HOUSE OF REPRESENTATIVES
INTERIM TASK FORCE ON WASHINGTON WATERS

FINAL REPORT

Rep. Richard DeBolt and Rep. Derek Stanford, Co-Chairs

JANUARY 15, 2016

BACKGROUND

Capital Budget Proviso and Appropriation.

Finding that crisis levels of low water supply, flood damage, and storm water runoff pollution threaten citizens' health and safety and the environment, the Legislature established the House of Representatives Interim Task Force on Washington Waters (Task Force) in the 2015-17 Capital Budget (2EHB 1115, Section 1001).

The Legislature directed the Task Force to prepare a report and draft legislation for consideration during the 2016 session that builds upon the foundation of Senate Bill 5628 (2015). Specifically, the Task Force was to:

- Quantify the funding levels needed to address the three water priorities through 2026
- Develop and recommend:
  - State funding options to address the three priorities equally;
  - Local funding options that generate revenues from municipal and agricultural beneficiaries;
  - Criteria and mechanisms for managing, prioritizing and distributing funds;
- Analyze and report on the metrics and variables associated with market pricing; and,
- Address other issues it determines relevant.

The Task Force has 10 members, five from the majority caucus appointed by the House Speaker and five from the minority caucus appointed by the House Minority Leader. Members appointed must serve on the Appropriations Committee (2), Finance Committee (2), Transportation Committee (2), and At Large (1). The Capital Budget Chair and Ranking Minority Member serve as co-chairs. (Note: Rep. Stanford, Capital Budget Committee Vice Chair, was designated co-chair in place of Rep. Dunshee).

A report of findings and recommendations is due November 15, 2015. The Task Force will expire on June 30, 2016. Principal staff support is provided by the House Office of Program Research. $75,000 was appropriated for technical research and analysis to carry out Task Force objectives as needed.

Task Force Members.

- Co-Chairs: Rep. Richard DeBolt and Rep. Derek Stanford, Co-Chairs
- Rep. Tom Dent, Member
- Rep. Hans Dunshee, Member
- Rep. Jake Fey, Member
- Rep. Dave Hayes, Member
- Rep. Kristine Lytton, Member
- Rep. Matt Manweller, Member
- Rep. David Taylor, Member
- Rep. Steve Tharinger, Member

TASK FORCE ACTIVITIES.

The Task Force held its initial meeting on October 5, 2015 in Olympia and a second meeting on November 19, 2015, also in Olympia.

The following report, drafted by the House Office of Program Research, summarizes the two presentations and stakeholder perspectives received by the Task Force on October 5, and provides links to the materials submitted by the presenters. The report also describes the November 19 work session presentations and provides links to the materials submitted by the presenters.

To date, none of the $75,000 appropriation has been spent.

Task Force Website. Organization and operations, meeting agendas and materials can be found here. (http://leg.wa.gov/JointCommittees/wwtf/Pages/default.aspx)

Task Force Staff.

Meg VanSchoorl, Coordinator, Capital Budget Committee	360-786-7105
Lucinda Duvall, Legislative Assistant	360-786-7160
Sarah Emmans, Fiscal Analyst, Finance Committee	360-786-7288
Dan Jones, Fiscal Analyst, Appropriations Committee	360-786-7118
Alyssa Ball, Fiscal Analyst, Transportation Committee	360-786-7140
Jason Callahan, Senior Counsel, Agriculture & Natural Resources Committee	360-786-7117

TASK FORCE MEETING ON OCTOBER 5.

TVW Video from October 5, 2015 Task Force Meeting can be found here.

October 5 Agenda.

1. Introduction of Task Force Members and Opening Remarks by Co-Chairs DeBolt and Stanford.

2. Overview of water supply, storm water and flood needs -- Maia Bellon, Director, and Kelly Susewind, Special Assistant to the Director, Department of Ecology.
   Link to Ecology Presenters' materials is here.

