

Duwamish-Green (WRIA 9) Watershed Restoration and Enhancement Committee January Meeting Summary

[Committee website](#)

Next Meeting: Tuesday, February 26, 2019 from 1-4 pm at the Tukwila Community Center.

Meeting Information

Tuesday, January 22, 2019

1:00 pm to 4:00 pm

Tukwila Community Center, Banquet A-B | 12424 42nd Ave S, Tukwila, WA 98168

Agenda

	Topic	Time	Action	Handouts*	Lead
1.	Welcome and introductions	1:00 pm			Chair
2.	Approval of agenda and December meeting summary	1:05	Vote	- Agenda - December meeting summary	Facilitator
3.	Instream Flows overview	1:10	Presentation		Jim Pacheco, Ecology
4.	Break	2:10			
5.	Watershed Restoration and Enhancement Plan requirements and timeline	2:20	Presentation and discussion	- Plan requirements - Timeline	Chair
6.	Operating Principles discussion	2:40	Discussion	- Draft Operating Principles	Facilitator
7.	Next steps	3:40			Chair and facilitator
8.	Public comment	3:50			Facilitator
9.	Adjourn	4:00			Chair

**all handouts are available on the Committee website*

Committee Representatives and Alternates in Attendance*

Name	Representing	Name	Representing
Lisa Tobin	Auburn	Scott Woodbury	Enumclaw
Shawn Gilbertson (alternate)	Kent	Kathy Minsch	Seattle
Mike Perfetti	Tukwila	Josh Kahan	King County
Carla Carlson	Muckleshoot Tribe	Jennifer Anderson	Master Builders Association of King and Snohomish Counties

Rick Reinlasoder	King County Agriculture Program	Trish Rolfe	Center for Environmental Law and Policy
Stewart Reinbold (phone)	WA Department of Fish and Wildlife	Stephanie Potts	WA Department of Ecology

Committee members not in attendance: Black Diamond, Normandy Park, Renton, Highline Water District.

Other Attendees

Name	Representing	Name	Representing
Matt Goehring	WRIA 9 Watershed Ecosystem Forum	Greg Volkhardt	Tacoma Water
Will Stelle	Washington Water Trust	Stacy Vynne	WA Department of Ecology
Jim Pacheco	WA Department of Ecology	Elizabeth McManus (facilitator)	Ross Strategic

*Attendees list is based on sign-in sheet

Approval of Agenda and Meeting Summary

There were no additions to the agenda.

There were a few minor comments on the draft December meeting summary, including fixing typos and clarifying language. The Committee voted to approve the revised December meeting summary. The final version is posted on the Committee website.

Instream Flows Overview

Jim Pacheco, Ecology’s lead for instream flows, presented an introduction to instream flow rules and the instream flow rule for the Duwamish-Green watershed (WRIA 9). The presentation is available on the committee website.

Summary of the Committee discussion following the presentation:

- The spike on the Green River hydrograph at the end of February (slide 13) is due to data from leap years, which means there are fewer data points available to smooth out outliers.
- A statutory closure means that water is not available for new consumptive surface water appropriation (new water rights). People with surface water rights from before the establishment of the instream flow rule (senior users) are not impacted by the instream flow rule and can still use their water as long as streamflow is available. The Postema State Supreme Court decision in 2000 restricted new groundwater appropriations that depleted water from a closed stream or impaired an instream flow. The [Hirst State Supreme Court decision](#) in 2016 restricted a homeowner’s ability to use permit-exempt groundwater in certain watersheds with instream flow rules and closures, because groundwater is connected to streamflow (hydraulic continuity). ESSB 6091/RCW 90.94 allows new domestic wells in basins with instream flow rules, including in closed basins, because Committees like ours are tasked with identifying projects to replace the amount of water used by those wells.

- RCW 90.94 requires “water for water” projects to offset the 20 year consumptive water use from new permit exempt domestic wells. There were a number of questions about water storage and aquifer recharge project opportunities and hydrogeology in the Duwamish-Green basin. At the February meeting, Ecology technical staff will present to the Committee an overview of the hydrogeology of the basin and the Committee will learn more about project types in late summer/fall 2019. The Interim Guidance for Determining Net Ecological Benefit and Interim Funding Guidance provide examples of water offset projects, such as storage, and non-water offset projects, such as habitat restoration. Both are linked from the Ecology [Streamflow Restoration website](#).
- The instream flow rule has to do with water law and water rights availability in the Duwamish-Green basin. Other agreements, such as the Habitat Conservation Plan and agreement between Tacoma Water and the Muckleshoot Tribe, impact the streamflow of the Green River below Howard Hanson Dam.

Plan Requirements and Timeline

Stephanie provided a brief overview of the required watershed restoration and enhancement plan components, optional plan components, and timeline for plan development. The presentation and handouts are available on the committee webpage.

The slides presented the Committee’s proposed timeline, taking into consideration the trainings, discussions, and decisions that may be needed to develop each plan component. This timeline is likely to change. The information in it, especially the trainings listed, are general and not specific to this Committee. There may be more trainings and discussions than listed, and if the Committee decides to add optional elements into the plan there will be additional decision points as well.

