

# Upper Skagit Groundwater Mitigation Program

## Interagency Review Team Meeting Notes

June 23, 2014

### Attendees:

Jay Chennault (Associated Earth Sciences Incorporated), Joe Mentor, Jessica Kuchan, Rani Williams (Mentor Law Group), Dan Berentson (Skagit Public Works), David Hawkins and Lauren Rich (Upper Skagit Indian Tribe), Jacque Klug and John Rose (Department of Ecology), Tom Sibley (NOAA), Carolyn Kelly (Skagit Conservation District), Diane Freethy (SCARP), Doug Kelly (Island County Environmental Health), Leah Kintner (Puget Sound Partnership), Alison Mohns (Skagit County Planning District), Ron Palmer (Skagit County Public Health), Ron Wesen (Skagit County), Susan Adams (Washington Water Trust), Melinda Wade (KW Realty), Carole Falleen (Windermere Realty), Lorna Parent (Skagit County Health), Becky Crompton (Golder Associates), Marianne Manville-Ailles (Skagit Surveyors and Engineers), Jan Flagan (Skagit County Public Works).

Linda Brown, Zach Barborinas, Carl Einberger, Paul Hagman, Rick Hanika, Sara and Regan Hyatt, Gary Jones, Marty Robinett, Karen Stevens, Marvin Talley, Dave Towne, June Kite, Trudi Davis, Jim Davis, John Roozen, Larry Fladebo, Dori Johnson, Jerry Radike, Bob Stevens, Pat Stevens, Patti Dore, Doug Dore, Patricia Ceis, Elizabeth Hanson, Earl Hanson, William Blunt, Stephen Sahlstrom, Beverly Inman, Kathy Mitchell, Roger Mitchell, Bill Yarcho, Jacob Telberg, Ronald Dow, George Wells.

### Facilitator:

David Roberts

### Future Meeting Schedule:

No additional meetings are planned at this time.

### Actions:

- 1) David - Get meeting notes to Mentor Law Group within two working days.
- 2) Mentor Law Group - Circulate notes to all who were in attendance and post on website.
- 3) Jacque - Post process flow chart and presentation materials on website as soon as possible.

### Welcome, Intros and Overview of Meeting

David Roberts kicked off the meeting welcoming everyone and reviewing the agenda. He reminded everyone that all the information from this meeting and previous meetings could be found on Ecology's website. Jacque Klug welcomed everyone then announced she was leaving Ecology in the near future. Joe Mentor provided a brief overview of the project and reminded everyone of the purpose of the Interagency Review Team and the original intent of the review process.

### Mitigation Program Process

David Hawkins explained the project in the context of the instream flow rule. David Hawkins explained that the project is funded by the capital budget and was authorized before the State Supreme Court invalidated the 2006 Amendment to the Skagit River Instream Flow Rule.

Joe Mentor gave a basic description of the project concept and some background on three possible mitigation project sites. Following the initial technical work to determine suitable sites, the current working proposal is to rehabilitate wetland(s) that will provide increased storage to mitigate for new uses of groundwater. The project proposes to fill the wetland area during precipitation events and release flows during times when the instream flow level required by rule is not met at the Mt. Vernon gauge and during Fisher Creek's low flow period.

The team is working on updating the suitability assessment, a conceptual design report and a mitigation plan for submission to Ecology. These products will be used to support the permit applications needed for the project. The first two products are available in draft form on Ecology's website. The Mitigation Plan will explain how the project will be funded and managed and should be completed in 2-3 weeks along with draft permit applications. State, County, City and Tribal officials have been invited to past meetings and were provided drafts of the technical review and conceptual design. Comments provided by the organizations are being considered in the design of the project.

#### Q & A

*Has Snohomish County been involved in these discussions?* They have been invited to participate, but have provided no input to date. Permits will be required from Snohomish County so they will be consulted soon.

*Can Swinomish veto the process?* The Swinomish Tribe has provided comments and will have an opportunity to provide comment on future documents.

*How does the "Keta Waters Report" fit into this process?* The report was prepared for the Swinomish Tribe and the Input was provided to Ecology. The technical work is being revised to address concerns raised in that report.

*Has the Swinomish Tribe been involved in the process?* They were invited, are engaged and have provided feedback.

*Does the fact that part of the drainage is in Snohomish County in any way affect water rights decisions by Ecology?* Fisher Creek is being considered based on the hydrologic boundaries, not the county boundaries.

#### **Update on Conceptual Design**

Jay Chennault provided an overview of the two main tasks associated with the development of the conceptual design for the project. Task 1 included the suitability assessment presented at the last meeting. Task 2 included preliminary conceptual designs, site specific evaluations and project operational features. These activities have been underway since our last meeting.

Jay explained this part of the project involved field investigations and analysis of the data. He described the various aspects of the field investigations including soil borings, ground water level monitoring using piezometers, surface water level monitoring, geophysical surveys to determine the peat thickness, and vegetation surveys. The analysis included evaluating groundwater surface interactions and calculating existing site water balances.

