

Your Water Rights are Still at Risk!

Whatcom CAPR Report # 10 -- Planning Unit Role; County Water Resource Planning

WRIA 1 website still down: wria1project.whatcomcounty.org remains down. Attempted access now redirects to an improvised page: <http://www.co.whatcom.wa.us/1102/Water-Planning-WRIA-1> , where meeting dates are posted, along with a link to other current materials: <https://tinyurl.com/wria1project-dropbox> NOTE: the meeting dates are not always current.

Planning Unit (PU), Water Managem't Bd (WMB) and Mgmt (staff) Team revised meeting schedule:
Due to the rapidly approaching Feb 1 2019 deadline to meet **Essb 6091 (Hirst fix law) requirements**, and achieve agreement on a **Water Managem't Plan (WMP)** update/addendum, the PU/WMB mtg schedule has been amended as follows, in chronological order:

PU: Wednesday December 12 time/place TBA

WMB: Wednesday December 5 time/place TBA

Mgmt Team: Thursday January 3 time/place TBA

WMB: Thursday January 10 time/place TBA

PU: Thursday January 10 time/place TBA

NOTE: this meeting schedule is subject to change based on decisions by PU, WMB and Mgmt Team

County Council Schedule for 6091/WMP update/addendum review:

Tuesday January 8: Council recommendation to executive

Tuesday January 15: Final Council approval

NOTE: this meeting schedule could change depending on PU, WMB, and Mgmt Team actions

ESSB 6091/RCW 90.94 text: (<http://app.leg.wa.gov/RCW/default.aspx?cite=90.94>); aka the state Streamflow Restoration Act.

Essb 6091 Policy Issues (new permit-exempt well water use limits, fees, metering):

At the **November 28 PU mtg**, after more lengthy discussion, the PU adopted the policy package developed earlier by the PU which reads as follows:

1. Adopt the \$500 fee in the legislation
2. Adopt the 3000 gallons/day annual average identified in the legislation
3. Incorporate a voluntary metering program in the Watershed Plan Update's Monitoring and Adaptive Management Program
4. Planning Unit is comfortable with the RH2 estimates for consumptive use
5. Include aerial analysis as a monitoring measure in the process for Monitoring and Adaptive Management

Two caucuses voted no: Environment and Fishers. 3 abstained: County, PUD, and State (Ecology).

At the **December 5 PU mtg**, Gary Stoyka, county staff, reported on the outcome of the discussion during the WMB meeting held earlier that day. The two tribes and Bellingham are insisting on mandatory metering and reducing the daily well withdrawal limit to 500 gpd (or less). Both positions are clearly at odds with the PU's policy package. In the ensuing discussion at the PU, its members generally recognized this conflict could very well scuttle any hope of presenting a consensus plan to the council for final adoption. The likely impasse colored the rest of the discussion during that meeting.

NOTE: If the policy issues cannot be resolved, the PU's effort to develop a 2005 Watershed Management Plan update mandated by ESSB 6091/RCW 90.94 will fail, throwing the process into Ecology's lap. This would force DoE to conduct formal rulemaking under the state Administrative

Procedures Act (RCW 34.05), which would involve a lengthy public process; the results of which are appealable to court.

Other items of interest at the November 28 PU mtg:

Dan Eisses, chair of the Water Districts caucus, which as a government caucus has a veto over the 6091/90.94 WMP Update, raised a strong objection to the assumptions, methodology, and timing of the release at the November 14 PU mtg of the report presented by Treva Coe, Nooksack Tribe staff. Its titled “Net Ecological Benefits (NEB) Analysis”; <https://tinyurl.com/y9j8y9qj> . (see our Report #8 for more info). He proposed removing that report from the PU’s version of the WMP Update.

Kasey Cykler, Ecology, responded that some form of NEB analysis was required to be included in the WMP Update. She declined to say whether the existing report would be acceptable, and noted that some staff team members also had taken issue with some aspects of the report.

The WMP addendum, as required by ESSB 6091(RCW 90.94)

NGWS caucus has drafted its own version of the plan addendum. It is structured so that only the essential information necessary to have a fully functional plan addendum is included in the body of the document, while all information upon which the addendum is based is included in an extensive set of appendices. The latest version, 65 pp, supported by Private Wells and Forestry:

<https://tinyurl.com/ybnqu5gc>

Staff Team issued their version on November 19. <https://tinyurl.com/ya8dmpfu>. The PU spent about an hour discussing it at its Nov 28 mtg. A significant portion of said discussion was devoted to the issue of the NEB report as called out by Dan, discussed above. Its 100 plus pages, has no Executive Summary.

It was decided that each caucus would send in comments separately, a common tactic used to thwart meaningful discussion at the group level.

At the December 5 PU mtg, the WMP Update was the primary topic of conversation. Non-gov’t Water Systems (NGWS) Caucus led off with a 20-minute presentation on its alternative version. The reception was one of polite indifference on the part of all but the few caucuses in support of it already. The general mood of the group had been darkened by the earlier discussion of the policy positions taken by the tribes and B’ham (see above).

After the NGWS presentation, the PU began a long discussion of whether there was any point to the PU continuing to try to finish the WMP Update, given the continuing and apparently intractable conflicts over the policies. This quandary was compounded by significant differences of opinion among the caucuses regarding the staff’s version of the plan, with which many PU members seem to be dissatisfied.

NGWS caucus offered to meet with the staff to reconcile the two versions. Heather Good, county hydrogeologist and one of the authors of the staff version, agreed to take that offer to the staff team at its meeting Thursday December 6.

FYI: currently, the staff team has no further meetings scheduled for 2018. Unless they add more meetings, the PU will be left to its own devices. The choices it faces now are: just punt the thing to Ecology, or attempt to reconcile the two versions in order to get enough votes for it to pass.

NGWS caucus has sent out an email to the PU chair, coordinator, and county asking them to conduct a non-binding straw poll vote on what to do, so that the staff team will know its choice sooner rather than later, and can thus have time to reconsider its schedule for the rest of the year.

Role of PU in Watershed Management Board (WMB) Five-year Work Plan: The next round of PU input to the Work Plan is on hold pending resolution of these critical 6091/RCW 90.94 issues.