



FEBRUARY 2021 MEETING SUMMARY

Cedar-Sammamish (WRIA 8) Watershed Restoration and Enhancement Committee

February 25, 2021 | 9:30 a.m. - 12:00 p.m. | [Committee website](#)

Location

WebEx

Committee Chair

Stephanie Potts
Stephanie.Potts@ecy.wa.gov
425-649-7138

Next Meeting

Tentative: March 25
9:30 a.m. – 11:30 a.m.
WebEx

Attendance

Committee Representatives and Alternates*

John McClellan, *Alderwood Water & Wastewater District*
Janet Geer, *Bothell*
Dan Von Seggern, *Center for Environmental Law and Policy*
Allen Quynn, *Issaquah*
Richard Sawyer, *Kenmore*
Evan Swanson, *Kent*
Denise Di Santo, *King County*
Rick Reinlasoder, *King County Agriculture Program*
Gina Clark, *Master Builders Association of King and Snohomish Counties*
Carla Carlson, *Muckleshoot Indian Tribe*

Michele Koehler, *Seattle*
Terri Strandberg, *Snohomish County*
Elisa Dawson (alternate), *Snohomish County*
Matt Baerwalde, *Snoqualmie Indian Tribe*
Kurt Nelson, *Tulalip Tribes*
Stewart Reinbold, *Washington Department of Fish and Wildlife*
Stephanie Potts (chair), *Washington State Department of Ecology*
Ingria Jones (alternate), *Washington State Department of Ecology*
Kelsey Taylor (alternate), *Snoqualmie Indian Tribe*

Cities caucus members: Bothell, Issaquah, and Kenmore.

Committee Members Not in Attendance*

WRIA 8 Salmon Recovery Council

Other Attendees

Gretchen Muller (facilitator), *Cascadia Consulting Group*
Caroline Burney (information manager), *Cascadia Consulting Group*
Bridget August (technical consultant), *GeoEngineers*
John Covert, *Washington State Department of Ecology*
Stacy Vynne McKinstry, *Washington State Department of Ecology*

Paulina Levy, *Washington State Department of Ecology*
Joe Hovenkotter, *King County*
Mugdha Flores, *Washington State Department of Ecology*
Angela Johnson, *Washington State Department of Ecology*

*Attendees list is based on roll call and participants signed into WebEx.

Standing Business

Facilitator reviewed the agenda. *No revisions to the agenda.*

Chair received one comment on the November meeting summary to revise a typo. The Committee voted to approve the November WRIA 8 WREC meeting summary. The final version will be posted on the Committee website.

Updates and Announcements

Chair provided updates from Ecology.

- Ecology adopted the remaining 3 plans under section 020 of the streamflow restoration law by the Feb 1, 2021 deadline. Those plans are posted on the [streamflow restoration planning webpage](#).
 - WRIA 22/23: Chehalis
 - WRIA 49: Okanagan
 - WRIA 55: Little Spokane
- Streamflow Restoration Grant program: Ecology will determine the timing for the next grant round after the Washington State Legislature approves a budget for the 2021-2023 biennium. The Governor's capital budget includes Ecology's request of \$40 million for the grant program.
- Committee membership: Bellevue and Sammamish decided to withdraw from the Committee since the November meeting. Since the Committee formed, the following entities withdrew: Mukilteo, Redmond, Bellevue, Sammamish.
- Operating principles: Updated Appendix A "Committee Membership" to note the cities that withdrew and add the entities that declined to join the Committee.

Committee member updates and discussion:

- Matt Baerwalde asked if Ecology requested funding for adaptive management of the plans and whether Ecology communicated to the legislature that watershed planning groups emphasized adaptive management as a need.
 - Stephanie shared that once plans are approved by Committees and submitted to Ecology for review, Ecology will review the policy and adaptive management recommendations from the Committees. Ecology drafted the streamflow restoration report to the legislature last summer, when the Committee was still in the early stages of drafting the plans.
 - Matt and Kurt Nelson shared that it's unfortunate that adaptive management was not included in the legislative request.
 - Dan von Seggern encouraged Ecology to come up with a proposal to include adaptive management in the budget.

Public Comment

No comments.

Steps to Plan Adoption

Objective: Overview of pathways to get to plan adoption.

