



**TO:** Sen. Christine Rolfes, Chair – Senate Ways & Means Committee  
Sen. Lynda Wilson, Ranking Member – Senate Ways & Means Committee  
Rep. Timm Orsmy, Chair – House Appropriations Committee  
Rep. Drew Stokesbary, Ranking Member – House Appropriations Committee

**FROM:** Whatcom Family Farmers

**RE:** Water Resource Funding for Whatcom County – 21/23 Operating Budget

Whatcom Family Farmers is a non-profit 501 c-5 representing numerous farms and farm supporters in Whatcom County. This includes the Ag Water Board, a coalition of Watershed Improvement Districts that represents 70% of the agricultural land in Whatcom County. The AWB was part of a coalition of groups expressing concern about the current language in the governor's budget surrounding the proposed adjudication of water rights in the Nooksack Basin. Whatcom Family Farmers continues to oppose the funding request for adjudication and asks that you consider the alternative language these groups presented, which would better clarify the critical importance of collaboration

In the AWB's previous letter on this subject it was noted that Ecology's current proposal lacks creativity and courage in forcing all water rights holders into litigation that will take decades to complete, cost hundreds of millions of dollars for both the state and water rights holders and do nothing to solve our water resource issues. Aggressively funding a comprehensive, collaborative process is the best possible alternative.

Some have asked what a creative and courageous process would look like. Adjudications are lawsuits – they are not designed to increase instream flows in priority areas, improve habitat, address flooding issues, or maintain rural and agricultural lands. In fact, an adjudication would work against all of these objectives. Here are a few examples of other areas in our state where the stakeholders, with the encouragement of our state leaders, were able to forge a different path:

**1. 2012 Dungeness River Agricultural Water Users – Ecology MOA**

This Agreement is based on an earlier 1998 Agreement under which irrigation districts with water rights to the Dungeness River in Clallam County agreed to voluntarily reduce river diversions in certain circumstances. The Irrigation Districts agreed to limit their collective diversion from the river to a specific maximum quantity, and that the total diversion by all districts would not exceed 50% of the flow of the river at any point during the year. The Agreement was part of an overall effort to improve irrigation efficiencies and implement other instream and out-of-stream water supply projects in the basin.

**2. Yakima Basin Integrated Plan**

The Yakima Basin Integrated Plan (YBIP) is a multi-faceted natural resource restoration and water supply plan developed over the past 10 years. The YBIP was initiated by both tribal and irrigation interests, who agreed that the ongoing adjudication of surface water right in the Yakima Basin would not result in either the environmental, habitat, or water supply objectives sought by either interest. Key objectives within the YBIP include restoring salmon and steelhead populations from under about 25,000 today to 300,000, conserving up to 170,000 acre feet of water through irrigation system upgrades, protecting 70,000 acres of land in the watershed and many other critical natural resource issues.

While surface water rights have been adjudicated in the Yakima Basin, groundwater rights have not. The ongoing litigation over water rights – without making progress on water supply or other objectives – was a primary factor in the origins of the YBIP.

### **3. 1995 Muckleshoot Tribe – Tacoma Public Utilities Green/Duwamish Agreement**

The Muckleshoot – Tacoma agreement in 1995 resolved issues involving both Tacoma’s original Green River water supply diversion, and also the 2<sup>nd</sup> Supply project. This agreement ultimately led to Tacoma’s 2001 Habitat Conservation Plan. The agreement covers a number of topics, including establishing instream flow levels that differ during wet, average, and dry years. The agreement included many critical issues such as artificial groundwater storage, upstream fish passage projects, mainstem habitat improvement and restoration, and long-term funding commitments.

### **4. 2006 City of Seattle – Muckleshoot Tribe Cedar River Agreement**

After the 2000 Cedar River Agreement, the Muckleshoot Tribe filed suit against Seattle on the basis that the HCP did not assure sufficient water for fish. Through mediation, Seattle, the Muckleshoot Tribe, and federal agencies reached a more comprehensive agreement regarding the City’s operation of its water supply system on the Cedar River. The Settlement Agreement included both water right and non-water right provisions. Key water right provisions included maximum water diversions annually, maximum annual 10-year average withdrawals, transfer of City’s water right remainder to the State Trust Water Program, and water conservation requirements by City and wholesale customers. Non-water right provisions include hatchery improvements, land transfers from the City to the Tribe, Wildlife Management Plan, watershed access, and funding commitments.

We ask you once again to take into consideration the heavy consequences of an adjudication of water rights in the Nooksack Basin. Virtually every active stakeholder in the previous adjudications has noted the negative consequences of an adjudication, especially without a robust collaborative process. Please support a more collaborative path that will truly address water resource issues.

Sincerely



Rich Appel

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Brad Rader

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