Upper Skagit Groundwater Mitigation Program Orientation

Interagency Review Team Meeting Notes
January 23, 2014

Attendees

Steve Aslanian, Rick Hanika and Karen Stevens (Landowners), Chuck Lindsay and Jay Chennault (Associated Earth Sciences), Fred Buckenmeyer (City of Anacortes), Peter Ojala (Landowner Attorney), Leah Kintner (Puget Sound Partnership), Dan Berentson (Skagit County Public Works), Alison Mohns (Skagit County Planning), Margo Gillaspy (Skagit County Public Works), Will Honea (Skagit County Prosecuting Attorney's Office), Ron Wesen (Skagit County Commissioner), Corrine Story (Skagit County Public Health), Dale Pernula (Skagit County Planning), Ron Palmer (Skagit County Public Health), Brant Wood (Snohomish County PUD), David Hawkins and Lauren Rich (Upper Skagit Tribe), Jacque Klug, John Rose, and Ria Berns (WA Dept. of Ecology), Joe Mentor, Jessica Kuchan, and Rani Williams (Mentor Law Group, PLLC), Susan Adams and Jason Hatch (Washington Water Trust), Rachel Lerman (Skagit Valley Herald).

Meeting Support (Facilitation and Notes)

Lyn Wiltse (PDSA Consulting), and David Roberts (Kulshan Services).

Future Meetings: March 27, 2014 and May 22, 2014

These meetings will be held from 2:00 – 4:30 in the conference room at Skagit Farmers Supply, 1833 Park Lane, Burlington unless otherwise notified. Please enter the conference room from one of the doors on the back (south) side of the building to reduce disturbance to office staff. Please also consider parking in the nearby Park 'n' Ride.

Action Items:

- Ecology – Complete and activate IRT website (Note: Some people will need snail mail).
- All – Plan to attend meetings on March 27 and May 22.
- Mentor Law – Circulate notes to all who were in attendance and post on website.

Welcome, Intros and Overview of Meeting

Jacque Klug (WA Dept. of Ecology) welcomed everyone to the meeting. Everyone introduced themselves and talked about their interest in the project. We agreed to the following meeting protocols:

- Start and end on time
- Be fully present
- Ask questions to increase understanding
- No side bars or interruptions
- Cell phones on "stun"
- Open, inclusive participation and sharing of information
- Actions items with due dates

We discussed public involvement, particularly with landowners in the Fisher Creek area. Joe Mentor noted that this is the first step in the process of developing an idea. They intend for the process to be open and he is willing to meet with anyone to discuss the idea. Jessica Kuchan (Mentor Law Group, PLLC) is coordinating the outreach activities. Joe Mentor clarified that this Interagency Review Team (IRT) is an advisory group who will review the proposed mitigation project and program and provide feedback to the Upper Skagit Tribe and Ecology.

Overview of Upper Skagit Indian Tribe's Proposed Mitigation Program

David Hawkins (Upper Skagit Tribe) presented a brief history of water rights issues in the Skagit Basin, Ecology's instream flow rule, and the challenges that have resulted from the lack of water availability. The Upper Skagit Tribe is trying to facilitate an effort to balance instream flows and property owner rights. They have a shared interest in the community and are seeking a cooperative approach to these resource problems.

The objective of the project is to provide water to the surface water system when it needs it and to provide mitigation opportunities to landowners that do not exist at this time. The Tribe is not looking for the IRT to make any decisions or officially approve anything. They are looking for helpful information to determine the viability and acceptability of the project. All questions and comments from the IRT will get a response. David Hawkins noted that funding for this project comes from the Legislature through Ecology.

Joe Mentor (Mentor Law Group, PLLC) provided additional background on the work his firm has done related to the instream flow rule and his present efforts for the Tribe. He described the foundations for the concept being explored in this pilot project. Joe Mentor talked of the need for a system that allows new uses that are "water budget neutral." This system would need to accommodate new population and do no harm to streams or fish. He noted that similar types of systems have been developed elsewhere that could work in this area. He suggested the IRT think of this as an experiment. They want to share a hypothesis and then test it with the IRT's assistance. The Fisher Creek Subbasin was chosen because it had been closed to new unmitigated uses since 2011 and seemed like a good place for a demonstration project.

