

Potential Adjudication in WRIA 1

Water Work Session

July 14, 2020

Adjudication Study

- Department of Ecology is doing an evaluation of where to start the next state water rights adjudication. Report is due September 1st.
- WRIA 1 is a candidate
- Legislature will make decision
- Multi-year (multi-decade?) process
- Lummi and Nooksack tribes have requested adjudication

Adjudication

(taken from Ecology presentation)

- Superior Court prioritizes rights from oldest to newest
- A single process for all facts, history, and law of water use
- Final Court Decree lists priority, quantity, and purpose of all valid water rights

How does an adjudication work?

(taken from Ecology presentation)

1. Ecology defines a water source and identifies users
2. Superior Court sets deadlines and process
3. All water users respond with a claim and supporting evidence
4. Ecology provides a Report of Findings applying existing state law (municipal exemptions, pumps & pipes, etc.)
5. Water users may object to Ecology or each other
6. Court rules on rights and issues a schedule.
7. Partially-perfected rights might have special certificates or be “split” into perfected/inchoate portions

Current Positions

- Lummi Nation
- Nooksack Indian Tribe
- City of Bellingham
- Whatcom PUD #1
- Ag Water Board
- Well Owners Caucus
- Environmental Caucus
- Fishers Caucus
- Whatcom County Executive

Executive's Settlement Proposal

- Community lead water settlement discussion by all water right owners / parties is a preferred solution
- County proposes to facilitate discussions based on the basic principles agreed to in 2015 by all parties.
- Settlement discussion shall proceed even if DOE decides not to pick WRIA 1 for adjudication proceedings
- The first step shall be for all parties to prepare a “position paper” outlining their expectation of a preferred solution to WRIA 1 water issues.
- All parties shall expect to make adjustments to their starting positions to reach an agreement
- This process may take next several years.