Meeting Summary

**WRIA 15 Watershed Restoration and Enhancement**

**Special Committee Meeting**

January 19, 2021 | 12:30 p.m.- 3:00 p.m.| [WRIA 15 Committee Webpage](https://www.ezview.wa.gov/site/alias__1962/37327/watershed_restoration_and_enhancement_-_wria_15.aspx)

**Location**

WebEx

**Committee Chair**

Stacy Vynne

svyn461@ecy.wa.gov

(425) 649-7114

**Handouts**

* Agenda
* Revised WRIA 15 Plan
* Comment Tracker

# Attendance

## Committee Representatives and Alternates \*

Joel Purdy (Kitsap Public Utility District)

Stacy Vynne McKinstry (WA Dept of Ecology)

Greg Rabourn (King County)

Teresa Smith (City of Bremerton)

Dave Ward (Kitsap County)

Zach Holt (City of Port Orchard, alternate)

Dan Cardwell (Pierce County)

Austin Jennings (Pierce County, alternate)

Dana Sarff (Skokomish Tribe)

Seth Book (Skokomish Tribe)

Paul Pickett (Squaxin Island Tribe)

Randy Neatherlin (Mason County)

Russ Shiplet (Kitsap Building Association)

Sam Phillips (Port Gamble S’Klallam Tribe)

Mike Michael (City of Bainbridge Island)

David Windom (Mason County, alternate)

Alison O’Sullivan (Suquamish Tribe)

Bri Ellis (City of Gig Harbor)

Brittany Gordon (WA Dept of Fish & Wildlife)

Nam Siu (WA Dept of Fish & Wildlife)

## Committee Representatives Not in Attendance\*

Great Peninsula Conservancy

Puyallup Tribe

Kitsap Conservation District

Mason-Kitsap Farm Bureau (ex-officio)

Washington Water Service (ex-officio)

## Other Attendees

Susan Gulick (Facilitator)

Angela Pietschmann (Info Manager)

Bob Montgomery (Anchor QEA)

John Covert (Ecology)

Stephanie Potts (Ecology)

Joel Massmann (Suquamish Tribe Consultant)

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

# Updates and Announcements

* January **meeting summaries** will be reviewed and approved at the February Committee meeting or via email.
* **WRIA 7 and WRIA 10 WRE Plans** are out for local review.
* Port Gamble S’Kllalam Tribe sent a letter of concurrence with the Squaxin Island Tribe letter sent to Ecology in December and referenced at the last meeting. (Skokomish Tribe sent a letter of concurrence as well.) Ecology sent a letter of response to three Tribes, acknowledging difference in interpretations, and inviting Tribes to meet with Ecology.
* If an entity plans to submit a statement of intent for implementation, they can be sent to Stacy until the plan is released for local review. Statements can also be submitted at the final plan vote in April for inclusion in the final plan.

# Outstanding Plan Comments

Ecology received an additional ~80 comments on the plan from Port Gamble S’Klallam Tribe and Suquamish Tribe. The Committee discussed open comments of concern on the draft WRE Plan.

**Reference Materials**:

* [Revised Plan](https://app.box.com/s/mxw4iin49fmm4fdiemsz7ero0sghtsmf).
* [Comment Tracker](https://app.box.com/s/ab4cvv2kpihpk8s564bsonzqliqb3lay).

**Discussion:**

Executive Summary

* *The WRIA 15 Committee aimed to find projects closest to anticipated impact, and to offset consumptive use within each subbasin. Table ES-1 presents a summary of the anticipate impacts and benefits by subbasin.*
	+ **Squaxin Island Tribe** is concerned that this language (framed as a goal) is weak. From the Tribe’s perspective, it is essential that consumptive use is met at the subbasin level (more than just a goal). [discussion continued further in Chapter 3 below]

Chapter 1 – Plan Overview

* *Washington State follows the doctrine of prior appropriation, which means that the first users have rights senior to those issued later. This is called “first in time, first in right.” If a water shortage occurs, senior rights are satisfied first and the junior right are curtailed. Seniority is established by priority date — the original date a water right application was filed, or the date that water was first put to beneficial use in the case of claims and the groundwater permit exemption. Although groundwater permit-exempt uses do not require a water right permit, they are always subject to state water law. In some instances, Ecology has had to regulate permit exempt water users when they interfere with older, “senior” water rights, including instream flow rules. More information is available on the Department of Ecology’s website:* [*https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-availability*](https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-availability)*.*
	+ **Port Gamble S’Klallam Tribe** believes this text addresses concerns raised for this purpose (i.e., no exemptions for PE wells.).
	+ **Squaxin Island Tribe** recommends putting into a call out box in lieu of a footnote. Suquamish Tribe agrees.
	+ **Next step:** Language put into call out box.

