

# 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



# RCW 90.94 STREAMFLOW RESTORATION



**Watershed Restoration and Enhancement Committee Kickoff Meeting**

**Kennedy-Goldsborough Watershed (WRIA 14)**

**October 31, 2018**



# 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)
- *Foster v. Ecology* (2015)

## Result

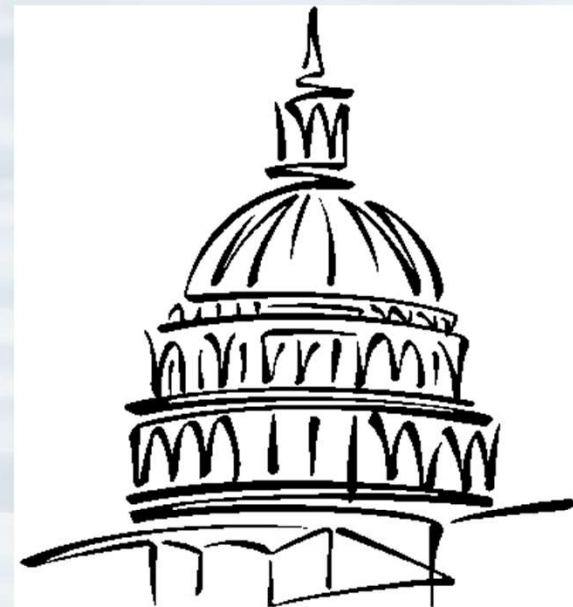
- No impairment to instream flows
- “Perfect mitigation” required for new water users
  - In-kind, in-time, in-place

## ***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

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ENGROSSED SUBSTITUTE SENATE BILL 6091

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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 RCW 90.94: *Homebuilding*

In basins impacted by the bill:

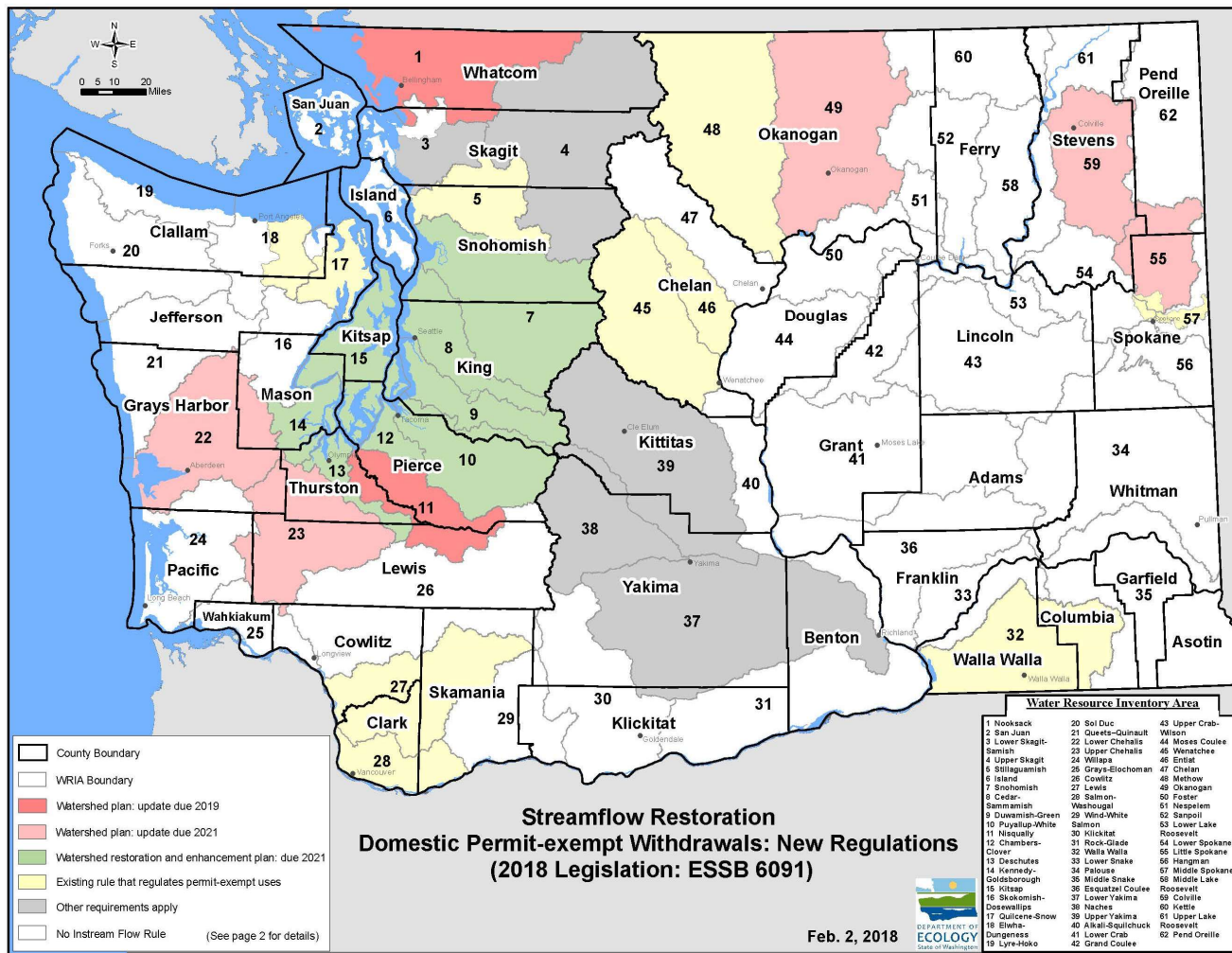
- Homebuilding allowed.
- \$500 fee.
- Water use restrictions.

