

# Ag Water Board

Regular Meeting | **Minutes** | September 18, 2024, 1:00 PM

204 Hawley St, Lynden WA

## Attendees

*“(t)” indicates presence via teleconference, “a” indicates alternate representative*

Board Members			
<b>Bertrand</b>	Vern VandeGarde (a)	<b>North Lynden</b>	Brad Rader
<b>Drayton</b>	Greg Ebe (a)	<b>South Lynden</b>	Jeff DeJong
<b>Laurel</b>	Mike Boxx	<b>Sumas</b>	Andy Enfield

Staff and Consultants	
<b>Name</b>	<b>Organization / Affiliation</b>
Gavin Willis	Ag Water Board
Henry Bierlink	Ag Water Board
Nicole Fink (t)	AESI
Ramsey Kropf (t)	Somach Simmons and Dunn
Fred Likkel	Whatcom Family Farmers
Katie Faber (t)	AESI
Bill Clarke (t)	Clarke Law

Other Guests	
<b>Name</b>	<b>Organization / Affiliation</b>
Chris Heimgartner	Whatcom PUD
Trevor Gearhart (t)	Whatcom Conservation District
Steve Jilk (t)	Whatcom PUD
Mike Love (t)	BBWSD
Corina Cheever	Whatcom Conservation District
Dakota Stranik	Whatcom County PDS
Cheryl Heimstra	Heimstra Law
Alex Harris (t)	Whatcom County PDS

## Proceedings

Brad called the meeting to order at 1:02 pm.

1. Agenda was reviewed. Greg moved to approve the agenda. Vern seconded. Motion carried unanimously.
2. Minutes from previous meeting on June 19 were reviewed. Andy moved to approve the minutes of the June 19 meeting. Greg seconded. Motion carried unanimously.

### 3. Financial / Administrative

- a. Financial reports through August 31 were reviewed. Andy moved to approve the financial reports. Vern seconded. Motion carried unanimously.
- b. Board entered an executive session to discuss performance of public employees (RCW 42.30.110 (1)(g)). Executive session ended after 15 minutes.
- c. Gavin presented the 2025 proposed budget. Notable changes include increased budget for payroll, a decreased contract amount with Whatcom Family Farmers, an increased contract amount with Somach Simmons & Dunn, and a new contract with The Ferguson Group.
  - i. Vern moved to approve the budget. Greg seconded. Motion carried unanimously.

### 4. Water Supply

- a. Gavin shared a legislative update that had been provided by Bill via email.
  - i. First proposed item for legislature consideration is technical assistance funding for filing adjudication claims. Current state budget includes \$300,000 for those purposes, administered by Whatcom County. Request for next state budget will be for the same purposes, but for increased funding as demand increases. Draft budget language has been sent to major adjudication parties, Ecology, the Governor's Office, and Whatcom County legislators for their review.
  - ii. The second proposed item is for funding to be provided to the WRIA 1 Watershed Management board to get an outside expert assessment of federal settlement options. This would occur in a parallel track with the adjudication, and would result in a report providing options for establishing a settlement process, and identifying obstacles to such. Language has been sent to major adjudication parties for review.
  - iii. Final potential item is to create a claims filing reopening or claims amendment process so that water use that is eligible for a claim (pre-1945 groundwater or pre-1917 surface water) can be reflected in a claims filing or amendment if a Husseman Promise application relates to that same water use.
- b. Ramsey provided an update on the adjudication.
  - i. There is an upcoming status conference about the proposed summons, and a request from ECY to the court to commence the action.
  - ii. The court put out an order naming the steering committee. Ramsey had previously applied but was not selected. The group appears to be balanced: two tribal attorneys, US attorney, two ag attorneys, city attorneys, county, PUD, etc. Ramsey anticipates working with counsel that is on the steering committee.
  - iii. Discussions with other parties are underway about what a cornerstone document for a settlement process might look like (ie key points of guiding framework). In other basins those have been articulated and have been helpful. For ag, that would include conserving ag land and water, but also providing incentives to improve instream flows, habitat, etc. There may be a possibility to incorporate changes to things like relinquishment, etc.
  - iv. A board member noted that section A of the proposed claims form can mislead landowners into claiming 500 gpd rather than the 5000 that they are entitled.
  - v. Fred noted that some landowners may choose to not defend their water rights in court due to lack of funding or philosophical differences with the process. Gavin noted that it may be beneficial for AWB to acquire those water rights if there is a likelihood that the water right is legitimate.
- c. Nicole provided an update on landowner adjudication assistance.