Chapter 2 – Watershed Overview

* *Past timber harvest and ongoing residential and commercial development have removed forest and riparian cover and increased impervious surfaces in most areas of the Kitsap Basin.*
	+ **Suquamish Tribe**: Include hydrologic maturity and effects on evapotranspiration and streamflows under impacts of timber harvest. We know young forests use more water than mature forests. In projects section, consider including language around a program that would incentivize foresters to lengthen stand rotations.
	+ **Kitsap County** agrees. Include additional information on interflow, loss of duff layer, and shallow groundwater movement. **Suquamish Tribe** agrees.
	+ **Squaxin Island Tribe** developed a memo about stand age. Could use for citations or add to compendium.
	+ **Next Step:** Citation or language will be sent to Ecology for inclusion; cite the compendium.
* *In establishing instream flows by regulation, Ecology recognized that the recommended regulatory flows were higher than the flows normally seen in the stream and as such, cannot be met, 100 percent of the time. Instead, the intent of the regulation was to protect streams from further depletion (e.g., through subsequent appropriations) when flows approach or fall below the recommended discharges (Ecology 1981).*
	+ **PGST** noted the Tribe may disagree with this position.
	+ **Squaxin Island Tribe** noted the language does not quite get at the point. The intent of the regulation is to prevent depletion. Regulations on their own do not do anything. Looking for more affirmative statement from Ecology (e.g., “Ecology recognizes legal obligation to protect streams from depletion). Only including the intent of regulation is a more passive statement. Would like to see something more affirmative (e.g., how does the regulation provide a legal obligation for Ecology to protect streamflows from impairment by junior water rights).
	+ **Next step:** Ecology will discuss, but unlikely to be able to speak to legal obligation in the plan.
* *Additional water quality assessments are conducted in WRIA 15 such as by Kitsap County, City of Bainbridge Island, and the South Sound monitoring program. The Ecology Water Quality monitoring program is provided as an example of the type of information collected.*
	+ **Suquamish Tribe** thinks this language is a good starting point. Requests Ecology works with agencies / tribes / local jurisdictions to ensure not missing more up to date information.
	+ **Next step:** Ecology is seeking specific language for partners to include, but as a starting point will note that Ecology information may be out of date.

Chapter 3 – Subbasin Delineation

* *The WRIA 15 Committee set a goal of using the subbasins as boundaries for finding projects closest to anticipated impacts (i.e., finding enough offset benefit projects by subbasin to offset anticipated consumptive use). This approach is further discussed in Chapter 5.*
	+ **Squaxin Island Tribe** proposed the following replacement language: “The WRIA 15 Committee set a goal of using the subbasins as boundaries for finding projects closest to anticipated impacts (i.e., finding enough offset benefit projects by subbasin to offset anticipated consumptive use). The WRIA 15 Committee determined that project offset benefits must exceed PE well growth CU in each subbasin, and through plan implementation will find, develop, and implement projects closest to anticipated impacts (i.e., finding enough offset benefit projects by subbasin to offset anticipated consumptive use).” The Tribe noted there are five different tribes with different usual and accustomed areas that align with subbasins. Critical that Committee is clear that offsets must be met in each subbasin. There is a linkage between projects and adaptive management in subbasins. There are insufficient projects in South Sound. Meeting impacts in each subbasin, allows Committee to find more projects through the adaptive management process. Further project development needed in subbasins.
	+ **Kitsap County** noted this proposed languagedoes not align with prior Committee discussions. Achieving offset at subbasin level was a goal; if cannot meet at that granular subbasin level, get as close as possible (see PGST language below).
	+ **Kitsap and Mason Counties** are opposed to the language proposed by Squaxin Island Tribe.
	+ **Ecology** revised the NEB chapter to be consistent with what Squaxin is indicating. Tried to up frank that the Committee did not achieve its goal of meeting CU estimate offset need and some subbasins have a higher need than others. Through adaptive management and implementation, the plan aims to reach that goal. While we are meeting the intent of the law (according to Ecology’s interpretation), we fell short of what the Committee hoped to achieve.
	+ **PGST** noted thatin lieu of a rigorous approach to subbasin delineation and site-specific analysis of streamflow depletion by wells, PGST has advocated for a nested approach to subbasin delineation and mitigation sequencing. The approach would first estimate the impact to streamflow at a fine scale appropriate to the unique geography of the Kitsap Peninsula. These estimates could be lumped into an intermediate scale basin and finally at a regional scale more oriented to the receiving water bodies (North Hood Canal, South Hood Canal, Mid-Puget Sound, South Puget Sound). Priority for offsets would be highest at the fine scale, but if that were infeasible, the intermediate scale would be appropriate given a larger relative benefit to the ecosystem. If the intermediate scale were infeasible, the last resort would be to offset within the same region. PGST proposed the watershed assessment units delineated in Ecology’s Puget Sound Watershed Characterization Project for the fine scale analysis unit. The Puget Sound Watershed Characterization Project delineates subbasins into watershed assessment units at a scale appropriate to the unique geography of the Kitsap Peninsula with its many small streams. The project is intended for restoration planning and appears well suited to the task of restoring streamflows to mitigate impacts from permit exempt wells in how it assesses the importance of a subbasin to water flow, rating functions delivery, surface storage, recharge, and discharge. Requested inclusion of a map in this chapter that shows the various scales of analysis needed (map with high-level subbasins, then further division at HUC and AU scale). Provide context on how the Committee intends to mitigate point of impact.
	+ **Next Step:** Ecology will incorporate more of the language that Squaxin Island Tribe provided, but retaining language around the goal. Ecology will include language regarding a further refined assessment of impacts and benefits as part of adaptive management.

