

## Your Water Rights are Still at Risk!

### Whatcom CAPR Report # 11: Planning Unit Role Etc -- County Water Resource Planning

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The county's WRIA 1 website is still down: [wria1project.whatcomcounty.org](http://wria1project.whatcomcounty.org) . 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 posted below are not always current.

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#### Revised Meeting Schedule for Planning Unit (PU), Water Management Bd (WMB) and Mgmt (staff) Team:

**WMB:** Thursday January 10; 1:30 – 3 PM, 322 N Commc"l, B'ham, basement.

**PU:** Thursday January 10; 6-8 PM, Port of Bellingham Harbor Center (Port Commission Meeting Room) 1801 Roeder Ave.

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#### County Council Schedule for 6091/WRIA 1 Water Management Plan (WMP) update review, approval:

**Tuesday January 8:** Committee of the Whole (COTW), 1 pm, Courthouse, 311 Grand, B'ham.

**Purpose:** per excerpt from Gary Stoyka (county public works [Natural Resources Program Manager](#)) memo to council: "Staff would like to brief the council on the status of the ESSB 6091 process ... so that the [County] Administration can take that input to the WMB/IG and Planning Unit meetings on January 10<sup>th</sup>. [IG means Initiating Gov'ts: the County, Bellingham, the Public Utility District, and the Lummi and Nooksack Tribes.

**Several controversial topics** might be addressed at the Jan 8 council meeting, especially if any PU members in attendance are permitted to speak, include:

**Deadline for PU/council approval of the 6091 Update:** it is Feb 1 as some PU caucuses contend, or January 15, as Ecology staff has concluded. As reported below, some PU caucuses are preparing yet an alternative to staff's draft 6091 Update, so the process might not yet be over.

**Who votes on the Update:** Some PU caucuses insist that IGs must vote at the PU table; if that interpretation prevails, Bellingham and the Tribes have no vote.

**Scope and Content of the index of PU work submitted to Ecology:** Some PU members have voiced resistance to including the so-called Coe report in the 6091 Update. It attempted to perform a Net Ecological Benefits (NEB) analysis with fatally flawed methodology. The staff team version contains that report as Appendix H, plus an entire section on NEB analysis based upon it.

**Delivery of PU meeting summary by staff to council without PU review and approval:** The PU itself had not seen the *draft* summary for Dec. 12 2018; some PU members feel sending it to council was premature.

**Propriety of staff meeting with council without PU review and approval.**

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**Tuesday January 15:** Council action re 6091 Update possible, agenda unknown at this time  
**Tuesday, January 29:** Council action re 6091 Update possible, agenda unknown at this time

**FYI:** The **6091/ WMP update** is required by **RCW 90.94.**; aka **ESSB 6091**, the state's "Hirst fix" law, passed Jan. 2018; and "The Streamflow Restoration Act" (some call it the Water Availability Act). The key section here is:

<https://app.leg.wa.gov/RCW/default.aspx?cite=90.94.020>

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**Final outcome of Whatcom County's year-long process has become uncertain:**

**Whether there will be a 6091 WMP Update presented to Council in time to meet the Feb. 1 2019 deadline imposed by ESSB 6091 has suddenly become unpredictable.**

At its December 12 mtg, the PU decided to continue working on the effort to come up with a plan, not to worry about the timeline, and do the following:

1. Prepare an index of what has been done;
2. Send a letter to Ecology to inform them the Plan Update is not done but is being worked on; and
3. Send a letter to the legislators expressing the same.

Thereafter, the Land Development Caucus (LDC), apparently supported by other caucuses, began drafting a simplified Update it intends to present to the PU at its January 10 mtg. LDC has taken a cue from former 42<sup>nd</sup> District legislator Vince Buys' interpretation of 6091, which he helped draft. He and LDC believe it requires addressing **only one aspect: domestic/residential use**, per the permit except well statute (RCW 90.44.050), but not the separate half-acre outdoor watering exemption.

This interpretation would reduce the magnitude of the predicted domestic/consumptive use amount from 650 acre-feet per year, a huge quantity, to 42 acre-feet per year.

It is LDC's position that the statute imposed the February 1 deadline **on** the WRIA 1 participants (PU and council), not Ecology, and therefore they have some more time to get the Update approved by PU and council.

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

Item 7 of the January 10 PU meeting agenda addresses how the PU might begin to work on an overhaul of the 2005 WMP. One aspect of that effort will undoubtedly involve consideration of what role the PU might play in the WMB's Five-year Work Plan.

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