

ECOLOGY SOUTHWEST REGION UPDATE ON ACTIVITIES

Mike Gallagher
Southwest Region Section Manager

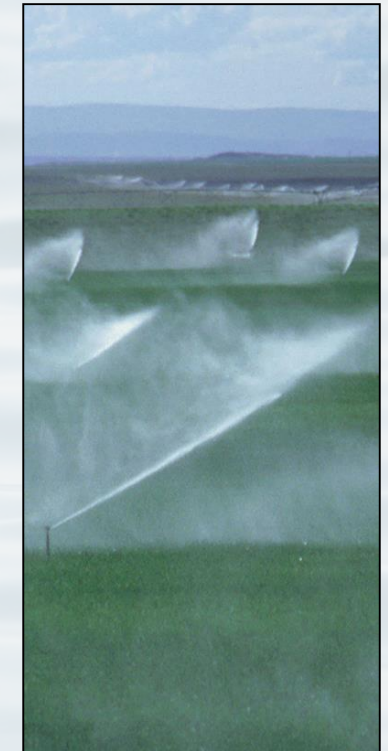
Water Resources Program
Washington State Department of Ecology

Thurston County Water Utility Purveyor Technical Committee Meeting – Oct. 9, 2020

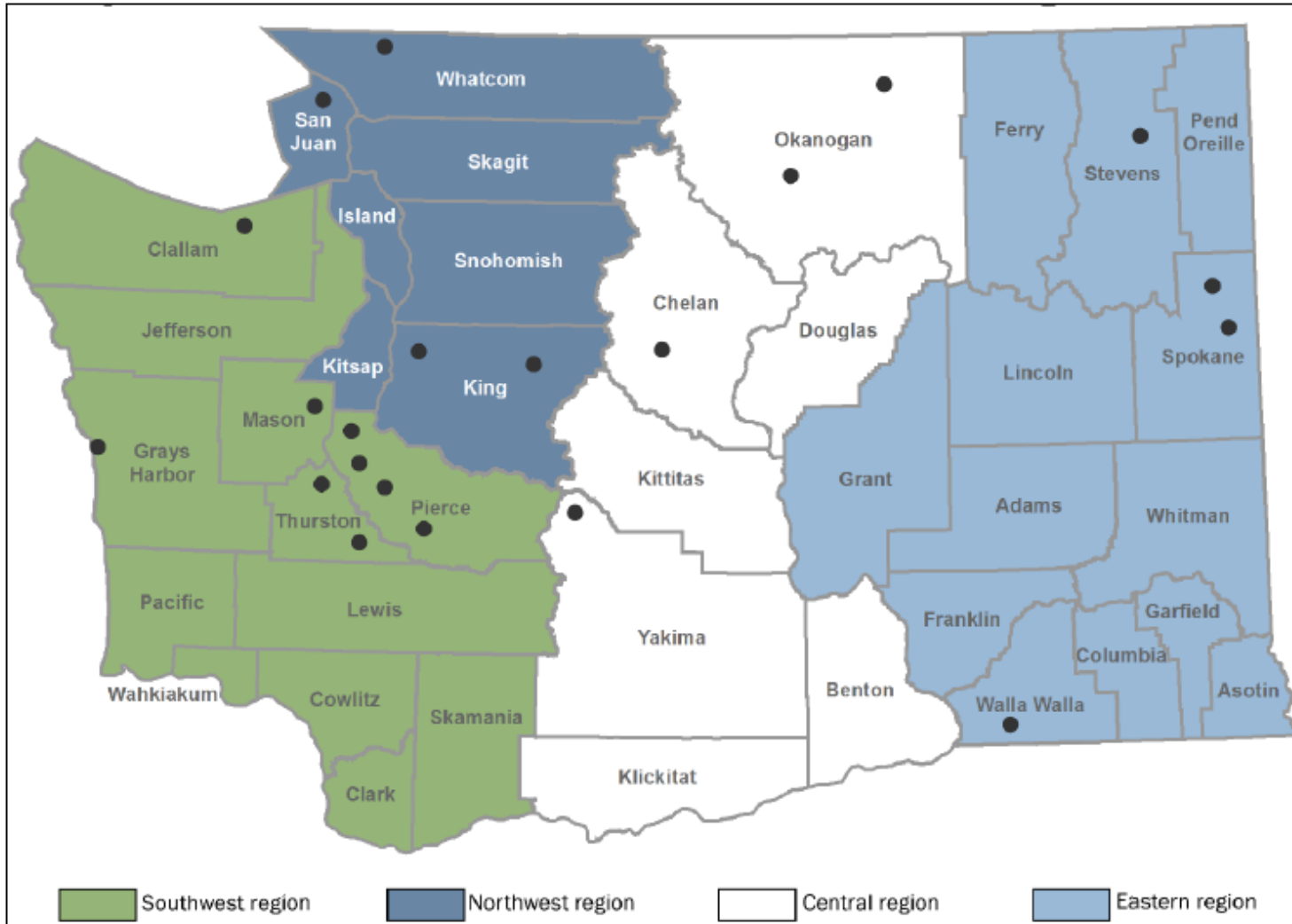


Overview of Ecology Water Resources Briefing

- Update on RCW 90.94 (Streamflow Restoration Act aka “Hirst Fix Legislation”) – 9/21 Streamflow Restoration project grants awards in Southwest Region
- 6th year for curtailments in Chehalis Watershed (WRIA 22/23)
- SWRO issued new water rights to Taylor Shellfish for IN purposes and to the Squaxin Island Tribe for MU purposes
- Major streamflow improvement construction occurring at JBLM under McChord runway (with some off-base temporary streamflow and wetland impacts)
- Report to Legislature recommending next WRIAs for **Adjudication** process
- WA State Supreme Court upholds Spokane Instream Flow Rule
- Trans Alta water rights proposed to be put in Trust and to establish a water bank
- SW Staff all teleworking since March and will continue to do so until June 2021



Streamflow Restoration Grant Applications awarded for 2020 Grant Round



Earlier this week, Ecology announced the selection of 21 projects in 16 watersheds. Total \$\$ awarded approximately \$22 million.

63 applications received from organizations throughout the state, totaling a request close to \$88 million.

2nd round of the \$300 million dollars over the course of 15 years to help with implementation of projects that improve streamflow.

Grants awarded in Southwest Region ★

Organization Name	Project Title	Amount Requested
Chelan County – Natural Resources Development	Wenatchee Watershed Alluvial Water Storage and Streamflow Restoration	\$327,224
City of Lynden – Public Works Department	City of Lynden Nooksack River Managed Aquifer Recharge (MAR) Project	\$4,696,899