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...

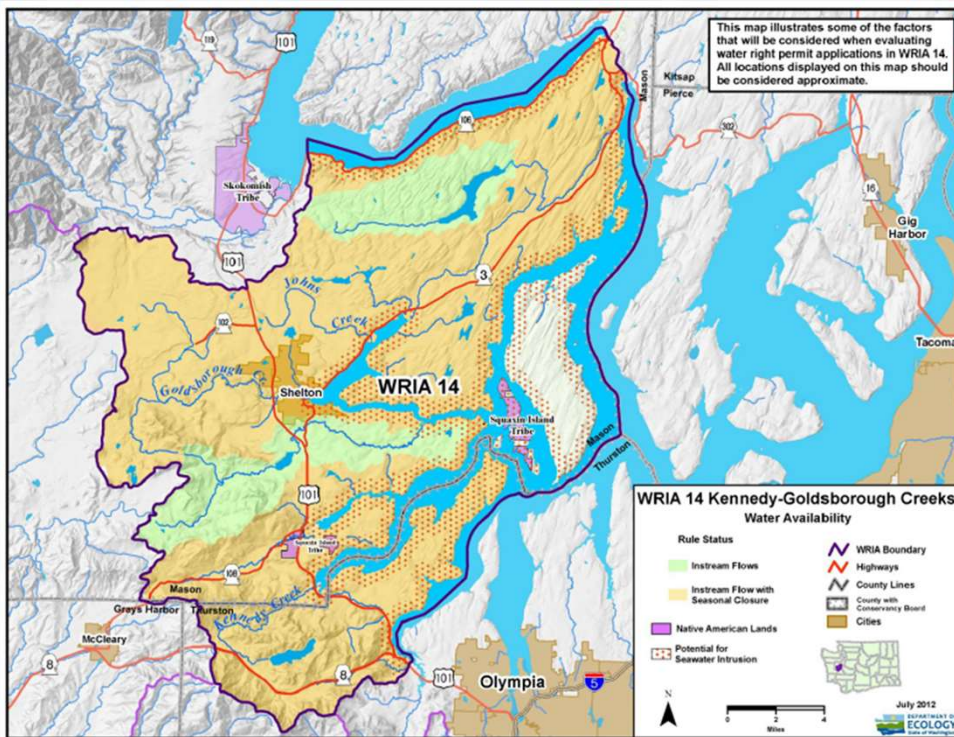
# Anticipated timeline

- **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)

