MEMORANDUM

TO: The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

THROUGH: Frank M. Abart, Director

FROM: Gary S. Stoyka, Natural Resources Program Manager

DATE: June 16, 2014

RE: June 2014 Council Surface Water Work Session

Please refer to the proposed agenda below for the next Surface Water Work Session. Supporting documents will be distributed at or before the meeting.

AGENDA

<table>
<thead>
<tr>
<th>Time</th>
<th>Topic</th>
<th>Council Action Requested</th>
<th>Background Information Attached</th>
</tr>
</thead>
<tbody>
<tr>
<td>10:30 AM – 10:45 AM</td>
<td>Watershed Planning Update 1. Planning Unit 2. Joint Board</td>
<td>Discussion</td>
<td>None</td>
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<td>10:45 AM – 11:00 AM</td>
<td>Coordinated Water System Plan Update Update</td>
<td>Discussion</td>
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<td>11:00 AM – 11:45 AM</td>
<td>Status update on implementation of the NPDES Phase II Stormwater Permit</td>
<td>Discussion</td>
<td>None</td>
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<tr>
<td>11:45 AM – 12:15 PM</td>
<td>Status of Lower Nooksack Strategy</td>
<td>Discussion</td>
<td>Lower Nooksack Strategy</td>
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</table>

If you have questions, please feel free to call me at (360) 676-6876, extension 50618.

cc: Frank Abart, Mike McFarlane, Remy McConnell, Tyler Schroeder, Joe Rutan, Jeff Hegedy, Josh Fleischmann, Kirk Christensen, Roland Middleton, Sue Blake, Paula Cooper, John Thompson, Karen Frakes, Dana Brown-Davis, Lonni Cummings, George Boggs, John Wolpers, Kraig Olanson, Martha Blakely, Jennifer Paulson, Atina Casas, Mike Donahue, Erika Douglas, Jill Nixon, Cathy Craver, Martha Blakely, Jennifer Paulson, Atina Casas, Mike Donahue, Erika Douglas, Jill Nixon, Cathy Craver, George Boggs.
Achieving Economic and Environmental Certainty in Water Availability for the Lower Nooksack River Sub-basin: Work Plan, Budget and Financing Strategy

Short Title
Lower Nooksack Strategy

Introduction/Background
On July 7, 2010 the WRIA 1 Joint Board directed its Management Team to propose a work plan, budget and financing strategy to advance a negotiated settlement of Tribal and state in-stream flow water rights on the mainstem of the Nooksack River, while maximizing the economic and environmental benefits of out-of-stream water use in the Lower Nooksack sub-basin. The Joint Board directed staff to (1) apply approximately $600,000 in Joint Board budget capacity to the work, and (2) prepare a leveraged five-year financing strategy to achieve this shared goal.\(^1\) This direction is consistent with WRIA 1 Watershed Management Plan priorities.\(^2\)

The purpose of this document is to outline work that must be performed to achieve the shared goal and desired outcomes as they are described below.

Shared Goal
Economic and environmental certainty for stakeholders and communities that share the Lower Nooksack River Sub-basin

Desired Outcomes
(1) A court approved settlement of Tribal and state in-stream flow water rights, prior existing water rights, and future out of stream reserves for the Mainstem Nooksack River.
(2) Clarity and predictability in land and water use opportunities for domestic, commercial, municipal, and industrial uses; irrigation/agricultural uses; a sustainable harvestable surplus of salmon and shellfish, and other purposes.
(3) A sustainable and effective stream flow and related environmental monitoring program.
(4) A transparent, accountable, and scalable market process for furthering resource-based economic activity and growth.

Management
The WRIA 1 Joint Board intends to implement the work plan and financial strategy as it is adopted by the Members, and will support efforts to obtain funding through the sources identified in the strategy.
Pursuant to existing operational protocols, the Joint Board will authorize expenditures from the Joint

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\(^1\) These funds are recently available through termination of the Utah State University contract for Decision Support System development.

Board fund. The WRIA 1 Management Team will administer the work on behalf of the Joint Board.

Tribal, federal, and state agencies are the principle entities responsible for managing water rights settlement negotiations.

Summary of Objectives and Cost Estimates

<table>
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<tr>
<th>Objective</th>
<th>Years 1-2</th>
<th>Years 3-5</th>
<th>Total for 5-Year Strategy</th>
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<td>Objective 1: Water Right Settlement Negotiations</td>
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<td>Total Estimated Costs</td>
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3 Year 3-5 budget estimates are rough estimates of funding needs, and are for planning purposes. As tasks in Years 1 and 2 are implemented the budget estimates for Years 3, 4, and 5 will be refined.
**Objectives, Tasks4, and 2011-2012 Budget Estimates (Years 1-2)**

**Objective 1: Develop and implement a process for negotiating settlement of water rights on the Mainstem Nooksack River.**

Justification: A court approved settlement of instream flow water rights, existing water rights, and future out-of-stream reserves for the Nooksack River is necessary to assure improvements in salmon and shellfish habitat, protect owners of existing water rights, and leverage water availability for other out-of-stream uses. Certainty in water availability is also necessary to achieve targeted investment in economic growth and fish habitat restoration.