City of Snoqualmie	City of Snoqualmie ASR Program Development and Implementation	\$477,400
City of Tacoma – Environmental Services Department	South Tacoma Channel Stormwater Infiltration Project Feasibility Study	★ \$387,200
City Walla Walla	City of Walla Walla Well 5 Aquifer Storage and Recovery Project	\$3,313,968
Clallam County Community Development	Dungeness Streamflow Restoration Off-Channel Reservoir	★ \$3,875,699

Organization Name	Project Title	Amount Requested
King County – Water and Land Resources Division	Beaver Dam Analogs in the Upper Green River Watershed	\$525,173
Methow Salmon Recovery Foundation	Restoring Streamflow after Wildfire in Okanogan & Methow River Sub-basins	\$1,034,453
Mid-Columbia Fisheries Enhancement Group	Little Naches Longmire Levee Reach	\$1,175,098
Nisqually Land Trust	Lower Ohop Creek Protection	★ \$150,460
Nisqually Land Trust	Phase 2 WRIA 11 Prairie Tributaries Sub-basin Water Rights Assessment	★ \$145,770
Nisqually River Foundation	Muck Creek Watershed Restoration Strategy and Project Prioritization	★ \$431,000
Quinault Indian Nation	TransAlta Water Right Acquisition: Phase I Feasibility Study	★ \$148,500
San Juan County Land Bank	Cascade Creek Flow Restoration Project for Native Salmonids	\$250,000
Spokane County Utilities – Water Resources Section	Little Spokane - Bear Creek Managed Aquifer Recharge	\$656,517
Spokane County Utilities – Water Resources Section	Little Spokane – Eloika Lake Water Storage & Wetland Restoration	\$600,000
Squaxin Island Tribe	Skookum Valley Water Rights and Streamflow Restoration	★ \$88,000
Stevens County – Land Services Department	WRIA 59 Stranger Creek Water Right Acquisition	\$94,700
Thurston County – Community Planning and Economic Development	Lackamas/Toboton/Powell and Thompson/Yelm MAR Feasibility Study	★ \$241,408
Thurston County – Water Resources Division	Hidden Forest Stormwater MAR	★ \$222,956
Western Rivers Conservancy	Antoine Valley Ranch and Fanchers Dam Acquisition	\$4,192,535

