Upper Skagit Groundwater Mitigation Program

Interagency Review Team Draft Meeting Notes
March 27, 2014

Attendees

Rick Hanika, Karen Stevens, Bernice Stevens, Marty Robinett, Paul Hagman, Rob Helton, WM Blunt, Chuck Rogers, Carl Einberger, Dale Klein, Al Hebert, Marvin Talley, Roger Ridgeway, Britt Pfaff Dunton, Leah Kintner (Puget Sound Partnership), Dan Berentson (Skagit County Public Works), Susan Adams and Jason Hatch (Washington Water Trust), Ron Wesen (Skagit County Commissioner), Rachel Lerman (Skagit Valley Herald), Corrine Story (Skagit County Public Health), Dale Pernula (Skagit County Planning), Brendon Brokes and Wendy Cole (WDFW), Carolyn Kelly (Skagit Conservation District), Brant Wood (Snohomish County PUD), David Hawkins and Lauren Rich (Upper Skagit Indian Tribe), Jacque Klug and John Rose (WA Dept. of Ecology), Joe Mentor, Jessica Kuchan, and Rani Williams (Mentor Law Group, PLLC), and Chuck Lindsay and Jay Chennault (Associated Earth Sciences), Margo Gillaspy (Skagit County Public Works), Ron Palmer (Skagit County Public Health), Alison Mohns (Skagit County Planning District), Lorna Parent (Skagit County Health), Becky Crompton and Chris Pitre (Golder Associates), Gary Jones (Attorney), Paula and Gary Clancey (CAPR), Kari Neumeyer (NWIFC), Marianne Manville-Ailles (Skagit Surveyors & Engineers), George Theodoratus (Theo Investments), Bruce Johnson (Developer), Dave Towne (Local Appraiser), Diane Freethy (SCARP), Paul Anderson (WA State Groundwater Association), Ed Stauffer (Alger Watershed Association, Inc.), Gary Hagland, Sara and Regan Hyatt.

Meeting Support (Facilitation and Notes)

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

Future IRT Meeting Schedule

Focus will be to provide an update on Site Specific Evaluation (field work and analysis). We will review anticipated project costs, amount of water, and how many homes can be mitigated for. We will also get an update on the permit process.

Action Items

- David Hawkins – Make fish data available to the IRT. Go to Washington State's SalmonScape webpage (apps.wdfw.gov/salmonscape/)
- Lyn Wilste and David Roberts– Get meeting notes to Mentor Law Group, PLLC within two working days.
- Mentor Law Group, PLLC– Post meeting notes to Ecology website.
- All – Visit the Ecology website for project updates, including a draft plan that will be posted mid-May: http://www.ecy.wa.gov/programs/wr/nwro/skagit-sfe-gmp-irt.html

Welcome, Introductions and Overview of Meeting

Lyn Wiltse started the meeting with a moment of silence to honor the victims, families and first responders at the Oso Landslide. She then reviewed the agenda and asked everyone to introduce themselves and describe their interest in the project.

Jacque Klug (Ecology) welcomed everyone to the meeting. She is pleased with the initial results of this project's Technical Report and welcomed everyone's comments. She also showed a flow chart titled "Mitigation Site Suitability Assessment", which explained the steps of the project. After assessment and input of the current report, design of the project will start. Input will be gathered again on the proposed mitigation plan, then submitted to the Department of Ecology, which will allow public comment. This flow chart can be found at the Ecology project page website noted above.

Ecology is supporting this project as well as other mitigation projects to address water resources issues in the area. Jacque was asked how mitigation is defined. She said typically a mitigation plan is developed to address impacts to streams associated with pumping a well. Impact is defined as a calculable reduction in stream flow.

David Hawkins (Upper Skagit Tribe) also welcomed participants and explained the Upper Skagit Tribe's objectives and interests in the project. The Tribe is seeking a balanced approach hoping solutions will address property rights and fish needs.

Joe Mentor (Mentor Law Group) shared the history of the project and some basics about how the mitigation approach is envisioned to work. He explained that there is plenty of water in the Skagit River, just not at the right time. He also indicated that mitigation tools are used in many places in eastern and western Washington.

Three products are being developed. The first product is a Suitability Assessment. Jay Chennault provided a presentation on this part of the project later in the meeting. The second deliverable is the mitigation plan, which will include an estimate of how much water can be stored, how many homes can be mitigated and identified permits needed for the project. A draft mitigation plan will be presented at the next IRT meeting. The third deliverable will be the actual permits for the project.

