

1 PROPOSED BY: _____
2 INTRODUCTION DATE: JANUARY 10, 2023
3

4 RESOLUTION NO. _____
5

6 **IN SUPPORT OF ADJUDICATION FUNDING IN THE WASHINGTON STATE**
7 **2023 TO 2024 BIENNIUM**
8

9 **WHEREAS**, there is long-running concern in Whatcom County regarding the legal
10 use of diminishing water resources vital to domestic, commercial, agricultural and industrial
11 users; and
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13 **WHEREAS**, greater certainty is needed regarding who holds both senior and junior
14 water rights and to what quantity each holder is entitled to; and
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16 **WHEREAS**, climate change impacts are reducing summer instream flows and recent
17 scientific reports from the Intergovernmental Panel on Climate Change point out that time is
18 running short for communities everywhere to mitigate and adapt to the worst effects of
19 climate change; and
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21 **WHEREAS**, allocation of legal water use during summer low flow periods is critical to
22 a flourishing agricultural economy and essential for the recovery of the Nooksack River
23 watershed's salmon populations; and
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25 **WHEREAS**, healthy salmon runs are an integral to Whatcom County's culture,
26 economy, and ecosystems, and diminished summer low flows in our streams and rivers
27 adversely impact fish species listed on the Endangered Species Act; and
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29 **WHEREAS**, the Nooksack Indian Tribe and Lummi Nation have treaty-protected
30 water rights for instream flows that have not yet been quantified; and
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32 **WHEREAS**, 25 years of stakeholder negotiations under the Washington State
33 Watershed Planning Act and associated local efforts have not resulted in sufficient progress
34 towards a collaborative solution to water quantity allocation; and
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36 **WHEREAS**, the County Executive's efforts at a Collaborative Solutions Table
37 involving stakeholders is a positive step, the quantification of water legal rights requires
38 adjudication; and
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40 **WHEREAS**, the adjudication process will take many years, delaying in this process
41 will further delay resolution to long-running concern in Whatcom County regarding the legal
42 use of diminishing water resources; and
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44 **WHEREAS**, the adjudication process will honor Tribal Treaty Rights, determine the
45 seniority order of water rights and water quantity for all water rights holders, however,

1 increasing the summer instream flows in Nooksack and its tributaries, restoration and
2 expansion of the salmon habitat, ensuring adequate water security for a thriving agricultural
3 base of local economy, improving the water quality and safety of aquaculture, climate
4 mitigation challenges will require all parties to participate in a collaborative Solutions Table
5 discussion.

6
7 **WHEREAS**, the Tribes have petitioned the State of Washington to advance a water
8 rights adjudication in WRIA 1, and the Washington State Department of Ecology has
9 requested \$2.7 million in their 2023-2024 operating budget to initiate the adjudication
10 process in 2023; and

11
12 **WHEREAS**, the adjudication proceedings will encourage collaborative processes
13 under the direction of the adjudication court to proactively increase summer streamflow's,
14 improve water quality, restore salmon habitat, and address the Nooksack basin's other
15 water resources challenges; and

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17 **WHEREAS**, the adjudication process and the Solutions Table process are
18 complementary of each other;

19
20 **NOW, THEREFORE, BE IT RESOLVED** by the Whatcom County Council that:

- 21
22 a) Whatcom County Council supports the adjudication process and strongly
23 encourages the state legislature full funding the WRIA 1 adjudication process in
24 the 2023-2024 Biennium Washington State Budget;
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26 b) Whatcom County Council requests the legislature provide funding to the County
27 to provide filing assistance for all participants in the adjudication process;
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29 c) Whatcom County Council also supports a parallel collaborative Solutions Table
30 process and strongly encourages the legislature to fund this in the 2023-24
31 Biennium Washington State Budget.

32
33 **APPROVED** this _____ day of _____, 2022.

34
35 **ATTEST:**

36 **WHATCOM COUNTY COUNCIL**
WHATCOM COUNTY, WASHINGTON

37
38 _____
39 Dana Brown-Davis, Clerk of the Council

40 _____
41 Barry Buchanan, Council Chair

42 **APPROVED AS TO FORM:**

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44 Civil Deputy Prosecutor