The first two quarters of 2019 are focused on trainings to ensure Committee members have a basic understanding on topics such as hydrogeology, instream flow rules, land use planning, and water law as well as how these subjects interact with the plan components.

Discussions topics will require learning and understanding not just the topic but Committee members’ perspectives on the topic. These conversations are a vital part of the decision-making process. We are front loading discussions and decisions to ensure we have time towards the end of the planning process to revisit areas of disagreement and work towards agreement on a final plan.

Decision-making is key to the plan success. Each Committee member will need to determine which decisions they have the authority to make, and which decisions they need to bring to decision-making authorities, such as tribal councils and city councils. Stephanie’s job as the chair is to make sure Committee members get materials in time for decision-making bodies to review them before a vote. Stephanie will aim to provide at least one month notice in advance of decisions. At the end of the calendar we built in time for Committee members to take the final plan to their organization or government and receive the authority needed for approval. All Committee members must approve the plan in order for Ecology to accept it for net ecological benefit (NEB) review and adoption. We have a goal to finalize the plan by the end of 2020, to allow several months for review and approval by city/county/tribal councils before submitting the plan to Ecology. Ecology will need to complete the NEB review and adopt the plan by the deadline of June 30, 2021.

Committee members should start discussing the process for approval of the final plan within their government/organization. Start to think about which decisions the Committee representative can make and which decisions need to be reviewed by higher authorities and/or city, county, or tribal councils.

Summary of the Committee discussion following the presentation:

- What uses are considered “permit-exempt”? The groundwater permit exemption allows four uses of groundwater without a water right permit: domestic uses of less than 5,000 gallons per day (RCW 90.94 limited this to 950 gpd annual average for WRIA 9); irrigation of a lawn or non-commercial garden, a half-acre or less in size; industrial uses of less than 5,000 gallons per day; and unlimited water for livestock. More information is available on the Ecology [Goundwater Permit Exemption webpage](#).
- The Committee is tasked with estimating the consumptive portion of indoor and outdoor domestic use from new permit-exempt wells in the watershed over the next 20 years. We will be learning about land use designations, comprehensive planning, and projected population growth in March. We will also compile existing maps and data and create new resources.
- The Committee has the option to estimate other water uses in addition to domestic permit-exempt wells and to look at a time horizon beyond 20 years, for example a full build-out scenario. Reminder that optional components of the plan will also need to receive full Committee approval.
- The Committee can decide to include more projects than what is required to offset new domestic wells, in order to account for projects that might not get implemented as planned. The Committee could also decide to include adaptive management strategies in the plan. For example the Committee could decide to reconvene periodically to check-in on implementation after June 2021.
- You can find a list of projects submitted for 2018-2019 grant program on the [Streamflow Restoration Implementation Grants](#) webpage. Ecology announced the award of the first round of Streamflow Restoration Grants on January 28, 2019. Applicants have been notified of Ecology’s decisions by mail.
- Water districts are important to include in the conversation because they look at water supply, demand, water availability and service areas. We will need to determine which water utilities and districts allow for exempt wells within their service areas.
- When thinking about internal approval processes, we need to build in time for briefing new local elected officials after the 2019 local elections.

Operating Principles

Stephanie summarized the key changes made to the operating principles since the December meeting, which were:

- Removed the RCW language
- Combined some sections
- Added language to Section 6: Decision Making to define quorum, consensus, supermajority approval, and emphasize that our goal is to come to consensus on key decisions, while allowing the Committee to move forward with supermajority approval.

The key items for discussion at this meeting included: cities caucus, agreement to bring on ex officio members, latecomers and disappearing members, remote participation, and decision making.

Summary of the Committee discussion and decisions:

Section 3. Committee membership

- Cities caucus: The cities interested in caucusing are Black Diamond, Kent, Normandy Park, Renton and Tukwila. The membership and internal voting procedures for the cities caucus are still being determined, with the hope to finalize them by the February meeting. Cities will indicate their participation in the caucus by sending an email to the chair, which the chair will share with the rest of the Committee. Matt Goehring from the WRIA 9 Watershed Ecosystem Forum will serve as the cities caucus representative. Cities can opt out of the caucus at any time, as described in the Operating Principles (p 3, lines 8-10). The cities caucus will have one collective vote on interim decisions. Each cities caucus member will need to vote individually on the Operating Principles and final plan approval. Cities caucus members can provide their vote on the Operating Principles in person, through the cities caucus representative, or in writing to the chair. The cities caucus representative will document dissenting opinions within the cities caucus and share that information with the Committee.
- Ex officio and ad hoc members: The Committee agreed to add ex officio and ad hoc members by consensus. In prior meetings, Committee members proposed inviting Tacoma Water and the WRIA 9 Watershed Ecosystem Forum as ex officio members. The Committee will start voting on ex officio members at the February meeting. Committee members should send additional recommendations for ex officio members to Stephanie.
- Latecomers: Stephanie checked with the Ecology policy team following the December meeting to find out if we could include language in the Operating Principles to prevent latecomers from joining the Committee after a certain date, or to remove members from the Committee if they miss a certain number of meetings (disappearing members). Ecology has confirmed that we can prevent latecomers from joining the Committee after a certain date if they have provided documentation in writing that they forfeit their seat. Stephanie will work with other Ecology staff to contact cities that did not respond to the initial invitation to ask them to opt-out in writing or to commit to participation (independently or through the cities caucus). Ecology cannot prevent a city from joining if they do not opt-out in writing. Stephanie will add a specific date for the latecomers deadline. Stephanie will add to Appendix A a list of invited governments and organizations that declined the invitation to join the Committee.
- Disappearing members: Based on guidance from the Ecology policy team, Stephanie deleted language that would remove members from the Committee that miss three meetings in a row. Ecology cannot prevent entities that are part of the Committee from voting on the final plan. The chair and facilitator will work actively with entities that stop participating to re-engage them. Committee members can also actively encourage participation.

