Meeting Summary

**WRIA 12 Watershed Restoration and Enhancement Committee**

**Meeting**

May 13, 2020 | 12:30 p.m.-3:30 p.m.| [WRIA 12 Webpage](https://www.ezview.wa.gov/site/alias__1962/37324/watershed_restoration_and_enhancement_-_wria_12.aspx) | [Webmap](https://hdr.maps.arcgis.com/apps/webappviewer/index.html?id=9dac3c330fb240889981a7d3fe98ef6b)

## **Location**

WebEx**Committee Chair**

Rebecca Brown

Rebecca.brown@ecy.wa.gov**Handouts**

Agenda

**Attendance**

Committee Representatives and Alternates \*

Austin Jennings, alternate (Pierce County)

Dan Cardwell (Pierce County)

Rebecca Brown, Chair (Ecology)

Paul Pickett (Squaxin Island Tribe)

Jeff Dickison (Squaxin Island Tribe)

Kris Kauffman (Chambers-Clover Watershed Council)

Char Naylor (Puyallup Tribe)

Ryan Mello (Pierce CD)

Jessie Gamble (MBA Pierce County)

Paul Bucich (City of Lakewood)

Calvin Taylor (City of Tacoma)

Renee Buck, alternate (Chambers-Clover Watershed Council)

Don Stanley (Lakewood Water District)

Rebecca Kowalski, ex officio (JBLM)

Committee Representatives and Alternates in Not Attendance\*

WDFW

Town of Steilacoom

Other Attendees\*

Spencer Easton (ESA, Facilitator)

Madeline Remmen (ESA, Information Manager)

Chad Wiseman (HDR)

Burt Clothier (Pacific Groundwater Group)

Tristan Weiss (WDFW)

Sharon Haensly (Squaxin Island Tribe)

Matt Rakow (Ecology)

Mike Noone (Ecology)

Angela Johnson (Ecology)

\*Attendees list is based on WebEx Call attendance

**Welcome, Introductions, and Committee Business**

**Approval of March meeting summary:** considered final version

* Some edits from Paul Pickett (Squaxin Island Tribe).

**Updates**

* Due to the Governor’s extended stay at home order, expect us to continue to meet virtually. Ecology is continuing to move forward with the planning process without delay.
  + If your entity is impacted by COVID-19 and unable to participate in the planning process let Rebecca know.
* The grant round closed at the end of April, and Ecology received more applications than in the pilot project.
  + There was good amount of project distributed across the state.
* No other updates from committee members.

**Public Comment**

* N/A, no members of the public present on the phone.

**Tribal Treaty Rights**

Paul Pickett requested that the committee have a presentation on tribal treaty rights. Jeff Dickison and Sharon Haensly from the Squaxin Island Tribe gave a presentation that discussed the rights of the tribe outlined in the Treaty of Medicine Creek. Each tribe is sovereign, and as such, each tribe has their own interpretations of laws, and they cannot speak for each other. Key points from the presentation included:

* Treaties do not grant rights; they are a recognition of pre-existing rights.
  + The Medicine Creek Treaty recognizes the Squaxin Islands Tribe rights to fish, hunt, gather food, and have water for their needs, among other things.
* The tribe’s water rights are recognized as a property right.
* The Boldt decision recognized the right of tribes to have fish to harvest, not just “nets in the water”.
  + Part of the tribe’s right to have water for fish on and off the reservation.
* The Squaxin Tribe has a federally reserved water right that operates outside if state law and predates any right created by the state (time immemorial or establishment of the reservation); however it has not been adjudicated.
  + The federal reserve flow is likely more than the state instream flow.
* Many of the basins in the South Puget Sound have instream flows that are established by the State and while those instream flows exist in State law, the potential adjudication of tribal water rights may end up with a different result.
* To protect senior Tribal treaty rights, junior uses could be interrupted, even if municipal or domestic – a confusing situation for junior water rights
* It is entirely likely that adjudication is in the future of the Squaxin Island Tribe because it seems to be the only process in which the state will manage water in accordance with treaty rights.
* If Tribal rights are outside State system, why does the Tribe participate? The plan development process incentivizes participants to work out solutions, and provides opportunities for progress.
* The Squaxin Island Tribe feel strongly that it is important to recognize that offsetting PE wells is not the only purpose of the plan and there is a need to add water for fish and streams.
  + Streams are being dewatered by PE wells that are junior to the instream flow rule.
  + Expect the plan to go substantially beyond the minimum offset suggested by the law.
  + They stated that the committee needs to think outside the box and include “shalls” and “wills” in the plan.
* Squaxin Island Tribe referred to an [article written in response to the Hirst decision](https://app.box.com/s/3qnsstka16rsoggz6j3eo305svz7xo0b), which is available on Box.
* Burt from PGG clarified that permit exempt wells are only exempt from the permitting process, but do have use limitations and a water limit applies.
* A short discussion covered the McCarran amendment, and a request for practical suggestions. The Tribe hopes the group will think outside the box. There’s a lot of need for restoration, so work with available sources of water.

