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Sent: Thursday, July 05, 2012 2:31 PM
To: Wessel, Ann (ECY)
Cc: Nelson, Cynthia (ECY); Loranger, Thomas (ECY); Toteff, Sally (ECY)
Subject: comment letter wria 18 rule

Ann – Please see the attached comment letter RE: the east WRIA 18 water resource management rule.

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"I love any discourse of rivers, and fish and fishing." Izaak Walton



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July 5, 2012

Ann Wessel
Instream Flow Rule Lead
Department of Ecology
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RE: Comments on the water management rule for the Dungeness watershed, east WRIA 18

Dear Ann: Since the Dungeness – Elwha Watershed (WRIA 18) Plan was adopted in 2005 we have been working on rules to manage water in the eastern portion of WRIA 18. The Plan calls for instream flows to be established and this is what the proposed rule does. In the 7 years it has taken to get to this point all of us that have been involved have learned quite a bit about the laws that govern water in our state and about the hydrology of the Dungeness watershed.

U.S. Census data shows that the population of Clallam County in 1970 was less than 35,000. Sequim and the surrounding area was predominantly an agricultural community populated by about 2,000 people. Forty years later the 2010 U.S. Census data shows the County has a population of 71,404, over twice the population in 1970, with most of the increase occurring in the eastern portion of the County. This rate of growth is higher than what occurred in the state over the same time frame and much higher than what occurred nationwide. The quantity of water needed for this growth was large.

During this 40 year span the eastern portion of Clallam County has experienced considerable growth and development. And during those same 40 years fish populations in the area have experienced a dramatic downturn. Water quality has degraded, water quantity has decreased, habitat has been significantly altered and numerous species have been listed for protection

under the Endangered Species Act. Water management has become a major need.

Precipitation within the Dungeness watershed is considerably less than average for a western Washington watershed. In many respects the Dungeness has a hydrologic cycle that matches watersheds on the eastern side of our state. That is, water flow patterns are driven by runoff in the fall/winter and snow melt in the spring/summer. Loss of our glaciers and permanent snow fields is a well know factor affecting our hydrologic cycle. With the well-advertised climate changes coming the streams and rivers draining the Olympic Mountains are projected to have less water flowing in them during the spring and summer. This will, in turn, have a bearing on future groundwater supplies. The time to set up our water management structure is now.

One critical factor learned while developing the rule was the connectivity that exists between our surface water and groundwater in east WRIA 18. Many thousands of years of erosion and alluvial deposits linked to the last retreat of the Cordilleran Ice Sheet, glacial outwash since that time with rivers and streams draining the runoff and melting snow from the Olympic Mountains have shaped our watersheds and created the layered aquifers. It was enlightening to learn of the connectivity between groundwater and surface water supplies in east WRIA 18.

Irrigation uses have existed for over 100 years in the Dungeness watershed. In the 1920's state courts adjudicated the water rights of the various irrigators and issued certificates for specific volumes of water that when summed exceeded 500 cubic feet per second; far more than what the Dungeness River actually held for much of the annual cycle. We didn't manage water very well in the 1920's.

In the 1940's the state legislature passed a law that allows property owners to drill a well and use groundwater without acquiring a water right certificate. This law was created as a means of encouraging development in rural areas of the state. Much attention was given to how water could be used (up to 5,000 gallons a day or no limit if watering stock) but little attention was given to what would happen if too much water was used. We didn't manage water very well in the 1940's either. It really wasn't until watershed planning was developed, in the 1980's that we began to consider proper management of the public's water resources in the Dungeness.

Because we believe active management of water resources in WRIA 18 is necessary, we are particularly interested in seeing that new water uses be measured. The irrigation companies and districts must measure the amount of water withdrawn from the Dungeness River. It makes sense that new uses of water pumped from the aquifers would also be measured. The proposed rule relies heavily on reserves to allow continued new uses of groundwater. In order to properly manage the reserves we need to know how much new water is being used. Requiring meters on new wells is the only way to accurately collect this information.

Water in this state is owned by the public. Recent policies allow harvesting of rainwater but water that flows in our rivers and streams as well as water that is contained in the aquifers underground, is a public resource. Individuals do not own the water they use. Federal, state and local governments are charged with regulating access and use of the public's water. Because water is a public resource its use must be balanced among all aspects of the public's interest. Water is not only needed by people but by the other resources that these same federal, state and local governments are responsible for. Balance is the key.

While the proposed instream flows are not what all parties would like to see, it is interesting to note that many voices argue for instream flows that are less than that proposed by the rule. We actually believe that there are reaches of the Dungeness that would benefit from higher instream flows and create more diverse habitats beneficial to Dungeness salmon populations. In the interest of seeing a rule adopted we are, for now, willing to see the proposed flows adopted so the work of restoring flows can begin.

During the past year the Treaty Tribes of western Washington have been trying to capture the attention of the federal government with regard to salmon recovery. In the 1850's the Tribes signed treaties that gave the United States title to millions of acres of land in exchange for continued and protected rights, forever reserved, to fishing, hunting and gathering opportunities, among others. These rights have become severely constrained and they are at risk of disappearing. Harvest opportunity has been reduced in many cases and eliminated in others. Hatchery operations, often the only type of production that offers Tribes harvestable salmon, have been reduced. All in the name of salmon populations and their recovery plans. Yet the rate of habitat decline marches on. There is no change in

how we treat our habitat as we continue to alter our shorelines, uplands, riparian zones, floodplains, and channel migration zones. These habitats continue to degrade. Docks continue to be built, rip-rap is as popular as ever, stream bank armoring projects big and small are permitted, and encroachment on valuable fish and wildlife habitat remains common.

Habitat management measures are not keeping pace with harvest and hatchery management measures. We are losing our habitat faster than we can restore it. Salmon are not recovering. Treaty Rights are not protected. Water resource management is needed in WRIA 18.

In the Dungeness watershed, water = habitat = fish. This is a linear relationship, a well proven one. The proposed rule seeks to establish instream flows for fish. People have rights to the water. These rights are in place and have been in place for almost 100 years. People cannot live without water and the rule insures that people will always have rights to water. It is now time for the state to assign rights to water for other resources that cannot live without it, our fish and wildlife.

If we do not manage our water we take away from our habitat which results in loss of fish. The proposed rule will only begin the process of managing the public's water. We need to first stop treating our water resource as if there is no limit to the supply. Then we then need to begin the long and costly job of restoring instream flows which the Dungeness Water Exchange has the potential to facilitate. Restoration of flows is a critical aspect of the rule as we must provide for the needs of fish and wildlife species listed for protection under the Endangered Species Act. Once recovered, local fish populations need to become more productive in order to provide increased harvest opportunity, including that reserved by the Tribes by treaty.

The water resource management rules proposed by the Department of Ecology do not affect water rights reserved by the Jamestown S'Klallam Tribe. We have participated in the east WRIA 18 Executive Committee process and the Local Leaders Work Group process by invitation of the governments involved. We have offered our thoughts and ideas as we have considered the same from others. We appreciate the effort that the Department of Ecology has made to develop the proposed rule and the hard work accomplished by the staff and policy representatives from all entities involved in the rule development. Everyone involved did a good job and should be proud of their contributions.

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Please do what is necessary to adopt the water resource management rule for the eastern portion of WRIA 18, the Dungeness watershed. We look forward to helping implement the rule. We look forward to the many opportunities to restore flows as allowed by the rule.

Sincerely,



Scott Chitwood

Natural Resources Director
