



Surface Water Subcommittee

May 15, 2025

Committee Members in Attendance: Lynn Bahrych, Jenny DeGroot, Bob Eagan, Richard Locke, Judy Meyer, Kimbal Sundberg

Ex-officio, County support staff, and members of public: Jeff Cedarbaum, Tyler Davis, Susan Eshelman, Kelly Hamilton, Kari McVeigh, Tessa Reeder, Kendra Smith

9:04 AM Convene Surface Water Subcommittee Meeting

Kimbal Sundberg

9:05 AM Public Comment

Kendra Smith

Richard, Susan and Kendra had an 'expedition' last week around Lopez Village, looked at dynamics of drainage
Richard: we want to be aggressive about recharging our aquifer

9:06 AM Ongoing Business

• 2025 CIP Project Updates

Tyler Davis

Tyler shares screen, presentation on update for CIP 2024-2029,

On SJI – projects include lower Zylstra, False Bay (FB) creek and Garrison creek corridors restoration

On Orcas – Bayhead-Killebrew culvert, Crow valley corridor, and Deer Harbor village stormwater

On Lopez – Lopez village stormwater, Hummel creek & estuary water quality, and Davis Bay Richardson Marsh

Tyler provides updates on the first five projects listed,

Zylstra – planted six acres in December 2024, there will be some spring maintenance by ICC on the Land Bank side (mowing, weed-whacking) and different methods for canary grass control on the SJPT side (ring-spraying). Putting in a plant order now for winter 2025/2026. In early April the site was wet, dried out by mid-April. With canary grass cut back, smaller plants are exposed, and stakes have buds on them.

Kendra: canary grass requires maintenance because it can get thick and encourage voles which damage trees.

Tyler: smaller plants get overwhelmed by reed canary grass, it outcompetes and overgrows the smaller plants.

Judy: are there plans for watering?

Tyler: yes, it's in our budget. There is some thought that it isn't necessary in damp low-lying places like this False Bay – spring and annual maintenance, mainly cutting grass, maybe some herbicide. If there are some swaths of plants that didn't survive (like from 2023) we'll plan to re-plant. Winter 2025-6 plant order planned Garrison Bay – same process in partnership with SJICD. Working with CD to create a dashboard to see progress Crow Valley Creek – same type of work plus seven Beaver Dam Analogs installed. Story map,

<https://www.sanjuanislandscd.org/riparian-restoration>

Bayhead-Killebrew Culvert Replacement – Hired Tiger Construction, starting after Labor Day weekend when traffic is expected to lessen. FEMA is still reimbursing funding requests

QUESTIONS

Kim: what about defunding for AmeriCorps projects? Are they losing people working on conservation projects?

Tyler: ICC intended to hire another crew, but this pulls the funding for that. Not losing a current crew

Kendra: Paul wrote a letter regarding the impact of defunding AmeriCorps. I can circulate that. It will be a hit for our restoration work. We've spent years building up a restoration economy with young folks getting involved.

Lynn: I'm a supervisor on the CD board. Paul Andersson decided to hire them as seasonal employees, we're using reserve funds and we've done some fundraising. This is an important program that's taken years to build.

Kim: as far as ordering new plant materials, any issues with suppliers?

Tyler: no issues so far, they've been able to fulfill almost everything, just a couple species they're low on stock. As with last year's planting, we'll do a little local harvest of willow and dogwood. Don't anticipate problems

Judy: What if FEMA decides not to reimburse?

Tyler: we've considered that, we have local funds if that did happen, we have an obligation to finish the project

Judy: that's good to hear but it influences what we can do in future if we're using reserve funds

Kendra: and it's a 50/50 split between us and Public Works. Tyler is processing bills as quickly as possible

Judy: if that happens, please write an article or something so people know

9:29 AM • Comp Plan Check-in

Kim Sundberg

County published the draft on May 2, viewable on their website. The Water element is in there. We received eight pages of comments from Bill Bangs; that's on the Planning Commission agenda for tomorrow. Comments suggest the water element needs to be more quantitative, should specify how much water is available in variable parts of islands. We may need to explain how expensive and complex it is to quantify aquifer and production capacities in the county.