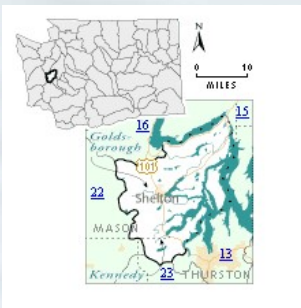


# WRIA 14 Highlights

## 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

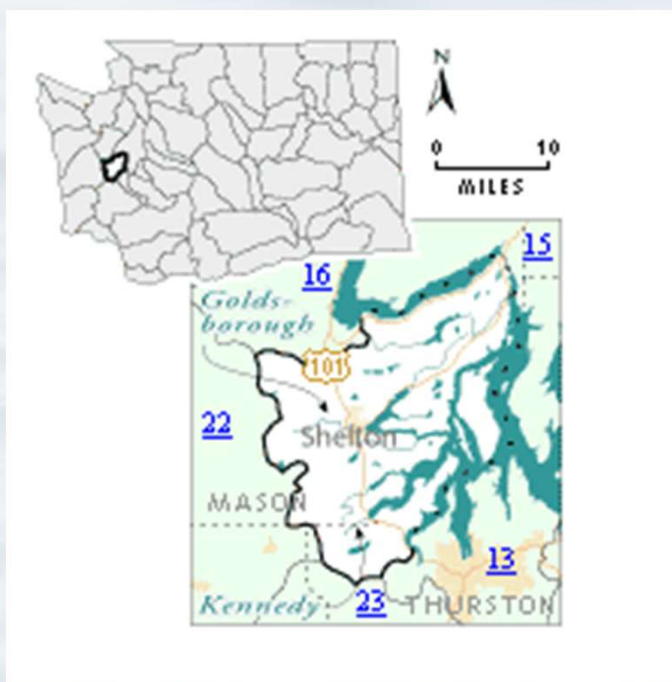
## some factual information



- About 380 square miles in area
- Elevation ranges from sea level to ~1,000'
- Average annual precipitation: 50" – 90"/year
- A "rainfall dominated" basin
- WRIA 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)



	WRIA 14
New Applications	30
Change Applications	5
Existing Water Right Certificates	1,189
Existing Water Right Permits	50
Existing Water Right Claims	3,503

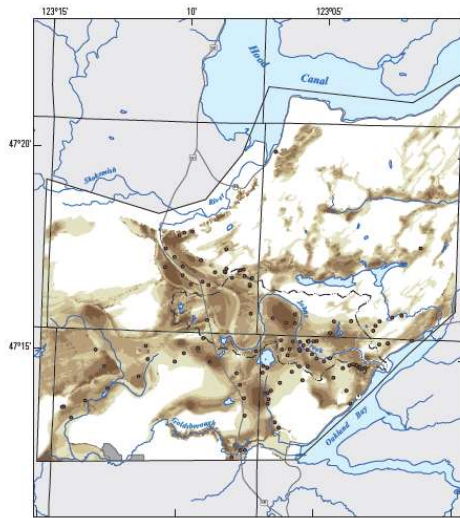






Prepared in cooperation with the Washington State Department of Ecology

## Hydrogeologic Framework of the Johns Creek Subbasin and Vicinity, Mason County, Washington



Scientific Investigations Report 2011-5168

U.S. Department of the Interior  
U.S. Geological Survey

## USGS Water Resources Scientific Investigations Report – Hydrogeologic Framework of the Johns Creek Subbasin and Vicinity, Mason County, WA 2011