**6th 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:

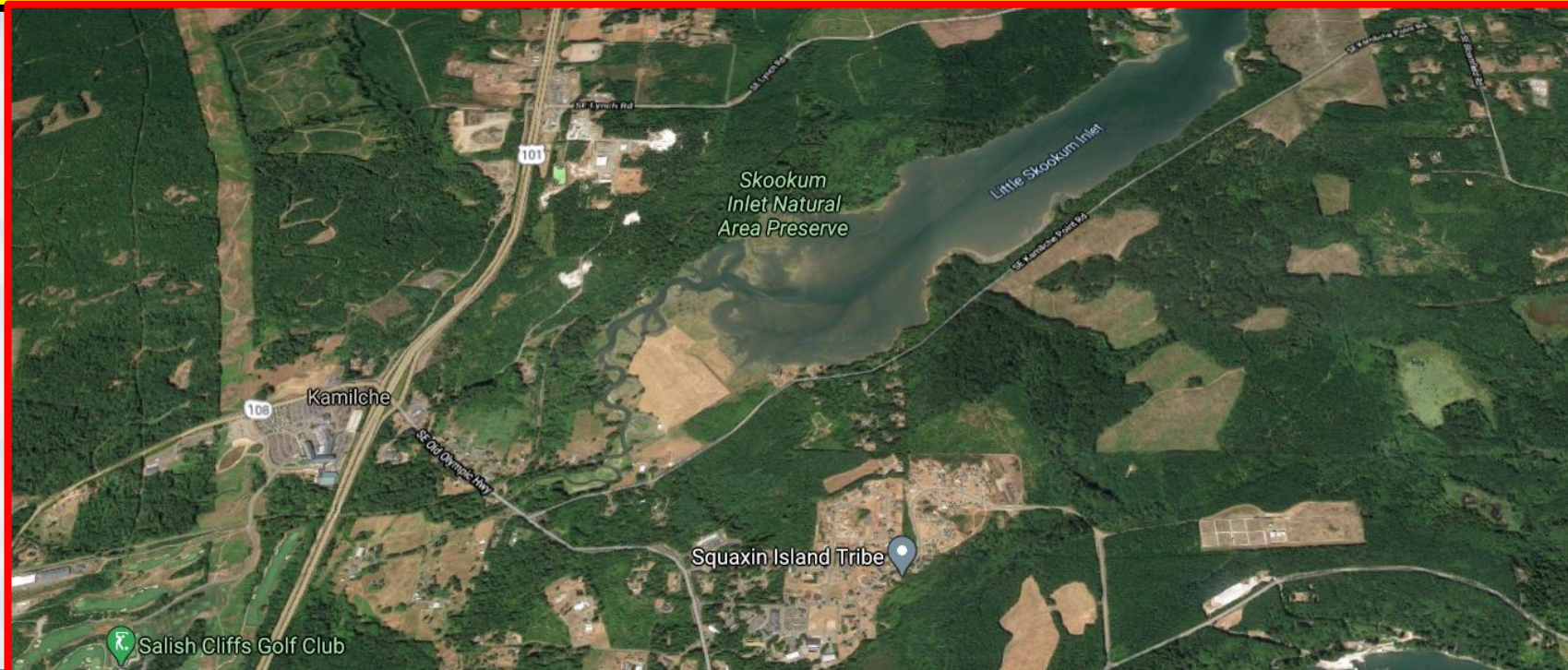
Re: Notification to Restrict Surface Water Use

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

**New water rights issued to:
Taylor Shellfish for Industrial purposes
and
the Squaxin Island Tribe for Municipal purposes
in WRIA 14**