Project Suitability Assessment Presentation

Jay Chennault (Associated Earth Sciences, Inc.) provided an excellent summary of the Suitability Assessment recently completed. He stated that the goals of the project are to support development and enhance stream flows. Jay explained three questions need to be answered: How much water is needed? When is it needed? And where is it best to do the project?

How much water? First, Jay took us through a variety of land use and water consumption calculations. Using an estimate of 4-5 new homes per year up to 170 new houses could be built in the Fisher Creek watershed in the next 50 years. Using an average consumptive rate of 175 gallons per home per day this works out to an annual consumptive demand in the watershed of 33.5 acre-feet of water to mitigate for future uses. It was determined that an additional 12.6 acre-feet will be needed to address the uses of 64 dwellings built since the instream flow rule was adopted in 2001. This does not include any water for enhancement.

When is the water needed? Next, Jay showed some historical stream flow records. August through October are the critical months for Skagit River instream flows. There is a long history of days exceeding the minimum instream flows. Flows from June to October in Fisher Creek are from 0.3 – 0.5 cfs. So the primary need for flow augmentation is in the summer and fall.

Where is it best to construct the project? Jay explained that finding a suitable location requires consideration of a number of factors including geology, soils, wetlands, infrastructure, slopes and fish habitat. Using a series of maps he showed us how the picture needs to come together. The key is to find outwash geologic units with soils that can easily infiltrate water in continuity with streams. Originally the team has focused on a groundwater recharge approach using group A or B soils over outwash geologic units in continuity with the streams. Their newest analysis indicates that areas with peat may also be suitable for the kind of storage and groundwater recharge hoped for in the project.

Other factors that need to be considered include: 1) the location of the Olympic pipeline which impacts riparian vegetation and water quality; 2) water quality and riparian conditions along the stream; and 3) physical limitations to access such as migration blockages for fish. With all these factors considered two potential sites have been identified east of I-5 in the Starbird Creek portion of the watershed.

Jay summarized his presentation with the following points:

- Approximately 12 acre-feet is needed to mitigate for development that occurred in reliance on the 2006 Rule Amendment and 20 acre-feet for future development over a 20-year period. July through October are the critical times
- Group A-B soils over outwash and peat potentially offer high opportunity for recharge
- Two potential areas have been identified for further investigation
- The team is working to get access to sites in these areas for site specific field work and testing
- Looking for comments on the Assessment. USIT's asking for comments by April 7th.

Questions and Answers:

After the presentation Jay Chennault, Joe Mentor, Jacque Klug, David Hawkins and Chuck Lindsay answered a variety of technical and policy questions:

- *Will the project benefit all landowners in the basin, or only those downstream of the project?* Joe stated that we really don't know yet. The team is looking at the whole system to identify where water is needed and how to make a difference. Two key questions for the project are: 1) Apportionment of costs (new and existing homeowners) and 2) How much enhancement is needed. They are looking for as many places to store as much water as they can.
- *Is there a verified impairment?* David responded that the project is attempting to provide a practical solution for an impractical instream flow rule. The project is focused on providing mitigation within the framework of the 2001 Instream Flow Rule.
- *What is the price point for the mitigation credits?* Joe shared that credits for household use in the Kittitas project he worked on cost $5,700 per credit plus processing fees. Because the majority of the upfront costs for this project are being funded through a grant agreement between the Department of Ecology and the Upper Skagit Indian Tribe, Joe anticipates the cost per credit should be lower.
- *Why not replace the instream flow rule with something more representative of the reality?* David answered that the Upper Skagit Tribe looked at different options including changing the rule. They decided a mitigation project is feasible in the long run and could be completed and implemented in a short amount of time.
- *Are other options being considered like stormwater detention or infiltration – especially on new development?* Joe said that the team is looking at all options. Distance to the creek and timing are key components. The existing stormwater infrastructure will be used as much as possible.
- *What kind of water right will the project have?* Several permits will be sought. He is working with Ecology to define what is needed. The mitigation plan should contain the permit strategy plus price point calculations, the site evaluation and the long-term management strategy.
- *How many fish are spawning in Fisher Creek?* David said the Upper Skagit Tribe has spawning surveys he would share with the IRT.
- *The Swinomish Tribe appears to be working with Ecology on issues in the Skagit after the October 2013 Supreme Court Decision. How does that influence this project?* David stated that the Upper Skagit Indian Tribe started its process of finding funds for a solution before the Supreme Court Decision was issued. Jacque shared that the Swinomish Tribe is not sponsoring this type of project, but is engaged in the development of mitigation and is providing feedback on this mitigation proposal.
- *Will the mitigation plan include options for outdoor watering?* Chuck answered that these questions will be answered in the future. The current focus is on identifying sites and verifying that the project will work.
- *How was the instream flow rule developed and why were citizens left out of the process?* Jacque and David reviewed the history of the development of the rule and talked about the role of citizen advisory groups.
- *A couple years ago, a contractor was brought in by Ecology to track how much water was actually being taken out of the river. That study stated 175 gallons per day. Where did the 175 gallons per day per home assumption come from?* Chuck explained that households with drain fields are assumed to use about 350 gallons per day, but 85% of the water is assumed to go back into the ground. For purposes of this project they have taken a more conservative approach that only 50% of the water goes back into the groundwater system.
- *Why is mitigation required for lots that were created based on planning required by the Growth Management Act?* Jacque responded that the GMA and water law do not mesh well. There is a directive to integrate water resources into land use decision by the Legislature but limited legal tools to achieve that goal. This project is a practical path forward that meets the legal requirements under water law and land use law.
- *Why not use the Samish or Nookachamps watershed plans and watershed approaches?* Jacque said that this project builds on some of the ideas of watershed planning, by looking at watershed health, addressing stormwater impacts and water withdrawals.
- *Is there a tie to the TMDLs in the watershed?* Jacque responded that there is an active clean-up plan and that the agency is looking at ways to integrate their efforts across programs.

