

REGARDING MEASURING WATER USE

Filed in Thurston County Superior Court on March 30, 2001

Plan for demonstrating compliance with RCW 90.03.360 and Order of the Superior Court for Thurston County.

This report is intended to document Ecology's methodology for determining what is required to comply with the Court's order and the actions necessary to demonstrate to the Plaintiff and the Court that Ecology has complied with the order within two years. This report also offers a framework for documenting past actions that can partially satisfy the Court's order, a schedule for taking additional actions to attain full compliance with the Court's order, and a schedule with milestones and regular communication between the parties that can lead to confidence that the 2-year schedule for full compliance with the order can be met. Ecology's current opinion based upon the assessment to date is that compliance with the Court's order is achievable within the 2-year period.

Who should be required to measure or meter their water in order to comply with the Thurston County Superior Court order?

The first step to answer this question is to find a way to identify who is using water in the 16 "fish critical" watersheds. The 16 basins or watersheds conform to Water Resources Inventory Areas (WRIA) assigned by WAC 173-500. The WRIA inventory number has been included in Ecology's water right databases since they were first developed and it provides a reliable means to identify claims, permits, and certificates to use water in these watersheds or basin.

Water use data collected or estimated by federal agencies and published periodically by the USGS and others is not of sufficient detail to be directly useful for this task. The largest water users commonly measure or meter their water for billing customers. This information can help in the effort, but is not usually comprehensive enough to provide a basis for determining the total amount of water used in a basin or watershed. One exception to this is WRIA 1, where watershed assessment work has resulted in a comprehensive survey of water use.

We concluded that water right records supplemented with actual or estimated water use compiled by local, state, and federal agencies is the most feasible way to answer the question.

WRATS and query methodology

Water right claims, permits, and certificates to use surface water and ground water were selected by querying the WRATS database for all records within the WRIsAs that comprise the 16 basins. The query results were reviewed and the instantaneous diversion rates were examined and compared to the stated uses claimed or authorized by the water right. In cases where the claimed quantity was not reasonable for the stated use, staff in the regional office adjusted the instantaneous quantity using best professional judgment or personal knowledge. The assumptions used to make the BPJ decisions are documented in Appendix 1.

Excel Spreadsheets, by Region and WRIA – Appendix 2

The results of the queries of the WRATS are presented in an MS Excel workbook. A page in the workbook contains the query result for each WRIA. Additional pages in

the workbook are used to present the claims, permits, and certificates in rank order by the instantaneous diversion rate. The claims, permits, and certificates listed by WRIA are those that represent 80% of the estimated total instantaneous quantity of total water diversion/withdrawal within the WRIA.

Published data for estimated water use in the basin are used to determine the 80% threshold where appropriate. Some Hydrologic Units used by the USGS to aggregate the 1995 federal estimates do not coincide with the WRIA delineations used by Ecology.

How do we propose to demonstrate compliance with the order?

1. An assessment of which water users on the spreadsheets are already required to meter through permit conditions, regulatory orders, court orders, or as a condition of extension or change to a claim, permit, or certificate. These claims, permits, and certificates will be noted in the spreadsheets and the permit condition or order will be identified. Ecology will order the holders of these claims, permits, and certificates of their obligation to conform their metering and reporting practices with the requirements of the revised water metering rule that Ecology will promulgate pursuant to the Court's order by December 31, 2001, and Ecology will request prompt written confirmation from those so notified that they have conformed their measurement/metering and reporting practices to those required by the revised rule.

2. Ecology will issue an order to those holders of claims, permits, and certificates that do not have an existing requirement to measure their water use (the "non-obligated water users") as necessary to accomplish metering of 80% of the estimated water use in each of the 16 priority WRIs. These users will be notified on the schedule set out below after Ecology creates a mailing list of property owners that correlates owners of the property within the legal description of the place of use with GIS and county parcel layers or county assessor records.

3. Measuring and reporting frequency, schedules, and confirmation of compliance for non-obligated water users will conform with Ecology's revised measuring/metering rule, and Ecology will request prompt written confirmation from these users that they have conformed their water measurement/metering and reporting practices to those required by the revised rule.

4. If no beneficial water use is occurring as authorized by the claim, permit, or certificate, this will be noted in the spreadsheet.

What are the milestones for completion and who is responsible for management and oversight of this plan?

1. By December 31, 2001, Ecology will substantially complete the assessment of which water users on the spreadsheets are already required to measure/meter through permit conditions, regulatory orders, court orders, or as a condition of extension or change to a claim, permit, or certificate.

2. By December 31, 2001, Ecology will complete rulemaking on the water measuring and metering rule.

3. By March 31, 2002, Ecology will issue orders to the holders of claims, permits, and certificates who are already required to measure or meter their water. The orders will notify water users of their obligation to conform their metering and reporting practices with the

requirements of the revised water metering rule that Ecology will promulgate pursuant to the Court's order by December 31, 2001, and Ecology will request prompt written confirmation from those so notified that they have conformed their measurement/metering and reporting practices to those required by the revised rule.

4. By June 30, 2002, Ecology will issue orders to 25% of the non-obligated water users, if any, who must measure/meter their water use in order to reach the requirement of measuring/metering 80% of estimated water use in each of the 16 priority WRIAs, and will notify them of the need to conform their metering and reporting practices to the requirements of the revised measurement/metering rule and provide Ecology with prompt written confirmation of their compliance.

5. By September 30, 2002, Ecology will issue orders to an additional 50% of the non-obligated water users in conformance with the terms of paragraph 4.

6. By December 31, 2002, Ecology will issue orders to the remaining non-obligated water users in conformance with the requirements of paragraph 4.

7. Reports to Plaintiff – Ecology will provide the Plaintiffs with quarterly updates to the spreadsheet following the December 31, 2001 report for review and discussion relating to Ecology's progress toward completion of the plan.

8. Contingency Plan – Ecology believes that it can meet the milestones identified in this plan without substantially reassigning compliance staff to different regional offices for extended periods or by permanent redistribution of resources. However, if the milestones in one or more of the 16 WRIAs cannot be met without reassigning staff or financial resources, Ecology will redistribute staff or resources to those WRIAs no later than September 30, 2002 to ensure completion of the plan in all 16 WRIAs.

9. Effect of Budgetary Reduction – In the event that currently-funded compliance resources are reduced substantially by the legislature and Ecology cannot accomplish this plan in the two-year period directed by the Court, Ecology reserves the right to propose a modified schedule of implementation and present it to the Plaintiffs prior to requesting a modification to the court order. Plaintiffs reserve the right to object to any such modification.

10. The section managers in each of the four regional offices and the program manager of the Water Resources Program are responsible for the successful completion of this plan.