

**INTERLOCAL AGREEMENT BETWEEN
WASHINGTON STATE DEPARTMENT OF FISH AND WILDLIFE AND
PUBLIC UTILITY DISTRICT No. 1 OF SKAGIT COUNTY**

THIS AGREEMENT is made and entered into this 14th day of May 2026, by and between Washington State Department of Fish and Wildlife, herein referred to as “WDFW” and Public Utility District No. 1 of Skagit County, herein referred to as “Skagit PUD”

RECITALS

A. WHEREAS, legal and uninterrupted water withdrawals in the Skagit River watershed are a scarce and valuable resource; and

B. WHEREAS, Skagit PUD recognizes the impact and value of environmental restoration projects on the overall health of the community; and

C. WHEREAS, WDFW is a department of the State of Washington; and

D. WHEREAS, WDFW has proposed an environmental restoration project named the “Island Unit Restoration Project” that requires a temporary water source for dust control and seed establishment at the project area over the next three to five years, and WDFW does not possess water rights on the Skagit River that allow them to provide water to the project; and

E. WHEREAS, Skagit PUD has reviewed its historical operational and water demand scenarios and determined that a portion of its uninterrupted water rights are available over the next three years for temporary, seasonal use by WDFW; and

F. WHEREAS, Skagit PUD endeavors to provide all customers within its retail service area with water where feasible, with the clarification that customers with permanent metered services are Skagit PUD’s first priority; and

G. WHEREAS, it is essential for Skagit PUD to establish reasonable and defensible water rates for the use of the water rights; and

H. WHEREAS, WDFW and Skagit PUD are each independently authorized by law to conduct such activity; and,

I. WHEREAS, RCW 39.34.080 authorizes a public agency to contract with another public agency to perform any governmental service, activity, or undertaking that each public agency is authorized to perform, provided that such contract shall be authorized by the governing body of each party to the contract; and,

J. WHEREAS, RCW 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities, including an agency of state government, on the basis of mutual advantage. In addition, under the authority of the Interlocal Cooperation Act, specifically RCW 39.34.030, public agencies, such as the parties, may enter into Interlocal Agreements such as this one; and,

K. WHEREAS, it is necessary for WDFW and Skagit PUD to enter into an agreement setting forth the terms, conditions, and requirements for completing a temporary, seasonal water rights transfer.

AGREEMENT

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the Parties agree as follows:

STATEMENT OF WORK

1. The parties agree the conditions of the temporary change authorization are as follows:
 - i. Temporary 2026 Change Authorization. Skagit PUD will prepare an “Application for Change/Transfer of a Water Right” for submittal to the Washington State Department of Ecology (Ecology) for a temporary seasonal water rights transfer unrelated to any drought declaration. The application will request authorization for WDFW to divert surface water in 2026 from the Skagit River from April 1 to October 1.

- ii. Withdrawal Terms

WDFW is only permitted to pump water from the established diversion points (shown in the attached figures) in the following amounts. **The amounts listed below are cumulative amounts for all of the listed diversions by WDFW, and supersede variations from the amounts listed in Ecology authorizations.**

- (1) Maximum total instantaneous rate of 22 gallons per minute (0.05 cfs)
- (2) Maximum total annual withdrawal of 300 acre-feet

WDFW shall comply with all lawful conditions of the application and Ecology authorization documents.

Skagit PUD will make a reasonable attempt to obtain Ecology authorization for the water rights changes but cannot guarantee such approvals.

The following conditions are a requirement of this agreement and will be included in the applications. Additional conditions may be required by Ecology and may change from year to year:

- (1) Water use under this Authorization can occur at any time of day, regardless of the tidal condition, up to the maximum cumulative agreed-upon flow rate.
- (2) A Skagit PUD metering device that records historical pumping data will be installed by Skagit PUD at each diversion point identified by this Authorization. WDFW shall provide reasonable access to the irrigation pipelines to facilitate meter installation.
- (3) Detailed written records do not need to be kept. All data, including pumping flow rates, totalizer meter readings, and total volumes, will be collected by Skagit PUD and provided to any interested stakeholders and partners.
- (4) WDFW is responsible for acquiring regulatory approvals for the proposed new diversion locations.

iii. Duration

Surface water withdrawals by WDFW will be from April 1 to October 1 in 2026, contingent on Ecology authorization.

Surface water withdrawals by WDFW for each season will not commence until Skagit PUD has provided written authorization separate from Ecology water right authorization.

iv. Payment by WDFW to Skagit PUD

WDFW agrees to compensate Skagit PUD a non-refundable water transfer fee of \$5,510 for the seasonal use of PUD water rights in 2026, which must be paid as a condition of PUD authorization to start withdrawals in 2026. The compensation includes the following:

- (1) Administrative fee for Skagit PUD staff to manage the water rights transfers and the data.**
- (2) Maximum annual volume of 300 acre-feet to be used during the water rights transfer period.**
- (3) Meter installation and maintenance fee for a single diversion location. There will be an additional fee of \$1,000 for each added diversion location to account for the extra metering equipment.**

The water meter and telemetry equipment shall be installed, owned, and maintained by Skagit PUD, similar to other metered customers. Skagit PUD will remove the equipment at the end of the irrigation season.

