

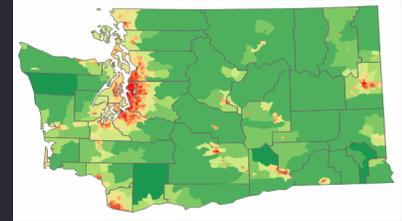
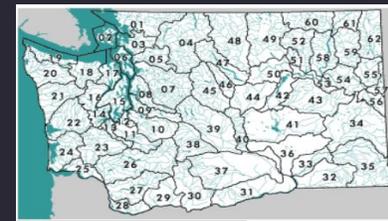
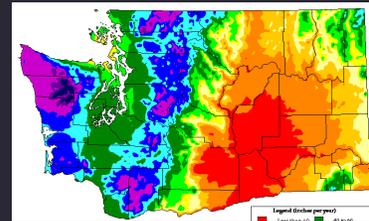
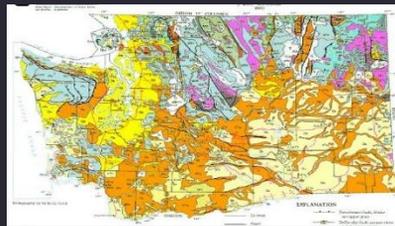
# Advisory Group on Water Trust, Banking, & Transfers

Meeting 6

Wrap Up and Closing

July 16, 2020

9:30am – 12:30pm



# Today's Agenda

Time	Topic	Presenter
9:30 – 9:45	Welcome, review agenda & objectives, introductions, summary of last meeting	Carrie Sessions
9:45 – 10:05	Closing remarks	State legislators
10:05 – 11:05	Policy review	Dave Christensen
11:05 – 11:15	Break	
11:15 – 11:35	Next steps – where do we go from here?	Carrie Sessions
11:35 – 12:05	Open discussion	Carrie Sessions
12:05 – 12:15	Closing remarks	Mary Verner Dave Christensen Carrie Sessions

# Today's Objectives

1. Review and discuss draft findings and potential policy tools.
2. Outline next steps and the process moving forward.
3. Conclude the Advisory Group process.

# WebEx Practice

The screenshot shows the Cisco WebEx Events interface. At the top, the title bar reads "Cisco Webex Events" and the status is "Connected". The main window title is "Water Quality HQ (Host)". A large circular logo with the letters "WH" is centered in the background. At the bottom of the window is a toolbar with five icons: a microphone, a person icon, a chat bubble icon, a three-dot menu icon, and a red close icon. On the right side, there are two panels. The top panel is titled "Participants" and shows a list of participants: "Panelist: 1" with "WH Water Q... (Host)" and "Attendee:" with "YN Your Name (me)". The bottom panel is titled "Chat" and shows a message input field with the placeholder text "Enter chat message here" and a dropdown menu set to "To: Host".

File Edit View Communicate Participant Event Help

Water Quality HQ (Host)

WH

Participants

Panelist: 1

WH Water Q... (Host)

Attendee:

YN Your Name (me)