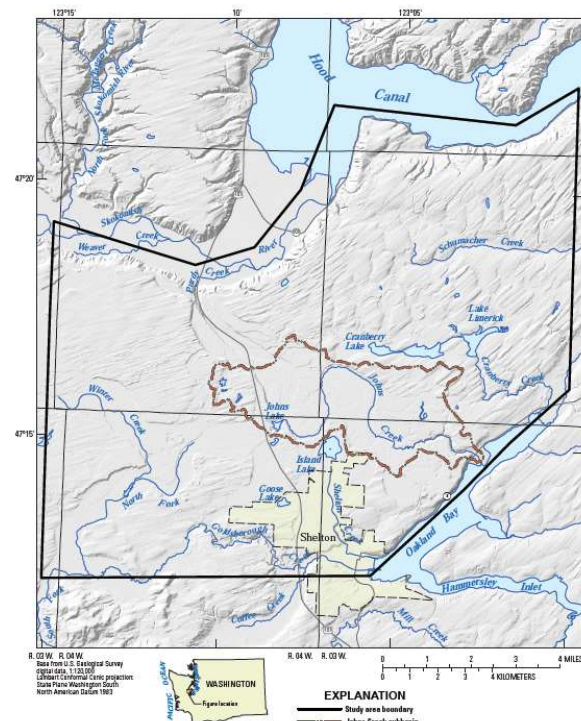


Figure 1. Location of Johns Creek subbasin and vicinity, Mason County, Washington.

- 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.

## USGS Delineated Hydrogeologic Units of regional groundwater aquifers in Mason County

**Table 1.** Hydrogeologic units defined in this study and correlation with geologic and hydrogeologic units defined by previous investigations.

