<td>^2Ev(c)</td>
<td>Bedrock</td>
<td></td>
</tr>
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</table>

1. Thin (less than 10 feet) and/or discontinuous geologic units (Polenz and others, 2010) in association with aquifer and confining hydrogeologic units at land surface.
2. Geologic units delineated only in Schuske and others (2003); no equivalent geologic units delineated in Polenz and others (2010).
USGS Conceptual Cross-Sections of regional groundwater aquifers in Mason 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

Mike Gallagher
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Next Steps

• Next meeting early December
  • Operating Principles and Charter
  • Training needs
  • Standing meetings in 2019

• For consideration:
  • Engagement with other Committees and Boards
  • Committee name
  • Committee support

• NEB Guidance comments due 11/8

• Follow-up
Questions?