Chat

To: Host

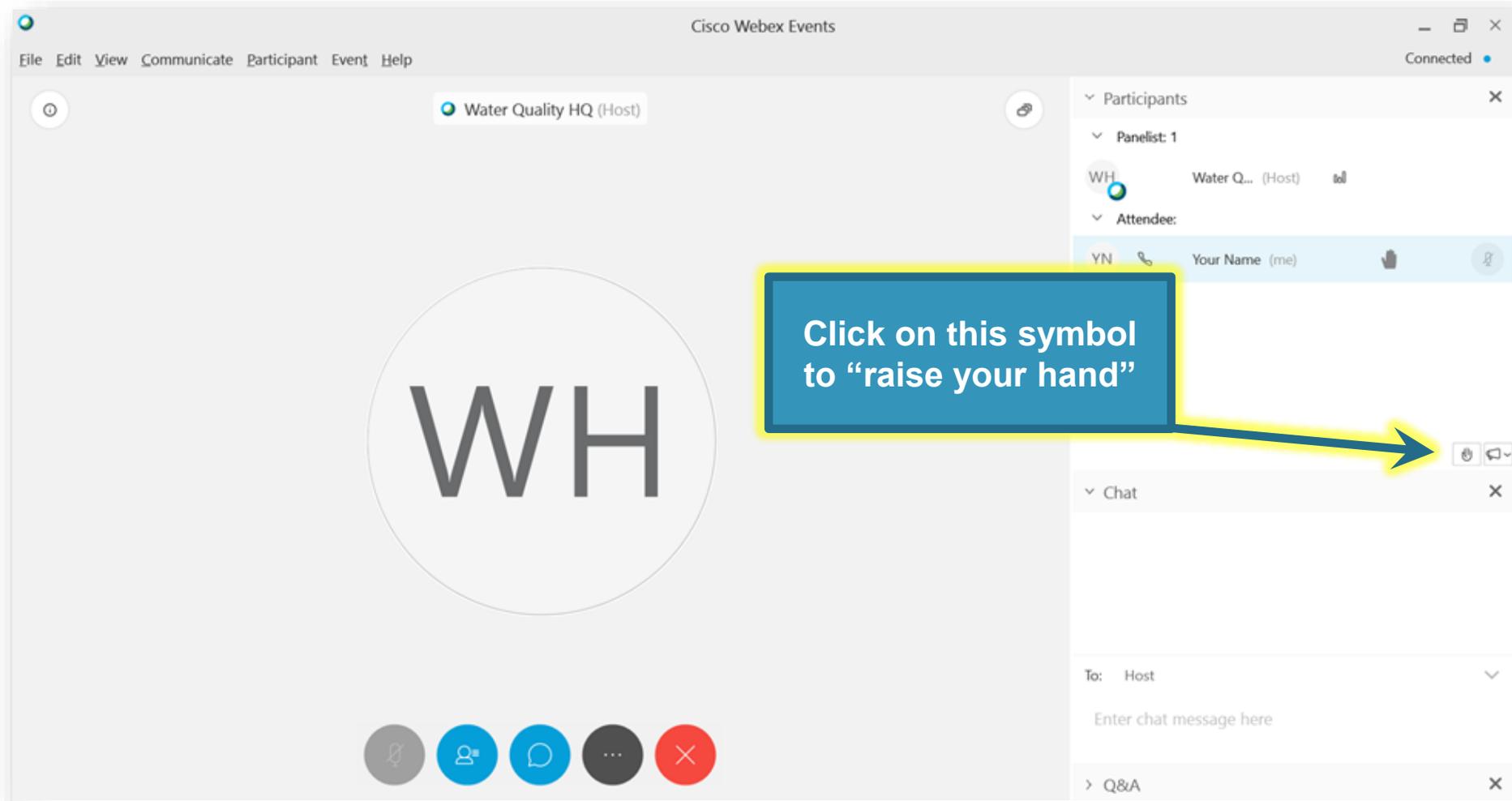
Enter chat message here

Q&A

Click on this symbol to open the chat box

Type here to chat with host

# WebEx Practice



# Participants in Today's Meeting

- Katherine Beeler, Associated Earth Sciences
- Keeley Belva, Ecology
- Justin Bezold, Trout Unlimited
- Amy Boyd, Cowlitz Indian Tribe
- Michael Brady, Parametrix
- Lori Brady, SVID
- Tom Briggs
- Megan Cardenas
- Tyson Carlson, Aspect Consulting
- Bruce Chandler, Ranking Republican, House RDAN Committee
- Alan Chapman
- Bill Clarke, Attorney & Gov't Affairs
- Kathleen Collins, WA Water Policy Alliance
- Kelsey Collins, Ecology
- Joe Cook, Washington State University
- Stuart Crane, Yakama Nation
- Carol Creasey, Clallam County
- Amanda Cronin, AMP Insights
- Karlee Deatherage, RE Sources
- Seth Defoe, Kennewick Irrigation District

- Jeff Dengel, WDFW
- Tom Dent, House of Representatives
- Cody Desautel, Confederated Tribes of the Colville Reservation
- Atul Deshmane
- Peter Dykstra, Plauche and Carr LLP
- Karen Epps, Senate Committee Services
- Luke Esser, Kalispel Tribe
- William Foster, City of Seattle
- Elizabeth Garcia, Seattle Public Utilities
- Keith Goehner, State Representative
- Sharon Haensly, Squaxin Island Tribe
- Dan Haller, Aspect Consulting
- Jaclyn Hancock, WSDA
- Dylan Hedden-Nicely, Coeur d'Alene Tribe
- Mike Hermanson, Spokane County
- Joe Hovenkotter, King County Dept. of Nat. Resources & Parks
- Chris Hyland, Walla Walla Partnership
- Paul Jewell, WA State Association of Counties
- Jeff Johnson, Regional Water Cooperative of Pierce County
- Megan Kernan, WDFW
- Patricia Kirk, Ecology
- Ted Knight
- Brian Larson
- Ilene Le Vee, ranch/farmland owner

