

Current Status of Whatcom County's Water Resource Planning Program

This report is the first in a monthly series. It will summarize the background and conclude with comments on current major issues. Future reports will include a calendar of events. Note a few upcoming important meetings on p 2.

Our purpose is to provide key information on the topics and process of this very important matter to concerned citizens. To our knowledge, no other entity, public or private, is doing this. These reports will be distributed widely and posted on our site: <http://proprrights.org/whatcom> . under "Current Issues: Water". Resource documents etc underlined will be posted. Please support our efforts by donations or membership. Thank you.

Breaking News: This Tuesday evening, May 8, the County Council, after a half hour of spirited discussion, voted 4 to 2 to adopt a Resolution as presented to clarify the roles of the various parties in the current water resource planning process, based on state law. It had been introduced March 27 by members Brenner and Byrd:

<http://www.co.whatcom.wa.us/DocumentCenter/View/33781/ab2018-114>

A draft alternative by the Executive's office was introduced May 24:

<http://www.co.whatcom.wa.us/DocumentCenter/View/34000/ab2018-129>

Over the last few decades interest in local water resource planning has waxed and waned. Many citizens did not believe that there could be actual water shortages in our area given all the rain we get. A popular attitude has been is that water issues were "just politics."

However, in October 2016, the "Hirst decision", described below, became a major issue for all of Whatcom County. In January 2018, the legislature passed a "fix", ESSB 6091, which required specific water planning and regulatory actions. Now, county government and other public entities must work with affected private interests to update the current Watershed Management Plan (WMP) on several matters.

This first report will summarize how and why we got into the present condition, and actions already underway. The two major concerns now are possibly inadequate levels of stream flow in dry months, which impact fish, and a reasonable way, with certainty, for people to access ground water for new rural density domestic uses.

These issues are connected because some parties have claimed that pumping ground water often lowers stream levels below legal limits, a concept called hydraulic continuity. However, there is no quantitative data to support this theory locally.

Because of this issue, in 1986 the state Department of Ecology stopped issuing new water right permits though the "Nooksack Rule," WAC 173-501. It produced controversy because it shut down new uses of water, eg by farmers and large subdivisions. This rule might have precipitated a local political crisis, except that one of its provisions, (070), exempted new private, "permit-exempt", domestic wells, per the 1945 state water code RCW 90.44.050. Thus rural homebuilding continued.

However, a small group of anti-growth activists eventually found a way to shut down most rural growth in the county. In 2013 they appealed a County Comprehensive Plan update to the state Growth Management Hearings Board. They alleged, among other concerns, that by continuing to permit development relying on new exempt wells in rural areas, the county was failing to follow a GMA mandate to protect water supplies in rural areas. They eventually won on this

issue at the state Supreme Court in 2016 – some thirty years after Ecology had issued the Nooksack Rule.

Our county council immediately adopted a moratorium on use of both existing and new exempt wells for new development; many other affected counties did not. The county assessor issued an analysis indicating a substantial negative impact on the value of affected, and that the Hirst ruling also adversely impacted owners of other rural and urban parcels, due to the resulting property tax shift. He also indicated how this result would have eventually had a devastating effect on the local economy.

The passage of ESSB 6091 enabled a temporary resumption of rural development relying on permit-exempt wells, with new restrictions and fees. The law also required the WMP to be updated for WRIA 1 (the Nooksack River basin plus the county's coastal drainages). This includes an assessment of the impact of exempt well use on streamflow over the next twenty years, and a plan to prevent harmful net reduction in streamflow from the use of such wells. WRIA means Water Resource Inventory Area, a major state watershed designated by Ecology per the 1997 Watershed Planning Act, RCW 90.82.

This update is due February 1 2019. If not completed, Ecology must complete the 6091 update requirements, and possibly revise the Nooksack Rule to assure no further significant adverse impact to low stream flows by new rural households' use of water from exempt wells.

Our next report will describe more details on how the county is required to go about this complex process, and what is actually happening now, and the history of the WRIA 1 planning process.

the WRIA 1 Planning Unit (PU) and the Initiating Governments (IGs), including the two local Indian tribes, are the key parties established and authorized by the two laws cited above. The IGs have created several additional groups of additional government agencies, staff and private persons on their side of the power structure. Review the two linked Resolutions above for more detail now.

Upcoming Meetings:

County Council Surface Water Committee: Tues., May 15; 10.30 am to noon; Civic Center Garden (street) Level Conf. Rm. 322 N Commercial, B'ham; agenda:

<http://www.co.whatcom.wa.us/DocumentCenter/View/34104/Surface-Water-Work-Session-May-15-2018-Agenda>

Planning Unit: Wed, May 23; 6.00 to 8.00 pm; Civic Center Garden (street) Level Conf. Rm. 322 N Commercial, B'ham; no agenda yet.

There are other important meetings coming up; notices will be sent via the Whatcom Capr email notices, at least twice a month.

Important Resource sites (more later): Whatcom WRIA 1:

<http://wria1project.whatcomcounty.org/>

and: <http://www.co.whatcom.wa.us/1102/Water-Planning-WRIA-1>