

# ECOLOGY SOUTHWEST REGION UPDATE ON ACTIVITIES SINCE COVID-19 “STAY HOME-STAY SAFE DIRECTIVE IMPLEMENTED IN MARCH 2020



**Mike Gallagher**  
**Southwest Region Section Manager**

Water Resources Program  
Washington State Department of Ecology

*Thurston County Water Utility Purveyor Technical Committee Meeting – June 5, 2020*



# Overview

- Update on RCW 90.94 (Streamflow Restoration Act aka “Hirst Fix Legislation”)
- Technical Assistance on “nose pumps” questions from Conservation Districts in SW Region
- 6<sup>th</sup> year for curtailments in Chehalis Watershed (WRIA 22/23)
- SW Staff all teleworking since March 16, 2020

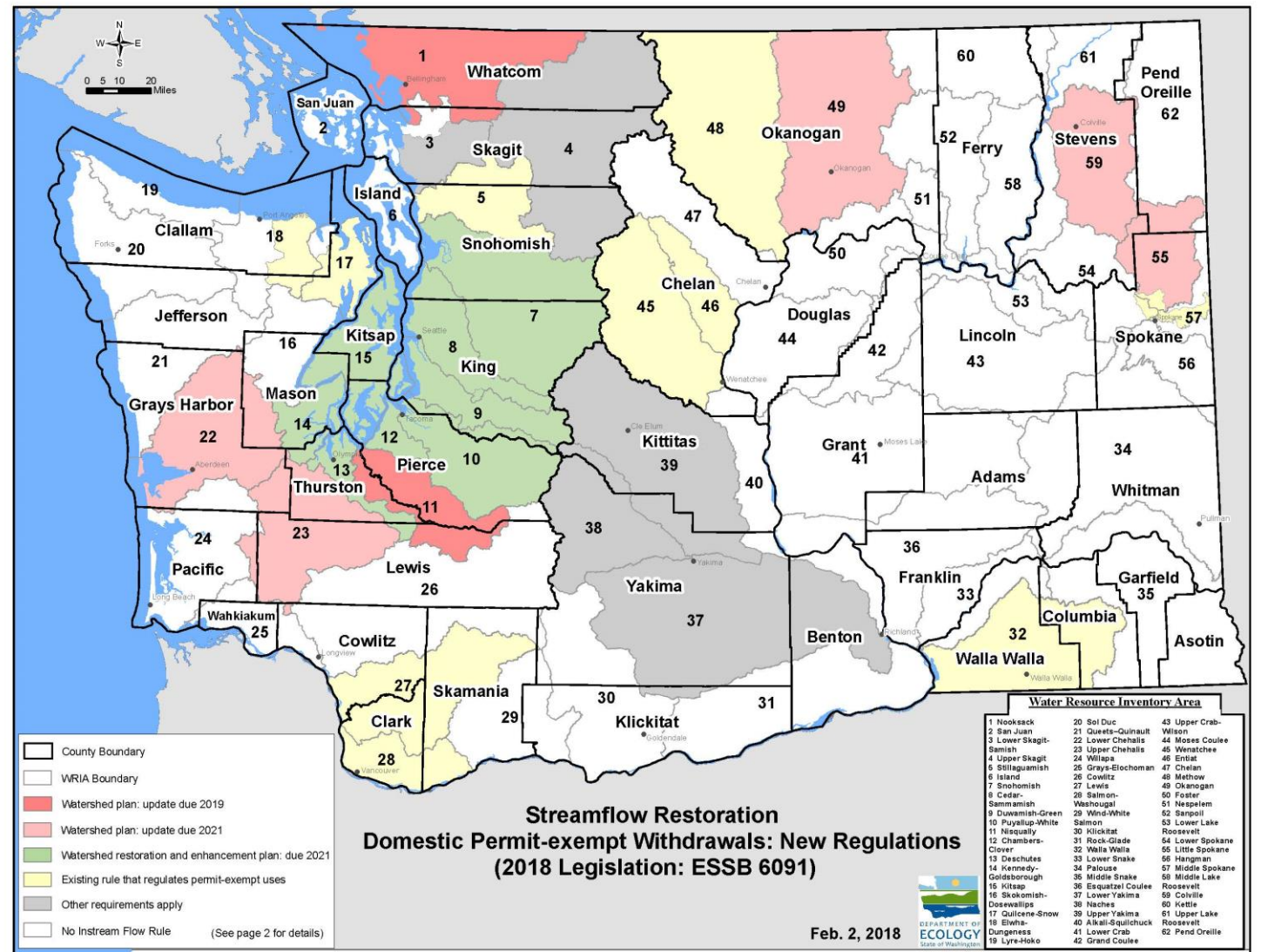


# Overview of RCW 90.94

- Streamflow Restoration Act law allows rural growth to continue ahead of the water for water solutions
- Law primarily impacts future permit exempt wells and building permits in the 15 “pre-2000 rule” watersheds:
  - WRIAs 1, 7, 8, 9, and 15 in NW Region,
  - WRIAs 10, 11, 12, 13, 14, 15 and 22/23 in SW Region [[WRIAs 11, 13, 14 and 23 in Thurston County](#)]
  - WRIA 49 in Central Region
  - WRIAs 55 and 59 in Eastern Region
- It lays out these interim standards that will apply until local committees develop plans to be adopted into rule:
  - Allows a maximum of 950 or 3,000 gallons per day for domestic water use, depending on the watershed.
  - Establishes a one-time \$500 fee for landowners building a home using a permit-exempt well in the affected areas.
- It retains the current maximum of 5,000 gallons per day limit for permit-exempt domestic water use in watersheds that do not have existing instream flow rules.
- It invests \$300 million over the next 15 years in projects that will help streamflows and fish.



- One year timeframe in WRIAs 1 and 11
- Some basins rely on Chapter 90.82 RCW planning units
