

**MEMORANDUM OF AGREEMENT:  
ESSB 6091 WATERSHED PLAN UPDATE DEVELOPMENT AND APPROVAL  
WATER RESOURCE INVENTORY AREA 55**

WHEREAS, the Washington Watershed Planning Act, chapter 90.82 RCW, provides a process to develop, adopt, and implement a watershed management plan for Water Resource Inventory Areas (WRIA) in the State of Washington; and

WHEREAS, the Watershed Management Plan, Water Resource Inventory Area 55-Little Spokane River & Water Resource Inventory Area 57-Middle Spokane River (Watershed Plan) was adopted in joint session on January 31, 2006 by the Pend Oreille County Board of Commissioners, Spokane County Board of Commissioners, and the Stevens County Board of Commissioners; and

WHEREAS, Engrossed Substitute Senate Bill 6091 Chapter 1, Laws of 2018 (ESSB 6091) requires (i) each applicant for a domestic building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building located within WRIA 55 which relies on groundwater withdrawal exempt from the permitting requirements of RCW 90.44.050 from a water-well constructed after January 19, 2018, and (ii) must be consistent with Section 202 of ESSB 6091, unless the applicant provides other evidence of an adequate water supply that complies with chapters 90.03 and 90.44 RCW; and

WHEREAS, ESSB 6091 Section 202 (1) states “unless requirements are otherwise specified in the applicable rules adopted under this chapter or under chapter 90.22 or 90.54 RCW, potential impacts on a closed water body and potential impairment to an instream flow are authorized for new domestic groundwater withdrawals exempt from permitting under RCW 90.44.050 through compliance with the requirements established in this section; and

WHEREAS, ESSB 6091 Section 202 requires the WRIA 55 initiating governments, in collaboration with the WRIA 55 planning unit, to update the watershed plan for WRIA 55 to include recommendations for projects and actions that will measure, protect, and enhance instream resources and improve watershed functions that support the recovery of threatened and endangered salmonids, and at a minimum, include those actions that the planning unit determine necessary to offset potential impacts to instream flows associated with permit-exempt domestic water use; and

WHEREAS, if WRIA 55 watershed plan update as required by ESSB 6091 Section 202 is not adopted by February 1, 2021, the Washington Department of Ecology must adopt rules for WRIA 55 that meet the requirements of ESSB 6091 Section 202; and

WHEREAS, the WRIA 55 initiating governments are Spokane County, Stevens County, Pend Oreille County, the City of Spokane, and Whitworth Water District; and

WHEREAS, chapter 90.82 RCW directs the initiating governments to invite a wide range of water resource interests to be part of a watershed planning unit; and

WHEREAS, the initiating governments entered into a Memorandum of Agreement in 1999 to initiate the development of a watershed plan for WRIA 55 and WRIA 57 that specified the governmental and non-governmental groups invited to be a member of the planning unit; and

WHEREAS, the initiating governments have reviewed the groups invited in 1999 and considered the update requirements imposed under ESSB 6091 and considered which groups best

represent the water resource interests specific to WRIA 55 in 2018, including the Colville Tribe of Indians, Spokane Tribe of Indians and the Kalispel Tribe of Indians, and have invited the governmental and non-governmental groups identified in Attachment “A” to be a member of the WRIA 55 planning unit.

NOW, THEREFORE, the initiating governments for WRIA 55 agree as follows:

**1.0 Purpose:** It is the purpose of this Agreement to set forth a process through which the parties may develop, adopt, and secure approval of an update to the WRIA 55 portion of the previously approved WRIA 55/57 Watershed Plan, herein referred to as the WRIA 55 Watershed Plan update, to meet the requirements of all applicable sections of ESSB 6091, including Section 202, by February 1, 2021.

**2.0 Initiating governments:** According to the provisions of RCW 90.82.060, the eligible parties to this Agreement shall be Spokane County, Stevens County, Pend Oreille County, the City of Spokane, and Whitworth Water District.

