

From: F. Michael Krautkramer [REDACTED]
Sent: Friday, June 29, 2012 12:49 PM
To: Wessel, Ann (ECY)
Subject: Dungeness Instream Flow and Water Management Rule

Ann,
I was present at the Sequim Community Church meeting last night. First, I want to thank you for a very good summarization of the rule as it currently stands (and will likely be adopted). I thought Ecology staff did a fine job of both speaking and listening.

The reason I am sending this, however, is that I saw a basic disconnect with many in the audience regarding the concept of the "impact" of the rule and am afraid that something obvious to those who work with water law regularly (including those of us in the private sector) is being missed by many in the regulated community.

Many of the assertions of "impact to property values" or believing there is a "constitutional taking" issue or that "you rethink your economic impact assessment" seem to believe that the status quo (the situation as it now exists without the rule) is that they would have unfettered access to water on their property. They are unaware that the findings of the Watershed Plan is that there is no water to allocate and that the appropriate response to applications lacking a mitigation plan under the non-rule condition would be denial of the application. It seemed equally unknown that a request for a moratorium on the groundwater exemption by any of several affected parties would likely need to be taken serious by Ecology. Even if Ecology were to resist the moratorium, armed with the findings of the watershed plan a court would likely impose it.

The rule is the solution to the "brave new world" that the Dungeness Basin finds itself in. There are many (myself included) who take exception with the methods used to set instream flows and the numbers assigned to subbasins. That does not change the fact that a statutorily created Watershed Planning Unit has created a legal document finding these numbers to be appropriate.

I suggest that your responses to those who feel their property values are diminished by the rule should explain the current situation so that these people use the correct base upon which to measure an assertion of diminished value. Many in the audience viewed the rule as something that will take away their ability to access water. The fact is the rule will reestablish access that would otherwise not be available to them under the proper administration of water law as it currently applies to the Dungeness situation (as described in the watershed plan).

Good luck with a very difficult sociological situation.

Mike

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