WASHINGTON STATE
DEPARTMENT OF
ECOLOGY

Regional Planning Guidelines

Recommended by the
Water Resources Forum

Approved by the
Department of Ecology

March 1992
Publication #92-31
printed on recycled paper

REGIONAL PLANNING GUIDELINES

March, 1992

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INTRODUCTION

Statewide Regional Planning Guidelines for regional water planning are intended to assist and give direction to regional water planning groups formed under the auspices of the Water Resources Forum and the Chelan Agreement. These goals, principles, and guidelines are intended to be adapted to the specific planning needs.

A subcommittee of the Water Resources Forum was established to develop the Regional Planning Guidelines. The subcommittee was comprised of the following members:

Chair: Stu Trefry, state caucus

Dwain Colby, local government caucus
Tom Deschner, recreation caucus
Polly Dyer, environmental caucus
Ben George, agriculture caucus
Kathy Gill, business caucus
Bob Gordon, recreation caucus
Jim Hollowed, tribal caucus
Pam Madson, state caucus
Cheryl Miller, environmental caucus
Jim Miller, local government caucus
Kimberly Ordon, tribal caucus
Bill Robinson, fisheries caucus
Mike Williams, environmental caucus

Staff: Ellen Wolfhagen, Ecology
Doug Rushton, Ecology

The Guidelines were formally approved by the Water Resources Forum at their December 19, 1991 meeting. The Regional Planning Guidelines were submitted to the Department of Ecology and recommended for approval on January 13, 1992.

STATEWIDE GOALS AND PRINCIPLES

REGIONAL PLAN GOALS

Throughout the planning process, the planning entities should address the following statewide goals. The planning process will determine the extent to which these goals are achieved. Planning is intended to recognize different needs between regions. The statewide goals are:

- Protect existing water rights recognized under state or federal law or Indian treaty.
- Protect, restore and enhance the full productive capacity of fish and wildlife habitats, including instream, riparian, and wetland ecosystems.
- Accommodate future instream and out-of-stream needs.
- Encourage resolution of future conflicts without litigation.
- Conserve and efficiently use water.
- Strive to provide certainty and predictability of water use and needs, especially in overallocated areas.
- Provide water for human domestic, municipal and industrial/commercial needs.

In the past, there has been a tendency to allow human needs to override other desirable goals; regional planning groups must strive to balance that tendency while meeting other resource needs. To avoid unacceptable human impacts on the available water resource, controls on growth in accordance with the Growth Management Act (Chapter 17, Laws of 1990 and Chapter 32, Laws of 1991) must be instituted and enforced. Provisions of the Growth Management Act should be incorporated in the final plan if an acceptable outcome is to be expected on this final issue.

REGIONAL PLAN GUIDING PRINCIPLES

The Chelan Agreement acknowledges that the development of guidelines and principles is essential for the state to fulfill its stewardship role for resources. It further provides that such guidelines will speak to the actual outcomes sought in plans. (See the Chelan Agreement, Section XI. STATEWIDE GUIDANCE.) Some of these guidelines will be provided as policy recommendations by the Water Resources Forum. The Forum will need to keep the regional planning groups informed and up-to-date on the development of such policies.

The Chelan Agreement recognizes that water is a finite resource. Under Section II. GOALS AND PRINCIPLES the fundamental guiding concepts of the Agreement are spelled out and include, in no particular order:

- That water resource management decisions be by hydrologic unit or regional planning area.

- That future conflicts will be reduced if water use needs located in a hydrologic unit first be met from water resources within that unit.

- That the water resource planning process described in the Agreement shall in no way affect existing water rights[1] without the consent of the water rights holder. Nor shall the planning process necessitate, require or limit any formal determination or resolution of any legal dispute about water rights under state or federal law or Indian treaty. The planning process is an alternative process, voluntarily designed by the affected parties to build on the existing system of water rights through a cooperative, flexible process to plan and manage the uses of Washington's water resources.