- i. Information portal on the AWB website recently added an irrigation use estimator tool.
      - ii. AESI and AWB have been working with ECY on getting water right documents for all parcels within the WID. We're expecting the next batch of documents at the end of September.
      - iii. Fall office hours have been set, with three days of sessions available: Oct 24, Nov 13, and Dec 6.
    - d. County
      - i. Gavin and Henry provided an update on Local Government Caucus work. The LGC has been fairly inactive. AWB and other partners are working towards getting LGC to bring some projects forward to the WMB from the LGC, rather than just having projects come from the Co-Managers Caucus.
      - ii. Fred and Dakota provided a brief update on the AAC's comments on the Comp Plan update related to agriculture in the county.
      - iii. Henry provided an update on the West Ferndale Pilot Project. Hasn't been progress to report on over the last 3 months.
    - e. Projects
      - i. Gavin provided an update on the Dakota Creek streamflow augmentation project. The water right application for the project is moving forward under cost reimbursement program processing. Gavin will reach out to ECY staff to receive guidance on next steps for engineering and construction of project infrastructure, given that the CRP process will in all likelihood extend beyond the grant period of performance.
5. WQ / Drainage
- a. Gavin provided an update on 5-year programmatic permits for the WIDs. All necessary applications have been submitted. The county is experiencing significant delays in processing applications.
  - b. Fred provided a FLIP update. Modeling is ongoing, but takes a long time to reach consensus on the direction it should take. He noted that although the Widen the Funnel concept that had been discussed at previous AWB meetings has support from county staff, it appears likely that Lummi will veto the idea once they realize that it will result in additional sediment deposition in Reach 1 and 2.
  - c. Fred provided an update on buffer issues.
    - i. There is lots of funding available for buffers through SCC program right now.
    - ii. Riparian Roundtable discussions are ongoing at the state level. There are still members of that group pushing for SPTH, so there could be a battle coming in the next legislative session.
  - d. Gavin provided a FEMA update.
    - i. Projects are underway in both WIDs.
    - ii. Changes in FEMA region leadership have resulted in difficulties in reaching obligation for the final projects in each WID.
    - iii. Procurement processes have been approved, but due to the above-mentioned changes in leadership we are seeking EMD approval for all RFQs and calls for bids, which extends timeframes.
  - e. Fred provided a CLASS update. Has mostly been on hold for the past year due to funding hangups and changes in staff, but got back on track in the last few weeks. The process overall has the potential to be a win-win, but will require participation from the city as development and annexation continues.

6. Outreach
  - a. Fred provided a media relations report. Of special note is Fred published an op-ed with a surprising partner: Eric Hirst. Finding common ground there could be a positive development.
  - b. A group in Sumas put out a press release on Monday stating that they are seeking to be excluded from the adjudication.
  - c. Shellfish bed openings have been broadened, with approx. 360 acres of shellfish beds now open to year-round harvest, and conditional closures reduced from 4 months to 3.
  - d. WFF will be hosting another adjudication info event on Oct. 22<sup>nd</sup> at 6pm in the Farm Pavilion at NWWF.
  - e. WFF will be coming out with two videos in the near future on irrigation efficiency technology.
  - f. WFF will be hosting their annual farmer rally on Nov. 20<sup>th</sup> at NWWF.
7. Other business.
  - a. Merger between LWID and DD#3 fell through because some acreage in DD#3 was outside of the boundaries of the WID. Bill noted that there may be some willingness to change the law in order to encourage consolidation of smaller districts throughout the state. Gavin will pursue further.
8. Public Comment
  - a. Corina shared that the CD has funding for cover crop cost share for seed and planting.
  - b. Alex shared that CEP is seeking farmers who are willing to sell development rights in order to protect their farmland.
9. Next meeting is scheduled for December 11.
10. Andy moved to adjourn the meeting, Jeff seconded. Meeting was adjourned at 2:54 pm.

## Meeting Chat

- none

Submitted by Gavin Willis

Approved by: \_\_\_\_\_

