# Ecology logo. A state of Washington shape separated into three bands of color; light blue, green, and dark blue. a sun sits in the middle of the light blue band.MEETING SUMMARY

**WRIA 13 Watershed Restoration and Enhancement Committee**

April 20, 2021 | 12:30 p.m. - 3:00 p.m. |committee website

## Location

WebEx**Committee Chair**

Angela Johnson
angela.johnson@ecy.wa.gov**Handouts**

1. Plan Adoption Pathways
2. Final Plan
3. Plan Compendium

## Attendance

### Committee Representatives and Alternates \*

Angela Johnson (*Ecology – Committee Chair)*

Jeff Dickison (*Squaxin Island Tribe*)

Paul Pickett (*Squaxin Island Tribe*)

Kaitlynn Nelson (*Thurston County*)

John Kliem (*Lewis County*)

Donna Buxton (*City of Olympia*)

Cynthia Pratt (*City of Lacey*)

Charlie Schneider (*City of Tumwater*)

Dan Smith (*City of Tumwater*)

Ruth Clemens (*Thurston PUD*)

Noll Steinweg (*WDFW*)

Josie Cummings (*BIAW*)

Dave Monthie (*DERT*)

Sarah Moorehead (*Thurston Conservation District*)

Amy Hatch Winecka (*WRIA 13 Salmon Habitat Recovery Lead Entity*, *ex officio*)

Wendy Steffenson (*LOTT*, *ex officio*)

### Committee Representatives Not in Attendance\*

### Other Attendees\*

Gretchen Muller *(Cascadia Consulting)*

Jimmy Kralj (*ESA*)

Mike Noone (*Ecology*)

Tom Culhane (*Ecology*)

Stacy Vynne-McKinstry (*Ecology*)

Rebecca Brown (*Ecology*)

Chad Wiseman (*HDR*)

\*Attendees list is based on WebEx participation.

## Welcome

Angela and Gretchen kicked off the meeting with WebEx logistics, roll call, and a review of the meeting agenda.

## Updates and Announcements

* The December 2020 and January 2021 meeting summaries were approved over email, no action is needed today.
	+ We will have the same approval process for the meeting summary for this meeting.
* Angela provided updates regarding plan approvals in the 90.94.020 and 90.94.030 processes.
* Ecology will determine the timing of the next round of the Streamflow Restoration Grant program once funding is confirmed by the legislature.
* Angela provided a short summary of corrections and additions made to the plan since it was distributed for local review.
	+ Angela explained that minor revisions such as fixing typos and formatting were made to the plan. Additionally, Angela asked the Committee if there were any concerns including the newly proposed “Appendix L: Streamflow Statistics” that had been distributed to the Committee ahead of the meeting.
		- The Building Industry Association of Washington (BIAW) expressed frustrations that some information was added to the plan after it was distributed for local review, such as the revision to the instream flow rule policy proposed by the Squaxin Island Tribe and Thurston County, the additional “Appendix L: Streamflow Statistics” proposed by the Squaxin Island Tribe, and some documents entities submitted to include in the Plan Compendium.
			* The Squaxin Island Tribe responded with some additional details about the streamflow statistics that were added after the plan went out for local review: the origins of the data (Ecology), and why it was added when it was.
			* Angela confirmed that the information in the newly proposed Appendix L was developed by Jim Pacheco from Ecology, using stream gage data from Thurston County and the USGS.
	+ No entities indicated they opposed the corrections and additions to the plan at this time, and Angela confirmed that those proposed changes would be considered part of the plan that the Committee would vote on later in the meeting.