Section 4. Participation Expectations, Remote Participation, and Ground Rules

- Remote participation: Committee members decided that remote participants should be allowed to vote on decisions that come before the Committee (p 5, lines 1-5).

Section 6. Decision Making

- The Committee agreed to strive for consensus, but move forward with supermajority approval if needed. Throughout the process, the facilitator and chair will document disagreement and follow up with members with dissenting opinions. The Committee recognizes that if we need to vote by supermajority, we still need to continue working together to get to agreement to ensure we can reach a final approved plan.
- Stephanie will add language to Appendix A to clarify the number of Committee representatives required for a quorum.

Other comments:

- Highline Water District was invited to the Committee because the legislation instructed Ecology to invite the largest non-municipal water purveyor in the watershed.
- King County has two seats on the Committee—Josh Kahan is representing the county and Rick Reinlasoder is representing agriculture interests. Josh and Rick report to the same division head, however the division head is aware that Rick is representing agriculture interests and will make voting decisions accordingly.
- If a Committee member wants to bring in an outside consultant to present, they should contact the chair to talk through the presentation topic and find time on an upcoming agenda.
- Stephanie will provide materials as early as possible, but is reluctant to commit to sending meeting materials and handouts two weeks in advance because of the rapid turnaround that is required for monthly meetings. Committee members will have several weeks to months to review the final plan and receive internal approval needed for the final vote.
- Ecology staff are reviewing the 8 sets of Operating Principles developed by the various Committees to ensure consistency where it makes sense. However, each of the Operating Principles will reflect the specific and unique interests of each Committee as well as may vary in terms of the process for how they make decisions (e.g. super majority vs consensus).
- Due to overlapping membership and the recommendation for the same process for decision-making, the Operating Principles for WRIAs 8 and 9 will be the same.
- Vashon Island is remaining part of the WRIA 15 Committee. Ecology and King County will coordinate closely with the WRIA 9 Watershed Ecosystem Forum during project identification and development.

Next steps include Stephanie incorporating the decisions and recommendations made at the January meeting into a final version of the Operating Principles, which she will distribute by email and post on the Committee website soon. The Committee will vote on the Operating Principles at the February meeting. Each Committee representative is expected to sign the Operating Principles by the March meeting.

Public Comment

No public comments.

Action Items

For the chair:

- Post final December meeting summary and January meeting presentations and materials on the Committee website.

- Continue to work with interested cities and WRIA 9 Watershed Ecosystem Forum staff to form the cities caucus. Goal is to finalize cities caucus membership and internal procedures by the February meeting.
- Invite WRIA 9 Watershed Ecosystem Forum and Tacoma Water to attend February meeting and speak about their interest in ex officio membership.
- Revise Operating Principles based on January meeting discussion and distribute final version for vote at February meeting.
- Post a Committee roster (entity name and representative name) on the Committee website and distribute a roster with contact information to Committee members.
- Continue to collect mapping and information requests and existing WRIA 9 resources.

For Committee members:

- Discuss the Operating Principles within your organization/government and **prepare for a vote at the February meeting** and to sign them by the March meeting.
- Start discussing the process for approval of the final plan within your government/organization. Start to think about which decisions you, as the Committee representative, can make and which decisions need to be reviewed by higher authorities and city/county/tribal councils.
- Send Stephanie recommendations for additional organizations to invite as ex officio members by February 11.
- Review draft January meeting summary and send comments to Stephanie by February 11.
- Share technical reports, maps and other WRIA 9 resources with the chair; start to think of data gaps and mapping needs; and think about non-committee members to invite to a technical workgroup. Let Stephanie know if you are interested in joining a technical workgroup.
- Send Stephanie any questions you'd like covered during an upcoming webinar on lessons learned from the WRIA 1 and WRIA 11 planning processes (to be scheduled in late February or March).

For Next Meeting, February 26th:

- **Vote on Operating Principles**
- **Vote on ex officio members**
- Presentation on hydrogeology in WRIA 9
- Discuss subbasin delineation