CHRISTINE O. GREGOIRE
Governor

STATE OF WASHINGTON
OFFICE OF THE GOVERNOR
P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 753-6780 • www.governor.wa.gov

July 29, 2009

Anne Watanabe, President
Economic Development Group of Kittitas County
221 E. Fourth Ave.
P.O. Box 598
Ellensburg, WA 98926

Dear Ms. Watanabe Anne

I am writing in response to your July 23 petition to repeal the Department of Ecology's (Ecology) temporary emergency ground water withdrawal rule in upper Kittitas County (County). I am well aware of the situation in Kittitas County and the Yakima Basin as a whole, where water supplies have been a concern for more than 30 years.

RCW 34.05.350(3) (Emergency rules and amendments) allows for petitions to the governor to request the immediate repeal of an emergency rule within seven days of rule adoption. The statute says that the governor, within seven days after submission of the petition, shall either deny the petition in writing, or order the immediate repeal of the rule.

Under RCW 34.05.350, I must consider whether the conditions cited by the agency meet the Administrative Procedures Act definition of emergency: "that immediate adoption . . . of a rule is necessary for the preservation of the public health, safety, and general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest."

The emergency rule that is the subject of your petition was necessary to close a water resources management gap that was created when the County and Ecology did not reach agreement on a path forward. The rule was necessary to protect both existing and future water users in the area from the adverse implications of future droughts and water shortages in the greater Yakima Basin.

For these reasons, I find that Ecology's emergency rule meets the requirements of RCW 34.05.350, and I am therefore denying your petition.

To address the effect of the rule, I have asked Ecology to amend the emergency rule to clarify that people with vested building permit applications or issued building permits as of July 16, 2009, are not subject to the withdrawal rule. In addition, I have asked Ecology to quickly develop water bank solutions to provide mitigation water that will support new development moving forward.

While I support Ecology's temporary withdrawal, I have asked the department to move quickly and propose a permanent rule in the near future, both to provide better options and clarity for future water supply in the upper county, and to provide full opportunity for public notice and comment.

Ecology Director Jay Manning has assured me that the agency will work with the County on a long-term solution. I believe the County and the state, working together, and informed by groups like yours, can best develop the reliable and responsible water supplies needed for sustainable economic growth.

Sincerely,

Chris

Christine O. Gregoire
Governor