

RESOLUTION 2018-GG

A RESOLUTION OF THE TOWN OF EATONVILLE, WASHINGTON, AUTHORIZING THE EXECUTION OF A PLANNING UNIT WORKING AGREEMENT TO ADDRESS ESSB 6091 GROUND RULES AND STRUCTURE FOR 2018 WATERSHED PLANNING AND AUTHORIZING TOWN ADMINISTRATOR ABBY GRIBI AS A GOVERNMENTAL PARTICIPANT

WHEREAS in 2018 the Washington State Legislature, acting in ESSB 6091, mandated that the Nisqually Planning Unit acting under authority of RCW 90.82, must update the Nisqually Watershed Management Plan to address explicitly future permit-exempt domestic groundwater withdrawals, potential impacts of the withdrawals on minimum stream flows and other senior water rights, and develop mitigation strategies as deemed appropriate by the Planning Unit; and

WHEREAS, the purpose of the agreement is to identify governmental entities that wish to work together to implement the legislative mandate for the Nisqually Watershed Planning Unit as issued by the Washington State Legislature in ESSB 6091 and to develop and submit to the Washington Department of Ecology a plan amendment that addresses the mandate, define the scope of the plan amendment and expected outcomes of the process and set ground rules for participating in the process; and

WHEREAS, the parties of the agreement are the “Implementing Governments” (The Nisqually Tribe and Thurston, Pierce and Lewis Counties) and “other Governmental and Non-governmental participants,” all of whom were identified as Watershed Planning Unit participants in the 2003 Nisqually Watershed Management Planning process; and

WHEREAS, the Nisqually Indian Tribe will be the lead agency for the purpose of convening meetings of the Planning Unit, storing data created by the project, and providing and/or contracting for services necessary for facilitation, preparing plan amendment(s) and supporting reports; and

WHEREAS, this agreement does not obligate the Town of Eatonville to pay the costs for any watershed plan amendments developed by the Planning Unit; now, therefore,

THE TOWN COUNCIL OF THE TOWN OF EATONVILLE, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: The Council of the Town of Eatonville has reviewed the Planning Unit Working Agreement and has no objections and authorizes the participation of the Town Administrator, Abby Gribi.

PASSED by the Town Council of Town of Eatonville and attested by the Town Clerk in authentication of such passage this 22nd day of October, 2018.

Mike Schaub, Mayor

ATTEST:

Kathy Linnemeyer, Town Clerk

NISQUALLY WRIA 11

PLANNING UNIT WORKING AGREEMENT TO ADDRESS ESSB 6091 GROUND RULES AND STRUCTURE FOR 2018 WATERSHED PLANNING

BACKGROUND:

Acting under authority of the 1998 Watershed Management Act (RCW 90.82), with the Nisqually Indian Tribe as the Lead Agency, the Nisqually Planning Unit adopted in October 2003 the “Nisqually Watershed Management Plan.” Acting at a joint meeting held April 13, 2004, Lewis, Pierce and Thurston counties unanimously approved that plan. Continuing its meetings, the Nisqually Planning Unit in February 2007 adopted the “Phase IV Nisqually Implementation Plan,” further identifying actions to be taken to implement the 2003 Plan.

In 2018 the Washington State Legislature, acting in ESSB 6091, mandated that the Nisqually Planning Unit acting under authority of RCW 90.82, must update the Nisqually Watershed Management Plan to address explicitly future permit-exempt domestic groundwater withdrawals, potential impacts of these withdrawals on minimum stream flows and other senior water rights, and develop mitigation strategies as deemed appropriate by the Planning Unit. The mandated deadline for this activity is February 1, 2019.

The new law establishes standards for exhibiting proof of an adequate water supply when applying for a building permit or subdivision for a home relying on a new permit-exempt well, including requirements about a fee and water use restriction. ESSB 6091 (codified as RCW 90.94) directs the Department of Ecology to work with Initiating Governments and Planning Units to identify potential impacts of exempt well use, identify evidence-based conservation measures and identify projects to improve watershed health and offset potential impacts to instream flows associated with permit-exempt domestic water use. Alternatively, building permit applicants may show other evidence of an adequate water supply that complies with RCW 90.03 and 90.44.

PURPOSE: The purpose of this agreement is to:

- identify governmental entities that wish to work together to implement the legislative mandate for the Nisqually Watershed Planning Unit as issued by the Washington State Legislature in ESSB 6091 and develop and submit to the Washington Department of Ecology a plan amendment that addresses the mandate,
- define the scope of the plan amendment and the expected outcomes of this process; and,
- set ground rules for participating in this process.

1.0 Parties of this Agreement

The parties of this agreement are the “Implementing Governments” (The Nisqually Tribe and Thurston, Pierce and Lewis Counties) and “other Governmental and Non-governmental participants,” all of whom were identified as Watershed Planning Unit participants in the 2003

Nisqually Watershed Management Planning process. These Implementing Governments and other governmental and non-governmental participants are listed in Attachment A with the understanding that one or more of these entities may choose not to participate in this planning activity.