Reference Materials:

- [Plan Adoption Pathways](#)

Stephanie provided an overview of the plan adoption pathways.

- Plans must be approved by all members of the Committee prior to submission to Ecology for review and consideration for adoption.
- Deadline for adoption is June 30, 2021.
- Ecology will vote on the plan today. This local approval step is preliminary and distinct from the plan review Ecology will undertake if, and when, plans are locally approved and submitted to Ecology for review and agency action in accordance with RCW 90.94.090(3)(c).
- If plan is approved, the chair will submit the plan to Ecology on behalf of the Committee and Ecology will undertake the following steps:
 - State Environmental Policy Act (SEPA) review: This is a non-project programmatic plan review, with an anticipated 30 day public comment period (minimum 14 days for public comment).
 - Technical review: Ecology's technical staff evaluate whether the plan achieves a Net Ecological Benefit as described in the Streamflow Restoration law (RCW 90.94.030), the Final NEB Guidance (GUID-2094), and the Streamflow Restoration Policy and Interpretative Statement (POL-2094).
 - Ecology management review: The Water Resources Program reviews the plan and prepares a recommendation to the Director.
 - Ecology Director review and determination: The Director reviews all materials and makes a determination by June 30, 2021 on whether to adopt the plan.
 - Plan adoption: The Director of Ecology will issue the results of the plan review and the NEB determination in the form of an order. The Streamflow Restoration law has a June 30, 2021 deadline for adoption by the Director of Ecology. If the Director signs adoption orders by June 30, 2021, the planning process is completed.
 - After plan adoption, the Water Resources Program will review policy, adaptive management, and implementation recommendations across all of the Watershed Plans and make a programmatic decision on where and how to invest resources on recommendation implementation.
- If the plan is not adopted (e.g. not locally approved, not submitted to Ecology with time for review by June 30, or not adopted for other reasons):
 - Ecology prepares the plan with input from the Salmon Recovery Funding Board: Ecology must prepare a final draft plan and submit it to the Salmon Recovery Funding Board (SRFB) for technical review. Ecology will then consider the SRFB review, prior to finalizing and adopting the plan. Ecology may amend the plan without Committee approval prior to adoption.
 - Plan adoption. After plan adoption, the Director shall initiate rulemaking within six months to incorporate recommendations into rules adopted under this chapter or under Chapter 90.22 or 90.54 RCW, and shall adopt amended rules within two years of initiation of rule making. Ecology rulemaking is guided by the Administrative Procedure Act (APA), Chapter 34.05 RCW.
 - No timeline for plan adoption identified in law.
 - No role for Committee identified in law.
- If the plan is not approved today, that does not preclude the Committee from continuing to work on the plan or vote again.

Discussion:

- Kurt asked how Ecology will address substantial comments on the SEPA review and whether those comments will be shared with the Committee.
 - Stacy Vynne McKinstry from Ecology shared that because the SEPA is on the overall plan and not specific to a project, Ecology does not anticipate substantive comments. Staff will review

- the comments that come in and bring forward substantial comments to the Ecology Director. SEPA comments could become a part of the Director’s consideration on plan adoption.
 - Comments on the SEPA review will be addressed on a case by case basis. There is the potential that substantial comments could impact the review timeline and adoption.
 - Ecology will make it clear in the SEPA comment form that comments should be on the SEPA review and not on the plan itself.
 - SEPA comments can be shared with the Committee.
 - Ecology may also engage the Committee to address substantial comments if they require plan revisions.
- Dan asked whether there is a way to discuss areas of disagreement if the plan is not approved today.
 - Stephanie explained that if the plan is not approved today, that does not preclude the Committee from continuing to meet and vote again over the next few months. There does need to be time for Ecology to do SEPA review, internal review, and adopt by June 30.
- Dan added that he interprets the law as stating that the deadline for committee approval is June 30 – not the deadline for Ecology’s review.
 - Stephanie agreed that there is more time for the committee to work on the plan, but the legislation requires Ecology to adopt the plans by June 30, 2021. Per Ecology’s [Policy Interpretive Statement](#), the plans need to be approved and then submitted to Ecology with reasonable time for review prior to the June 30, 2021 deadline.
 - *Post-meeting update: RCW 90.94.030(3) states “By June 30, 2021, the department shall prepare and adopt a watershed restoration and enhancement plan for each watershed listed under subsection (2)(a) of this section, in collaboration with the watershed restoration and enhancement committee. Except as described in (h) of this subsection, all members of a watershed restoration and enhancement committee must approve the plan prior to adoption.”*
- Matt asked whether during the rulemaking process, the appeals body is the Pollution Control Hearings Board.
 - Stephanie to confirm and follow up.
 - *Post-meeting update: Appeals of rulemaking go to the Thurston Superior Court.*

Committee Member Comments

Objective: Opportunity for Committee members to make a statement about the planning process or the final plan to include in the meeting summary. This is optional.

