



Surface Water Subcommittee Meeting

November 21, 2024

Committee Members in Attendance: Lynn Bahrych, Jenny DeGroot, Bob Eagan, Vicki Heater, Ann Jarrell, Judy Meyer, Melissa Rohde, Kimbal Sundberg

Ex-officio, County support staff, and members of public: Kyle Dodd, Kendra Smith

9:00 AM **Convene Comp Plan Subcommittee Meeting** *Kimbal Sundberg*

Planning Commission will review Water Element in December, we're aiming to finish up our draft memo this morning to send to Sophia by the end of November. Everyone received the materials that were sent out to review

9:09 AM **Public Comment** (Please limit to 2 minutes or less) *none*

9:10 AM **Comp Plan Water Element** *Kimbal Sundberg*
Review of memo (hailed water)

- Kim reviews the verbiage around water rights, who water belongs to and for what use. Most rights have a specific place where water must be used, this is relevant to hailed water if it's being taken from the place it's meant to be used and hailed somewhere else.

FH put in Municipal Code that they're not allowing hailed water outside of FH water service area except for emergencies such as Hannah Heights. Other purveyors are now hauling water from other sources (albeit less than prior to this prohibition). We have a salmon recovery plan adopted by Council that targets eight watersheds needing in-stream flows to support salmonids i.e. protecting surface waters from additional out-of-stream diversions that damage fish habitat.

We're familiar with Hannah Heights, a specific case in which approved water sources are inadequate etc. There are also circumstances in which someone beginning construction is granted temporarily hailed water use so they can start building. An issue with that is no follow-up by the County regarding future use of hailed water.

- So, rather than remove water as an acceptable source, put conditions that allow reasonable use of hailed water but not for certificate of availability for new building permits. *Rewording in section 4.3* in which alternative sources are discussed, Kim suggests: "hailed water may be used for emergency or public safety purposes... if building in a new place with no group B system/existing source, hailed water storage is not an alternative source for certificate of water availability."

Kyle: I caution that this is not the place for County Code language, this is a planning document. I propose, "hailed water should be evaluated as an ongoing continually available source." and leave the details for when the Building Code is evaluated by Board of Health to review all those individual circumstances.

Judy: my concern is that's a very broad statement and without comprehension of the issues which are part of what Kim has written; nobody here on this committee will necessarily be present when the Code is reviewed

Kyle: it'll be a public process with hearings. The water is being hailed from systems that have rights. Water is not being taken directly out of streams that could be used for instream flows. In particular, the phrase that says hailed water is not an alternate source for building permits purposes is inaccurate – it currently is a source, and the planning document won't change that in the County Code. We can't pass a comp plan

document that contradicts Development Code. I understand the intent and we can state some direction to look at that

Bob: Of the approximately 150 hauled water applications, how many are using water from an alternative system like a municipal source in a legal transfer of water? i.e. how much water are we talking about? From a conservation standpoint, we should do everything we can to make sure clean water is available for everybody

Vicki: the data Kyle provided about the number of availabilities that have been processed shows the impact has been minimal. The Hannah Heights situation is an emergency. The bigger question is a perceived competition for the resource, that has to do with instream flow and the capacity of the watersheds. At least with Cascade Creek we've had an excellent analysis which should be built on. Focus should go to how much water is in systems and how much is available. We know water rights are over-allocated. I would like use of hauled water avoided as a workaround for building wells or ensure it's a temporary source. Perhaps we could add in the approval process that an applicant must have a contract with a purveyor to provide that water before approval is granted, so it's a known volume of water being counted

Jenny: To Kim's idea of guardrails, even with the East Orcas study for which we had so much information, water was over-allocated. Need to ensure there's some agency oversight for salmon recovery not just Ecology, not just a public health issue. Often instream flow studies are done after water rights are established. Need to really look at whether East Orcas could support development in Eastsound.

Bob: With over-allocation clearly what needs to happen is more metering so we can have better management. When you have systems with 40% unaccounted for water in them you need to figure that out before moving water out of their service area. These systems must be financially viable and it's great if they can do that by providing clean drinking water to the community. Rain catchment systems are only a partial solution. I believe most users of hauled water are using very little water, like 10-20 gallons/day. I don't believe it exacerbates a preexisting problem by allowing that as a source. There are multiple sources, people should be able to buy it.

Kendra: We must be broad in our policies and goals for what we want to see for vision for the future but not dictatorial about how it gets done, that happens in Development Code which should flow down from policy. In the memo we originally wrote a lot of work went into the context around this, so I want to make sure the language doesn't get smudged around that. I'll do the best I can.