2.0 Scope and Expected Outcomes – The purpose of convening this Planning Unit is to address the legislative mandate of ESSB 6091 (codified as RCW 90.94). The scope of the resulting watershed plan amendment is to estimate the consumptive water use associated with domestic permit exempt well use in the Nisqually watershed and to determine appropriate mitigation for that use. It is expected that the product of this effort will be an amendment to the existing 2003 Nisqually Watershed Plan and will likely include the identification of projects and policies to ensure implementation. An adaptive management mechanism will be included to ensure that projects and policies identified by the Planning Unit to implement ESSB 6091 are being implemented and are achieving the intended outcomes. The Planning Unit will also consider projects and programmatic actions to enhance stream flows that are impacting/impeding salmon survival during critical life histories. The intent of the Planning Unit is to approve an addendum to the 2003 Watershed Plan that addresses the requirements of ESSB 6091 and to transfer said addendum to the Department of Ecology by February 1, 2019.

3.0 Agreement – The parties to this Agreement hereby agree to:

3.1 Review, discuss and seek a recommendation by consensus of the Planning Unit to adopting governments an amendment to the Nisqually Watershed Management Plan that estimates impacts from new domestic permit-exempt groundwater withdrawals for the period from 2018 to 2040 and identifies mitigation strategies to address impacts of these withdrawals.

3.2 The parties agree that the amendment may not require or obligate an Implementing Government or other participating entity to take any specific implementing action, or refrain from taking any specific action, unless that Implementing Government or entity so agrees.

4.0 Lead Agency – The Nisqually Indian Tribe will be the lead agency for the purpose of convening the Planning Unit, applying for and administering watershed planning grants, convening meetings of the Planning Unit, storing data created by this project, and providing and/or contracting for services necessary for facilitation, preparing plan amendment(s) and supporting reports.

5.0 Planning Unit –

The Planning Unit is the committee formed by the Implementing Governments under authority of the 1998 Watershed Planning Act (RCW 90.82) and as approved by the counties in their joint meeting of April 2004. In addition to other responsibilities, the Planning Unit shall address the legislative mandate established in 2018 by ESSB 6091. The approving authority of each party to this agreement shall appoint a representative to the Planning Unit, authorizing said representative to participate on its behalf in the Planning Unit. The Planning Unit shall be the policy

recommendation committee for amending the Nisqually Watershed Management Plan as mandated in ESSB 6091 and established by this agreement.

The Planning Unit shall fulfill this function in the following manner: (a) by preparing and approving plan amendment(s); (b) by making a good faith effort to forward a record of Planning Unit deliberations and plan amendment(s) to the Department of Ecology by February 1, 2019. In addition, the Planning Unit may, but is not required to, support or endorse actions that implement said amendment(s).

Representation on the Planning Unit shall consist of representatives of the Implementing Governments as identified in Section 1.0 and Attachment A, and other governmental and non-governmental participants (also listed in Attachment A). The Nisqually River Council Citizens Advisory Committee is assumed to be the avenue for citizen participation on the Planning Unit. The parties recognize that the Nisqually River Council has a special role in natural resource planning in WRIA 11 and shall encourage the Council's participation in the Planning Unit deliberations. Interested parties may join the Planning Unit through October 2018 if they have interest in the subject Addendum and implementation of said Addendum.

6.0 Ground Rules -

6.1 The Planning Unit will strive to make decisions by consensus of all members of the Planning Unit. Each participating entity, as listed in Attachment A, will have one vote. For the purposes of this process, consensus shall mean general concurrence, with no one member of the Planning Unit refusing to support the decision. If the Planning Unit is unable to reach a consensus on an issue, an affirmative decision shall be made by the consensus of all authorized representatives of the Implementing Governments on the Planning Unit and 2/3 majority vote of all other governmental and non-governmental participants present. Any inability to reach full consensus shall be documented in the meeting record with the positions of the refusing parties clearly stated. If all Implementing Governmental participants are unable to reach consensus and the amendment is not adopted by the Planning Unit, the WA Department of Ecology must then adopt rules for WRIA 11 that meet the requirements of ESSB 6091, per Section 202(7)(b) of the legislation.

6.2 Prior to reaching a consensus decision on an issue, a representative of the lead agency shall clearly state the decision facing the Planning Unit. Representatives from the Nisqually Tribe and the three participating counties must be present to take a vote. For extenuating circumstances, if a representative from the Nisqually Tribe, Pierce, Thurston or Lewis County must be absent for a vote, the representative for that entity may vote in abstentia by providing their vote to the facilitator in advance of the meeting. Consensus decision will be clearly reported in the minutes distributed to Planning Unit members.

6.3 In making all decisions, the Planning Unit shall consider the best available science, as defined in the 2007 Phase IV Nisqually Implementation Plan.

6.4 Meeting notes shall be taken at all meetings. Such minutes need not be verbatim restatements of meetings, they need only reflect the decisions made and topics discussed. Draft notes shall be reviewed and approved by the Planning Unit at a subsequent meeting.