Kendra: I'll be at planning commission meeting tomorrow with Sophia. I think I can address Bill's concerns by explaining that we don't know, if we put those numbers in there we'd be guessing. But that's why we have a goal of gathering those data and figuring out the status of our aquifers, even given all the challenges.

Kim: the comp plan policies include metering of group B systems, programs to monitor individual well meters, perhaps through recording consumption data at the same time as septic reports. Then after this comp plan is approved, we'll look at writing more specific requirements in the code. In the last comp plan the Planning Commission felt the County had no business monitoring water systems, and now they want the County to be proactive water managers.

Kari: It's great that sentiment has flipped. We'll need these data for housing issues. I understand it isn't easy but it's better we find out when we're in danger of running out of water. The comp plan is a huge aspirational document. We'll need to prioritize where to spend resources in near future, water and housing are important

Judy: I loved Bill's comments, he should be a member of this committee. We need that expertise.

Jenny: We've been talking about these issues for a long time, let's put this on the agenda for next month. This is a big part of planning our next workplan and funding.

Lynn: Waiting for the USGS report, hoping we'd get comprehensive hard data like what they did for Guemes. It'll be too late to work it into the water element but not too late for the regulations that'll be promulgated

Kendra: it's not done yet; Kyle has promised we'll see it as soon as it's released. The issue was they had to go back and recalibrate the model, then there was some recent upheaval/disruption at USGS.

-brief discussion of EPA stream water quality tool online,

<https://apps.ecology.wa.gov/waterqualityatlas/wqa/startpage>

Kendra: our issues are lack of flow, increased bacteria, too-warm temperatures so haven't been contributing stream-sampling data. And we're already implementing what needs to happen for water quality (see Tyler's CIP presentation earlier) without going through all the regulatory hoops

Kim: after all this riparian work has been completed it would be interesting to compare water quality with baseline data on the restored systems

Also, <https://apps.ecology.wa.gov/ApprovedWQA/ApprovedPages/ApprovedSearch.aspx>

9:50 AM *preparing for discussion with Jeff Cedarbaum*

Jenny: without him here, some water rights issues have come up and I'm not sure how Doe Bay and Olga are working on salmonids. There are often negotiations that Clean Water is aware of, and Ecology will tell us it's on the website or information is available, but I don't know how to be more well-informed.

Kim: I'm on their email list, they send me all northern region water rights applications, SJC is 2-5%. Seems like there's no communication from Ecology when a water right is affecting a stream here. Their investigations mostly focus on the quantity of requested water withdrawal and facilities available to take the water. There is insufficient analysis of the impacts of the withdrawal on adjacent streams, including cumulative impacts.

Seasonal withdrawals for irrigation can have a big effect if the volume of water withdrawal reduces stream flow and causes temperatures to become too high to support fish.

Jenny: I'm concerned this summer will be a challenging one

Kim: I'd like to find from Jeff, how can Ecology help the County meet its instream flow goals?

10:00 AM New Business

• Intro/Q&A with WRIA 2 Water Master

Jeff Cedarbaum

Kim: we have policies in our county plans for eight priority watersheds in SJC, we want to know how ECY can help us achieve goals. Two major ones are Cascade Creek, the only stream supporting a viable salmon population in SJC, and False Bay which supports occasional salmon but often killed off because of management of existing water rights. That's the context, maybe you can answer our questions or direct us to others. We really want to get significant traction on these instream flow issues over the next 4-5 years. These streams are supporting our remnant fish populations, we don't want to add to that problem due to water rights

Jeff: Tyler sent me the planning document. My primary focus is water rights, compliance and enforcement. Permitting and long-term strategic work isn't my main job. I can talk about what I know about Cascade Creek.

Kim: let's start with Cascade creek, senior water right held by Rosario, they can take all the water from Cascade Creek. Olga and Doe Bay are secondary water holders, they could contribute some of their unused water to a Trust, but would Rosario trump them if they decide to take the total water? If Rosario diverts all the water they're entitled to, they could dry up the creek as they have done in the past; there are four species of salmonids; coho, Chinook, chum, and coastal cutthroat trout that depend on Cascade Creek.