State of Washington
REPORT OF EXAMINATION
FOR WATER RIGHT APPLICATION

PRIORITY DATE 11/8/2018	WATER RIGHT NUMBER G2-30737A
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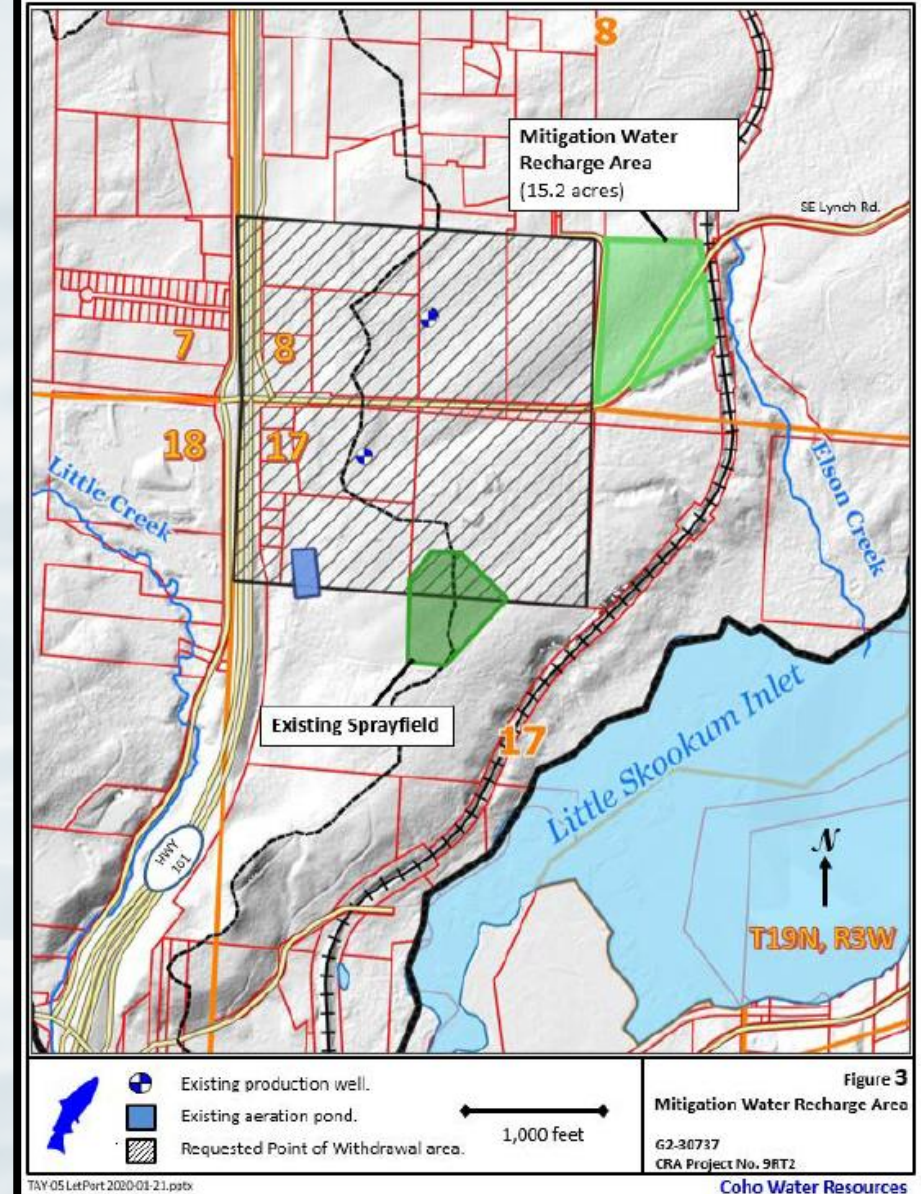
MAILING ADDRESSES TAYLOR SHELLFISH COMPANY, INC. 130 SE LYNCH RD SHELTON, WA 98584	SITE ADDRESS TAYLOR SHELLFISH COMPANY, INC. 130 SE LYNCH RD SHELTON, WA 98584
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Quantity Authorized for Withdrawal		
WITHDRAWAL RATE 200	UNITS GPM	ANNUAL QUANTITY (AF/YR) 200

Purpose						
PURPOSE	WITHDRAWAL RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Commercial/Industrial	200		GPM	200		01/01-12/31
Total	200		GPM	200		

REMARKS: Water Rights G2-30737A and G2-30737B share the same points of withdrawal and the appropriation of water under G2-30737B is contingent on exercising G2-30737A for mitigation of G2-30737B.

Source Location			
COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Mason	Groundwater	Little Skookum Inlet & Elson Creek	14-Kennedy-Goldsborough