The project has two parts:
Part 1 - Recharge Project: This project would recharge ground water to offset impacts on surface water from existing and future uses. It would protect and enhance surface flows during the time of year when needed. The intent is to capture and store water when it is available and augment flows through ground water infiltration to Fisher Creek when it is in short supply. There are a number of questions to be answered:

- How big does a facility need to be?
- How many people need it?
- Where to put the water?
- Where can water be infiltrated so it is available to augment surface flows?
- When and how to infiltrate?
- How much water is needed?
- How much future growth in population should be expected?
- What will the demand be for this project?

Part 2 – Mitigation Program: This part of the project addresses the revenue needed to pay for the facility. The funding proposed for this project is that the beneficiaries would pay for the project through mitigation credit fees. Joe Mentor discussed how the funding concept for this part of the project is modeled on the U.S. Army Corps of Engineers' (COE) in lieu fee program (ILF). This is where a sponsor develops a mitigation facility then sells mitigation credits to project proponents to offset the impacts to the environment. An ILF prospectus must be reviewed by an IRT formed by the COE and Ecology comprised of participants from agencies and tribes. Joe Mentor proposed that the group they have called together could act as an IRT for the Upper Skagit Tribe and Department of Ecology to help guide the development of this project. The IRT is just one element of the process. It is not meant to be a town hall meeting. The Tribe may plan a broader meeting and wants to meet with local folks to get their input.

The technical work to support this proposal has already started and a report of their findings is coming soon. It will be shared with everyone. The Tribe realizes that there is a demand for mitigation now because new development relying on permit exempt wells needs mitigation in the Fisher Creek subbasin, as well as elsewhere in the Skagit River basin. They are trying to get this process moving as quickly as they can.

Concerns were raised about the complexity of the water issues including fish passage, water quality and flooding. Rick Hanika and Karen Stevens (Landowners) indicated they have extensive knowledge of the area and training in watershed issues to share. They feel the County has not been responsive to their calls to address local concerns they have raised and this has been frustrating. Joe Mentor responded that this project could be a catalyst for looking holistically at the system and getting many long-term issues addressed. He believes it is an opportunity to identify goals and solutions that provide multiple benefits.

Preliminary Technical Suitability Review

Jay Chennault and Chuck Lindsay (Associated Earth Sciences, Inc.) provided an overview of the technical aspects of the project. They are working on two primary tasks. Task 1 is a groundwater recharge assessment. It involves a data compilation and review, a preliminary technical suitability review, and estimates of the development potential. Task 2 is a preliminary conceptual design and cost estimate for a pilot project at a location determined as suitable during Task 1.

Jay Chennault presented information regarding the ongoing efforts of Task 1. Data compiled to date includes streamflow, geology, soils, sensitive areas and county parcels information. The preliminary technical suitability review involves an assessment of soils and geology resulting from a GIS analysis to determine the most suitable locations where streamflow may be enhanced by a groundwater recharge project. Although they didn't have any actual data to share, Jay showed the various attributes of soils and underlying geology of the area as well as the basic principles of subsurface water movement. He demonstrated conceptually how mapping of this data could identify the best potential locations for the project. Jay indicated they have good sources of soil and geological data, and further analysis is underway.

They are looking for the best sites to infiltrate surface water during the winter and spring to augment low flows during the summer and fall. A key unknown is how long water takes to move through the soils and glacial outwash deposits. An infiltration system could incorporate a storage reservoir if the flow through the soil and outwash is too rapid. They also need to evaluate the different surface water sources that might be available for the project.

Jay indicated that they are also working to estimate the development potential in the Fisher Creek Subbasin. The two factors influencing the size of the infiltration project are the instream flow needs and the amount of mitigation that is needed. They will consider two development scenarios – one based on maximized development and one that reflects the rate of growth over the last few years projected out over 10, 20, 30, 40, and 50 year time periods.

Joe Mentor shared his experience working on a similar effort in Kittitas County. The rate of growth and possible development on undeveloped parcels in Skagit County is similar to Kittitas, about 2% of undeveloped parcels per year. As the number of future users is still unknown, the size of the project is currently difficult to estimate. There is also a question about whether to accommodate the lots developed between 2001 and 2013. There may also be scale issues such as the need to address dam safety if a facility gets too large.