Jeff: there have been some long-term attempts to purchase the hydropower portion of Rosario's water right and get it permanently donated to Trust. With the ownership change I understand that may have stalled a bit. Long-term, if there is a deal to be made, that would be a good long term permanent addition to the lower part of the creek. Otherwise, Olga & Doe Bay (Doe bay's water right comes out of Mountain Lake) are in the process of consolidating their water systems. If they use Doe Bay's diversion (above the dam) that could also free up some water Doe Bay is currently taking out of the creek. Legally, it's a complicated watershed, adjudicated long ago. But there are some potential ways ECY could support more water in the creek.

Kelly: there's a permanent trust water right in Cascade Creek, that's one second junior to the Rosario right.

Kim: we appreciate that but it's not enough to sustain the salmon there

Jenny: there was never an instream right given to salmon, not until the Land Bank acquired the Land and worked with WDFW on that. It's probably been five years since salmon recovery funds have been paying for negotiations with senior water holder, but there's also a grant from Ecology waiting to help with that and this is the last year we can use it. How can we work with these users to squeeze out more water? All these grants are in the hands of the senior water user. The secondary water users are interested in making some kind of deal

Jeff: In the past, a couple times, there's been a critical situation in the fall and Ecology accepted a temporary donation into Trust to keep the creek from going dry. That trust is designed for cases where there is a change in water use that doesn't require any tap to turn on or off – just changing the use. But in this case, the user is using the same amount have in the past; on paper they appear to have extra water they want to donate into trust and then have Parks or another entity release more water from the dam. We're concerned that they're

not reducing their water use to make more water in the trust, and that we'll commit ahead of time to opening the dam but then find in the fall the lake doesn't have that capacity without affecting other water users
Jenny: it seems like Mountain Lake and Cascade are both full, but at the same time we have very low flow in the creek. I know Parks is concerned about drought, and we talk about the fall because that's when salmon are piled up and spawning, but it's also a problem in the summer affecting the fry

Jeff: the Park is monitoring the lake levels. They're open to putting more water in the creeks at different times of year. We also spoke with WA Water Trust and they floated idea of new water right for in-stream flow purchases depending on lake meeting some threshold – i.e. When lake reached that level, they would release water into the creek. We'd need an analysis/technical study about amounts and timing.

Kelly: we need to be able to satisfy the current water users in the system

Kim: Steve Bossowe from WDFW could provide a rating curve of needed to specify cfs by month in that stream, then question would be determining flow out of Mountain Lake to sustain that flow?

Jenny: it sounds to me like ECY is calling for their own study?

Kelly: it would need to be done by the applicant applying for the ruling/water right. Like a cost reimbursement application, applicant would fund a study of the creek, and the lake level i.e. how much does lake level drop if this amount is pumped for this much time. Parks is concerned about their docks in the summer, they also have a water right out of the lake. We would put together what's needed in the study after application is put in; we currently have limited staff which is another reason that study would need to be done by the applicant.

Kim: who is the applicant? The WA Water Trust? The County?

Kelly: sure, or it could be a citizen – any entity

Judy: could it be the Land Bank? those funds could be used for this study instead of negotiations/ purchase?

Jeff: in WRIA I there are several "interruptible instream flow applications". A lot of the data that's needed probably already exists; the applicant could be the Land Bank for this interruptible water right; then they'd meet with our permitting staff and decide what questions need to be answered to address the application, and then what analysis needed to answer those questions, e.g. How much water is getting into stream and how much needs to remain in the lake throughout the year, not running Doe bay's siphon or other users dry.

Kim: the Land Bank stewards the land in the Coho Preserve and the Salmon Recovery program has a riparian acquisition element that is currently reviewing a grant proposal to incorporate lower Cascade Creek and the remaining private-owned riparian area of salmon habitat into the Coho Preserve. The Land Bank purchases conservation lands in the County, works with the SJPT which is a private nonprofit. If this grant is approved this year, the Land Bank will become the sole landowner of all the riparian land and salmon habitat in Cascade Creek.

