

Engrossed Senate Substitute Bill 6091 & WRIA 7 In-stream Flows

ESSB 6091

In response to the Hirst decision, Engrossed Substitute Senate Bill (ESSB) 6091 establishes standards for what will constitute as proof of “adequate water supply” for a new permit-exempt well. The Snohomish Basin falls under the ESSB 6091 Section 203 category. This means the existing in-stream flow rule does not address permit-exempt uses and the basin does not have an adopted watershed plan for regulating groundwater and in-stream flows.

Watershed Planning

As a Section 203 basin, WRIA 7 will need to complete a WRE plan by 2021. These plans are to be developed and implemented by a WRE Committee (chaired by Ecology) which will invite participation from:

- each federally recognized Indian tribe within the WRIA
- Dept. of Fish and Wildlife
- each county within the WRIA
- each city within the WRIA
- the largest irrigation district within the WRIA
- the largest publicly owned water purveyor within the WRIA
- the residential construction industry within the WRIA
- environmental interests within the WRIA
- agricultural interests within the WRIA

The WRE Plan must include projects that will result a net ecological benefit¹. The Department of Ecology has issued interim guidance to define this.

Streamflow Restoration Grant

In establishing ESSB 6091, the Legislature has allocated \$300 million to be spent over the next 15 years. The funding will support actions that address in-stream flow impacts from permit-exempt uses in order to achieve net ecological benefit (Ecology 2018b). While projects like water acquisition, storage, and management or infrastructure all directly work to alleviate water quantity issues, riparian and fish habitat improvement projects can also contribute to mitigating low stream flow impacts. Projects that include features that have the potential to improve stream flow conditions include but are not limited to the following examples:

- channel habitat improvements,
- riparian restoration,
- strategic land acquisition,
- levee modification,
- floodplain modification,
- fish passage, and

¹ “A Net Ecological Benefit determination means anticipated benefits to instream resources from actions designed to restore streamflow will offset and exceed the projected impacts to instream resources from new water use. (Ecology 2018c).”

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- beaver introductions

The project examples listed above will also be eligible for the Streamflow Restoration Grant funding administered by Ecology. The deadline for the first round of project proposals is October 31st 2018. Grant awards will be decided by the end of December 2018 (Ecology 2018b).

2018 Grant Timeline –

- One-month solicitation of grant applications no later than September 2018
- Applications due October 31st
- Ecology's rating and ranking of applications in fall 2018
- Grant awards decided by the end of December 2018

Priority Projects –

- Highest priority projects will offset the impacts of new domestic permit-exempt consumptive water use during the same time and in the same place as the impact of that use.
- Lower priority projects are in the same WRIA and replace new domestic permit-exempt consumptive water use only during critical low flow periods.
- Lowest priority are projects that protect or improve instream resources without replacing the consumptive quantity of water, where such projects are in addition to those actions necessary to offset potential impacts to instream flows associated with new permit-exempt domestic consumptive water use.

Ecology will be working with Snohomish County, and other basin stakeholder groups, in late 2018 to create the WRE Committee and begin the WRE planning process for the Snohomish watershed. Snohomish County is currently working to identify potential preliminary projects to put forward for the initial round of grant funding which could aid in the development of the WRE plan.

High Priority Projects

Water acquisition - The highest priority acquisition projects are water right purchases that offset the impacts of permit-exempt domestic well consumptive water uses during the time and in the locations that the impacts occur.

The next highest priority projects are water right purchases that offset the impacts from permit-exempt domestic well consumptive water uses during critical low flow periods.

Water storage – Surface storage: Depressions in the land surface can be utilized or created to serve as surface storage reservoirs or ponds. Streamflow (when available) or other water sources can be diverted to the reservoir for later release to enhance streamflow during low flow periods.

Managed aquifer recharge: Managed aquifer recharge (MAR) is the purposeful recharge of water to aquifers for eventual groundwater discharge to benefit streamflows. For example, shallow spreading basins excavated into the landscape to expose the top of the permeable gravel material (which makes up the matrix of the water table aquifer) can be filled with diverted surface water, when it is available.

Infiltration ponds: An infiltration pond is a shallow artificial depression that is designed to infiltrate water through permeable soils into the shallow aquifer.

Cisterns: A cistern is a waterproof receptacle for holding water. They have historically been built to catch and store rainwater.

Altered water management or infrastructure – Water management improvements involve changes in how and when water is used. Eligible water conservation and efficiency projects must provide permanent streamflow benefits.

Examples include:

- Source switches
- Streamflow re-timing
- Infrastructure improvements for conservation e.g.) diversion modification, lining & piping, sprinkler conversion
- Stream augmentation

Lower Priority Projects

Channel habitat improvements – Projects that improve stream conditions without increasing flow e.g.) stream bank restoration, gravel & woody structure augmentation, channel re-meandering

Riparian restoration – Riparian planting to replace invasive species with native vegetation, increase shading, livestock exclusion fencing, removing creosoted wood and garbage, reducing impervious surfaces

Strategic land acquisition – Projects should be associated with improving stream conditions e.g.) protecting stream banks, promoting a healthy riparian corridor, protecting from future development

Levee modification – Any modification that improves stream conditions e.g.) setbacks, increased shading

Floodplain modification – Projects that promote healthy floodplains and increase juvenile rearing, high flow refuge, species diversity

Fish passage – Removing or modifying barriers to allow fish passage for increased range of salmonid access

Beaver introduction – Projects promote increased channel complexity, species diversity, and salmonid rearing habitat

Successful Project Proposals

- Show how the project addresses impacts to surface water and fish habitat from rural residential development.
- Explain why the applicant chose the project
- Demonstrate that the project is well thought out.
- Show that funds will be well spent.
- Illustrate that the project is ready to go.
- Be easy to read and understand

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Sources

Snohomish Basin Salmon Recovery Forum. (2005). *Snohomish River Basin Salmon Conservation Plan*. Snohomish County Department of Public Works, Surface Water Management Division. Everett, WA.

Snohomish County Surface Water Management, King County Snoqualmie Watershed Forum Staff, and Tulalip Tribes Natural Resources Department. (2015). *Snohomish Basin Protection Plan*. Snohomish Basin Salmon Recovery Forum. Everett, WA.

Streamflow Restoration Act of 2018, S. 6091, 115th Cong. (2018).

<http://lawfilesexxt.leg.wa.gov/biennium/2017-18/Pdf/Bill%20Reports/House/6091-S.E%20HBR%20APH%2018.pdf>

Washington State Department of Ecology (Ecology). (2016). *Water resource management: where we are today*. Publication #16-11-003.

<https://fortress.wa.gov/ecy/publications/documents/1611003.pdf>

Washington State Department of Ecology (Ecology). (2018a). *Focus on: new streamflow restoration law*. *Water Resources Program*. Publication #18-11-006.

Washington State Department of Ecology (Ecology). (2018b). *Streamflow restoration grants: interim funding guidelines*. Publication 18-11-010.

<https://fortress.wa.gov/ecy/publications/documents/1811010.pdf>

Washington State Department of Ecology (Ecology). (2018c). *Interim guidance for determining net ecological benefit: for streamflow restoration planning and water permit mitigation pilots under the 2018 Streamflow Restoration Act*. Publication 18-11-009.

<https://fortress.wa.gov/ecy/publications/documents/1811009.pdf>