- Ecology invites entities in other basins for planning committees
- Basins with instream flow rules that regulate permit-exempt uses
- “Other” requirements





# Implementing RCW 90.94

## *Ongoing Actions...*

### Ecology's role:

- Lead and participate in planning.
- Evaluate and approve (Adopt) plans.
- Award financial support for selected of projects.

### Ongoing steps *(since January 19, 2018)*:

- Staffing (added about 12-15 new staff statewide)
- Developed grant application funding criteria
- Defined Net Ecological Benefit
- Launched planning groups in designated WRIAs (for SW – WRIAs 10, 11, 12, 13, 14, 15, 22/23)
- Launched a 10-year metering pilot study in WRIA 18 (Dungeness)
- Developed policy and guidance
- Adopted grant funding rules and an updated instream flow rule for WRIA 1 (Nooksack)



# Streamflow Improvement Solutions

- Purchase/Retire Senior Water Rights
- Off channel storage projects
- Aquifer recharge
- Water use efficiency programs
- Water banks/water markets/exchanges
- Metering
- In-channel storage projects
- Floodplain restoration
- Using high flow/flood management as a form of aquifer recharge
- Purchase parts of existing municipal water rights for mitigation
- Focus growth near existing public water systems
- Convert surface water diversions to groundwater sources
- Streamflow augmentation projects
- Deep aquifer withdrawals
- extend piped water for public delivery or to augment low flow conditions in small streams
- Increase stream gaging and streamflow monitoring



## Thurston County – Rochester Stormwater Conveyance Project – a \$1.2m grant



Stormwater  
Infiltration Pond in  
WRIA 23

Designed to  
increase infiltration  
by 24 AFY in the  
Black River  
watershed (a  
tributary to the  
Chehalis River)

Recharge is better  
timed for summer  
low flow periods in  
the Black and  
Chehalis Rivers