3. Presentation by Senators Honeyford and Braun on SB 5628 (Relating to providing for storm water, flood control, and water supply infrastructure in the state).
   Link to the Senators' materials is here.

4. Stakeholder perspectives on:
   a. SB 5628.
   b. Funding needs and potential funding sources for water supply, flood control and storm water capital projects.

Opening Remarks by Co-Chairs.

Although some counties have too much water and some too little, no county is unaffected. The purpose of the House Task Force is to take a holistic, unified look at the impacts, needs and costs of water supply, floods and storm water pollution. These are urgent issues that affect everyone statewide.

Summary of Presentation by Department of Ecology (DOE).

Given the pressures of population growth and climate change, expanding investments in water supply, storm water and flood projects is important for both the state's environment and the economy.

Estimated costs for water supply needs statewide include: $3.8 billion cost over 30 years for all partners under the Yakima Basin Integrated Plan; $365 million cost through 2030 for future projects in the Columbia River Basin; $46 million cost across western Washington for rural water supply, in-stream flow improvements, and agricultural efficiency improvements; $1 million additional cost for mitigation to restore flows in the Skagit Watershed; and, $30 million costs to develop storage in the Dungeness Watershed on DNR land. State investments in the Yakima Basin Integrated Plan's Cle Elum Fish Passage and Pool Raise projects have opened up thirty additional miles of fish habitat and raising the Lake level will provide an additional 14,000 acre feet of water for instream flow. Investments by the Office of Columbia River, authorized in 2006, have resulted in 395,000 acre feet in new water supplies available for instream and out-of-stream uses.

Our unprecedented drought in 2015 has underscored the need for long-term investment in water supply infrastructure for communities, farms and businesses. Currently, sixty-eight percent of the state is under extreme drought conditions. Of the $16 million appropriated by the Legislature for emergency drought response, $6.5 million has been committed to date for well replacement, fish health and passage, and irrigation system modification projects.

Floods have historically been the state's most costly natural disasters, totaling an estimated $2 billion in damages since 1980. A 2013 DOE survey of cities and counties yielded $660 million in flood projects, not including projects in the Chehalis River Basin which alone are projected to cost $500-600 million.

The new standard for flood projects is sustainable protection of people and habitat. Under the DOE Floodplains by Design grant competition, applicants in 2014 requested $180 million for 71 projects, which resulted in seven projects being funded for $36 million. An example of the new approach is the Orting Levee Setback project which provides flood control, increased water carrying capacity, and improved floodplain habitat.

Fixing the state's largest source of water pollution, storm water, may cost tens of billions of dollars, including $3 billion for the Puget Sound Basin alone. After 40 years of the Clean Water Act, pollution from industrial pipes has now been eliminated or minimized, and the principal sources of pollution are on-ground contaminants such as pet waste, lawn fertilizers, and vehicle and garbage can drippings. Storm water funding has been primarily used for infiltration and treatment techniques, and low impact development. .Since 2011, Ecology has received 498 storm water project requests totaling $316 million. DOE's goal is to have finished 125 projects before 2017. 100 additional projects are in pre-design.

Summary of Presentation by Senators Honeyford and Braun.

Water supply, storm water, and flooding are statewide needs that should be resolved in a bipartisan and bicameral way. SB 5628, the Washington Waters Act, was introduced in January 2015 and was heard by the Senate Ways and Means Committee on January 26, 2015.

The bill establishes a competitive grant process administered by the DOE to fund projects that:
(1) Reduce storm water pollution from existing infrastructure and development, with a preference for projects that rely on low-impact development retrofit techniques; (2) Provide multiple benefits by funding collaboratively-developed projects in the most vulnerable counties that reduce the risk of flooding, protect against flood damage, and protect or restore natural functions to areas where floods occur; and (3) Improve water supply availability and reliability for instream and out-of-stream uses, with preference for collaborative projects that achieve multiple benefits under legislatively-approved programs such as the Yakima Integrated Plan and the continued expansion of the Columbia River Basin Water Supply Program.

