



AWB Board

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June 17, 2022

Mary Verner
Washington State Department of Ecology
Water Resources Program Manager
mary.verner@ecy.wa.gov

Dear Mary and Ecology Team:

Thank you for meeting with us and our legal team in late May. We appreciated your time and the tone of the discussion. However, we remain opposed to your stated decision to file an adjudication of the Nooksack Basin.

You clearly heard our concerns which center on the future of agriculture in Whatcom County. Agriculture in Whatcom County already faces significant challenges with a limited land base, excessive land costs, high transportation and labor costs due to our remote location in the corner of the country. Our water management challenges are already well documented with worsening flooding and drainage challenges. These are difficult but manageable challenges compared to our water supply risks.

We made clear how an adjudication will inevitably result in dramatic increase in a loss of farmland and increased rural sprawl which portends the end of the Whatcom agricultural economy. It is impossible for Ecology to reconcile its position with the multitude of laws and programs that increasingly urge the protection of agriculture and rural lands - the Growth Management Act, Whatcom County's Comprehensive Plan, the Puget Sound Partnership's Action Agenda, the emphasis on local food production and food security, the Statewide Salmon Recovery Strategy, and the developing vision for the Cascade Corridor. Ecology's position on adjudication conflicts with what these other laws and programs seek to achieve.

Further, an adjudication will do nothing to address the greatest threat to the citizens and natural resources of Whatcom County: climate change. Extreme flood events, low flows unrelated to out-of-stream water use, and the damage to habitat and fish will worsen over the next 30 years, and an adjudication will do nothing to address these issues. Addressing structural barriers and improving habitat seems a much better use of our time and resources.

At this juncture, we understand that Ecology intends to file an adjudication lawsuit despite our concerns and objections, and without clearly understanding the long-term negative impacts on both farms and natural resources in Whatcom County. It is also clear this is completely Ecology's decision. This is a decision that will radically change Whatcom County's land, water, economy, culture, and way of life.

Your stated support for Whatcom County's efforts to create a Solutions Table was appreciated, but of little consolation as it appears that Ecology is already committed to litigation, rather than providing leadership toward collaboration and meaningful solutions. Still, we understand that the State of Washington supports the Western State Water Council's resolution Position #454, originally adopted in 2003, along with other Western states and the United States. As you know, the resolution prefers a negotiated settlement proceedings to determine Indian water rights. See <https://westernstateswater.org/resolutions/2020/position454/>. But we heard no plans from Ecology to plan for and promote such settlement efforts.

We encourage Ecology to consider how its drive toward litigation has raised more questions that it has answered, and to plan for a settlement orientation for these challenging water issues. We also share the concerns provided to Director Watson by the Small City Caucus in the letter of June 14, 2022. We similarly urge Ecology to directly assist with forward progress through the Solutions Table or an energized Watershed Management Board, consistent with RCW 90.03.645.

We would much rather be spending our time, energy, and resources on solving real problems, rather than in court with lawyers. We have a long history of problem solving and partnerships with our urban and tribal partners. We lament Ecology's decision to force us out of this productive path and into a litigious one. We remain hopeful that the Legislature and State leadership will rethink their current course and contribute to a wiser process to address our natural resource issues in the Nooksack Basin. We look forward to working with our neighboring cities, utilities and sovereign tribal nations in the Nooksack Basin to look for a path that promotes solutions for all water users. We urge Ecology to do the same.

Sincerely,



Brad Rader, President
Ag Water Board

cc: Governor Jay Inslee
William Jones Jr., Chair, Lummi Indian Business Council
Rosemary LaClair, Chair, Nooksack Tribal Council
Department of Ecology Director Laura Watson
Department of Agriculture Director Derek Sandison
State Senator Simon Sefzik
State Representative Sharon Shewmake
State Representative Alicia Rule
Whatcom County Executive Satpal Sidhu
Bellingham Mayor Seth Fleetwood
Whatcom PUD Commission President Atul Deshmane