## Streamflow Restoration Grant Applications submitted in Southwest Region for 2020 Grant Round

	WRSRP-2020-MCPUD1-00003	SWRO	14	Water Resuse
	WRSRP-2020-TacoES-00004	SWRO	12	Stormwater Infiltration: Feasibility
→	WRSRP-2020-NiRiFo-00007	SWRO	11	WRIA 11 Project Planning and Development
→	WRSRP-2020-NiLaTr-00019	SWRO	11	WRIA 11 Water Rights Assessment
	WRSRP-2020-CICoPW-00021	SWRO	28	Floodplain Restoration
	WRSRP-2020-Sumner-00023	SWRO	10	Tailrace Reconfiguration and Habitat Enhancement (Foster Pilot)
→	WRSRP-2020-NiLaTr-00028	SWRO	11	Floodplain Restoration: Phase - Land Acquisition and Protection
	WRSRP-2020-Centra-00033	SWRO	23	Creek and Floodplain Restoration
→	WRSRP-2020-TCoPED-00046	SWRO	11	MAR: Feasibility through Design
→	WRSRP-2020-CaFoCo-00047	SWRO	11,26,27,2	Beaver Reintroduction, BDAs
	WRSRP-2020-ClaPUD-00050	SWRO	27	
→	WRSRP-2020-SqIsTr-00060	SWRO	14	Water Right Acquisition
	WRSRP-2020-CICoCD-00068	SWRO	18	Off-Channel Reservoir
	WRSRP-2020-QuInNa-00089	SWRO	23	Water Right Acquisition Feasibility
	WRSRP-2020-JeCoEH-00104	SWRO	17	Land Acquisition, Well Decommission, Habitat Restoration
→	WRSRP-2020-NiRiFo-00125	SWRO	11	WRIA 11 Restoration Strategy and Project Prioritization
→	WRSRP-2020-NiCoFo-00130	SWRO	11	Land Acquisition
→	WRSRP-2020-NiCoFo-00131	SWRO	11	Land Acquisition
→	WRSRP-2020-ThCoWR-00133	SWRO	11	MAR, Stormwater
	WRSRP-2020-JeCoPH-00136	SWRO	17	Land Acquisition, Well Decommission



April 24, 2020

## Chehalis Basin Watershed Management Plan Update



## Permit-Exempt Well Projections and Consumptive Use Estimate “Second Reading” Decision

- Permit-exempt well projections = 4,555 new connections
  - Based on past building permits, OFM forecasts, and TRPC forecasts (Thurston Co.)
  - Validated against actual well fees collected by counties over 2018-2019
- Total consumptive use estimate:
  - 0.70 cubic feet per second
  - 504.8 acre-feet per year
  - Consumptive use estimates based on Ecology-recommended references and Chehalis-specific yard sizes, watering practices, and turf irrigation requirements
  - Average irrigated yard size = 0.074 acre per home (includes many with no irrigation)
  - *Note this estimate is without added safety factor*



# Nisqually

## Projected Private Wells

2,987 new private well connections projected (2018-2038)

1.03 cfs in projected consumptive use

## Offsets Identified in Approved Plan

A mix of projects: water source switch, water right acquisitions, adding existing permit exempt well users to muni. system, managed aquifer recharge, and floodplain restoration & protection.

2.11 cfs in offsets

## Plan Adopted by WA Ecology

Reasonable assurance that offsets meet Net Ecological Benefit and will occur.



**Ohop Creek**





# Schedule of Section 020 Watershed Committee Meetings

*Watershed Planning Units established under RCW 90.82  
The "initiating government" is the lead and Ecology is a member of each planning unit*

WRIA	Initiating Government	Meeting Frequency	Adoption Date of Amended Plan
11 - Nisqually	Nisqually Tribe	N/A	<b>PLAN ADOPTED</b> February 1, 2019
22/23 – Lower/Upper Chehalis	Chehalis tribe (funded via Grays Harbor County)	Monthly	<b>Committee meeting via Zoom as scheduled since March 2020</b> February 1, 2021



## Section 030 Watershed Committee Meetings *“Watershed Restoration and Enhancement Committees”*

WRIA	Lead Agency	Meeting Frequency	Adoption Date of Amended Plan
<b>10 – Puyallup</b> Pierce County, King County	Ecology	Monthly (with subgroups meeting separately)	June 30, 2021
<b>12 – Chambers/Clover</b> Pierce County	Ecology	Monthly (with subgroups meeting separately)	June 30, 2021
<b>13 – Deschutes</b> Thurston County	Ecology	Monthly (with subgroups meeting separately)	June 30, 2021
<b>14 – Kennedy/Goldsborough</b> Thurston County, Mason County	Ecology	Monthly (with subgroups meeting separately)	June 30, 2021
<b>15 – Kitsap</b> Kitsap County – NW Region Pierce and Mason Co.’s – SW Region	Ecology (NW Region)	Monthly (with subgroups meeting separately)	June 30, 2021

All Section 203 Committees in SW and NW Regions are meeting via Skype or Zoom since March 2020 and will continue to do so for the foreseeable future