Chapter 4 – New Consumptive Water Use Impacts

* **PGST**: The legal limit approach assumes the 5,000 gallons per day per well would be used each day of the year (or 950 gallons per day per connection). One might argue that the actual water use is much less, especially given seasonal difference in irrigation requirements. However, per Ecology’s policy interpretation (WR Policy 2094), the legal limit is assumed to be an annual average calculation, not a single day limitation. This suggests the domestic well would be allowed 15,000 gallons per day over a 4-month growing season after accounting for average daily indoor use of 65 gallons per day. Given this expanded right, it is essential that PE wells be subject to curtailment when instream flows are impaired. The legal limit should be expressed as the upper bound of a range of consumptive use estimates, and if Ecology determined it would offset wells without any condition of curtailment, it must meet the necessary offset target of the legal limit of all PE wells.
	+ **Kitsap PUD** noted well users cannot exceed 5,000 gallons per year. It is a limit, not an average. However, people could use up to 4,999 gpd every day. Instantaneous; cannot exceed it.
	+ Members of the committee spoke to the limitations of the law. RCW 90.94.030 reduces the annual average daily use to 950 gallons per day per connection. Each well is limited to 5000 gallons per day and ½ acre outdoor watering. RCW 90.94.030(4)(B) states: “*Except as provided in (b) of this subsection, an applicant may obtain approval for a withdrawal exempt from permitting under RCW*[***90.44.050***](http://app.leg.wa.gov/RCW/default.aspx?cite=90.44.050)*for domestic use only, with a maximum annual average withdrawal of nine hundred fifty gallons per day per connection*.”

Chapter 5 – WRIA 15 Projects

* *5.2.1 Managed Aquifer Recharge Package*
	+ **Suquamish Tribe**: The use of the word "passive” is misleading if rerouting streams is included. The Tribe does not support the rerouting of streams or construction of instream facilities associated with proposed MAR projects. These types of projects were utilized in the ‘80s and ‘90s regarding stormwater and were found to be highly problematic in terms of maintenance and fish passage. Only constructed wetlands should be utilized for MAR facilities (not naturally occurring wetlands). If stormwater will be utilized in MAR facilities that water will need to be appropriately treated.

**WDFW** agrees with Suquamish Tribe on diversions. Consider addressing in the monitoring and adaptive management sections.

**Kitsap County** agrees with Suquamish Tribe on diversions.

**Next Step:** Ecology will add additional language around the types of MAR projects the committee does and does not support.

* *Kingston Treatment Plant Recycled Water (Kitsap County)*

**Suquamish Tribe** noted the offset value of 328 AFY is based on calculated amount of infiltration at facility; the underlying assumption is that the total amount will benefit stream. Aspect’s modeling work looked at this project and where the infiltrated water would go. The rest of the water goes to non-stream discharge points. Consider reducing potential offset to a value more consistent with what was described in Aspect report.

**Next Step:** With no objections from the committee, Ecology will change the adjusted offset benefit for the project to 91.8 AFY.

* *5.2.2 Community Forest Package*

**Suquamish** **Tribe**: Although the community forest project regarding harvest techniques will likely provide some benefit in the future, the likelihood of the benefits occurring during the 20-year period is small. Projects used as offsets are to have high certainty of implementation. The community forest projects do not. Include as a habitat project but do not include as offset project.

* + - **Kitsap County** asked whether the Tribe’s perspective would differ by forest? For example, a forest stand already 100 years old, never to be harvested differs from a scenario where trees are clear cut and replanted. Agree in later scenario; would not see benefit for 80 years. First scenario could have a lasting benefit.

**Joel Massmann (Suquamish Tribe Consultant)** noted the offset benefit number was already reduced due to this inherent uncertainty; potential benefits are significant and worth including in the plan.