- Amber D. Lewis, The Suquamish Tribe
- Kelsey Mach, Landau Associates, Inc.
- Sarah Mack, Tupper Mack Wells PLLC
- Chris Marks, Confederated Tribes of the Umatilla Indian Reservation
- John Marsh, Cowlitz Indian Tribe
- Larry Martin, Attorney
- Michael Martinez, NWIFC
- Mark Mazeski, DOH - Office of Drinking Water
- Wes McCart, Stevens County Commissioner
- David McClure, Klickitat County
- Paul McCollum, Port Gamble S'Klallam Tribe
- Mary McCrea, Methow Group
- Ken Merrill, Kalispel Tribe
- Doug Miller, Klickitat PUD
- Brandy Milroy, Mason County PUD No. 1
- Jamie Morin, Confluence Law, PLLC
- Thomas Mortimer, Attorney
- Holly Myers, Ecology
- Tom Myrum, WA State Water Resources Association
- Jay OBrien, OTID
- Sarah Ogier, Parametrix
- Llsa Pelly, Trout Unlimited
- Mark Peterson, Crown
- Nicholas Potter, Washington State University

- Scott Revell, Roza irrigation district
- Kristina Ribellia, Western Water Market
- Saundra Richartz, Senate Republican Caucus Staff
- Trish Rolfe, Center for Environmental Law & Policy
- Katherine Ryf, Landau Associates
- Susan Saffery, Seattle Public Utilities
- Jesse Salomon, Washington State Senate
- Robert Sappington
- Anne Savery, Tulalip Tribes
- Norman Semanko, Parsons Behle & Latimer
- John Sirois, Upper Columbia United Tribes
- Jeff Slothower, KRD
- Glen Smith, WA State Ground Water Association
- Danielle Squeochs
- Marie Sullivan, Confederated Tribes of the Umatilla Indian Reservation
- Benjamin Tindall, Washington State Farm Bureau
- Bud Ullman, Teacher
- Annika Vaughn
- Mary Verner, Ecology
- Bruce Wakefield, Colville Tribes
- Jacquelyn Wallace, Trout Unlimited
- John Warinner, Aspect Consulting LLC
- Noah Wentzel, Ecology
- Jonathan Yoder, Washington State University

# Summary of Last Meeting

- Ecology presented select draft findings and potential policy tools.
- The group discussed select potential policy tools that participants indicated an interest in discussing.
- After the meeting concluded, Ecology reviewed written comments.
  - Received comments from 22 entities.
  - Modified findings and potential policy tools.

# Closing Remarks

State Legislators





# Policy Review

# Caveats & Notes

- This content is still a **DRAFT**.
  - Concepts included have not been approved by Ecology leadership.
  - This should not be interpreted as a commitment to pursue (or not pursue) specific policy actions.
- We are consulting with our attorneys on whether all potential recommendations could be implemented through existing authority.

# Potential Policy Tools

- *Potential Ecology Recommendations and Actions:* Concepts that Ecology is considering for recommendation to the Legislature.
- *For Future Legislative Evaluation:* Concepts that Ecology is not recommending, but believes merit further evaluation by the Legislature.
- *Considered but Not Recommended:* Concepts that Ecology considered and discussed but do not recommend.

# Out-of-Basin Transfers: Potential Ecology Recommendations & Actions

**P.1.1** Process future downstream water right transfers in a way that would allow water rights to be moved back upstream where there would be no impairment to senior water rights.

# Out-of-Basin Transfers: Potential Ecology Recommendations & Actions

**P.1.2** Authorize “conservation easements” on water rights to limit their use to the basin-of-origin.

- An entity could purchase the easement, limiting transfer of the water right so it could not be transferred out of the basin-of-origin for future consumptive uses.

# Out-of-Basin Transfers: For Future Legislative Evaluation

**P.1.3** Establish a “**right of first refusal**” for specific entities to acquire a water right before the right could be transferred downstream, out-of-basin.

**P.1.4** Require Ecology to evaluate **public interest** for downstream, out-of-basin water right transfers.

**P.1.5** Create a revolving loan fund or grant program to fund water right purchases to reduce downstream, out-of-basin transfers.

# Transparency in Water Right Sales: Potential Ecology Recommendations & Actions

**P.2.1** Amend RCW 90.03.380 to allow Ecology to publish notice of water right transfers electronically.

# Transparency in Water Right Sales: Potential Ecology Recommendations & Actions

**P.2.2** Make water right transfer application information more accessible to the public through administrative improvements. Post water right change applications in an integrated, publicly-accessible GIS interface.

- We have begun work on this project and anticipate completion by 2022.