- That a program providing for conservation, efficiency, water reuse, elimination of waste,[2] and restoration of habitat areas will be developed and implemented.

- That the participants remain fully committed to the planning process.

In addition to the above, utilization and management of the waters of the state shall be guided by the general declaration of fundamentals contained in RCW 90.54.020. Some of these have been rephrased and reordered, as follows:

(1) Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational and thermal power production purposes, and preservation of environmental and aesthetic values and all other uses compatible with the enjoyment of the public waters of the State are beneficial. (RCW 90.54.020(1))

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[1] *The Water Resources Forum adds as clarification: Existing water rights include those rights permitted and prioritized under state law, reserved by the federal government at the time of reservation, or reserved by treaty between the United States and tribal governments relating back to time immemorial.*

[2] *The Water Resources Forum adds as clarification: "Elimination of waste" includes identifying, in conjunction with the Department of Ecology, water rights within the region that may be eligible for abandonment or relinquishment.*

(2) The quality of the natural environment shall be protected and, where possible, enhanced. (RCW 90.54.020(3))

(3) Adequate and safe supplies of water shall be preserved and protected in potable condition to satisfy human domestic needs. (RCW 90.54.020(4))

(4) Multiple use storage is preferred over single use storage and due regard shall be given to protection of fishery resources in the planning and construction of water impoundment structures. (RCW 90.54.020(5))

(5) Improved water use efficiency and conservation shall be emphasized and, in some cases, will be a potential new source of water with which to meet future needs. (RCW 90.54.020(6))

(6) Development of water supply systems which provide water to the public generally in regional areas shall be encouraged. (RCW 90.54.020(7))

(7) Regional plans should consider the natural inter-relationships of surface and ground waters. (RCW 90.54.020(8))

(8) Public input will be sought at all stages of the planning and implementation process. (RCW 90.54.020(9))

Some other general fundamentals of water resource policy are:

(1) That the cooperative planning process stands in contrast to judicial determination of conflicting rights or claims to water, and therefore will not result in the allocation of water among competing interests. This cooperative process will not "allocate" water in this sense. However, implementation of plans developed through this cooperative process could result in the identification of quantities of

water available for specific purposes. Because of its cooperative nature, the results of this planning process will maximize the net benefits to the citizens of the state. (This statement is taken from the Chelan Agreement, Section II. GOALS AND PRINCIPLES.)[3]

(2) Actions will be guided by the objective to achieve an overall net gain of the productive capacity of fish and wildlife habitats and to accommodate growth in a manner which will protect the unique environment of the state as those goals have been identified in the Memorandum of Understanding on Environmental Protection between the State of Washington and the Federally Recognized Tribes Within the State. The participants understand the achievement of an overall net gain of the productive capacity may, in addition to instream flows, include a variety of other means.

These, then, are the basic principles to be followed in developing any water resource plan. While following the above principles, planning entities must also increase their understanding of the laws, regulations, ordinances, and jurisdictional system currently used that affect habitat and regulated use of water within the state.

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[3] *Allocation of water among potential uses and users shall be based generally on the securing of maximum net benefits for the people of the State. Maximum net benefits shall constitute total benefits less costs including opportunities lost. (RCW 90.54.020(2)) However, please note footnote 2 on page 2 of the Chelan Agreement, which states:*

"Any test currently found in any state law used to allocate, determine or prioritize water rights (such as the 'maximum net benefits' test) has no application to tribal government interests in this cooperative process, unless they determine otherwise. Neither the participation by all governments and other organizations and individuals nor their concurrence in generally applicable water resource guidelines, standards or criteria shall be deemed a waiver of any federal law obligations in regard to the rights of any of those parties or their members."