**Projects**

The committee tasked HDR to analyze several projects that were focused in the Clover Creek Subbasin. Chad from HDR provided the committee with updates on the following projects:

* Upper Sequalitchew Restoration
* JBLM Reclaimed Water infiltration
* South Tacoma Channel
* Clover Creek Floodplain Restoration
* Paleochannel mapping tool – will be available soon for committee members to use.
* Landscape Water Conservation Program
* [Chad’s slides](https://app.box.com/s/0uybbxhpdz02e7uhbmkzju4i6wqz5iqa) are located on Box.

Burt from PGG also provided a quick update on the water rights analysis. PGG is still working on the subdivision of water rights and are trying to develop a WebTool that would be available for the committee to use. They will be sharing more information in the next couple of weeks.

**Policy and Regulatory Considerations**

* Rebecca reminded the committee that the recommendations cannot obligate Ecology or any other entity to implement them.
* The committee will proceed with having one section that outlines all the plan recommendations.
  + Committee members discussed potentially using a different term instead of “recommendations.”
* The committee discussed how to structure specific recommendations to Ecology within the plan. Some members would like to keep descriptions general, since implementation is uncertain.
* The committee discussed who should take the lead for plan implementation:
  + Pierce County does not currently have the capacity to help with plan implementation and it is unlikely that they will in the future.
  + Some committee members expressed that they believed Ecology is the best position to lead plan implementation.
    - The Squaxin Island Tribe noted that the experience with 90.82 plans showed that many planning units disappeared after state support ended. Ecology may need to nurse implementation forward to help build capacity for autonomous local leadership.
  + The Chambers Clover Watershed Council does not have the staff or funding to champion implementation by themselves.
  + A committee member suggested that this may be good role for the lead entity.
  + Committee members stated that any group that undertakes the lead in implementation would need extra funding.
* Committee members thought that the metering document was very interesting, but that it needed more development, and that background information from WRIA 10 could be helpful.
* Committee members suggested Ecology draft the “recommendations” section so the committee has something to react to.
  + The Squaxin Island Tribe noted topics have a sequence, so that decisions on certain topics lead to others. For example, enforcement and financing will follow from decisions about issues such as water limits and drought response.
  + Rebecca and Spencer will be working on how to make more progress.

**Project Tracking Process**

Tristan from WDFW presented on the potential to use the Salmon Enhancement Portal to track projects in all WRIA’s.

* This is [“boiler plate” language](https://app.box.com/s/vn4ajpsqsmswn2yzd1hfdqqwv3men9xb) and can be edited for each WRIA.
* Having an umbrella approach to tracking projects in all WRIAs would be beneficial when developing grants and identifying specific project needs.
* WDFW is working on three pilot projects in WRIA’s 11, 22 and 23 to work out any kinks and identify cost associated with plan.
* The Squaxin Island Tribe expressed their support, and noted the need to track offsets to fulfill the “Hirst fix”. They appreciate WDFWs offer for statewide support, and encourage the committee to express support.
* Committee members expressed interest in considering the tool and working statewide on the development and uses of the tool. Stacy Vynne is helping to coordinate a multi-WRIA facilitated meeting to discuss what is needed out of the tool.
* WDFW encourages multi-WRIA discussion so this can be a state wide effort while focusing on local needs.

**Next Steps**

* Rebecca and Spencer will work on a structure to help the committee advance the policy and regulatory recommendations.
* Discuss metering and updated policy and regulatory recommendations document at next workgroup meeting (May 22, 10 am – 12 pm, WebEx).
* If you are impacted by COVID-19 and unable to participate in the planning process, let Rebecca know.
* The next full committee meeting will be held on June 10 from 12:30-3:30, expect it to be on WebEx.
* If any committee members have suggestions or thoughts about a [South Sound Water Master](https://app.box.com/s/f6me60g37568d9x8nlfzc43lqra6tflo) contact Paul Pickett.