WR Doc ID 6803129

State of Washington REPORT OF EXAMINATION FOR WATER RIGHT APPLICATION

PRIORITY DATE
11/8/2018

WATER RIGHT NUMBER
G2-30737B

MAILING ADDRESSES
SQUAXIN ISLAND TRIBE
SE BILLY FRANK JR. WAY
SHELTON, WA 98584

SITE ADDRESS
SQUAXIN ISLAND TRIBE
SE BILLY FRANK JR. WAY
SHELTON, WA 98584

Quantity Authorized for Withdrawal

WITHDRAWAL RATE	UNITS	ANNUAL QUANTITY (AF/YR)
250	GPM	250

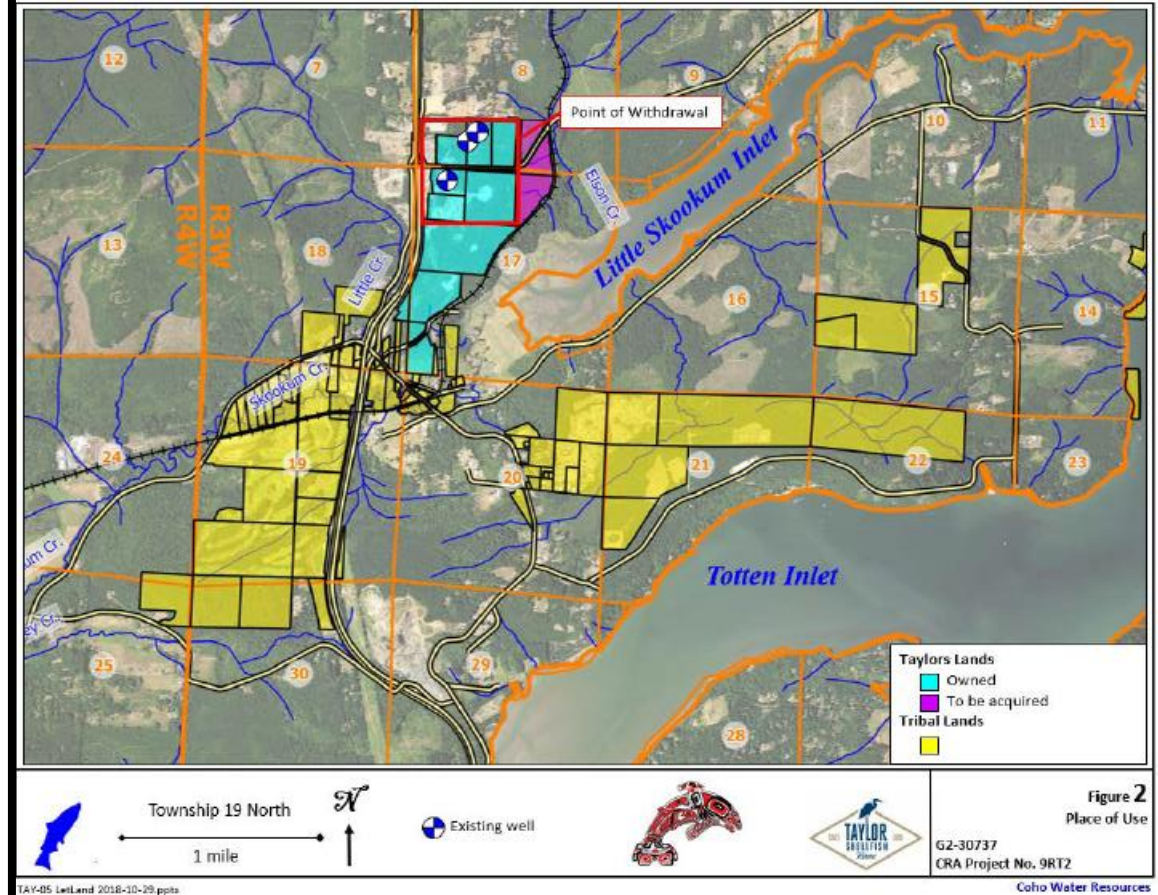
Purpose

PURPOSE	WITHDRAWAL RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Municipal	250		GPM	250		01/01-12/31
Total	250		GPM	250		

REMARKS: Water Rights G2-30737A and G2-30737B share the same points of withdrawal and the appropriation of water under G2-30737B is contingent on G2-30737A for mitigation of G2-30737B.