# Transparency in Water Right Sales: For Future Legislative Evaluation

**P.2.3** Require that water right sales (including prices) are reported to the state and made publically available.

- Though available through the county assessor, our current understanding is that this information is not currently tracked or published in publically-available, searchable database.

# Use of the TWRP: Potential Ecology Recommendations & Actions

**P.3.1** Differentiate water rights that are placed in trust for the purpose of instream flow enhancement and protection from relinquishment versus water rights that are placed in trust to be used as mitigation.

- We anticipate it would require substantial changes to chapter 90.42 RCW, potentially nearly a complete rewrite.

# Use of the TWRP: Potential Ecology Recommendations & Actions

**P.3.2** Clarify that any water right being used for long-term or permanent mitigation must first undergo a tentative determination of extent and validity.

- Clarify that donations may not be used for long-term or permanent mitigation.
- We believe this could be accomplished through a more surgical amendment to chapter 90.42 RCW than P.3.1.

# Use of the TWRP: Potential Ecology Recommendations & Actions

**P.3.3** Update the Trust Water Guidance document to clarify administrative processes for placing water rights in trust and water banking.

- We have begun this work and anticipate completion by Summer 2021.

# Water Banking: Potential Ecology Recommendations & Actions

**P.4.1** Require that prospective bankers submit a “water banking prospectus” in which they outline their business plan.

- The prospectus would be made available for public comment.
- Ecology would use the comments received to inform the trust water right agreement (or water banking agreement) negotiated with the banker.

# Water Banking: Potential Ecology Recommendations & Actions

**P.4.2** Authorize Ecology to recover the administrative costs of developing water banking agreements.

- Establish a fee for reviewing and processing the water banking prospectus.
- Authorize Ecology to require that applicants use the cost reimbursement process for associated water right change applications that are submitted to Ecology.

# Water Banking: Potential Ecology Recommendations & Actions

**P.4.3** Clarify Ecology's authority to require water banks to address issues beyond ensuring that there is no impairment to senior water rights.

- This could include requirements to create enhanced stream flow benefits, or stipulations for additional consumer or environmental protection.

# Water Banking: Potential Ecology Recommendations & Actions

**P.4.4** Require that draft water banking agreements are posted for public comment before being finalized.

- Ecology will consider public comment before finalizing terms of the agreement.
- Note, we plan to pursue this under current authorities. No statutory changes are needed.

# Discussion



**Break**



# Next Steps

Where do we go from here?



# Revisiting the Advisory Group Objectives

1. Inform Ecology's findings and recommendations to the Legislature.
  - We will not present "Advisory Group recommendations."
2. Convene discussion to enhance understanding among entities on priorities, concerns, and potential solutions.
  - We did not try to facilitate consensus among participants.
3. Increase shared understanding of trust water, banking, and transfers in Washington.

# Finalizing Ecology's Findings and Recommendations

- Ecology will complete by October 1 (*under current schedule*).
- Will post for public comment, allowing 31 days to submit.
  - Comments due November 1 (*under current schedule*).
- All comments will be appended to Ecology's findings and recommendations.
- Required to present to the Legislature by December 1, 2020.

# Agency Request Legislation

- In collaboration with the Governor's Office, we will evaluate whether to pursue request legislation.
- Timeline (if pursued):
  - Aug 31: Deadline for Ecology to submit initial z-draft (solidified policy concepts, draft language)
  - Sept 30: Deadline for Ecology to submit final z-draft (solidified policy concepts & language)
- We will use this Advisory Group email list to update you on key decision points.

# Feedback on the Advisory Group Process

- Thank you all for your patience and engagement with this process and venue!
- We value your feedback on how it went.
- We will be sending a post-meeting survey to gather feedback.

# Discussion



# Concerns and Priorities

At the outset of this process, we identified the following topics as areas for study:

- a. Transparency in water right sales
- b. Social and economic impacts of out-of-basin transfers
- c. Private investment in water rights
- d. Speculation in water rights
- e. Use of water banks in ways not in the public interest

Has your perspective on these issues changed and evolved during this process? If so, how?

Has your level of concern about each topic changed? If so, how?

# Concerns from Meeting 1

How concerned are you about...

Mentimeter



# Feedback on Potential Request Legislation

Following the close of the Advisory Group process, Ecology will consider whether to pursue agency request legislation on these topics.

*What is your opinion about the merits of Ecology proposing request legislation?*

# Closing Remarks

Mary Verner  
Dave Christensen  
Carrie Sessions





# Thank You!

Contact: Carrie Sessions, [Carrie.sessions@ecy.wa.gov](mailto:Carrie.sessions@ecy.wa.gov), (360) 742-6582