



# Driving the WRIA 1 Watershed Management Project: The Watershed Management Act

City of Bellingham ♦ Lummi Nation ♦ Nooksack Tribe ♦ Public Utility District No. 1 ♦ Whatcom County

In Whatcom County, the largest watershed—a geographic area in which water naturally drains or collects—is the Nooksack River basin. In the late 1970s, the state legislature labeled the Nooksack watershed, along with smaller, neighboring drainages such as California Creek and Lake Whatcom, as the state’s Water Resource Inventory Area No. 1, or WRIA 1 (pronounced as “why-rah one”).

In 1998, the state legislature passed **Engrossed Substitute House Bill 2514** (ESHB 2514), known as the Watershed Management Act. Codified into state law as RCW 90.82, the Act encourages citizens, through their local governments, to address their water resource needs from a watershed perspective. In WRIA 1, the watershed management project brings together citizens, local governments, tribes, and state and federal agencies to develop plans for allocating water, protecting water quality, and restoring fish habitat.

## Funding

The Watershed Management Act also provides some funding for local governments to conduct their planning processes. If the county, the largest city, and the largest public utility in each WRIA all agreed to the planning process that was specified in the legislation, a WRIA could receive up to \$500,000 in state funds

(through the Department of Ecology) for the planning process.

In WRIA 1, the three governments—Whatcom County, the City of Bellingham, and Public Utility District No. 1—did agree to participate in the planning process, and to date the WRIA 1 Watershed Management Project has received \$250,000 from

Ecology. In addition to the state money, each of these three local governments has allocated its own resources to this process. The Lummi Nation and the Nooksack Tribe have also secured over \$450,000 in federal funds for the planning effort, as part of the resources that they have contributed to the project.

## The Initiating Governments

As the law requires, the three local governments invited the two Indian tribes in the WRIA to join in the process. After defining the conditions for their participation in an intergovernmental Memorandum of Agreement, the Lummi Nation formally agreed to join the process. The Nooksack Tribe has also been participating. These five governments are referred to as the “Initiating Governments”. Whatcom County government was identified as the “lead agency”, which the state law defines as the entity that coordinates staff support of its own or of other local governments and receives grants for

developing a watershed plan. As lead agency, the county signed the grant contract with the state, and is handling the paperwork for the grant. In all other activities, the five governments act as equal partners in the planning effort.

The Watershed Management Act requires that the watershed management project consider previous plans and planning efforts. The legislation also requires that water quantity issues be addressed, and gives local governments the option of addressing three other issue areas—water quality, fish habitat, and instream flows

(establishing separate water rights for instream uses of water, including fish, wildlife, recreation, environmental, and aesthetic uses). The WRIA 1 Watershed Management Project will prepare a plan for all four issue areas.

The legislature intended the 2514 watershed planning effort to be a public process and required all participating WRIs to create a Planning Unit that includes members representing a wide range of water resource interests, as well as staff from local, state, and federal governments.

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## Water Quantity

The legislation details essential steps in the assessment of water quantity, the required component of the bill. This assessment must:

- Estimate how much water is present in both surface and ground water
- Estimate how much of that water is available, including seasonal variations
- Estimate how much of that water is already legally allocated through water rights, claims, existing instream flows, federally reserved rights, and other forms of legal authorization
- Estimate how much water is actually being used
- Estimate how much water is needed in the future
- Identify locations where surface and ground water interact and recharge each other
- Estimate how much surface and ground water is available for further appropriation

According to the Watershed Management Act, the second required component in planning for water quantity is the development of strategies for increasing water supplies in the management area. The Act suggests possible strategies such as:

- Water conservation
- Water reuse, including reclaimed water
- Voluntary water transfers of existing water rights and claims
- Aquifer recharge and recovery
- Additional new water allocations
- New or enhanced water storage

These strategies should provide for both instream flows for fish, and for future out-of-stream uses of water such as agriculture, energy production, and population and economic growth.

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## Other Plan Components

In addition to the mandatory issue of water quantity, the Watershed Management Act allows the Initiating Governments to address water quality, fish habitat, and instream flows. Since all of these issues are inter-related, the WRIA 1 Initiating Governments chose to address all three optional areas.