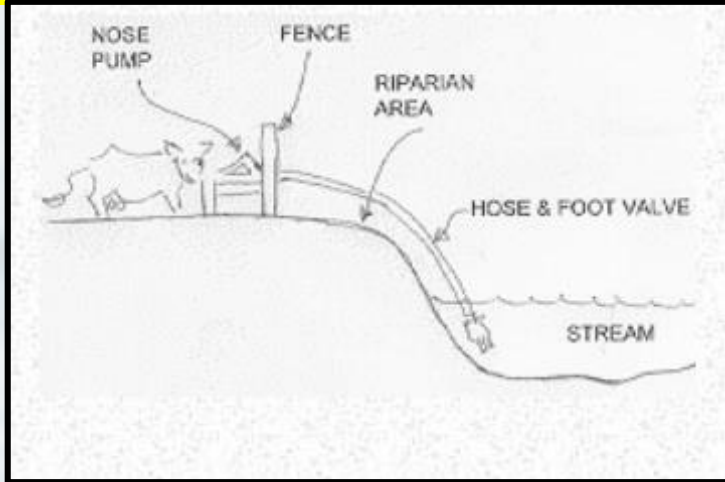
# Watershed Restoration and Enhancement Committee membership

Ecology to chair the watershed restoration and enhancement committee and invite the following entities to participate:

- A representative from **each federally recognized Indian tribe that has reservation land** within the water resource inventory area (WRIA);
- A representative from **each federally recognized Indian tribe that has a usual and accustomed harvest area** within the WRIA;
- A representative from the **Department of Fish and Wildlife**;
- A representative designated by **each county** within the WRIA;
- A representative designated by **each city** within the WRIA;
- A representative designated by the **largest irrigation district** within the WRIA;
- A representative designated by the **largest publicly owned water purveyor providing water** within the WRIA that is not a municipality;
- A representative designated by a **local organization representing the residential construction industry** within the WRIA;
- A representative designated by a **local organization representing environmental interests** within the WRIA; and
- A representative designated by a **local organization representing agricultural interests** within the WRIA.



# Technical Assistance to SW Conservation Districts regarding Nose-Pumps



POL-1025

## WATER RESOURCES PROGRAM POLICY

Resource Contact: Policy and Technical Support Section

Effective Date: 10/7/94

Revised: 12/2/94

References: Chapter 90.03 and 90.22 RCW

### POLICY FOR CONVEYING STOCKWATER AWAY FROM STREAMS TO PROTECT WATER QUALITY

**Purpose:** To provide a simple, consistent response to water right related issues when conveying stockwater away from streams to protect water quality and stream habitat.

**Application:** This policy is to provide guidance to all water resources staff when responding to inquiries or inspecting surface water diversions intended to remove livestock from streams for the purpose of protecting water quality and stream habitat. This policy does not apply to stockwatering relating to feedlots and other activities that are not related to stock grazing land at more than the lands carrying capacity.

1. Ecology shall encourage conveyance of stockwater away from streams for the purpose of protecting water quality.

The Department of Ecology recognizes that removing livestock from streams will protect water quality and improve vegetative zones associated with stream banks. The change of water right process (90.03.380 RCW) will not be required when small amounts of water consistent with historic practice are diverted (screened and piped) to nearby stockwater tanks for consumption by livestock. If a float or demand type valve is not used, the tank overflow must return to the same source, at or near the point of diversion. The stock tank must serve no greater number of stock than historically range that parcel of property. The quantity consumed from the stock tank should not exceed the quantity consumed if the stock drank directly from the stream.



Technical  
Assistance to SW  
Conservation  
Districts  
regarding  
Nose-Pumps

## Nonpoint Activity Update

Southwest Region  
June 2020



### Program Updates

#### Water rights and options for off-stream watering of livestock

There have been some misunderstandings around Ecology's 1994 policy on conveying stockwater from streams to protect water quality. <https://apps.wa.gov/ecology/docs/WaterRights/wrwebpdf/pol1025.pdf> The current interpretation of this policy is that because it states a "change of water right process...will not be required", this implies that there is already an existing water right. While the amount of water supplying a nose pump may be minimal, it is still considered a diversion from a stream. According to state law **any** diversion requires a water right from Ecology. (RCW 90.03.250) The intent of Ecology's Policy 1025 is to encourage the installation of nose pumps and eliminate the need for filing a water right **change** application to authorize the new point of diversion.