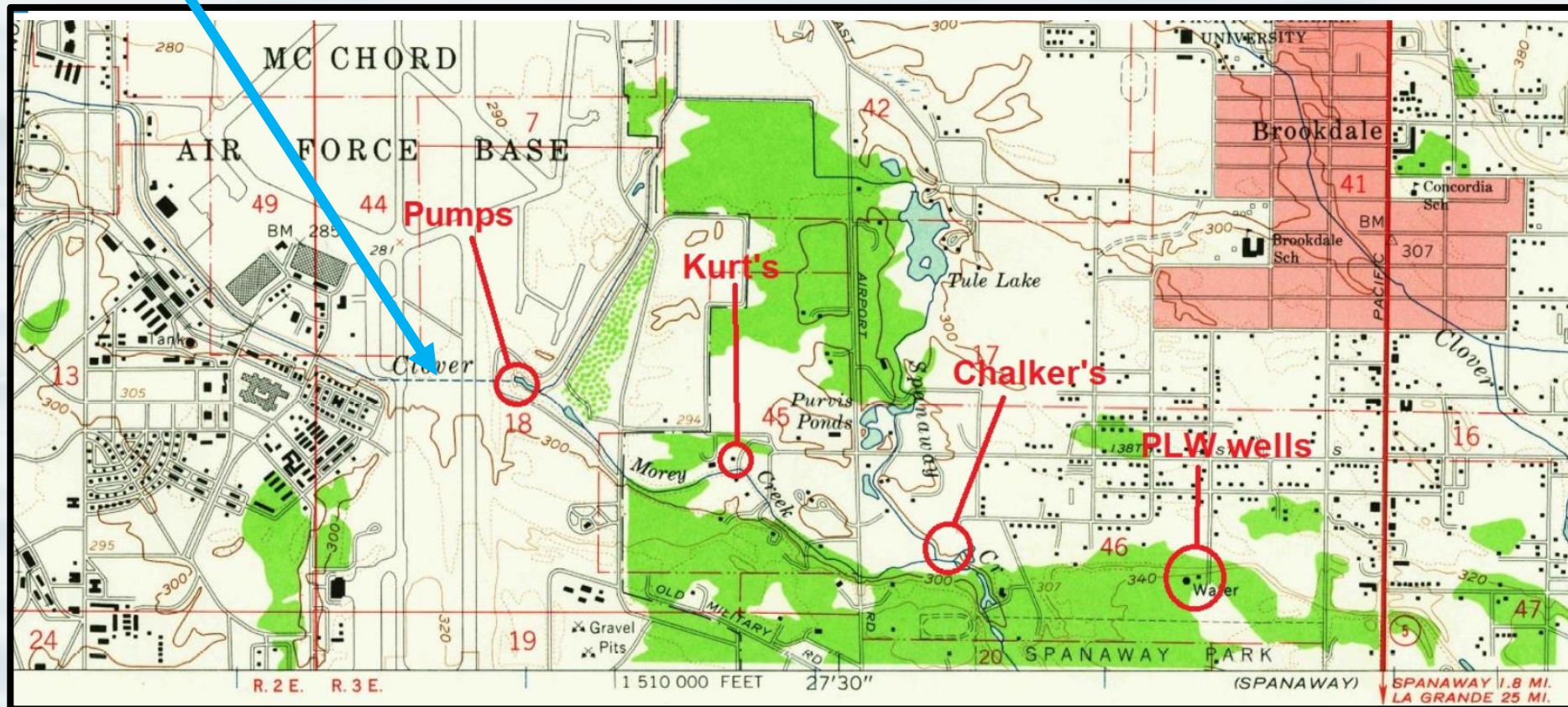
Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
Mason	Groundwater	Little Skookum Inlet & Elson Creek	14-Kennedy-Goldsborough



Clover Creek Pipeline under McChord Runway Project - JBLM

- Approximately one-year project
- Excavate existing culvert area under runway, remove the two deteriorated 12 foot diameter corrugated steel culverts and install a concrete arched bridge over Clover Creek that will support the overlying repaired runway.
- Bridge would span a 50 foot wide cobble bed over which Clover Creek would be free to flow. This bridge would have a capacity to accommodate a 100 year flood event with a reasonable safety margin.





Dewatering wells and pumps on east side of runway and discharge infrastructure on west side of runway

Dried up portion of Morey Creek and Morey Pond on east side of runway. Creek portion is off the base while the pond is on the base.





