

**DEPARTMENT OF ECOLOGY'S
ORDER
ADOPTING THE UPDATED WATERSHED PLAN
FOR WATER RESOURCES INVENTORY AREA 11 (NISQUALLY)**

In accordance with the Streamflow Restoration Act, RCW 90.94.020, the Department of Ecology (Ecology) received the Addendum to the Nisqually Watershed Management Plan (WRIA 11 Updated Plan) submitted by the Water Resources Inventory Area 11 Planning Unit on January 18, 2019.

Ecology has reviewed the WRIA 11 Updated Plan to determine whether it meets the requirements for adoption under RCW 90.94.020(4). As part of this review, Ecology staff conducted a technical review of the WRIA 11 Updated Plan, and produced a report entitled the “Washington State Department of Ecology Water Resources Program Technical Review of Nisqually Watershed Response to the 2018 Streamflow Restoration Act (RCW 90.94) - Addendum to the Nisqually Watershed Management Plan,” dated January 23, 2019¹. This technical report supports Ecology’s decision on the WRIA 11 Updated Plan and is incorporated into this Order by reference.

Ecology’s Water Resources Program, through its Program Manager, issued a Memorandum to Ecology’s Director dated January 24, 2019, delivering the Program’s Recommendation to Adopt, with Conditions, WRIA 11 (Nisqually) Watershed Plan Addendum. This Memorandum supports Ecology’s decision on the WRIA 11 Updated Plan and is incorporated into this Order by reference.

Under RCW 90.94.020(4)(c), “[p]rior to the adoption of the updated watershed plan, the department must determine that actions identified in the watershed plan, after accounting for new projected uses of water over the subsequent twenty years, will result in a net ecological benefit to instream resources within the water resource inventory area.”

Ecology finds that the WRIA 11 Updated Plan’s projection of 2,987 new wells being installed over the twenty-year period, resulting in 1.03 cubic feet per second (cfs) of new consumptive water use, is based on sound methodology. In particular, the Planning Unit selected figures derived from application of a method to calculate consumptive water use that was based on guidance provided by Ecology, rather than an alternative method that would indicate a lower estimate of consumptive water use.

Ecology further finds that, with appropriate conditions to provide reasonable assurance that actions will be carried out, the 22 different actions, i.e. projects, identified in the WRIA 11 Updated Plan are sufficient to offset consumptive use impacts to instream flows that would be caused by the 1.03 cfs of new consumptive water use that is projected to occur throughout the watershed over the twenty-year period.

¹ Minor wording changes were made on January 29, 2019 that did not change the overall technical conclusions.

Ecology’s technical review segregated the projects into three categories, or “tiers,” to reflect the relative probability that benefits will be achieved, based on apparent certainty of a strategy occurring, along with certainty of projected benefits if the strategy does occur. Offsetting consumptive use impacts can be achieved through a variety of combinations of strategies in Tiers 1, 2, and 3. Overall, there is flexibility in how offsetting potential consumptive use impacts to instream flows can be accomplished.

Ecology finds that projects in Ecology’s “Tier 1” (most certain) category include the following strategies that, when totaled, are projected to offset 2.114 cfs of stream flow impacts, or slightly more than double the 1.03 cfs potential consumptive use impacts to instream flows projected to occur in the basin over the next 20 years:

Ecology Staff “Tier 1” Project List	
WRIA 11 Plan Action	Projected Offset (CFS)
Yelm Offset Action 1 – Connect New Development in Yelm UGA to City Water Service (Deep well)	0.33
Water Right Acquisition(s)	0.093
Yelm Offset Action 2 - Connect Existing Development on Permit-exempt Wells in Yelm UGA to City Water Service and Decommission Permit-exempt Wells	0.014
Managed Aquifer Recharge (MAR) Projects	1.66
Ohop Phase IV Floodplain Restoration & Protection	0.0173

After evaluation of the WRIA 11 Updated Plan to determine that it identifies strategies to offset all potential consumptive use impacts to instream flows, Ecology evaluated the WRIA 11 Updated Plan for additional strategies necessary to achieve a net ecological benefit. Reviewers considered the unique hydrogeological characteristics of the basin, locations of projected new permit exempt domestic wells, and habitat benefits of the 22 strategies described in the WRIA 11 Updated Plan. While most of the consumptive use associated with new permit-exempt domestic wells will occur in the lower part of the watershed, a high percentage of the Tier 1 habitat projects are located further upstream and are connected to habitat features in the upper portions of the WRIA that are most valuable for fisheries. This relationship contributes significantly to benefits associated with these projects.

Therefore, **Ecology finds** that, with appropriate conditions, the WRIA 11 Updated Plan meets the requirement “that actions identified in the watershed plan, after accounting for new projected uses of water over the subsequent twenty years, will result in a net ecological benefit to instream resources within the water resource inventory area.”

Based on the foregoing, Ecology **ADOPTS** the WRIA 11 Watershed Plan Update, with the following **CONDITIONS**:

1. Annual Reporting

- a. The planning unit is required to prepare and submit a brief (fewer than 10 pages) mainly narrative report to Ecology by June 1 of the year following plan adoption, and every year thereafter during the planning horizon period, describing:
 - i. Plan implementation actions to date.
 - ii. Any changes in approach since the last report.
 - iii. Any significant implementation challenges identified that will require a change in approach.
 - iv. Specific information regarding the Tier 1 actions that Ecology relied on in adopting the plan:
 1. Yelm Offset Action 1 – Connect New Development in Yelm UGA to City Water Service (Deep Well): Status of the permit application process, including progress on preparing a draft Report of Examination for review by Ecology.
 2. Water Right Acquisition: Status of any efforts to identify and acquire suitable water rights for transfer to the state trust water right program for instream flow purposes.
 3. Yelm Offset Action 2 - Connect Existing Development on Permit-exempt Wells in Yelm UGA to City Water Service and Decommission Permit-exempt Wells: Status of progress on decommissioning wells and connecting homes which previously used domestic wells to the City’s water system.
 4. Managed Aquifer Recharge (MAR) Projects: Status of feasibility studies for project(s) that contribute toward offsetting consumptive impacts and achieving net ecological benefit.
 5. Ohop Phase IV Floodplain Restoration & Protection: Status of project implementation.

2. Five-year Self-Assessment

- a. The planning unit is required to prepare and submit to Ecology by June 1, 2024, and every five years thereafter during the planning horizon period, a detailed description of:
 - i. project implementation; and,
 - ii. a calculation of quantity of water and instream flow benefits realized through implementation of projects identified in the WRIA 11 Updated Plan.
- b. Ecology may review the self-assessment to determine if any modifications to the conditional adoption of the WRIA 11 Updated Plan are necessary.

3. Ongoing Compliance with RCW 90.94.020(5)

- a. Planning unit governments will continue to fulfill the requirements of RCW 90.94.020(5) - which include recording relevant restrictions on titles, and recording and reporting the number of building permits issued by the County – after Ecology’s adoption of the WRIA 11 Updated Plan.

Neither this decision to adopt the updated watershed plan, nor the inclusion of any conditions in this approval, provide any guarantee that Ecology will approve any requests for project funding.

So ordered this 1st day of February, 2019.



Maia D. Bellon, Director
Department of Ecology

Enclosure: Your Right to Be Heard

YOUR RIGHT TO APPEAL

You have a right to appeal this Decision to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Decision. The appeal process is governed by chapter 43.21B RCW and chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Decision:

- File your appeal and a copy of this Decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in chapter 43.21B RCW and chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION	
Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website: <http://www.leg.wa.gov/CodeReviser>