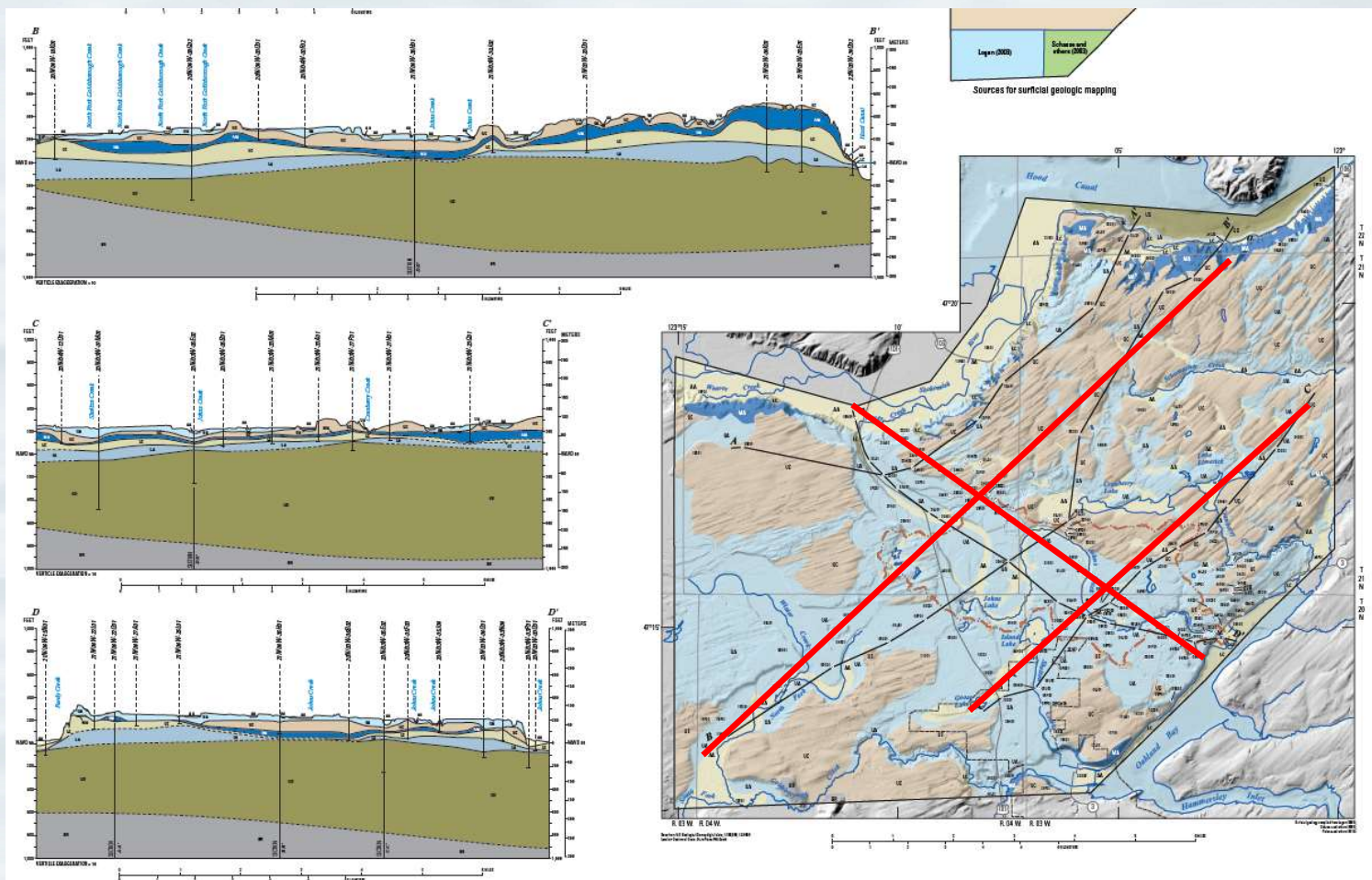
Period	Epoch	Hydrogeologic units defined in this study	Lithology	Geologic units in Logan (2003)	Geologic units in Schasse and others (2003); Polenz and others (2010)	Hydrogeologic units in Northwest Land and Water (2005)
Quaternary	Holocene	AA – Alluvial Aquifer recent alluvial deposits	Gravel, sand, and silt; clay and peat	Qa	Qa, <sup>1</sup> Qp, Qf, Qa(m), <sup>1</sup> Qaf, <sup>1</sup> Qmw, <sup>1</sup> Qls, Qm, Qoa, Qb, af, ml	Not delineated
	Pleistocene	UA – Upper Aquifer recessional outwash deposits	Sand and gravel; lenses of clay, silt, and fine sand	Qgo, Qapo, Qgd	Qgd, Qgic, Qgog, Qgo, Qgos, <sup>1</sup> Qgik, Qge, <sup>1</sup> Qmw, Qgol, <sup>1</sup> Qgof, <sup>1</sup> Qaf, <sup>1</sup> Qp	Unit A
		UC – Upper Confining unit glacial till deposits	Unsorted and compacted clay, silt, sand, and gravel; lenses of sand and gravel	Qgt	Qgt, Qgta, <sup>1</sup> Qp, Qgol, Qml	Units B and C
		MA – Middle Aquifer advance outwash deposits	Sand, gravel, and silt; occasional lenses of clay	Qga	Qga, Qpo, Qpg(o), <sup>1</sup> Qgik <sup>1</sup> Qgof, <sup>1</sup> Qmw, <sup>1</sup> Qls, Qapd	Unit D
		LC – Lower Confining unit glaciolacustrine and interglacial sediments	Clay and silt; some till; occasional peat and wood	Qc(k)	Qpu(op), Qpf, <sup>1</sup> Qgik, <sup>1</sup> Qls	Unit E
		LA – Lower Aquifer outwash, till, and glaciolacustrine deposits	Sand and gravel, silt and clay; some till	Qgp	Qpgo, Qpg, Qpd, Qpt	Unit F
		UD – Undifferentiated Deposits undifferentiated glacial and interglacial sediments	Alternating layers of clay and silt, sand and gravel		<sup>2</sup> Qu	
Tertiary	Eocene	Br – Bedrock igneous and sedimentary rocks	Volcanic and sedimentary rock	Ev(c)	<sup>2</sup> Ev(c)	Bedrock

<sup>1</sup> 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.