The annual Water Transfer Fee shall increase by five percent (5%) each year of this agreement and must be paid prior to PUD authorization to start withdrawals each season.

v. Penalties for Non-Conformance

In the event that a maximum flow rate is exceeded during the seasonal pumping window or pumping occurs outside of that window, based on the information provided by the metering equipment, all withdrawals under this Agreement shall stop immediately and will not resume until an investigation determines the cause. If there is evidence of negligence or intentional unauthorized withdrawals, a monetary penalty will be imposed by Skagit PUD upon WDFW of \$500 per day of non-compliance. WDFW agrees to pay all lawful regulatory monetary penalties arising from non-compliance to which Skagit PUD is subject caused by WDFW.

vi. Interruption of Service

In the event of a declared operational emergency by the PUD Board of Commissioners where Skagit PUD requires the flexibility to use its full uninterruptible water right to serve its other customers with permanent metered services, the seasonal water rights transfer to WDFW may be reduced or canceled until the issues are resolved, and the emergency canceled.

AGREEMENT EXTENSION

2. The Statement of Work above is specific to the 2026 irrigation season. Upon request by WDFW, Skagit PUD may elect to extend this agreement for the 2027 and 2028 irrigation seasons. There is no expectation of continued service by either party and the terms of any extension may be revised.

INDEPENDENT CAPACITY

3. The officials, employees, and agents of each party who are engaged in the performance of this Agreement shall continue to be officials, employees, or agents of that party and shall not be considered for any purpose to be officials, employees, or agents of the other party.

LEGAL RELATIONS

4. Neither party shall be liable for damage or claims that arise from or relate to the performance or non-performance of this Agreement by the other party. Each party shall be responsible only for the negligent acts and omissions of its own officers, employees, and agents, and no party shall be considered the agent of the other. Each party, by entering into this Agreement, does not waive or relinquish any of their statutory rights.

INDEMNIFICATION

5. WDFW agrees to defend, indemnify, and hold the Skagit PUD harmless from any and all claims, demands, losses, and liabilities to or by third parties arising from, resulting from, or connected with work performed or to be performed under this Agreement by WDFW, its agents, employees, and subconsultants, even though such claims may prove to be false, groundless or fraudulent, to the fullest extent permitted by law.

ASSIGNMENT

6. Neither party shall assign or convey its interests or obligations under this Agreement without the written consent of the other. There are no third-party beneficiaries of this agreement. WDFW cannot transfer, sell, or otherwise convey any of the water rights included in this agreement to any other parties.

DISPUTES

7. It is expected that any conflicts arising out of the implementation of this Agreement will be resolved at the staff level. In the event that issues cannot be resolved by staff in a timely fashion, the parties agree to elevate the dispute through equivalent management levels of each party and, if necessary, to the Skagit PUD general manager and the WDFW director.

If a dispute cannot be resolved in the manner described above, the resolution of the dispute shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, contract terms, and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto.

AMENDMENT

8. This Agreement shall be amended only by written mutual agreement of the parties. Any of the parties may initiate amendments to this agreement, but amendments shall not be considered until the first year of the Agreement has passed. Amendments will become final after written agreement by all parties and appropriate signatories are executed.

TERMINATION

9. This Agreement is effective from the date of signature by all parties and remains in effect until modified by written mutual agreement, termination, or completion of the seasonal water rights transfer, including satisfaction of all terms and conditions by WDFW.

CONTACTS

10. The contacts for each party shall be responsible for and shall be the contact person for all notices and communications regarding the performance of this Agreement.

Public Utility District No. 1 of Skagit County
Bill Trueman
Engineering Supervisor
Public Utility District No. 1 of Skagit County
1415 Freeway Drive
Mount Vernon, WA 98273
(360) 630-9972
trueman@skagitpud.org

Washington State Department of Fish and Wildlife
Name: Mike Malon Title: Water Rights Specialist
Contact Information:
P.O. Box 43158, Olympia, WA 98504- 3200
564-250-1619 | mike.malon@dfw.wa.gov

GOVERNANCE

11. This Agreement is entered into and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable state and federal constitution statutes and rules;
- Statement of work; and
- Any other provisions of the Agreement, including materials incorporated by reference.

WAIVER

12. The failure to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Agreement shall not prevent a subsequent act that would have originally constituted a violation from having the effect of an original violation.

SEVERABILITY

13. If any provision of this Agreement, or any provision of any document incorporated by reference, shall be held by a court of competent jurisdiction to be invalid, the remainder of this Agreement, and such, will remain in full force and effect.

ALL WRITINGS CONTAINED HEREIN

14. This Agreement, including its exhibits, constitutes the entire agreement between the parties regarding the project and supersedes all prior agreements and understandings between the Parties relating to the subject matter of the Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

ADDITIONAL PROVISIONS

15. This Agreement does not create any separate legal entity, create any joint organization, establish any common budget, nor authorize the joint acquisition of any personal or real property.

16. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, but any number of which, taken together, will be deemed to constitute one and the same instrument.

17. This Agreement, and all of the terms contained herein, are non-precedent setting and shall have no bearing or influence on any discussions or negotiations for the future temporary transfer of water rights.

DATED this 14th day of May, 2026.

Washington State Department of Fish and Wildlife

By: Kevin Connally Digitally signed by Kevin Connally
Date: 2026.05.15 09:07:15 -07'00'

Title: Lands Division Manager

Public Utility District No. 1 of Skagit County

George Sidhu
George Sidhu, P.E., General Manager

May 20, 2026