The bill includes separate criteria for evaluating projects in each of the three water categories, sets a 20 percent minimum match requirement, and requires the DOE to create recommended ranked lists to be submitted, after a public comment period, to the Governor and to the Legislature. The Governor and Legislature can each remove projects from the lists but cannot add projects. The Legislature may

appropriate funds for the final project lists. A referendum clause was included so that voters could weigh in.

The Task Force does not need to go back to zero, but should focus on how to pay for this. At a potential total cost of $3-4 billion over the first 10-15 years, determining one or more funding sources acceptable to a majority of members has been the primary difficulty. The funding source proposed in SB 5628 was an annual statewide special benefit assessment, with differing rates for residential and undeveloped parcels, and nonresidential developed parcels. Other options considered were: establishing a statewide fee-supported water infrastructure utility, collecting a flat fee per parcel rather than varying assessment rates, and readjusting project sponsor cost-share requirements. A state general obligation bond issue was another option, although not explored in depth.

Summary of Stakeholder Perspectives.

General. We affirm the urgency of predictable, adequate, long-range funding for water projects. We like the vision in this bill and the policy of three "buckets" of funding for water-related infrastructure projects as well as the goal of distributing funding equitably among the three. The needs in all three categories are huge. The Puyallup Watershed has estimated total water-related needs of $1.5 billion. Polls conducted in the last couple of years have demonstrated that the public, across party and geographic lines and by large margins, supports paying for investments in clean water. Any integrated plan will contain a couple of proposals that are controversial, but this should not stop forward progress. This bill does not authorize specific projects to happen nor does it remove environmental reviews or public involvement. Stakeholders can solve problems when they sit down and listen to each other. No one gets everything. Bipartisan, permanent solutions are needed. There is no more important government service than protection from flooding and supplying water. Having cool clean water in the right place, at the right time and in the right amount is critical to fish. Projects that provide multiple benefits and strong, integrated partnerships should be rewarded. Our $25-30 million Dungeness Basin off-channel project will store high spring flows to replace river water during low flow periods for listed salmon. It also will help resolve Sequim's storm water management problems and benefit outdoor recreation and habitat. To avoid duplication of effort, keep in mind that under the Puget Sound Partnership, there is already a project ranking system in place with huge public involvement. Water is essential to the survival of all living things.

Some tribes support this bill but to say that it has the broad-based support of the tribes across the state is premature. Each tribe is a sovereign government and they do not speak for each other. We cannot forgo the government-to-government discussions as provided in the Centennial Accord statutes, in federal law, and by all rights.

Floods. The Governor's Chehalis Basin Work Group is making progress on two enormous issues: habitat restoration for the fishery Basin-wide and periodic, catastrophic flooding. In the Chehalis Basin, there can be floods and droughts within two weeks of each other. Families, businesses and the state lost an estimated $900 million from the 2007 flood. We support the Floodplains by Design program approach requiring that each proposed project yield multiple benefits that help the environment, the fish, and diverse groups of stakeholders. For example, the Railroad Reach project on the Dungeness River

restores the floodplain, reestablishes river processes and rebuilds a washed-out pedestrian bridge on a trail used 100,000 times a year. Floodplains by Design is incredibly effective, but because the approach lends itself to certain projects and geographies, it is not very applicable, for example, to central Puget Sound flood control needs.

Water Supply. Water supply needs are found statewide, in the Dungeness, the Skagit, the mid- and the upper- Columbia Basin. The Colville and Walla Walla Basins also have had water curtailed this year, for the first time in many years. In the Yakima Basin, due to drought, the Kittitas Reclamation District water supply was shut down in August, two months earlier than normal and the Roza Irrigation District, shut down for most of May, received 47% of its water supply. Because of the relationships built by Yakima Basin Integrated Plan stakeholders, the Kittitas Reclamation District has watered up 9 tributaries since June to support instream flow for fish. Because federal legislation calls for Yakima Basin irrigators to pay for the initial phase of a major water storage project, much of the state's funding will be used for fish passage, water conservation, water markets and habitat restoration. To not do something about water supply, including increasing the water supply delivered to the Odessa Aquifer, would be irresponsible to future generations.