Water Resources Adjudication Assessment Legislative Report

Watersheds Proposed for Urgent Adjudication and Future Assessment

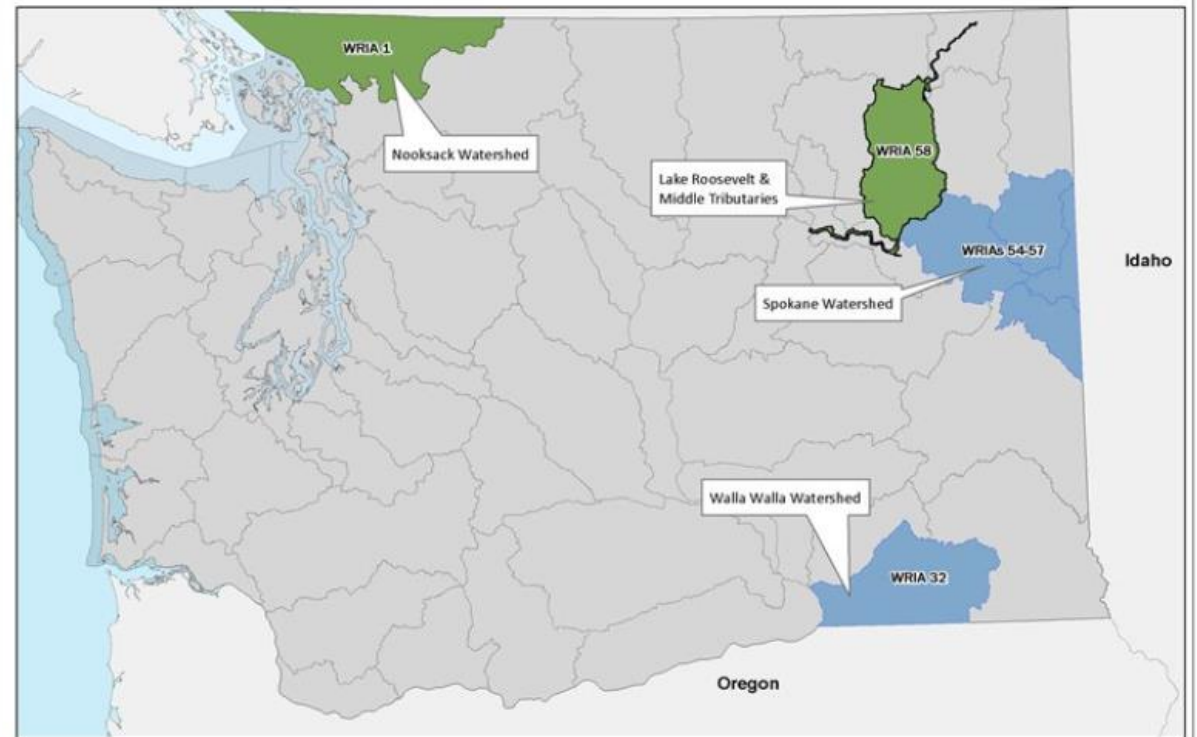
By
Robin McPherson and Adjudication Staff

For the
Water Resources Program

Washington State Department of Ecology
Olympia, Washington

September 2020, Publication 20-11-084

Ecology identified two locations that our evaluation shows would benefit from the adjudication process:
the Nooksack watershed in Northwest Washington and
an area around Lake Roosevelt in the eastern part of the state.



August 2020

In 2019, the Legislature directed Ecology to:

“Assess and explore opportunities to resolve water rights uncertainties and disputes through adjudications in selected basins where tribal senior water rights, unquantified claims, and similar uncertainties about the seniority, quantity, and validity of water rights exist.”

Over the last year, we have reviewed watersheds around the state to determine which areas are most ready to begin an adjudication process.

“Adjudication,” is a formal legal process which brings all water users in a watershed into one big lawsuit.

Why would Ecology intentionally use a lawsuit to fix this problem?

Adjudication leads to full and fair water management by ***finalizing legal rights to use water***. The process brings all water users in a specific area into one conversation to legally and permanently determine everyone’s water rights.

In a recent report to the state Legislature, we identified two locations that our evaluation shows would benefit from the adjudication process: the Nooksack watershed in Northwest Washington and an area around Lake Roosevelt in the eastern part of the state.

Ecology's Spokane River Instream Flow Rule upheld by WA State Supreme Court

- February 2015 - the Spokane Instream Flow Rule (WAC 173-557) for the Spokane River and Spokane Valley Rathdrum Prairie (SVRP) Aquifer took effect.
- Rule protects river flows and balances the needs of all water users by setting a regulatory threshold to determine when there is water available for new uses.
- May 2016, the Center for Environmental Law and Policy, American Whitewater, and the Sierra Club filed an appeal of the Spokane River instream flow rule.
- The appeal was heard in Thurston County Superior Court - June 2017. Court denied the petitioners' challenge to the rule.
- July 2017, the petitioners filed an appeal of the Superior Court decision with a request for direct review by the state Supreme Court. State Supreme Court denied the request for direct review.
- The appeal was heard in the Washington State Court of Appeals in February 2019.
- In June, the Court of Appeals published a decision invalidating the Spokane Instream Flow Rule. Court found that Ecology had too narrowly focused on flows to support fish habitat and did not give enough consideration to other instream values, specifically recreation. In particular, the court found that setting the instream flow at 850 cubic feet per second (cfs) during the summer months exceeded the agency's statutory authority and was arbitrary and capricious.

On Aug. 6, 2020 the Supreme Court, in a unanimous decision, upheld Ecology's approach. This outcome underscores that Ecology's work to protect instream resources is sound

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

CENTER FOR ENVIRONMENTAL LAW)
AND POLICY; AMERICAN WHITEWATER;)
and SIERRA CLUB,)

Respondents,)

v.)

STATE OF WASHINGTON, DEPARTMENT)
OF ECOLOGY, and JAY INSLEE,)

Petitioners.)

No. 97684-8

En Banc

Filed August 6, 2020

rule's invalidity. We reverse the Court of Appeals' decision to the extent it reversed the trial court's dismissal of challengers' suit.