Facilitator invited Committee members to provide comments on the plan or the overall process.

- Washington Department of Ecology: no comments.
- Muckleshoot Indian Tribe: no comments.
- Snoqualmie Indian Tribe: The Snoqualmie Indian Tribe submitted a letter. Matt added that the government-to-government relationship between Snoqualmie Indian Tribe and Ecology has been severely damaged. As a result of that, Matt has been directed by Tribal Council to not approve either of the plans that the Tribe is a committee member for. He added that as a committee member he feels it’s unfortunate, and acknowledged the significant work by the committee. Until that government-to-government relationship is repaired, Snoqualmie Indian Tribe is unable to approve the plans.
- Tulalip Tribes: no comments.
- Washington Department of Fish and Wildlife: Stewart Reinbold thanked everyone for all the hard work.
- King County: Denise Di Santo thanked everyone for their hard work and dedication to the process.

- Snohomish County: no comments.
- City of Bothell: Janet Geer thanked everyone for the hard work.
- City of Issaquah: Allen Quynn added that there are several restoration projects in Issaquah that are not in the plan. He asked whether they are still eligible for funding.
 - Yes, the grant program is statewide and can fund projects that are not in plans.
- City of Kenmore: Richard Sawyer shared his gratitude for allowing the cities caucus format.
- City of Kent: Evan thanked Stephanie and team for all the hard work on this process.
- City of Seattle: Michele Koehler thanked Ecology staff, Gretchen Muller, and all Committee members. Seattle submitted a letter with recommendations to Ecology, which summarizes their comments.
- Alderwood Water and Wastewater District: no comments.
- Master Builders Association of King and Snohomish Counties: Gina Clark thanked everyone for their participation and collaboration.
- Center for Environmental Law and Policy: Dan thanked everyone for their hard work and added that he is impressed by how disparate interests have worked together so well. CELP submitted a letter emphasizing their concern that streams are actually protected, and projects do what they are supposed to do. He added that he understands where Snoqualmie Indian Tribe is coming from both in terms of the nature of consultation relationship, as well as the potential that watershed restoration process may be about pulling more water out of river for municipal use. CELP wants to ensure that this process is designed to restore streamflows – not do the opposite.
- King County Agriculture Program: no comments.

Discussion:

- Denise asked about how decisions are made to fund projects as a part of the streamflow grant program.
 - Stephanie explained that scoring criteria are outlined in the [grant guidance](#) and [funding rule](#). The 2020 grant round prioritized funding for projects that would quantitatively improve streamflow, projects located in planning watersheds, and projects in approved plans. Once applications come in, they are screened by technical reviewers. Two evaluators score the grant based on the scoring criteria included in the grant guidance. Those scores are reviewed by Water Resources Management and then funding decisions are made.
 - The streamflow grant program is statewide and is open to projects that restore streamflows or benefit instream resources across the state, including those not in an approved plan. However, scoring is set up to prioritize projects in approved plans.
 - The biggest factor that determines whether a project gets funded is that an application is submitted. In the first rounds of the program, there were not as many applications for projects in WRIA 8 and other Puget Sound watersheds. Many of the water offset projects included in the WRIA 8 plan were developed by the Committee and technical consultants after the 2020 grant round application period closed. Hopeful that project sponsors will submit applications for those projects in the next grant round.
- Denise asked whether there is anything the Committee can do to address Snoqualmie Indian Tribe's concerns and work towards plan approval.
 - Matt replied that Snoqualmie Indian Tribe is waiting on a response from Ecology's Director. He doesn't see a role for Committee members (other than Ecology) to address their concerns.
 - Matt added he appreciates and respects everyone's work on this plan and process and thanked the Committee.