**WDFW** agrees that the offset uncertainty is concerning. WDFW is comfortable keeping the project for NEB. Concur with Kitsap County: If this project had identified specific sites, it may be more certain.

**Kitsap County** noted these projects do not necessarily achieve net gain by purchasing the timber rights, but it does prevent future degradation.

**PGST** is interested in seeing the underlying analysis; Tribe does not anticipate concerns.

**Suquamish Tribe** would be concerned if any parcels are already under contract with Pope Resources/Rayonier and allowed to be clear cut. Asterisk parcels that have agreements so it is clear.

**Kitsap County agrees**. Footnote that these projects are subject to existing agreements.

**PGST** is uncomfortable with the Port Gamble Heritage Park Timber Rights Acquisition Project; does not appear to be much benefit to streams. Surrounded by saltwater with limited benefit to streams.

**Kitsap County** noted this project would benefit smaller tributaries.

**Ecology** included example of the types of sites the Committee may go after in the future; does not necessarily mean the Committee would go after each site. Can include target acreage for each basin based on conversations with partners there.

**WDFW** asked what happens if these specific sites fall through? How would adaptive management work? Would like more detail (e.g., when were these specific forests last harvested?) to address uncertainty.

**PGST**: Channel head perennial flow initiation and forest practice rules. Could be a strategy to target those locations. <https://link.springer.com/article/10.1007/s00267-005-0311-2>

**Next step**:Ecology will add some language about considering past and future forestry practices.

* *5.2.3 Rain Garden and Low Impact Development Package*
	+ **Suquamish Tribe**: there is high uncertainty surrounding the actual benefit of rain gardens and LID on larger parcels in the rural areas. Rain Gardens and LID that have offsets that have been calculated, assuming all stormwater systems discharge to surface water, will likely significantly over-estimate the potential benefit of the project. Offsets should only be included on projects where they are known to occur. Offsets should not be included for properties where any potential offset discharges to a stormwater facility.
	+ The revised calculations already accounted for current infiltration with benefits from projects currently on storm drain.

**Joel Massmann (Suquamish Tribe Consultant)** appreciates Ecology’s revisions; there is an outstanding question around whether this project will be limited to systems connected to stormwater facilities that drain into surface water, rather than draining into an infiltration facility. Tribe thinks systems that drain to surface water features are viable candidates, not systems currently draining to infiltration ponds/other stormwater facilities.

**Ecology** will work include an additional note in the project description about the types of areas to focus.

* *5.2.8 Koch Creek Regional Stormwater Facility*
	+ **Suquamish Tribe** has concerns with this project and would like it removed. There is an upper stormwater pond (used to be natural wetland) a stormwater pond below, and an instream stormwater pond. Unclear how this project would further improve/restore.

**Next Step**: Remove from project list.

* *5.2.9 Ridgetop Boulevard Stormwater*

**Suquamish Tribe** has concerns with this project. Where does this project drain? Does the project have an instream stormwater facility? Could potentially benefit stream with stormwater pond.

**Next step**: Anchor QEA and Ecology will follow up and connect with Kitsap County and Suquamish Tribe.

* *Mason County Rooftop Runoff Infiltration Project*

**Suquamish Tribe** and **WDFW** do not support this project. Ecology provided them with updated materials/project write-up/calculations. Mason County requested that this project be removed from inventory entirely if not being included as an offset.

**Next Step**: Remove from project list.

Chapter 6 – Additional Plan Recommendations

* *Monitoring and Research*

**PGST**: monitoring is good, but unless it triggers a response, it is just information. ISF rules are consistently not being met. If declining trend in streamflow, action needs greater urgency. Five-year review used in cleanup action plan for toxic cleanups. If available data shows goals not being achieved, leads to reconsideration of approach overall. **Susan (Facilitator)** noted there is a reference in Reporting section; can link the two concepts better.

**Next Step**: Ecology will link the recommendations.

*Purpose: The WRIA 15 Committee desires comprehensive monitoring data on the overall health of the watershed, including status and trends.*

**Mason County** requests deletion of “comprehensive.”

**Squaxin Island Tribe** requests deletion of “overall health.”

Chapter 7 – Net Ecological Benefit Evaluation

* **Squaxin Island Tribe** would like to emphasize restoring streamflows. Include language that says implementation should include further project development to ensure streamflows restored in every subbasin. Important to reiterate need for project development to offset CU in each subbasin.

# Closing: Next Steps and Action Items

* Upcoming Committee meetings:
	+ Monday January 25th, 10am to 1pm (confirmed)
	+ Thursday, February 4th, 9:30am to 12:30pm (if needed)
* Ecology will upload draft plan to Box.
* Ecology will send January meeting summaries for review/approval via email.