The conceptual design has been modified from previous proposals. The latest design calls for a water storage facility to contain stormwater. The facility would include wetland rehabilitation features. The water depth would vary from 2-3 feet in most areas with some deeper pools. Some excavated material would likely stay on site and be

mounded up to create additional complexity on the site. The wetland rehabilitation would improve hydrology, water quality, habitat and vegetation diversity.

Since water does not pass through the peat quickly enough to meet the needs of the project the discharge point to the stream will need to be modified. The plan calls for an engineered backfill parallel to the creek to allow water from a controlled discharge structure to enter the creek. There would be controls on the system that would allow for holding water during high flow periods in Fisher Creek and releasing water during low streamflow periods.

A daily water balance was used to complete the operations calculations. Daily precipitation from 2000-2012 were used in the calculations which were completed for 2 of 3 potential sites. Jay and his team were able to use information plus streamflow data to determine the volumes of water needed to meet mitigation requirements, future household needs and enhancement requirements.

#### Q & A

*What is the relevance of the Fisher Slough project to this overall effort?* The Fisher project is too low in the watershed to have any impact on the groundwater issues in the upper Fisher drainage. However, the Fisher project addresses issues related to other watershed concerns.

*How does Starbird Creek relate to Fisher Creek?* Starbird Creek is a tributary to Fisher Creek.

*How can you have more storage if you are pumping water up from the Creek?* The focus of the project is to address impacts to Fisher Creek during low flow and meet the standard under the instream flow rule. The project will retain stormwater runoff from the land catchment area and potentially use other sources of water to fill, as needed, and avoid impacts to the creek during times of low flow.

#### **Mitigation Plan**

Joe Mentor talked about the process for establishing a mitigation plan. The focus is on the Fisher Watershed. Starbird Creek was initially chosen as the best location for a demonstration project because it is a major tributary in the Fisher Creek drainage, has intact habitat, and offers site opportunities that can meet mitigation and enhancement potential. He explained that there are lots of questions to be addressed.

Joe Mentor explained that technology is available to fill and release water from the wetland remotely, based on flows in the Skagit River, and ultimately a gauge on Fisher Creek. Mitigation water will be released when the Skagit River falls below the instream flow level required by rule. Enhancement water will be released during the low flow period in Fisher Creek.

The wetland will fill naturally via direct precipitation and stormwater runoff, and be supplemented by pumped water when necessary (either pumped stormwater, or groundwater using the existing or a new water right).

Joe hopes that the cost for a single connection will not exceed \$5,000. They are trying to adjust the project scope so that the costs stay in that range.

#### Q & A

*How will you (the Tribe) get a water right ahead of other applicants?* Most of the water used in the project would be diverted from natural runoff during high flow periods and will not be used for consumptive uses. Joe believes there is no requirement for a water right for this type of use.

*How do you get the right for stormwater?* Jacque- According to water law, stormwater is a public resource. Ecology has a policy to collect rainwater (such as rain barrels). The Project will apply for a groundwater permit if they have to.

*How much water will need to be pumped from a well if additional water is needed to keep the system functioning?* Joe said they did not know at this time.

*Could Ecology take away vesting for stormwater?* Jacque said that question needs to be answered by other folks in Ecology. It is unclear if a stormwater permit will be needed. The project is designed to meet the instream flow rule and water code based on what it is today. However the credits offered will be vested.

*Will metering be required?* Joe responded that this is likely. Low impact designs for new homes may also be required along with water conservation applications.

*What if credits are bought and not used?* Credits are issued in the form of a deed. They are recorded and require an excise tax payment. The credit goes with the land. Typically credits are not transferable except with the property unless the sponsor approves. One example where this might be appropriate is a parcel that is converted to a conservation easement. In that case it may be possible to transfer the credit. The sponsor typically is not funded to buy back credits.

*How will credits be handled for different sized lots?* Credits are for a house no matter what size of lot.

*Can additional credits be purchased?* Yes as long as credits are available.

*What about the peat soils and the US Army Corps of Engineers requirements? Why not mine the peat to create more capacity?* This could be explored, but may cost significantly more. In the mean time they are trying to minimize hauling costs by seeing how much dirt from the habitat excavations can be stored on site.

*How will you handle cost escalation?* There could be a late-comer fee. There are risks that come from being an early adopter so fees should be lower in the early stages.

*How will you handle costs over time once all the credits are sold?* There will be some money set aside from each sale for long-term operations, monitoring and maintenance. Prices for later sales could augment the need. In the long haul funds will likely run out and operations, monitoring and maintenance costs will need to be borne by the beneficiaries.

## **Schedule**

The IRT hopes to submit permit applications this summer. There will be a public notice when the applications are submitted and a public comment process that Ecology manages. The timeline will be provided on the website.

Everyone is encouraged to visit the Ecology website for the project to find all presentation materials and notes: <http://www.ecy.wa.gov/programs/wr/nwro/skagit-sfe-gmp-irt.html>