Lead: Washington Department of Ecology

Total Budget through 2012: $400,000

**Task 1:** Identify participants/stakeholders for each level of the WRIA 1 Selection and Adoption Action Plan concentric circle decision-making model and draft negotiation protocols and agreements.

Timeline: Jan 2011-Dec 2011

Budget: $50,000

Work product(s): 1) Affirmed/revised Action Plan model; 2) Participant agreements

**Task 2:** Develop negotiations work plan that identifies negotiation extent, process milestones, technical needs, and timelines.

Timeline: Jan 2011-Dec 2011

Budget: $100,000

Work product(s): 1) Work plan for negotiation process including list of technical needs. 2) Project Management Timeline and Milestones.

**Task 3:** Develop involvement and outreach plan for each level of participation prior to initiating process.

Timeline: Jan 2011-Apr 2011

Budget: $20,000

Work product(s): 1) Outreach and Involvement Plan for Concentric Circle Decision-Making Model.

**Task 4:** Implement Task 2 negotiation process work plan.

Timeline: Jan 2012-Dec 2012

Budget: $230,000

Work Product(s): Draft settlement agreements for subbasin and/or drainages.

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4 Budget estimates and timelines in this narrative do not extend beyond December 2012. However, not all tasks will be completed by 2012. Those tasks that extend beyond 2012 are considered in the rough budget estimates for subsequent years. A number of the other tasks that will be completed in the first two years will influence the tasks and budget estimates for the subsequent years of this five year strategy.
Objective 2: Update and verify the Lower Nooksack River sub-basin water budget and provide technical support for decision-making.

Justification: Technical support including, but not limited to, updating and maintaining databases, verifying water budgets, updating USU models, mapping, and GIS analysis are critical to all of the work identified in the Lower Nooksack Strategy. This technical support provides a common body of factual information on which to (1) base deliberations among stakeholders and communities and (2) verify progress toward desired streamflows and/or water quality conditions.

Lead: Whatcom County
Total Budget through 2012: $235,000

Task 1: Coordinate with Watershed and Salmon Recovery Staff Teams or their technical designees on Tasks 2 – 5.
Timeline: Jan 2011-Dec 2012
Budget: $16,000
Work product(s): Fourteen (14) meetings, Meeting summaries, presentations, handouts

Task 2: Review and update datasets relevant to preparing a water budget, and update the USU models as needed to complete and refine the water budget.
Timeline: Jan 2011- May 2011
Budget: $129,000
Work product(s): (1) List of data available through previous efforts that will inform a water budget. (2) Compile and update data needed to inform a predevelopment water budget, including: precipitation, stream flow, evapotranspiration, and groundwater contribution.

Task 3: Prepare a water budget report in the near term so that it can inform the tasks listed for Objectives 1, 3-5.
Timeline: Jun 2011- Sep 2011
Budget: $50,000
Work product(s): Report that estimates components of a water budget in a user friendly way.

Task 4: Identify and update key datasets needed to inform policies and programs working toward achieving Watershed Management Programs goals. Work with entities to refine systems for tracking data relevant to evaluate program performance and management of water.
Timeline: Jan 2011- Dec 2012
Budget: $30,000
Work product(s): (1) Update performance measures memo. (2) Updated datasets, including: land cover, water rights, water use, wells, changes in land management, fish habitat, and water quality and streamflow. (3) Identify limitations in record management and work with responsible party to refine future data collection.
Objective 3: Update the Whatcom County Coordinated Water System Plan

Justification: Accurate and reliable quantification of current and future out-of-stream water needs is necessary to understand when and where future water demand is greater than available supplies and what type of solutions should be targeted. Incorporating this information into relevant land and water use planning documents will inform future development opportunities in the lower Nooksack River sub-basin.

Lead: Public Utility District No. 1

Total Budget through 2012: $210,000

Task 1: **Coordinate the Water Users Group** to serve as technical work group to inform work products in Tasks 2 – 4.

Timeline: Jan 2011- Dec 2012

Budget: $25,000

Work product(s): 1) Meeting Materials including summaries, Agendas, Supporting Documents

Task 2: **Quantify current and projected water use** for the lower Mainstem Nooksack sub-basin.

Timeline: Jan 2011- Jun 2011

Budget: $50,000

Work product(s): 1) Database quantifying current water use and projected water use

Task 3: **Update the Whatcom County Coordinated Water System Plan** (WCCWSP) in accordance with Washington Department of Health requirements, to be used as the basis for furthering the completion of a comprehensive water supply plan that is consistent with the geographic extent of instream flow processes to settle water rights.

Timeline: Feb 2011- Jul 2012

Budget: $100,000

Work Product(s): 1) Whatcom County Coordinated Water System Plan Update Submitted for Approval.