WE CONCUR:

Stephens, C.J.

Johnson

Owens, J.

Gonzalez, J.

Madsen, J.

Heide, McLeod, J.

Lu, J.

Montgomery, J.

Whitener, J.

Proposed Trans Alta Water Bank in WRIA 22/23 Chehalis Watershed - Lewis, Grays Harbor & Mason Counties

- Community focused long-range partner
- Coal Powered Generation
- Actively planning for transition
- Holder of one of the largest certificates at the SWRO



- 51.6 CFS and 28,033 acre-feet per year
- Year-round
- Consumptive
- Not Interruptible
- Storage regulated
- Meets WDFW objectives

Water Budget Assumptions

- 28,033 acre-feet per year to trust under TWA
- New mitigated permit will authorize 12,000 ac-ft with development schedule
- Balance of 16,033 ac-ft for immediate marketing
- Additional water likely available after 2025
- Additional supply for exempt well mitigation (Chehalis Basin Partnership/QIN), irrigation, other uses
- Determined future development for local municipal use by City of Centralia

COVID-19 Impacts

- Since March 16, 2020 – the Department of Ecology has been essentially 100% “teleworking” from our homes. ***This is expected to continue to June 30, 2021***
- 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 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.
- Conducting meetings via Skype, Zoom and telephone conference calls

Questions?

Thank you

Mike Gallagher
Department of Ecology
Water Resources Program

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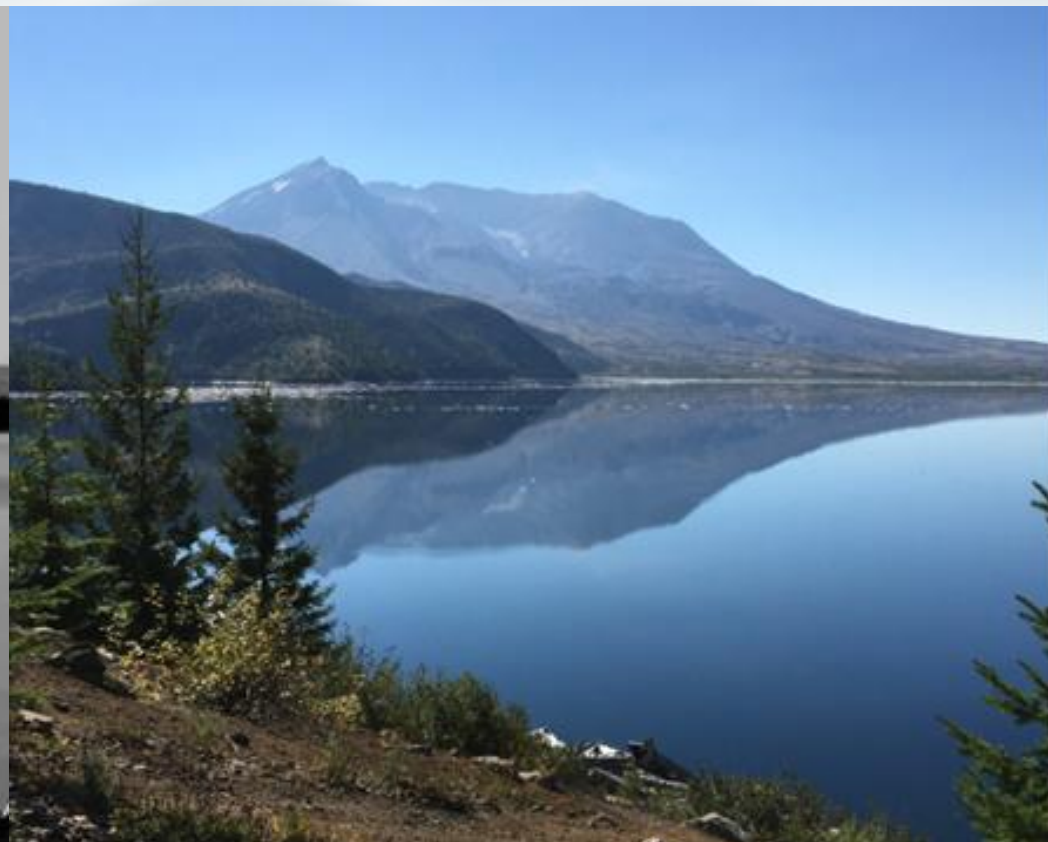
Mike.Gallagher@ecy.wa.gov



DEPARTMENT OF
ECOLOGY
State of Washington



Mt St Helens at Sunrise



Spirit Lake Wn.