Kelly: another option is that both Doe Bay and Olga's systems are leaky. Could we fund some infrastructure work for those systems? Olga is planning to connect with Doe Bay but that could be an option for some water.

Jenny: there's also been discussion of adding a meter at Mountain Lake to see how much water is being drawn for Doe Bay, because their meter is somewhat downstream.

Kelly: neither Doe Bay nor Olga have meters at the diversion point. To establish that, they would need to cut that siphon and they're not sure they'd be able to restart it (Buck was concerned about that siphon as well). Most if it is likely leaking out of basin (out of the Cascade Creek watershed). If there is a drought and lake levels in summer don't come up high enough, then couldn't rely on the instream water right – that's when it's needed most. There still could be a gap even with an instream flow interruptible water right.

Jenny: we understand, we're looking at long-term – how can we get that water right?

Kim: the current situation is cobbled together; we need some more formal system here and get all the users on board

Lynn: Are there any other laws regarding unused riparian water rights? Is that a way to capture excess water?

Kelly: western water law doesn't work that way, doesn't recognize riparian water rights. Those claims would have needed to register when that change was made. We use a different system than the east coast

Lynn: since it used to be part of WA law, I wonder if that could be revived in part for this situation

Kelly: the east coast uses the riparian system where if you own land on a lake or a river, you're entitled to a portion of that water. In WA the older the water right, the higher the right. But in a riparian system it's more about whether you have land touching water. In the west, there are more arid regions without lakes and easier to get water to land that's not touching those systems. So, we allow water rights for 'arid' parcels

Kim: for next steps, I think we should consider applying for this Interruptible water right – discuss with Kendra and Lincoln and see if the Land Bank wants to take that on.

Jeff: Olga and Doe Bay are in the middle of updating their water system plans and working on consolidation, but once they have a final plan approved by Dept. of Health, then other options may be made clear

Tyler: thanks Ecology, hope we can have you back in future. How often can you come to these meetings?

Jeff: I have a third Thursday every month meeting 9:30am-noon; Kelly's more knowledgeable than I am. But I'm happy to join when there's a specific topic for me to speak on. Maybe we can try an ad-hoc approach

Tyler: I'll add you to the invites and if an agenda item calls for your input, we'll coordinate ahead of time

ACTION: let's structure a task plan about how we're to advance on this. Tyler & Kendra will talk offline

Kim: do you have an example of this interruptible application?

Kelly: it would just be a regular water right application, I'd recommend a pre-application consultation with our permitting staff, <https://forms.office.com/pages/responsepage.aspx?id=F-LQEU4mCkCLoFfcwSfXLTfKFFaAvxJPomsFWY6QxthUOVJZTzBWQ0U3SEhNS1c2TIM5ODhHNDJHSy4u>

Highly recommend starting this way early and have permit specialists explain this process

Then use this cost reimbursement process, <https://ecology.wa.gov/water-shorelines/water-supply/water-rights/cost-reimbursement#:~:text=Cost%20reimbursement%20processing%20is%20an,processing%20your%20water%20right%20application>. There are several pre-approved cost reimbursement consultants who can do the work needed. When you submit the application, no Ecology fee since you'll be paying for consultant to do the work. Then Ecology comes up with a budget for the project

Jeff: examples of this in the Nooksack are for irrigation/farming. I'm not aware of others that have been interruptible from a surface water source

Kim: now we need to enlist some partners with funding

Tessa Reeder: I work with WA water Trust, we don't have funds for this but interested in helping

10:58 AM Housekeeping

- Upcoming News/Events: Doe Bay Water Users Mtg. (May 18th, 9am)

Jenny: not sure if I can attend, there's not much information about it. There's a lot of these required meetings about efficiencies but don't know if Doe Bay is considering fisheries issues. I'll get as much information as I can

- Reminder: June meeting (full CWAC) on JUNE 12th. Likely meeting with subcommittee in July but stay tuned.

11:00 AM Adjourn meeting