# Steps to Plan Adoption

* Angela provided an overview of the two pathways to plan adoption, as stated in [the handout distributed with meeting materials](https://www.ezview.wa.gov/Portals/_1962/images/WREC/WRIA13/202104/WRIA13-WREC-PlanAdoptionPathways-09042021.docx) (Plan Adoption Pathways): plans approved by the Committee, and plans not approved by the Committee or not adopted by Ecology by June 30, 2021.
	+ Angela stated that if the plan were not approved by the Committee, under the alternative path in the legislation Ecology would prepare a final plan.  Ecology would start from the baseline minimum requirements in the law, and would consider information developed to this point by the Committee.
* In response to Committee questions, Angela clarified that if the Director of Ecology were to not adopt a Committee approved plan, the plan would then be adopted through the non-Committee approved plan approval pathway.
	+ Angela provided additional clarification that the process for RCW 90.94.020 (which included WRIA 1) did not direct Ecology to prepare a plan, but went straight to rulemaking; however, the process for RCW 90.94.030 (which includes our Committee) directs ecology to prepare and adopt a plan if the Committee cannot locally approve a plan, and initiate rulemaking within 6 months of plan adoption.
	+ DERT expressed frustrations that Ecology has been involved in this process throughout its entire duration, but there is still a chance Ecology could not approve a unanimously adopted plan.
* Ecology responded that they will be voting on the plan today, however this vote is considered preliminary and distinct from the plan review Ecology will undertake if a plan is locally approved and submitted to Ecology for review and agency action in accordance with RCW 90.94.030(3)(c). The Squaxin Island Tribe asked about the SEPA process for non-Committee approved plans.
	+ Ecology said this would likely occur but did not have further information at this time.

## Public Comment

* No public comments were received.

## Committee Member Vote and Statements

* Gretchen outlined voting procedures as per the Committee’s operating principles.
	+ She also noted that some entities have submitted written signing statements ahead of the meeting which have been uploaded on Box, and Committee members are welcome to provide a verbal statement along with their vote.
* Committee members were called upon in the order they are listed in the Streamflow Restoration law to verbally state “approve” or “disapprove” of the plan, and were given the opportunity to make a verbal statement.
* **Washington Department of Ecology**
	+ Approve
	+ Angela thanked the Committee for their work throughout the planning process.
* **Squaxin Island Tribe**
	+ Approve
	+ The Tribe noted there are weaknesses in the plan that need to be address moving forward, but they feel the plan has outlined procedures to address those weaknesses. Despite the fact that more work is needed for projects and their locations to offset impacts, the Tribe sees potential for reaching the intent of the planning process. The Tribe thanked Thurston County for their discussions about rulemaking. They noted their disagreement with Ecology over interpretation of the law, and stated that the Tribe would continue to have those issues and would continue to discuss them.
	+ The draft Plan offers the potential for success, so the Tribe will approve and continue to work towards the goals outlined in the plan.
* **WDFW**
	+ Approve
	+ WDFW has outlined specific concerns in their signing statement.
* **Lewis County**
	+ Approve
	+ The Board of Commissioners has approved the plan and passed a resolution.
* **Thurston County**
	+ Approve
	+ The Board of Commissioners has approved the plan.
* **City of Lacey**
	+ Approve
	+ City Council has approved the plan.
* **City of Olympia**
	+ Approve
	+ The City sees the plan as capturing promise for collaboration and believes the plan will guide the watershed to opportunities to balance growth and water resources into the future.
* **City of Tumwater**
	+ Approve
	+ The City looks forward to continue working with the Committee to implement the plan.
* **Thurston PUD 1**
	+ Approve
	+ Thanked everyone for their work throughout the plan development process.
* **Building Industry Association of Washington**
	+ Disapprove
	+ Thanked everyone for their time. BIAW stated that their members feel that the plan goes outside the scope of the law. They were concerned about items being added to the plan after it was sent for final approval. They believe the plan should focus on new exempt wells and they have concerns about the instream flow rule and policy recommendation. They were hoping the plan would focus on shovel-ready projects and not policies.
* **DERT**
	+ Approve
	+ DERT has submitted a signing statement explaining their stance. They don’t believe the plan follows all elements of the law, but they are impressed with the final plan. DERT is disappointed in Ecology’s interpretation of the law and unwillingness to implement the plan. DERT looks forward to the implementation of the Deschutes Watershed Council and other elements of the plan.
* **Thurston Conservation District**
	+ Approve
	+ In particular, the district appreciates the group’s interest in landowner education and creating non-regulatory and voluntary processes that didn’t exist before. The District looks forward to implementation and engagement.
* **The plan was not approved, with one entity voting to disapprove, and 11 entities voting to approve. The tally of the votes by the Committee is presented below.**

|  |  |  |  |
| --- | --- | --- | --- |
| **Entity** | **Committee Member** | **Approve** | **Disapprove** |
| **Ecology** | Angela Johnson | x |   |
| **Squaxin Island Tribe** | Jeff Dickison | x |   |
| **Department of Fish and Wildlife** | Noll Steinweg | x |   |
| **Lewis County** | John Kliem | x |   |
| **Thurston County** | Kaitlynn Nelson | x |   |
| **City of Lacey** | Cynthia Pratt | x |   |
| **City of Olympia** | Donna Buxton | x |   |
| **City of Tumwater** | Dan Smith | x |   |
| **Thurston PUD 1** | Ruth Clemens | x |   |
| **BIAW** | Josie Cummings |   | x |
| **DERT** | Dave Monthie | x |   |
| **Thurston CD** | Sarah Moorehead | x |   |

**Post-Vote Discussion**

Angela and Gretchen confirmed with the Committee that the plan was not approved, and asked the Committee if there was any discussion on the outcome of the vote or how the Committee would like to proceed.