Since water quality issues are addressed in the WRIA 1 watershed management plan, the Act requires the following elements:

- An examination, based on existing studies, as to the degree that current water quality standards are being met
- An identification of the causes of violations of existing water quality standards, if they exist
- An examination of any established Total Maximum Daily Load (TMDL) for non-marine water bodies in the watershed. A TMDL is the maximum amount of pollutants that a particular body of water can receive and still meet water quality standards. The water quality standards depend on the designated uses for that water body, such as drinking water, swimming, or fish needs.
- In the absence of TMDLs that are established or are being

established for the watershed, a recommended approach to establishing them

- An examination of existing studies of the impact of discharges of fresh water in the watershed on marine waters
- Recommendations for ensuring that water quality objectives are being met through implementation of the plan through monitoring by appropriate governmental agencies

In regard to fish habitat, the Act specifies that the plan's habitat component will be coordinated with other efforts to protect or enhance fish habitat in the watershed. The habitat section will rely on existing laws, regulations, and ordinances, including the growth management and forest practices acts. This component will also need to be integrated into other strategies to respond to the listing of endangered species of fish and other aquatic organisms.

In regard to instream flows, if minimum flow levels have already been set for the watershed, as they have been for WRIA 1, the Act allows for modification of flow levels, if deemed necessary by the Initiating Governments and the Planning Unit.

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## What the watershed management plan will do

The planning group under this legislation is encouraged to identify projects and other activities that are likely to serve both short term and long term objectives of the management plan. In order to avoid duplication of efforts, the Planning Unit is directed to integrate existing data such as:

- Fish runs
- Weather patterns

- Land use
- Seasonal water flows
- Geographic characteristics
- Plans, studies, and projects that have been completed or initiated

If the Planning Unit identifies multiple projects, they are to rank them so that those providing the greatest benefit are scheduled first.

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## What the watershed management plan can't do

The Watershed Management Act states that the Planning Unit may not add an element to the watershed plan that creates an obligation to a government, unless that obligated government has a representative in the process and also agrees to the addition of the obligatory element. The legislation defines obligation as an action that imposes a fiscal impact, a redeployment of resources, or a change in existing policy.

In addition, the Act stipulates that the plan shall not conflict with any existing state

statutes, federal laws, or tribal treaty rights. The plan cannot impair or diminish any existing water rights or claims. The plan is also prohibited from changing any wastewater discharge permit. In the area of fish and habitat, the watershed plan cannot modify a habitat work plan, a habitat conservation plan, an incidental take permit, or other similar efforts under state and federal regulations and permits. In addition, the watershed plan cannot change any existing local or state regulations, but it can recommend that they be changed.

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## Approving the plan

When the development of the watershed plan is complete, the Planning Unit may approve the plan either by consensus of all members or by consensus of the governmental units involved and majority vote by the non-governmental members.

If the Planning Unit approves the plan, then it must be submitted to the county council, within four years of receiving the first grant funds received from the state. If the Planning Unit does not approve the entire watershed plan, then those components that are approved by the Planning Unit will be sent to the county council. If the Planning Unit cannot agree to approve any component, then the planning process will stop.

When the county council receives the approved plan or approved components, they must provide public notice and conduct at least one public hearing on the watershed plan. The county council may approve or reject the watershed plan, but they may not amend it. If the plan is not approved as submitted, then it is returned to the Planning Unit with recommendations for change. After considering the requests for change, the Planning Unit may make revisions and resubmit the plan to the county council a second time. If the watershed plan is not approved that second time, the planning process ends.

If the plan is approved by the county council, and the governments have agreed to obligations proposed in the plan, then state and county governments are required by the legislation to adopt the necessary implementing ordinances and rules or other actions necessary to fulfill their obligations as soon as possible.

### Other publications

There are three items that drive the structure of the WRIA 1 Watershed Management Project: the grant received from the Department of Ecology, the Watershed Management Act (ESHB 2514), and a Memorandum of Agreement among the Initiating Governments. Fact sheets about the first two items, and about how all three "drivers" tie together, are available.

If you would like copies of these publications, or have questions or comments about them, please contact:

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