Kyle: Propose replacing underlined language with, "hauled water should be evaluated as an ongoing continuing source for certificate of availability of ongoing or new construction." This isn't the place for changing County Code, so my proposal is to move forward the intent of this group to evaluate hauled water.

Judy: could there be a phrase in it like, "with a concern for not stressing water supply" or "with regard for limited water availability"? your proposed wording doesn't address our concern

Kim: This is our opportunity to provide the consensus of this committee. We don't want a blanket statement that hauled water is acceptable for everything. This comp plan could cover the County for next 10 years, that could see a huge influx of people. Do we want to continue to have this loophole in the system?

Kyle: We're discussing water rights for building. The intent of Code was to portray what's available, must balance that with what this group wants. Maybe bulleted concerns could be listed with the idea of hauled water, so that they're with the statement that we want to evaluate it moving forward. I understand concerns about hauled water impacting instream flows, maybe there's another place we can address those.

Kim: we shouldn't be writing code, but we want to capture specifics in the recommendations. This committee has been looking at this and at what needs to be considered in writing the code once the comp plan is done.

Lynn: We can't manage without measuring and we don't know how much water is available for any given construction project. We need some acknowledgement that we'd better measure

Melissa: I agree. We're just assuming there's enough water in certain places and the whole premise of this is sustainability so we must ensure we're not developing beyond our finite water supply. Build in flexibility for emergencies, but also live within the quantities that are available here. That will require more analyses beyond just the USGS recharge study. My question about the hauled water Code is, is it permissible to export water from island to the mainland or is it already written that any hauled water stays within the islands?

Kim: that's why I included that note about Ecology's definition of water rights; can it be used for other than specific place? No, I don't think state law allows that. Ecology said they don't enforce that, but the regulation says they grant a volume of water to be used in a certain place. Moving it is in contradiction to the right

Melissa: and it's an equity issue because it becomes about who can pay for the water

Kim: water trucks carry a great deal of weight on roads, what's that impact? We pay that cost in road taxes

Kendra: Back to the language, might say – "recognizing the existing and future limitations to the quality and quantity of water availability on islands, and public safety situations, hauled water will be evaluated as an ongoing source for the certificate of water availability." In the climate element, we're putting in language about preservation of water quality and quantity with respect to drought, climate change, etc. so there are other places in the comp plan document that will balance out these references to water resources. We also have something about increasing resilience of streams and buffers – language like, "protect and preserve instream flows by conserving water residence times and time on the landscape etc." We'll do our best to include all concerns. There will be a front piece document articulating that climate, sustainability and water are issues.

Kim: we're just advising, it's your job to put it together, and route it around before you put it to the consultant.

Kendra: So, provide the context and direction, not just evaluate the hauled water but do it due to limitations. Saltwater intrusion in wells may be a bigger issue than we realize and running out of water in wells

Melissa: has the County done a survey? Is there a system for reporting dry wells etc.?

Kyle: it's all anecdotal. County touches on water availability at the time of building, Health isn't involved in an ongoing basis. We know of concerning areas based on reviewing availabilities but no comprehensive program.

Melissa: California has a voluntary reporting system. It's valuable for everyone to know. If people are considering moving to the islands that may be a resource for them to know neighbors in that area are experiencing water issues.

link to the CA system, <https://mydrywatersupply.water.ca.gov/report/>
<https://www.arcgis.com/apps/dashboards/f876cfa53ce3466c8b3778e7f4adb50e>

Bob: Ecology doesn't police, they are a reactionary organization. In certificate of availability, the analysis should prove there's enough water for a specified amount of development over a certain amount of time

Kendra: areas are mapped where sea level rise (SLR) is expected to encroach inland and what neighborhoods it'll affect, <https://engage.sanjuancountywa.gov/sea-level-rise-shoreline-habitat-infrastructure-adaptation-strategies>

Judy: I am comfortable with what Kendra has proposed with respect to providing context & language.

Vicki: No such thing as unlimited water resources. We've done a lot of mapping in the past; I'd like to get together with Kyle to see what data still exist in the system from when we did water quality studies regularly.

10:06 AM **Water meter data collection**

We've discussed metering forever in this committee, good chance to move needle forward

Wording for section 4.5, suggest adding a box to the on-site septic O&M report that property owner – if they have a meter on their well – need to report water use to the County. Also, DCD requires annual certificate of compliance for vacation rentals, so I propose they also need to report how much water they're using

Kendra: Is that in the Development Code or can we put policy around the need for more data collection?