REGIONAL PLANNING GUIDELINES

These Guidelines are meant to synthesize the regional planning elements of the Chelan Agreement and represent a chronological summary of them. These Guidelines are to be used in conjunction with Section IV of the Chelan Agreement and will serve as guidance to the Regional Planning Group, which is the local group comprised of representatives from various interests, who has the ultimate responsibility for putting the Plan together. These Guidelines cover the process AFTER a governing body (initiating entity) has identified a region as a potential water resources planning area in accordance with Section IV of the Chelan Agreement.

I. GETTING STARTED:

- Initiating entity gives notice of intent to begin planning to: affected general and special purpose local governments with an interest in the region, state agencies with an interest in the region and tribal governments with an interest in the region.
- Initiating entity convenes a meeting with interested governments to discuss the process for regional planning and the ability and willingness of the governmental entities to participate.
- The governments will agree upon an Interim Coordinating Entity which will serve in an interim coordinating capacity until the Coordinating Entity under Section IV of the Chelan Agreement is identified and agreed upon by the Regional Planning Group. The initiating entity may or may not serve as the Interim Coordinating Entity. Once agreed upon, the Interim Coordinating Entity will convene a public meeting which:
    - o describes the proposed process and region to be covered and gauges the public's interest in pursuing such activities;
    - o creates ground rules for public's participation and for the planning process;
    - o introduces the concept of caucuses and providing copies of the caucus goal statements created as part of the process leading up to the Chelan Agreement as necessary background information for the creation of local (i.e., within the planning region) caucuses.
- Additional caucuses, if needed, will be formed in accordance with Section IV of the Chelan Agreement.
- Interim Coordinating Entity convenes a meeting with representatives from local caucuses (which also include the local government, state and tribal caucuses) for the purpose of deciding how many representatives from each caucus will be included in the Regional Planning Group (RPG), which will do the actual planning.

- Interagency or intergovernmental agreements will be entered into as necessary to secure funding and delineate responsibilities. (This step may come later or earlier in the process, depending on local needs.)

II. SCOPING

- The INITIAL meeting of the RPG will: result in a consensus (as defined in Section IV of the Chelan Agreement) choice of "Coordinating Entity" and set timelines for drafting a scoping document, (as defined in Section IV of the Chelan Agreement).
- If necessary, ground rules will be revised or expanded to reflect the needs of the RPG.
- The RPG will receive technical assistance from Ecology and other agencies, as appropriate.
- The Scoping Document is submitted to Ecology for review and approval, prior to commencing the planning process and identifies:
  - Preliminary boundaries
  - Resources needed (staff and money)
  - Timeline for process
  - Data needs
  - Public involvement and education plan
  - Final number of caucuses participating
- In addition, the Scoping Document must identify which items from the attached Appendix A and such additional elements of concern as may be desired will be included in the Plan.
- Ecology will review and approve (or remand to the RPG) the Scoping Document, ensuring the involvement of all the parties needed for a successful plan.
- Interagency or intergovernmental agreements, contracts and subcontracts will be entered into as necessary to complete the Plan.

III. THE PLAN

- The RPG will use the approved Scoping Document as the blueprint for the activities necessary for completing the Plan.
- When completed, the Plan will be submitted to Ecology for review and approval.
- Ecology has 90 days to approve the Plan or remand it to the RPG.
- The public comment period coincides with the 90 day review period.

IV. IMPLEMENTATION

- Prior to completion of the plan, the RPG may request that Ecology and/or local governments adopt interim regulations

or ordinances which the RPG feels are needed to preserve future regional planning options.

- Ecology will adopt implementing regulations and local government will adopt necessary ordinances to facilitate putting the plan in place.

V. PROCESS EVALUATION

- It is the intent of the Water Resources Forum to evaluate the planning process periodically and adapt it where needed for future applications.

QUESTIONS AND ANSWERS ON REGIONAL PLANNING

(FOCUSED ON THE PILOT PLANNING AREAS)

WHO HAS OVERSIGHT RESPONSIBILITY?