- *Could we partner with environmental agencies to address the water quality issues at the same time? There are many water quality problems like junk yards, septic system failures, animal access that are not getting addressed and some folks are getting frustrated with the lack of action. Why put a project on land that does not support fish? We need more focused efforts by the County and others to address these issues.* Joe responded there are multiple issues at all the sites. This project is about stream flows; however, it could be a catalyst to address other issues. For instance, culvert replacements could become a higher priority in some locations in the future.
- *How will climate change be addressed?* Jay provided an overview of ongoing work by the University of Washington's Climate Impacts Group (CIG). The CIG has modeled streamflow in the Skagit River for a number of different climate change scenarios which he has reviewed and analyzed the model output. Jay further explained that existing reservoirs in the system complicate stream flow calculations and that will require some calibration of existing climate change streamflow models.
- *What were the historic flows in Fisher Creek?* Jay shared there are only two years of data, 2007-2008, so the historical record is limited. Dan Berentson shared that his folks have been in the field looking for drainage infrastructure and fish restoration opportunities. They are seeking to line up projects that have multiple benefits. Joe indicated that the County staff has been very responsive to the project.
- *Are there opportunities to partner with Snohomish County?* Joe said yes, but that so far Snohomish County has not been engaged. Sara Hyatt said she could help.
- *At what point can we translate the findings of this project to problems in the rest of the County?* Joe said that it is up to Ecology and the Upper Skagit Tribe. The team is trying to do good here in a short amount of time. There are two critical stages: 1) Translate theoretical information to locations on the ground (identify sites); and 2) Get the mitigation plan together. Jacque shared that Ecology is working with the Washington Water Trust on options in other parts of the Skagit Basin. These include water bank development, better management of reservoirs, looking at utilities and how they manage their water, and purchasing water rights for transfer.
- *Will the Upper Skagit Tribe control the water rights associated with this project?* David responded that the USIT is the mitigation project proponent but is not a developer. The USIT has no financial interest in the outcome or financial incentive for proposing the project. Instead, the USIT is taking this on because of the restoration and enhancement opportunity presented and no other entity has been willing to take charge of this project. The USIT is not necessarily seeking to be in the business of selling credits. But for now no other entity has stepped forward.
- *What portion of Fisher Creek comes from Carpenter Creek?* Jay explained that the confluence of the two creeks is very low in elevation. This project is looking at finding alternatives higher up in the Fisher Creek watershed.
- *Has anyone asked Skagit PUD what it would cost to bring water to this area?* Jacque said thought the estimate was about $6 million for the Fisher Creek watershed. Joe pointed out that the Fisher Creek area is only one of 26 areas in the Skagit with the same water issues.

Closing Remarks

Joe and Jacque thanked everyone for their participation in this process and reminded all that there will be one more IRT meeting. At that time there will be an update on site-specific evaluation, including the field work and additional analysis.

Meeting Evaluation

Things to consider next time:

Parking was very difficult. Please find a place with easier parking.

Handouts

- Agenda
- Technical Report – Preliminary Draft Skagit River Basin Ground Water Recharge Mitigation Program Dated March 12, 2014, by Associated Earth Sciences. Inc.
- Technical Memorandum dated March 27, 2014 from Associated Earth Sciences. Inc.