

Future Water Management Concepts Discussion Draft

This concept paper is the product of stakeholder conversations focused on a new approach to improving water management in Washington. It is intended to serve as a catalyst for further conversation around how to best balance competing needs for scarce water resources. For more information, contact:

John Stuhlmiller (360) 870-6017
Michael Garrity (206) 852-5583

Mo McBroom (206) 351-4999
Mike Schwisow (360) 705-1975

A. Purpose

Ensure Washington's water resources will be managed to supply sufficient water for communities, farms, and ecosystems within specified timeframes and provide greater predictability, certainty, flexibility, and resources for water users/managers at both the local and state level.

B. Introduction

This paper sets forth the concept of voluntary, basin-specific water management programs based upon detailed water budgets and utilizing new tools and flexibility to help meet management goals.

Managing water resources through water budgets and associated water management programs allows for more consistent and reliable approaches to meeting multiple water resources needs and is a logical extension of the watershed planning currently conducted in many basins in Washington, with the added incentive of providing implementation resources and regulatory reforms to assist basins in actually meeting their planning goals. However, this approach is not restricted to those basins that have completed development of a watershed plan or have in existence a current watershed-planning group. When approved by Ecology, a water budget and an associated water management program will provide the direction, framework, flexibility and the tools to manage water resources at the watershed level.

C. Water Management Group Definition

The definition of a Water Management Group can be based on the definition of "Local Planning Group" provided in RCW 90.82.060 and should be designed to meet the principles in RCW 90.82.030. However, that definition should be adjusted to include local tribes, should they wish to participate.

D. Water Budget Elements

(1) To obtain the funding and flexibility incentives offered by a water budget-based water management program, a water management group must develop a water

budget that includes sufficient detail and accuracy at the basin and sub-basin level in order to provide a reasonable level of certainty that significant progress toward water management program goals will be made. Data gathered to support the water budget must be broken down into monthly increments to account for seasonal changes in use and flow.

(2) A water management group's water budget shall be reviewed by Ecology and approved if it meets the standards described below.

(3) A water budget must include all of the elements set forth in RCW 90.82.070. All estimates must be based upon the best data available. In addition to these requirements, the water budget shall include:

(a) An identification of all river and stream reaches within the budget area with flows that prevent or impair fish passage and survival, and an estimation of the flow needed to provide for upstream and downstream fish passage.

(b) An estimate of the instream flows necessary for functioning rivers and streams in the management area including an estimate of the flows necessary to allow for healthy populations of native fish species.

(c) An estimate of the water needed in the future for all permitted and exempt out-of-stream uses in the management area, segmented by type of use (domestic, agricultural, municipal and industrial). This analysis must take into account long range planning goals and zoning adopted by municipalities, including requirements under the Growth Management Act.

(d) An estimation of the water supplies potentially available through water conservation and efficiency measures and demand reduction strategies such as those set forth in RCW 90.82.070(2). Other water supply and demand reduction strategies may also be considered. These estimates shall quantify the volume of water that could be derived from these measures and strategies by type of use and the costs of pursuing them.

E. Water Management Program Details

The goal of a water management program is to identify a water management group's approach to work on any identified instream flow or out-of-stream water supply deficits to achieve a balanced water budget within a specific timeframe. The program shall take into consideration all of the data and estimates provided in the watershed budget.

(1) Upon successful completion of a watershed budget, a water management group shall work cooperatively with Ecology to develop its water management program. The water management program shall be approved and adopted by Ecology based upon the following criteria:

(a) The water management program must be based upon data and estimates in the water budget that establish a sufficient technical foundation for the goals, objectives, and strategies identified in the program.

(b) The water management program must be capable of meeting in- and out-of-stream demands identified in the water management group's water budget and the state's fundamentals for utilization and management of water as embodied in RCW 90.54.020.

(c) The management program must facilitate progress in addressing deficits on both the instream and out of stream sides of the budget that is adequate in light of watershed planning goals, federal requirements, salmon recovery plans and long term needs of agriculture and population growth. Progress shall be measured over a five year period.

(2) The water management program shall include specific plans and actions necessary to prevent impairment of senior water rights and flows identified in the water budget pursuant to D(3)(b) from any new water use, including water needed to serve anticipated land use development. Where such impacts are identified, the program should provide mechanisms to enable mitigation, by individual water right applicants or by a group of applicants or water right holders or both, to avoid such impacts.

(3) The management program shall consider the water budget analysis of instream flow and fish passage needs. In order to maximize the benefits of projects to increase instream flows, the management program shall prioritize areas with critical flow conditions that impact fish passage, and shall coordinate to the maximum extent practicable with entities addressing fish passage barriers, such as the co-managers of the resource, or local or regional fish recovery groups.

F. Incentives for finalizing a water budget and water management program

(1) If approved by Ecology, the water management group will receive funding and specified regulatory flexibility to help ensure that it reaches the goals of its water management program. These incentives shall include: *

- (a) funding for infrastructure, conservation, and water acquisition needed to help meet the goals of the program; **
- (b) a limit on Ecology's review of continuous beneficial use of a water right pursuant RCW 90.14.130 to the most recent fifteen year period prior to Ecology's review; ***
- (c) redefining "annual consumptive quantity" for the purposes of changes or transfers pursuant to RCW 90.03.380 to mean the estimated or actual annual amount of water diverted pursuant to the water right, reduced by the estimated annual amount of return flows, during the year of greatest use within the most recent eight-year period of continuous beneficial use of the water right;

- (d) providing for streamlined permit processing as well as a preferred status for water transfers, new water rights, and other water permitting decisions for the water resource inventory area covered by the program; and
- (e) allowing mechanisms to provide for collective mitigation of new permitted or permit exempt uses.

* This list may be expanded after additional stakeholder input.

** Funding will be allocated to instream and out of stream needs based upon a yet-to-be-determined system for equitably apportioning appropriated state dollars.

*** This approach will include a due process provision to protect water right holders from potential harm due to this statutory change.

(2) The water management program shall be reviewed and modified as necessary every five years by the water management group and Ecology to ensure that the program is making measurable progress toward a balanced water budget. If it is failing to make measurable progress according to the standards described in Section E(1) progress must be demonstrated over the next five years or incentives granted the local water management group will be removed.

G. Operation of Incentives outside of participating watersheds

In the event that water rights are sold or transferred to other basins that are not participating in the water budget and management program, the standards for quantifying water rights in the non-participating basin shall prevail (i.e., incentives granted as part of the water budget and management program will only accompany a transfer out of the participating basin if both basins have a water budget and management program)

H. Nonseverance Clause

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is null and void.