Task 4: **Develop work plan, process timeline, and milestones** for integrating the Coordinated Water Systems Plan with other out of stream water need in a manner that supports, informs, and links to other tasks in this Lower Nooksack Strategy. The work plan will be developed concurrently with initiating the process to update the WCCWSP.
Timeline: Jan 2011- Jun 2011  
Budget: $2,500  

Task 5: **Identify resources and plan to support outreach** and participation in water supply planning and related implementation actions.  
Timeline: Jan 2011-Mar 2011  
Budget: $2,500  
Work Product(s): 1) Outreach plan for government and non-government water purveyors.

Task 6: **Implement elements of the Task 4 work plan** that will establish the local framework needed to address water supply needs extending beyond the WADOH regulatory framework.  
Timeline: Oct 2011- Dec 2012  
Budget: $30,000  
Work Product: 1) Strategy and recommendations for actions that integrate out of stream water needs, land use, and economic needs in context with instream flows for a sustainable harvestable surplus of salmon and shellfish.

Objective 4: Continue and, if appropriate, enhance targeted streamflow and water quality sampling at locations identified in the WRIA 1 Long Term Monitoring Program.

Justification: Continuous records of streamflow and water quality are necessary for (1) informing settlement negotiations, (2) developing solutions for out-of-stream water supply needs, (3) demonstrating ability to comply with future binding settlement agreements, and (4) measuring progress toward broad WRIA 1 Watershed Management Plan goals.

Lead: Lummi Natural Resources Department/Nooksack Tribe Natural Resources Department

Total Budget through 2012: $175,000

Task 1: **Develop funding and maintenance agreements** for key stream gages, water quality stations and temperature probes as identified in the WRIA 1 Long Term Monitoring Plan. Develop agreements for funding of key gages and stations.  
Timeline: Jan 2011-Dec 2012  
Budget: $5,000  

Task 2: **Fund key stream gages, temperature probes and water quality stations** identified in Task 1 schedules.  
Timeline: Jan 2011-Dec 2012  
Budget: $145,000

Task 3: **Prepare a work plan and budget for** extending stream flow gages and water quality sampling (Tasks 1 and 2) beyond current funding period, updating stream flow and water quality databases, introducing additional gaging stations (if needed), and conducting annual or biannual data evaluations.

Timeline: Jan 2011- Aug 2011

Budget: $5,000

Work Product(s): Work Plan and budget

Task 4: **Implement the work plan from Task 3** including updating stream flow and water quality databases, and evaluating data on an annual or biannual basis.

Timeline: Sep 2011- Dec 2012

Budget: $20,000

Work Product: 1) Annually provide DVD or CD of stream flow and water quality databases. 2) Annual or biannual report summarizing and evaluating stream flow and water quality data.

Objective 5: **Advance work on tools that foster water resource allocations consistent with long-term economic and environmental land-use goals for implementation in five years.**

Justification: Positioning stakeholders and communities to act on water allocation solutions established by Objectives (1), (2), and (3) requires substantial advanced preparation. Continuing work to determine how transactions in water, development rights, or other resource values will be conducted is necessary to demonstrate that an agreed suite of water allocation solutions can be accomplished.

Lead: Farm Friends

Total Budget through 2012: $60,000

Task 1: **Continue developing implementation tools** with a near-term focus on identifying water allocation and distribution mechanisms. The intent is to have a transaction mechanism that can be operational as water right issues are settled.

Timeline: Jan 2011- Dec 2012

Budget: $60,000

Work product(s): 1) Meeting summaries, presentations. 2) Interim milestones. 3) Final report describing operational mechanisms for natural resource exchange.
## Lower Nooksack Strategy: FINANCING PLAN

**Year 1 and 2 needs are FY 2011/12 budget estimates from the proposed framework document. Year 3 needs are extrapolated from the framework document. Year 4 and 5 needs are strictly planning level estimates.**

### OBJECTIVES

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### Timeline

#### Task 1: Develop negotiations work plan
- Jan-Mar
- Apr-Jun
- Jul-Sep
- Oct-Nov
- Jan-Mar
- Apr-Jun
- Jul-Sep
- Oct-Nov
- Jan-Mar
- Apr-Jun
- Jul-Sep
- Oct-Nov

#### Task 2: Implement Task 2

#### Task 3: Develop implementation/outreach plan

#### Task 4: Implement Task 2

#### Task 5: Make data and information collected accessible

#### Task 6: Implement elements of the Task 4 work plan

### TOTAL BY YEAR/SOURCE

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1. Whatcom County administers the WRIA 1 Joint Board Fund. The SF funds referenced in this document are currently available through termination of the Utah State University contract. The original source of these funds is largely USDA Conservation District District revenues deposited for the purpose of Watershed Planning pursuant to RCEW 80.82. 

2. Allocations from the fund are authorized by the WRIA 1 Joint Board pursuant to existing WRIA 1 Project Interlocal Agreements among the Initiating Governments.