A system or systems could be designed that need only one site, multiple sites or individual sites that are expandable. Joe Mentor shared presentation materials regarding the Hudson Bay Irrigation District's efforts in the Walla Walla River drainage to test a variety of infiltration alternatives.

Dan Berentson (Skagit County Public Works) asked if using existing infrastructure such as ditches as a source of water was possible. Joe Mentor said they want to work with the County to find the best alternatives. Karen Stevens and Rick Hanika asked if there was any way that permits could be expedited. Several folks agreed that while this was preferred, often issues are complex and require careful review. Dan Berentson shared that a comprehensive watershed approach can smooth the permitting process.

Review of Timeline, Deliverables and Next Steps

Information about the project including notes and handouts will be available on the website or can be requested from Mentor Law Group, PLLC. The Ecology website (www.ecy.wa.gov/programs/wr/nwro/skagit-sfe-gmp.html) is called "Skagit River Basin Stream Flow Enhancement/Groundwater Mitigation Program." Mentor Law Group, PLLC, will maintain a contact database of all who want to be involved. They invited all landowners who are interested in the process to fill out the questionnaire on their website (www.mentorlaw.com/questionnaire-for-water-use-mitigation) whether they are property owners in the Fisher Creek Subbasin or not so they can measure the future demand for this type of solution. Ecology also can set up a ListServ specific to this project to distribute information. Jacque Klug shared that the State is pursuing a variety of mitigation projects in the Skagit River Basin.

The proposed schedule is as follows:

Week of March 3, 2014	Distribute draft mitigation plan, draft mitigation project design and SEPA checklist.
March 27, 2014	Second IRT Meeting to discuss draft mitigation plan, draft mitigation project design and SEPA checklist. (2:00-4:30)
April 18, 2014	Mitigation Plan, Draft Project Design, Preliminary Design and Cost Estimate and SEPA Checklist sent to IRT members, posted on website and public notice given.
May 22, 2014	Meeting to discuss mitigation plan, project design and cost estimate and SEPA checklist. (2:00-4:30)

We identified two additional meetings – **March 27th** and **May 22nd**, both from 2:00 – 4:30. At this time the meetings will be held at the Skagit Farmers Supply unless a larger room is needed.

Several of the invited organizations were unable to attend this meeting as they received no notice or insufficient notice from the leader of their organization to whom the invitation was sent. These include the Swinomish Tribe, WDFW, NOAA, USFWS, and the Skagit Watershed Council. It was suggested that invitations to future meetings also be sent to the Skagit Conservation District and the Skagit Fisheries Enhancement Group.

Closing Questions and Remarks

Jason Hatch from Washington Water Trust shared that they have completed a rapid assessment of water rights for the Carpenter-Fisher watershed and are currently working on a similar project in the Nookachamps. They are assisting Ecology with mitigation including the development of water banks.

Peter Ojala asked if Ecology would treat this kind of a system as an injection well, to which Jacque Klug replied that Ecology was still evaluating this type of system.

Joe Mentor finished the meeting by asking everyone's help to review the proposed mitigation project and program by considering:

- What are the technical questions?
- What permits will be needed?
- What are the timelines?

They will be using a SEPA checklist circulated with the upcoming technical report to help identify the technical questions.

Joe Mentor noted that Interagency Review Team (IRT) meetings are held for technical review of the proposed mitigation project and program. The public is more than welcome to come and listen, but public comments and meetings, which are equally valuable, will be held at another time and place.

Meeting Evaluation

<u>Went well and we want to repeat:</u>

Good attendance
2:00 – 4:30 timeframe
Great refreshments
Open and inclusive
Great explanations, covered a lot of ground

<u>Things to consider next time:</u>

Better announcement of the meeting/prior notice
Materials to review sent out prior to the next meeting
End on time
Aim for more balanced participation
Be specific about timelines on comments to technical materials

Handouts

- Agenda
- Managed Aquifer Recharge System - Abstract and PowerPoint Presentation by Robert Bower, Golder Associates, Christchurch, New Zealand
  www.nwri-usa.org/rechargesymposium2011.htm