Fortunately property owners have several options to provide off-stream watering for their livestock that do not require a water right; they could collect rain water in a tank, use water from a well, haul in water from another source, or lease water from someone with a nearby water right. Even in some "closed basins" where all the water rights have been allocated, it may still be possible to get a right to water livestock from surface water. Ecology's water rights staff will provide further clarification in the coming months. Until then, please contact Opal Smitherman [Opal.Smitherman@ecy.wa.gov](mailto:Opal.Smitherman@ecy.wa.gov) (360) 407-6859 or Jacquelyn Metcalfe [Jacquelyn.Metcalfe@ecy.wa.gov](mailto:Jacquelyn.Metcalfe@ecy.wa.gov) (360) 407-6471 for more information.



**6<sup>th</sup> year in a row  
Curtailment Notices issued in the  
Upper and Lower Chehalis  
Watersheds**

- **Affects 93 junior\* water right holders with surface water diversion for Irrigations purposes only**
- **Does not affect diversions for domestic use or for stockwater use**
- **Also, curtailment notices sent to 4 water ski lake facilities**

\* Junior means the water right is younger than the 1976 Chehalis Instream flow regulation (WAC 173-522)



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300  
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

May 1, 2020

Dear Junior Water Right Holder:

Re: Notification to Restrict Surface Water Use

Currently minimum instream flows are not being met for the Chehalis, Newaukum, Satsop and Wynoochee Rivers. Managing our state's water resources, including instream flows in rivers and streams, is a critical part of preparing for and solving water resources emergencies. We have to ensure as river flows decrease people, farms, and migrating fish have adequate water supplies. We expect flows to decrease further as the summer continues.

You are receiving this notification letter because our records show that you have a surface water right within the Chehalis River Watershed issued with provisions/restrictions to protect river flows that include existing senior water right holders. These restrictions are in accordance with Chapter 173-522 of the Washington Administrative Code (WAC) – Water Resources Program in the Chehalis River Basin, WRIA's 22 and 23. This instream flow regulation requires that all water right holders with surface water rights junior to the 1976 adoption date of the regulation cease diverting water from the following rivers if minimum instream flows set in WAC 173-522 are not being met:

- Chehalis River
- Newaukum River
- Satsop River
- Wynoochee River



# COVID-19 Impacts

- Since March 16, 2020 – the Department of Ecology has been essentially 100% “teleworking” from our homes.
- ALL Ecology buildings (HQ and Regional Offices in Lacey, Bellevue, Spokane and Yakima, Field Offices in Vancouver, Bellingham and Richland have been closed to the public.
- Very limited essential staff (IT support, Regional Office administrative support, select fiscal and payroll staff, limited Spill response staff, limited Dam Safety staff and (as of May 18) Regional field staff: Water Resources technical assistance/enforcement and well construction inspectors, Water Quality permit inspectors, Hazardous Waste inspectors and a few other essential staff have limited access to their building. Field staff assigned a state car for field work.
- Transitioned from 100% office to 100% teleworking capability on about a week with detachable laptop computers and work issued iPhones.
- Conducting meetings via Skype, Zoom and telephone conference calls



# 2020 Challenges, Opportunities and Responsibilities

- Potential Campbell and Gwinn violations (exempt well “daisy-chaining”)
- Outcome of Foster Pilot effort – will some degree of “out-of-kind” mitigation be allowed for new water right applications in watersheds with instream flow rules?
- Regional Permit backlog: 55 Change Applications and 675 New Applications
- 20+ Cost-Reimbursement Agreement contracts in process
- New Streamflow Restoration Grant Application/Award process - ~20 application in SW Region under review/scoring with ~60 other applications statewide for \$22m in available funding
- Sending out a new round of Target Application Processing letters in WRIA 28 and 27
- Ongoing (daily) customer service and technical assistance via e-mail, phone, in person meetings and unscheduled walk-ins to SWRO
- Ongoing permit maintenance ~100 permits due for extension request reviews in 2020
- Ongoing Water System Plan reviews received from DOH-ODW
- Ongoing maintenance and updating the water metering/water use database
- Ongoing maintenance and updating the WRTS database
- Ongoing well construction inspections, well variance requests, and updates to the Well Log database



**Questions?**

**Thank you**

**Mike Gallagher**  
**Department of Ecology**  
**Water Resources Program**

**(360) 407-6058**  
**[Mike.Gallagher@ecy.wa.gov](mailto:Mike.Gallagher@ecy.wa.gov)**



DEPARTMENT OF  
**ECOLOGY**  
State of Washington