Kyle: put forward the desire for additional metering and we as a staff will assess how we can work that in. All the annual certificate of compliance language is in the Code. Let's keep it overarching/ high level here with respect to what the desire is and staff will figure out how best to implement

Kim: I propose that we also require water meter reporting from group B systems.

Kendra: water metering is about the quantity. Is there also a quality report that goes in for landowners?

Kyle: water quality is being submitted, and some group B's are metering but not required to submit. This policy suggestion was in last round, hasn't been implemented for a variety of reasons. We would move this forward and encourage the development of a water system efficiency program so they can reliably serve their systems

Kim: These are a few avenues to get more data. This will be reviewed by new Council, maybe an opportunity to get more funding for data collection. There's interest from the public in ensuring the county has data to show we have enough water to support sustainable development.

10:13 AM Instream Flow

Putting in language in addition to Policy 10 in the Memo that says, "encourage WA water trust and Rosario water company to maintain sufficient water to maintain salmonid stocks." It's a precarious situation. Through Jenny's efforts and others', we've managed to bring back a sustained salmon run there, but the availability is happening on an ad-hoc basis every year and there's no guaranteed water for those salmon. Through some entities' efforts, like WA Water Trust, some small allotments have been secured, but Rosario hasn't followed through to grant enough water rights to ensure salmon habitat is permanently protected. So, we'd like the County to resolve this issue, it's been ongoing for at least a decade. It would be a guarantee to ensure that salmon run for perpetuity.

Kendra: Consider this as a broad policy document, should say we must preserve instream flow rights sufficient for fish and aquatic life throughout islands, not just salmon and Cascade Creek. We must keep working on Cascade Creek. Water is being drawn from some areas and riparian corridor is dying. Must ensure adequate flows for any species, beyond aquatic species to all native and non-native species.

Kim: Must establish the amount of instream flow needed and get Ecology to certify it. Cascade Creek is a poster child, they gave all their water to Rosario. We have two and sometimes three species of salmon there. And False Bay Creek also has cutthroat trout and occasionally salmon. But the Town of FH diverts water out of that watershed and two landowners sucking the rest of the stream. Ecology knows and hasn't done anything but that doesn't mean we can't reserve water. We have those 8 streams identified in our salmon plan.

Kendra: and maybe we should home in on that document so that we're not identifying one company in this policy, reference and link back to the salmon recovery plan. This is too detailed, need a broad strategy

Vicki: zeroing in on Water trust and Rosario which is currently not even a local company. I like the language that are bullets from the salmon recovery plan that are more about a spread of watersheds on a broader scale.

And back to work with Cascade Creek, working directly with the purveyors in that system is complicated but not necessary a comp plan issue. Another entity should be focused on that, maybe the salmon recovery board.

Jenny: We often talk about getting more data. Coastal cutthroat trout are suffering too, they aren't monitored, and we don't even have instream flow studies to show what they need. The Ag community is working to secure rights, but we don't know how much water is needed to sustain those populations. We must focus on getting those data. Not sure we can put that in this language, but there could be a lot of new development. Without data we don't know what's available. Need more data spread out among creeks and watershed

Kim: would the utility fund that?

Kendra: We have the eDNA project piece. The 2025 budget is done but we can prepare for additional studies in 2026. If we can get additional grants, that would help too. It'll be a big lift, and it will take time, but we need it. The last water availability study is 24 years old. It needs an update based on climate data and need to include what we expect in terms of both water quantity and quality. I'm concerned about water use for their livestock.

Kim: Ecology continues to issue rights for out-of-stream appropriations and not enforce existing known issues

Kendra: need to continue to put pressure on Ecology. We can use the pieces we put in our comp plan. And expanding beyond just fish will be important, other wildlife will become stressed if no access to clean water. Ensuring we contextualize that for the future in a rapidly changing climate is important. I'll go back and read through all the notes and make sure we can spoon-feed this to the committee

Kim: whatever you send out, please circulate it amongst us

10:32 AM **Housekeeping**

Next regular CWAC meeting on December 12th

- Some concern about USGS water budget study, hoping it comes out before January 20 turnover of Federal government. Kyle is keeping the pressure on

Jenny: there were salmon spawning in Cascade Creek this fall, I'll send around the video.

10:37 AM **Adjourn meeting**