6.5 Technical and other advisory work groups may be established by the Planning Unit to develop projects, provide analyses and reports, and make recommendations to the full Planning Unit on specific issues.

6.6 Nothing contained herein or in any amendment developed under the Agreement shall prejudice the legal claims of any party hereto, nor shall participation in this planning process abrogate any party's authority or the reserved or other rights of the Nisqually Indian Tribe, except where the obligation has been accepted in writing.

6.7 Members of the Planning Unit agree to focus discussions on the assignment of fulfilling the requirements of the watershed established in ESSB 6091.

6.8 Planning Unit meetings are open to the public and an opportunity for public comment will be provided on meeting agendas.

6.8 Members recognize the Committee represents a broad range of interests. All parties agree to recognize the legitimacy of the interests and concerns of others, and expect that their interests will be respected as well.

Members commit to:

- Listening carefully to each other;
- Recognizing each person's concerns and feelings about the topic;
- Asking questions for clarification;
- Making statements that attempt to educate or explain;
- Making no personal attacks directed at individuals and/or agencies; and
- Keeping colleagues and constituents informed about the work of the Planning Unit in a timely manner

7.0 Funding - This agreement does not obligate the Implementing Governments to pay the costs for any watershed plan amendments developed by the Planning Unit unless the Implementing Government or governments to the obligation so agree.

8.0 Duration – This agreement will be in effect for five (5) years from the Agreement's effective date, unless extended by the agreement of the parties.

9.0 Authorization to Sign: The parties hereto each represent and warrant that all necessary signature and consents to enter this agreement and to assume and perform the obligations hereunder have been duly and properly obtained.

ATTACHMENT A

Planning Unit Members

Implementing Governments

Nisqually Indian Tribe – David Troutt, Natural Resources Director
Supporting Staff
George Walter, Environmental Program Manager

Lewis County – Gary Stamper, Commissioner
Supporting Staff
Fred Evander, Senior Long Range Planner
Lee Napier, Community Development Director

Pierce County – Dennis Hanberg, Planning and Public Works Director
Supporting Staff
Dan Cardwell, Long Range Planning Supervisor
Jessica Gwilt, Long Range Planner
Tom Kantz, Project Manager
Rance Smith, Development Engineering Supervisor
Barbara Ann Smolko, Senior Planner

Thurston County – Joshua Cummings, Community Planning and Economic Development Director
Supporting Staff
Kevin Hansen, Hydrogeologist
Allison Osterberg, Senior Planner
Cynthia Wilson, Community Planning Manager

Other Governmental and Non-governmental Participants

City of Lacey – Julie Rector, Water Quality Analyst

City of Olympia – Andy Haub, Water Resources Director
Supporting Staff
Jesse Barham, Habitat Coordinator
Joe Roush, Storm and Surface Water Planning Supervisor

City of Yelm – Michael Grayum, City Administrator
Supporting Staff
Grant Beck, Public Works Director

Town of Eatonville – Abby Gribi, Town Administrator

Thurston Public Utility District – Russell Olsen, Commissioner
Supporting Staff
John Weidenfeller, General Manager

Nisqually River Council Citizens Advisory Committee – Lois Ward, Vice Chair

Washington State Department of Ecology – Mike Gallagher, Southwest Region Water Resources Section Manager

Washington State Department of Fish & Wildlife – Matthew Curtis, Habitat Biologist and Kiza Gates, Water Team Lead

Washington State Department of Agriculture – Gary Bahr, Natural Resource Assessment Section Manager

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

NISQUALLY INDIAN TRIBE

By: David Troutt, Natural Resources Director

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

LEWIS COUNTY

By: Gary Stamper, Commissioner

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

PIERCE COUNTY

By: Dennis Hanberg, Planning and Public Works
Director

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

THURSTON COUNTY

By: Joshua Cummings, Community Planning
and Economic Development Director

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

CITY OF LACEY

By: Julie Rector, Water Quality Analyst

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

CITY OF OLYMPIA

By: Andy Haub, Water Resources Director

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

CITY OF YELM

By: Michael Grayum, City Administrator

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

TOWN OF EATONVILLE

By: Abby Gribi, Town Administrator

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

THURSTON PUBLIC UTILITY DISTRICT

By: Russell Olsen, Commissioner

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

**NISQUALLY RIVER COUNCIL CITIZENS
ADVISORY COMMITTEE**

By: Lois Ward, Vice Chair

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

**WASHINGTON STATE DEPARTMENT OF
ECOLOGY**

By: Mike Gallagher, Southwest Region Water
Resources Section Manager

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

**WASHINGTON STATE DEPARTMENT OF
FISH & WILDLIFE**

By: Matthew Curtis, Habitat Biologist

The Planning Unit Agreement has been executed this ____ day of _____, 2018, on one or more originals, by the parties below.

**WASHINGTON STATE DEPARTMENT OF
AGRICULTURE**

By: Gary Bahr, Natural Resource Assessment
Section Manager