During the planning process, the regional planning group will have substantial independence in completing the plan. Both the Water Resources Forum and the Joint Select Committee on Water Resource Policy will monitor the regional planning. They will be looking at how the process works and also at how substantive issues are dealt with, for example, elements of data collection.

The Department of Ecology has some oversight responsibilities. These are related to making sure planning proceeds in a timely manner and that the scope of the plan complies with applicable state and federal laws and regulations.

Once the plan is completed the Department of Ecology has the responsibility to review and approve or remand the plan.

WHAT IS THE ROLE OF THE WATER RESOURCES FORUM?

The Water Resources Forum is comprised of representatives from eight caucuses: state government, local government, tribal government, agriculture, business, commercial and recreational fishing, environmentalists, and recreational interests. The Forum will develop recommendations regarding statewide water resource policy and the regional planning process. Using a consensus process, the Forum can make recommendations to Ecology and other state agencies and also to the Legislature. The Forum's main focus is on water resource issues of statewide significance.

Another function of the Forum is to monitor, evaluate, and recommend changes to the regional water planning process in the two pilot areas. The Forum will also report to the Joint Select Committee on the progress in the two pilot areas. The first report is due to the Legislature by December 31, 1992.

WHAT IS THE ROLE OF THE DEPARTMENT OF ECOLOGY?

In addition to reviewing and approving the scoping document and the ultimate plan, the Department of Ecology has the additional responsibilities of:

- reviewing petitions for caucus status, from groups that are not granted such status from the regional planning group. In making its decision Ecology may consult with the Forum.

- participating in the state caucus, which has representatives in the regional planning group. Ecology's role in finalizing planning projects will be to approve or remand the plan. The reasoning for this is that the final rule-making role of Ecology on approved plans is informed by intervening steps (i.e. State Environmental Policy Act and Administrative Procedures Act) and is therefore legally appropriate.

- assuming the lead role in assuring that the plan is completed in a timely manner (not to exceed 24 months) if consensus among the governments and/or a majority of the interests is not achievable.

- adopting regulations to implement the plan.

WHAT IS THE RELATIONSHIP BETWEEN THE STATEWIDE CAUCUSES (REPRESENTED ON THE FORUM) AND THE REGIONAL CAUCUSES (REPRESENTED ON THE REGIONAL PLANNING GROUP)?

The goals from the statewide caucuses (which were included as part of the Chelan Agreement) serve as the starting point for formation of the regional caucuses. Although the regional caucuses should have goals and objectives consistent with the statewide goals, they could be more specific to reflect regional needs.

The state caucuses can also serve as a resource to the regional caucuses, providing advice, information exchanges and additional broader expertise.

HOW DO REGIONAL CAUCUSES GET FORMED?

At a public meeting in the region, one of the governmental entities will preside and share the goals of the statewide caucuses, as those were contained in the Chelan Agreement. People will have the opportunity to review those goals and decide which are most consistent with their own views and interests. There will be an opportunity to sign up as a potential member of any one caucus. Representatives from the statewide caucuses (including Forum members) will also seek potential caucus members to participate in the planning region.

Within the planning region, separate meetings will be held for each of the caucuses. At these meetings potential members can review the goals and objectives, decide if they still wish to participate in that particular caucus. Once the caucus agrees on its membership, they can refine their caucus' goal statements. The individual caucuses may also begin to nominate those members who will be active negotiators at the planning table.

Sometimes, a need may arise for an additional caucus, covering interests not represented by the existing statewide caucuses. In those cases, people wanting to form an additional caucus need to draft a goal

statement. An additional caucus can be added to the regional planning group by consensus. If a group is not granted caucus status, it may petition the Department of Ecology, justifying the need for the new caucus based on the existing caucuses' goals.

The criteria Ecology will use for granting caucus status to the petitioning interest is whether or not one of the existing caucuses can adequately and accurately represent the petitioners. The petition is likely to be granted if there is a need for separate representation.

WHAT IS THE BASIS FOR DECISION-MAKING WITHIN THE CAUCUSES AND WITHIN THE REGIONAL PLANNING GROUP?