The Lake Kachess component of the Yakima Basin Integrated Plan is deeply flawed, presenting major issues under the National Environmental Protection Act, the State Environmental Protection Act, the Endangered Species Act, and the Federal Advisory Committee Act. Draining an alpine lake by 80 feet will lead to problems with wells, fire suppression and fish, among others. The Bumping Lake project would destroy an ancient forest, critical habitat endangered species habitat, as well as a popular campground and Sno-Park. Stakeholders who will be significantly negatively impacted by this projects have been explicitly excluded from the process. The WSU Water Research Center analysis has shown the storage projects to be fiscally irresponsible, returning much less benefit than the money invested. Directing Ecology to create ranked project lists but giving preference to the Yakima Integrated Plan projects is a concern, as is allowing federal agencies to apply for state taxpayer funds. Before increasing Ecology's management of water resources, look at its history in the Skagit Basin where the county has lost $22 million in assessed property values due to wells being banned, creating a tax shift of $272,000.

Storm Water. The storm water proposal represents a lot of good work in the past couple of years to structure funding to tackle big problems first and require local match. It is estimated that 79% of all developed areas in this state are without storm water controls, which affects habitat. Recovering habitat in developed areas should be the measure of success, rather than counting the number of projects funded. Retrofits of existing infrastructure to meet the needs of historic developments that lack storm water systems are expensive and require partnerships. Often a regional, systemic approach is best. Every $65 million in state capital funding for storm water projects has leveraged $55 million in local and other support.

Match. Requiring a financial match from project sponsors ensures they have "skin in the game". When people spend their own money, they tend to make wiser choices. We would like flexibility to be built in, for example, by allowing past investments made by sponsors to count as match.

Financing Options. More thought is needed on who pays. So far, costs have been weighted towards urban residents. Consideration should be given to broadening the investment categories: for example, culverts are an upcoming local government liability, a potential new fish consumption rule may create additional local need, and urban areas have a difficult time delivering water. Using something that looks like a property tax to support this initiative creates a dilemma for cities and counties because it overlaps with what's needed at the local level to meet other regulatory obligations. Much of storm water project funding has come from the Model Toxics Control Act accounts, but this is not sustainable. Consideration should be given to increasing the Hazardous Substance Tax which has not been done since the 1980's. Projects generally require multiple funding sources. State conservation districts have funding needs such as fire recovery, air quality and voluntary stewardship program activities which may have difficulty receiving support if so much financing goes to water.

List of Presenters and Persons Testifying on October 5, 2015.

Presenters:
- Maia Bellon, Director, Department of Ecology
- Kelly Susewind, Special Assistant to the Director, Department of Ecology
- Senator Jim Honeyford
- Senator John Braun

Persons Testifying:
- Randy Johnson, Jamestown S'Klallam Tribe
- Hans Hunger, Pierce County Public Works
- Urban Eberhart, Kittitas Reclamation District
- Lisa Pelly, Trout Unlimited
- Sheida Sahandy, Puget Sound Partnership
- Jay Gordon, Governor's Chehalis Basin Work Group and Washington State Dairy Federation
- J. Vander Stoep, Governor's Chehalis Basin Work Group
- Amanda Cronin, Washington Water Trust
- Michael Garrity, American Rivers
- Elaine Packard, Sierra Club
- David Ortman, Alpine Lakes Protection Society and North Cascades Conservation Council
- Chris Maykut, Friends of Bumping Lake
- Mike Newman
- Tom McBride, Kitsap County
- Ron Shultz, Washington Conservation Commission
- Darcy Nonemacher, Washington Environment Council
- Andy Rheaume, City of Redmond
- Jennifer Quan, Washington Department of Fish and Wildlife
- Grant Learned, Friends of Lake Kachess
- David Dicks, Tatoosh Law & Policy and Friends of Lake Kachess
- Carl Schroeder, Association of Washington Cities
- Laura Merrill, Washington State Association of Counties

- Steve Robinson, Lummi Nation and Stillaguamish Tribes
- Evan Sheffels, Washington Farm Bureau
- Mo McBroom, Nature Conservancy

TASK FORCE MEETING ON NOVEMBER 19.