**3.0 Lead Agency:** Spokane County will be the lead agency for the purposes of convening the planning unit, and receipt and administration of state funds provided for planning unit facilitation and development and approval of the WRIA 55 Watershed Plan Update. Designation of Spokane County as lead agency does not preclude any eligible entity from receiving funds for project implementation.

#### **4.0 Planning Unit:**

4.1 The planning unit is a committee formed by the initiating governments as described in chapter 90.82 RCW. ESSB 6091 requires the initiating governments to collaborate with the planning unit in the development of the WRIA 55 Watershed Plan Update.

4.2 The planning unit is composed of stakeholders, both governmental and non-governmental entities, with a wide range of water resources interests invited by the initiating governments to collaborate on the development of the WRIA 55 Watershed Plan Update. Stakeholders invited to be a member of the planning unit and participate in developing the WRIA 55 Watershed Plan Update are included in Attachment “A”. The initiating governments are participants in the planning unit.

#### **5.0 Process:**

5.1 The planning process entails a collaboration between the initiating governments and stakeholders identified in Attachment “A” actively participating in the planning unit. A facilitator may be contracted to assist in implementing a congenial consensus-building methodology to ensure participant interests and concerns are considered in the development of a fact-based WRIA 55 Watershed Plan Update.

5.2 All decisions or actions other than approval of the WRIA 55 Watershed Plan Update not resolved during the planning process specified in 5.1 shall require a motion and a majority vote of the initiating governments. Only the designated representative of an initiating government may call for a decision or action by motion.

5.3 Approval of the WRIA 55 Watershed Plan Update shall require a super majority vote (2/3) of the initiating governments.

- 5.4 Prior to adoption of the updated watershed plan, the watershed plan update will be submitted to the Washington State Department of Ecology for a determination that actions identified in the watershed plan update, after accounting for new projected uses of water over the subsequent twenty years, will result in a net ecological benefit to instream resources within WRIA 55.
- 5.5 The planning unit may adopt operating rules as long as they do not conflict with provisions of this Agreement.
- 5.6 The Initiating Parties are concerned about creating potential inconsistencies between planning documents where the 20-year projection required under ESSB 6091 §202(4)(c) does not coincide with other mandated planning, and agree nothing in this Agreement imposes a duty on the Parties to update other planning documents or prohibits adjusting the planning window to avoid inconsistencies with other required planning.
- 5.7 The planning process shall be subject to the Open Public Meetings Act.

## **6.0 Funding:**

- 6.1 This Agreement does not obligate the initiating governments (agencies) to pay any operating costs for the WRIA 55 Watershed Plan Update. Any such obligation in the future shall require express written agreement.
- 6.2 Spokane County shall be the lead agency for application and management of funding provided by the State of Washington for the development and approval of the WRIA 55 Watershed Plan Update. Budgets allocating the use of watershed planning funds shall be approved by the initiating governments. Grant funds shall be used for staff support and consultant support, including the preparation of technical reports for review by the planning unit and/or technical committees and/or focus groups.
- 6.3 Participation in the planning unit and/or technical committees and/or focus groups by officials and staff of members shall be contributed time and not eligible for reimbursement unless expressly approved by the initiating governments.
- 6.4 This Agreement does not preclude any party from applying for and receiving project funding under ESSB 6091 separate and apart from the planning unit and lead agency.

## **7.0 Duration:**

- 7.1 This Agreement will operate for the duration of the watershed plan update development and approval or until February 1, 2021, whichever occurs first.
- 7.2 Any party to this Agreement shall have the right to withdraw from the planning process at any time. All Parties agree that if any entity withdraws, that entity shall not be deemed a party to any plan or agreement developed, approved, and submitted to Department of Ecology for determination of compliance with chapter 90.82 RCW and ESSB 6091.

**8.0 Modification:** This Agreement may be modified or amended only by a subsequent written document, signed by representatives of all initiating governments, expressly stating the intention to

amend this Agreement. No amendment or alteration of this Agreement shall arise by implication, course of conduct or change in state law.