Decision-making within a caucus is a function best determined by the members of that caucus.

At the regional planning group level, each caucus will have one vote. The planning group will attempt to reach consensus whenever possible. In cases where consensus is not possible, decisions will be made by a consensus of the government caucuses and a majority of the interest group caucuses. Minority reports, if prepared, shall be included in the plan document.

Where consensus among the governments (tribal, state, and local governments) and/or a majority of the interests is not achievable, the Department of Ecology shall assume the lead role in assuring that the plan is completed for the pilot projects in a timely fashion, not to exceed twenty-four (24) months.

WHAT'S THE PLANNING HORIZON IN TERMS OF TIME?

At a minimum, the plan should address immediate needs as identified by the group and foreseeable needs for the next 20-50 years. Planning for longer periods is to be encouraged, keeping in mind that plans will need periodic review and updating.

WHAT CRITERIA WILL ECOLOGY USE FOR EVALUATING THE SCOPING DOCUMENT?

The Department of Ecology will review the scoping document for completeness and compliance with applicable state and federal laws and regulations, and water resource planning guidelines. In reaching this decision, the Department of Ecology shall have the responsibility of involving other state agencies where their participation is necessary to the success of the proposed planning effort. This will ensure the involvement of state agencies necessary to assist in the planning effort and to implement the plan. If found satisfactory, the regional planning process may begin. If not in compliance, Ecology will remand the scoping document to the regional planning group for modifications.

WILL THERE BE FUNDS AVAILABLE FROM THE STATE FOR THE PLANNING PROCESS?

Current legislation has provided approximately $1,250,000 for developing regional plans for two pilot areas. An additional $443,000 was provided to help defray participation costs for the local governments and tribes participating in the pilot areas. There are also other potential sources for funding specific tasks under the planning process, such as Centennial Clean Water funds for water quality activities or Referendum 38 funds for agricultural water supply facilities.

It is anticipated that the legislature will continue to provide assistance to the participating governmental entities involved in regional planning activities, once the pilots are completed and a decision to expand the program statewide has been made.

WHAT ARE SOME KEY CONSIDERATIONS IN SELECTING A "LEAD ENTITY" OR "COORDINATING ENTITY"?

The "interim coordinating entity" must be able to bring affected local governments and Indian tribes to the table. It must also have staff resources available (or potentially available) to convene and conduct successful public meetings.

The "coordinating entity" as defined in Section IV of the Chelan Agreement must have the legal ability to enter into contracts with the state and have the organizational integrity to coordinate a process for two to five continuous years. The entity must have the staff resources necessary to coordinate the efforts of several diverse groups (or have a plan for obtaining same). Finally, the entity must have demonstrable fiscal responsibility.

REGIONAL PLANNING GUIDELINES
APPENDIX A

The scoping process shall consider and determine at a minimum which of the following elements shall be addressed in the plan:

A. Groundwater

1. Water quality protection
2. Conservation
3. Recharge
4. Inventory of current and exempted uses/data collection/methodologies
5. Out of area distribution

B. Surface Water

1. Water quality
2. Conservation
3. Minimum instream flows
4. Priority of use
5. Inventory of current and exempted uses/data collection/methodologies
6. Habitat
7. Out of area distribution
8. Peak flow management

C. Consumptive Needs

1. Domestic
2. Agricultural
3. Hatcheries
4. Hydroelectric
5. Industrial

D. Non-Consumptive Needs

1. Instream Flows
2. Recreational
3. Aesthetics
4. Ecosystem
5. Cultural
6. Rivers assessed as eligible for designation as state scenic rivers
7. Rivers assessed as eligible for designation as Federal wild and scenic rivers
8. Fish and Wildlife
9. Hydroelectric

G. Relationship between surface and groundwater

F. Description of relationship to other planning processes as outlined in the Linkages subsection of Section IV of the Chelan Agreement.