Vote on WRIA 8 WRE Plan

Objective: Vote on the WRIA 8 WRE plan.

Reference Materials

- [WRIA 8 Final Draft WRE Plan – revisions if approved](#)
- [WRIA 8 WRE Plan – Compendium Cover](#)

Facilitator reviewed the section of the Operating Principles regarding voting on final approval of the plan.

RCW 90.94 (3) states that "... all members of a watershed restoration and enhancement committee must approve the plan prior to adoption." Approval will be assessed by voting. If all Committee members vote "yes" in support of the plan it will be considered approved and provided to Ecology for "net ecological benefit" review and potential adoption. If the plan is not approved, the facilitator or chair will document agreement and disagreement on the plan elements and the matter will go to Ecology to establish a plan through rulemaking.

Options for the vote on final plan approval are: approve or disapprove.

Committee Member votes:

- Washington Department of Ecology: approve.
- Muckleshoot Indian Tribe: approve.
- Snoqualmie Indian Tribe: disapprove.
- Tulalip Tribes: approve.
- Washington Department of Fish and Wildlife: approve.
- King County: approve.
- Snohomish County: approve.
- City of Bothell (cities caucus): approve.
- City of Issaquah (cities caucus): approve.
- City of Kenmore (cities caucus): approve.
- City of Kent: approve.
- City of Seattle: approve.
- Alderwood Water and Wastewater District: approve.
- Master Builders Association of King and Snohomish Counties, representing the residential construction industry: approve.
- Center for Environmental Law and Policy, representing environmental interests: approve.
- King County Agriculture Program, representing agricultural interests: approve.

Decision: Not approved. 15 Committee members voted to approve and 1 Committee member voted disapprove. Approval must be unanimous; therefore the plan is not approved.

Next Steps

The Committee discussed options for continuing to meet and hold another vote and decided on the following approach:

- Reconvene if a Committee member requests another vote.
- Schedule meetings during the Committee's normal meeting time in March and April (4th Thursday of the month in the morning) in order to hold time on calendars. Cancel the meetings if the Committee is not ready to vote again.
- Revise the operating principles to allow a re-vote without a quorum of Committee members present, as long as the plan content is unchanged.

Amendment to Operating Principles:

The Committee voted on adding the following language to “Voting on the final approval of the plan” under Section 6. Decision Making.

The Committee can vote as many times as needed to attempt to approve the plan. If no changes are made to the plan, a quorum is not required for subsequent votes on final approval of the plan. Only the Chair and the Committee member(s) that change their vote(s) need to be present for the subsequent votes. The Chair will notify the Committee of the result of subsequent votes.

Decision: Approved. All Committee members voted to approve the amendment to the Operating Principles.

Discussion:

- Matt shared that Snoqualmie Indian Tribe’s core issue is not embedded in the plan, but has to do with how Ecology is implementing the plans. He expects that if the Committee votes again, the plan would be unchanged.
- Matt requested that when Stephanie is giving updates to Ecology management, to consider updating them that a number of Committee members in WRIA 8 agreed that adaptive management for streamflow restoration planning and allocating human resources as well, should have been requested in this legislative cycle.

Next steps:

- Stephanie will send calendar invites for meetings in March and April.
- Stephanie will revise the Operating Principles and post the new version to the Committee website.
- Stephanie will send an update to Ecology water resources management with the results of the vote, the final draft plan, letters and resolutions shared by Committee members, and inform them that a number of Committee members said that funding for adaptive management should have been included in Ecology’s 2021-2023 budget request

Action Items for Chair:

- Confirm the entity that acts as the appeals body during the rulemaking process.
- Send calendar invites for meetings in March and April.
- Revise the Operating Principles and post the new version to the Committee website.
- Send an update to Ecology water resources management with the results of the vote, the final draft plan, letters and resolutions shared by Committee members, and inform them that a number of Committee members said that funding for adaptive management should have been included in Ecology’s 2021-2023 budget request.
- Distribute February meeting summary.

Action Items for Committee Members

- Notify the chair to request another vote or to request the Committee meet in March and/or April.
- Review February meeting summary by March 24.

Next Meeting

Tentative: Thursday, March 25 from 9:30 a.m. – 11:30 a.m. Stephanie will confirm or cancel the meeting at least a week in advance.