**9.0 Agreement:** The water resource planning process described in this Agreement is intended to result in a WRIA 55 Watershed Plan Update that meets the requirements of ESSB 6091. The Parties agree that participation in the development of WRIA 55 Watershed Plan Update shall not abrogate any member's authority or the reserved rights of any Tribe, except where an obligation has been accepted in writing.

**10.0 Miscellaneous**

10.1 This Agreement does not create, nor seek to create, a separate legal entity pursuant to RCW 39.34.030.

10.2 The Parties shall be responsible for filing this Agreement as provided for in RCW 39.34.040.

**11.0 Effective Date:** This Agreement shall become effective and commence upon execution of the Agreement by all parties.

IN WITNESS WHEREOF, we the undersigned have executed this Agreement as of the date as indicated.

SPOKANE COUNTY:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Josh Kerns, Chair

STEVENS COUNTY:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Wes McCart, Chair

PEND OREILLE COUNTY:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Stephen Kiss, Chair

CITY OF SPOKANE:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
David Condon, Mayor

WHITWORTH WATER DISTRICT:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Dennis Brown, Chairman

**Attachment A**  
**Planning Unit Stakeholders**  
WRIA 55 ESSB 6091 Watershed Plan Update

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Initiating Governments

- Spokane County
- Stevens County
- Pend Oreille County
- Whitworth Water District
- City of Spokane

The following entities were invited to participate in the WRIA 55 Planning Unit for the ESSB 6091 WRIA 55 Watershed Plan Update.

Units of Government

- Kalispel Tribe of Indians
- Spokane Tribe of Indians
- Colville Tribe
- City of Deer Park
- Stevens County PUD
- Spokane County Water District #3
- Diamond Lake Sewer and Water District
- Spokane Regional Health District
- Spokane Conservation District
- Stevens County Conservation District
- Pend Oreille County Conservation District
- Washington State Agencies

Non-governmental Members

- Spokane County Farm Bureau
- Stevens County Farm Bureau (includes Pend Oreille County)
- Eloika Lake Association
- Spokane Association of Realtors
- Spokane Home Builders
- Friends of the Little Spokane Valley
- League of Women Voters
- The Lands Council
- Center for Environmental Law and Policy
- Futurewise
- Trout Unlimited
- Citizens Alliance for Property Rights
- Spokane County Cattlemen's Association
- Stevens County Cattlemen's Association

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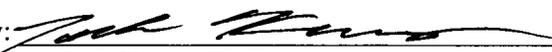
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SPOKANE COUNTY:

By:  Date: 6.26.18  
Josh Kerns, Chair

STEVENS COUNTY:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Wes McCart, Chair

PEND OREILLE COUNTY:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Stephen Kiss, Chair

CITY OF SPOKANE:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
David Condon, Mayor

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By: \_\_\_\_\_ Date: \_\_\_\_\_  
Josh Kerns, Chair

STEVENS COUNTY:

By:  \_\_\_\_\_ Date: 7/16/18  
Wes McCart, Chair

PEND OREILLE COUNTY:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Stephen Kiss, Chair

CITY OF SPOKANE:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
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**STEVENS COUNTY:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Wes McCart, Chair

**PEND OREILLE COUNTY:**

By: Stephen Kiss \_\_\_\_\_ Date: June 11, 2018  
Stephen Kiss, Chair

**CITY OF SPOKANE:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
David Condon, Mayor

**WHITWORTH WATER DISTRICT:**

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Dennis Brown, Chairman

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Wes McCart, Chair

**PEND OREILLE COUNTY:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Stephen Kiss, Chair

**CITY OF SPOKANE:**

By: David Condon \_\_\_\_\_ Date: 6/27/18  
David Condon, Mayor

**WHITWORTH WATER DISTRICT:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Dennis Brown, Chairman

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By: \_\_\_\_\_ Date: \_\_\_\_\_  
Stephen Kiss, Chair

CITY OF SPOKANE:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
David Condon, Mayor

WHITWORTH WATER DISTRICT:

By:  Date: 6/21/2018  
Dennis Brown, Chairman