<sup>2</sup> Geologic units delineated only in Schasse and others (2003); no equivalent geologic units delineated in Polenz and others (2010).



# **USGS** **Conceptual** **Cross-Sections** **of regional** **groundwater** **aquifers** **in Mason** **County**

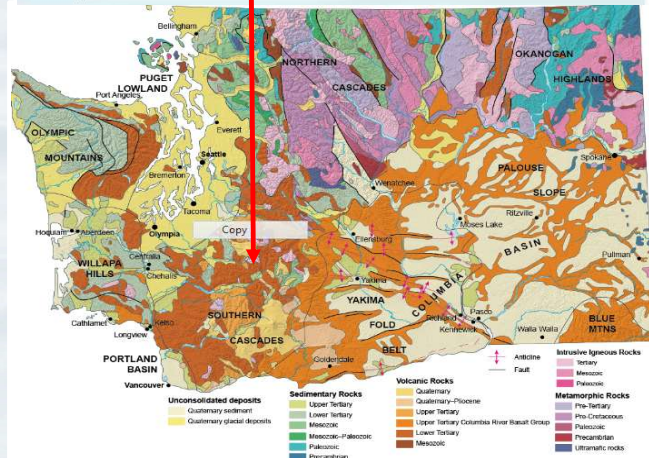
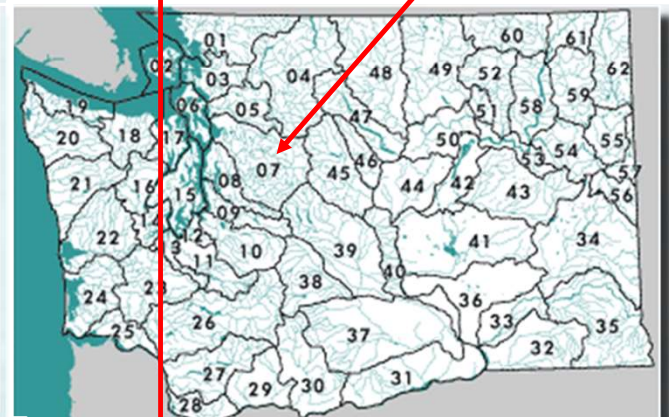
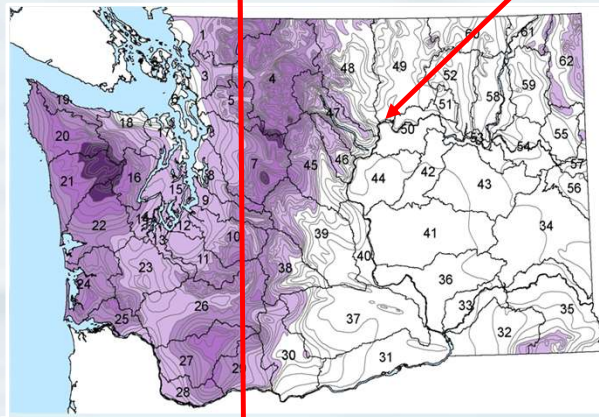




# Conclusions

- 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...





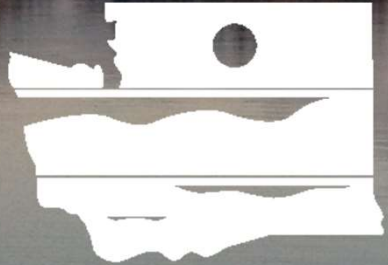
Questions?

Thank you

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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
- For consideration:
  - Engagement with other Committees and Boards
  - Committee name
  - Committee support
- NEB Guidance comments due 11/8
- Follow-up



Photo from Kitsap Sun

# Questions?