* **Squaxin Island Tribe**: The Tribe was surprised the plan was not approved and shared their opinion that the entity that stands to benefit the most was the one that voted against the plan.
* **BIAW**: BIAW stated that the policy recommendations will limit homeowners and builders, and that they might hinder development and make home construction more expensive. BIAW hopes that Ecology takes the plan and projects it includes and moves them forward.
* **Thurston Conservation District**: Asked whether or not the Committee could vote again and asked what that process looks like and how it could work with current development timelines.
	+ Angela and Gretchen clarified that the Committee can vote again, working with in the timeline of the June 30, 2021 deadline to have an approved and adopted plan.
	+ The District shared their hope that groups can work together to achieve consensus.
	+ BIAW is open to further conversations regarding the plan, but the policy recommendation on opening up the instream flow rule raises the most concerns for BIAW.
* **City of Tumwater**: Expressed their willingness to entertain conversations about getting to approval and wished the issues raised by the BIAW would have been addressed sooner.
* **DERT**: Stated this was a “blindsided vote” by BIAW. Stated that BIAW did not express these concerns when these issues were initially discussed. They are also concerned about making revisions in the plan and how that would require another approval process which would likely lead to the Committee missing the June 30th deadline. Ecology has been very clear that the provisions in the plan are not required to be implemented. DERT “struggled to understand” why BIAW will reject the plan knowing that this will now move the process to Ecology’s jurisdiction, removing the Committee from their processes.
* **Ecology**: Angela stated that the best chance of getting a plan approved by Ecology is to submit it as soon as possible. Ecology will do everything they can to review a Committee approved plan by June 30th, but the required approval steps mean there is a tight deadline and members should keep that in mind.
* **City of Lacey:** Expressed disappointment that the concerns by BIAW were not expressed during plan development. Additionally, the City of Lacey is unsure as to why the Appendix L addition was an issue considering it only contains technical streamflow data. The City asked the group how they can move forward.
* **Thurston Conservation District**: Appreciates people coming to the table in good faith. Time has been a major constraint throughout the process. They recognized that there have been concerns raised by BIAW but there hasn’t been sufficient time to address all of them during plan development. They expressed interest in whether or not the Committee could pursue consensus after the June 30th deadline, and if the Committee could send guidance to Ecology.
	+ Gretchen noted that it would be helpful to find out what the 1-3 issues are that are “sticky wickets” for BIAW, and if Josie could share those now. If BIAW can’t share them now, Gretchen asked of Josie could follow-up with communication to the Committee to understand what the issues are and if there is room to find consensus.
	+ Angela stated that if the June 30th deadline lapses, Ecology will begin its process to prepare the plan. However, Ecology will consider information provided by the Committee. Committee members can submit information to Ecology management for their review/consideration at any time.
* **Thurston County**: The County Board decided that this plan was better than the alternative to benefit homeowners and builders and believed it was necessary to efficiently allow building to happen in the County. The Commissioners believed that the rulemaking process would include public comment, including allowing the jurisdictions and organizations like BIAW to voice their concerns. Thurston County invited BIAW to talk to the County Commissioners, and offered to discuss with BIAW what they considered in their decision to approve the plan, if that would be helpful to resolve the issue and achieve consensus.
* **BIAW:** BIAW will follow up with written comments to the Committee for clarity.
	+ Instream flow rule:The BIAW did express concerns related to the instream flow policy after the group dispersed for local approval.
	+ BIAW would be more comfortable handing off things to Ecology than approving the plan at this point with elements with which they fundamentally disagree.
	+ Josie will follow up with a written response to the Committee to provide more information regarding the BIAW position on their disapproval of the plan.
	+ Josie offered to speak directly with Committee members and can be reached at 360-352-7800 ext 163.
* **Squaxin Island Tribe**:
	+ From the Tribe’s perspective, BIAW came late to the process, and prior to their active involvement the Tribe had talked to the representative of the Olympia Master Builders, (previous residential construction representative on the Committee) who did not object to instream flow provisions.