TVW Video from November 19, 2015 Task Force Meeting can be found here.

November 19 Agenda, Links, and Overviews.

1. Water Markets 101 -- Dr. Jonathan Yoder, State of Washington Water Research Center, WSU; Susan Adams, Washington Water Trust; and Dave Christensen, Department of Ecology.

The link to the panel's materials is here.

Dr. Yoder's presentation, titled "Economic Fundamentals for Water Markets", included: water use and value; water rights fundamentals; price determination; gains from trade; price variations; transactions, markets and costs; when and where will trading occur; when and where will markets develop and how can they be improved; contingent contracts; and, development of "smart markets".

Ms. Adam's presentation, titled "Water Banks Across Washington", focused on how the Washington Water Trust works; flow restoration tools; water bank basics and pricing; and four in-state water exchange models for restoration and mitigation, including the Walla Walla, the Yakima River Basin, the Dungeness, and the Skagit water exchanges.

Mr. Christensen's presentation, titled "Water Banking in Washington", described the Department of Ecology's role in water banking; barriers to water banking; findings and impacts of the recent Supreme Court *Foster* decision; and future population growth projections that will impact the need for water.

Among the Task Force questions fielded by the panel were: (1) Whether the Department of Ecology has reviewed previous state agency land acquisitions that have water rights attached to them and determined the amount of existing water that could potentially be reappropriated for mitigation or transfer, and (2) whether relinquishment is a major obstacle to water markets that should be eliminated and replaced with common law abandonment. Related to (1), Mr. Christensen and Ms. Adams indicated that a comprehensive evaluation of the challenging basins of the Skagit has not uncovered this reappropriation opportunity, although it may exist in other basins. Related to (2), Dr. Yoder stated that he has not studied this himself, but based on anecdotal evidence, it is an important question to the extent that relinquishment limits water right holders' willingness to come to the table to sell water to buyers.

2. Overview of Options for Financing Water Projects -- Meg VanSchoorl and Sarah Emmans, House Office of Program Research.

The link to the panel's materials is here.

Ms. VanSchoorl presented three general methods of funding capital projects and the estimated costs under each method for committing $3 billion over 10 years to water projects: pay-as-you-go funding; debt financing through general obligation bonds; and debt financing through special tax obligation bonds. Ms. Emmans presented 17 fee or tax options for funding water infrastructure projects, including

options associated with: parcel fees; public utility taxes; sales taxes; business and occupation taxes; real estate taxes or fees; storm water management fees; and, property taxes.

3. Approaches to Analyzing the Benefits and Costs of Water Projects -- Dr. Mark Buckley, ECONorthwest; Dr. Jonathan Yoder, State of Washington Water Research Center, WSU.

The link to the panel's materials is here.

Dr. Buckley, who authored the Yakima Integrated Plan Four Accounts Analysis (the Plan) in 2012, explained the overall study approach; the methods and results of aggregating fish, irrigation, municipal and domestic benefit and cost calculations; and, new information that has been received in the last three years. Dr. Yoder, who was charged in the 2013 Capital Budget with disaggregating the 2012 benefit-cost analyses for each proposed project in the Plan, highlighted the differences in methodology, assumptions, and findings between the two studies.

4. Discuss and Consider Adoption of Task Force Draft Report -- Task Force Members.

The link to the original draft report and associated e-mail is here.