	+ There were discussions between the Tribe and the County and they developed a revised proposal based on these conversations in order to find a policy write-up that worked for all parties. The Tribe reached out to BIAW offering to discuss the policy write-up, but did not receive a call back. BIAW had opportunities to object, and opportunities to call another meeting, but the BIAW did neither of those things.
	+ Additionally, Appendix L contains only technical information and there was never any notice of objection from the BIAW prior to today’s meeting.
	+ The Law now requires Ecology to initiate rulemaking, so even though the BIAW chose to reject the plan because of a recommendation about opening up the instream flow rule, it will happen anyway.
	+ The Tribe is not optimistic, given the problems with process, that anything will come from further discussion, but will participate if it happens.
* **DERT**: Asked what the baseline minimum requirements will be that Ecology will use as the starting point for a plan to be adopted under their alternative process?"
	+ Angela stated that if the plan is not approved by the Committee, Ecology must prepare and adopt a final plan, and initiate rule making within six months of plan adoption through the alternate pathway of an Ecology prepared plan.
	+ Angela referred to the information provided in the “Plan Adoption Pathways” handout and stated that there is no timline identified in the legislation for Ecology to finalize the plan.
	+ Ecology does not have specific information on this process yet, but they will start with the minimum requirements of the law and review Committee produced information.
* Josie provided her contact information and will distribute written comments to the Committee by Friday April 23.
* The Squaxin Island Tribe noted their perspective on the irony of BIAW’s postion about rulemaking, and added further clarification. When faced with the closing of the process that did not include rulemaking, the Tribe went out of their way to engage with Thurston County Commission to address that issue. The Tribe wants to make it clear that without the rulemaking recommendation, they would not vote to approve. If BIAW wants that provision removed, the Tribe doubts that there is any further cause for discussion.
* Angela and Gretchen thanked the Committee for this discussion and indicated they would be moving on to the next steps to wrap-up the meeting. They confirmed that the plan was not approved, and that based on the Committee’s discussion there would be no further action to make changes to the plan unless Committee members reached out to them with a path forward for consensus. Gretchen stated that the facilitation team is available to support Committee members in any way helpful and are available to connect 1-1 with Committee members or convene a meeting for the Committee or subset of the Committee if requested by one or more Committee members.
	+ Committee members made the following additional statements:
		- DERT expressed concerns about the timelines and deadlines related to plan approval if additional changes are proposed.
		- Lewis County expressed interest in pursuing a path towards yes. Stated it would be important to talk with Josie and the BIAW to better understand why they are voting this way. There may be an issue of misunderstanding.
		- The Squaxin Island Tribe expressed concern that the problem is bigger than just “happy talk”. They shared their recollection of the process:, that althoughBIAW mentioned some concerns, and responded to the Tribe’s initial contacts to discuss their concerns, they never returned a call to the Tribe to have that discussion. BIAW also didn’t ask for a Committee meeting to discuss the concerns that brought them to disapprove the plan when they had a chance earlier in the process. The Tribe feels that this has soured relationships, and although Committee members want to save the Plan, the process is already damaged.
		- Thurston CD noted that they heard the frustration, but still thought the issues should be discussed.

## Next Steps

* Angela will notify Ecology management that the WRIA 13 Watershed Restoration and Enhancement Plan is not approved at this time, and will send the final draft plan along with any signing statements submitted by entities to confirm their vote.
* Angela will follow-up with the Committee over email to confirm that the plan is not approved and to clarify next steps.
* The BIAW will provide written information to Committee members detailing their reasons for not approving the plan. Angela will distribute this to the Committee as soon as it is received.
* After the Committee reviews information provided by the BIAW, Angela and Gretchen will have check-in calls about the potential to reach consensus.
* Ecology is prioritizing their review for approved plans. The timing of Ecology preparing plans that are not approved by Committees will be dependent upon work and demands from other plans and Committees – Ecology will be evaluating this over the next couple of months.
* The meeting summary will be approved over email.
* Angela and Gretchen thanked the Committee members and their entities, consultants, Ecology technical team, and all workgroup members for their time, hard work, and participation over the last 2.5 years.