

PUBLIC HEARING PROCEEDINGS

RE: PROPOSED WAC 173-518

DUNGENESS BASIN WATER MANAGEMENT RULE

PUBLIC COMMENTARY

JUNE 28, 2012

6:00 P.M. GUY COLE CENTER

8:00 P.M. SEQUIM COMMUNITY CHURCH

REPORTED BY: Valerie Allard (CCR No. 3040)

1 SEQUIM, WASHINGTON; THURSDAY, JUNE 28, 2012

2 6:01 P.M.

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5 RE: PROPOSED WAC 173-518

6 DUNGENESS BASIN WATER MANAGEMENT RULE

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8 MS. BEITEL: Let the record show that it is now
9 6:01 p.m.

10 Good evening. I'm Judy Beitel, hearing's officer
11 for tonight's hearing. On behalf of the Department of
12 Ecology, welcome, and I thank you for coming.

13 Tonight, Ecology is holding a hearing on the rule
14 proposal for Chapter 173-518, Washington Administrative
15 Code, Water Resources Management Program for the Dungeness
16 Portion of the Elwha-Dungeness Water Resources Inventory
17 Area 18.

18 Originally, Ecology scheduled this hearing at this
19 location, the Guy Cole Center. The hearing on proposed
20 Chapter 173-518 WAS is now officially commenced. We now
21 know that a larger number of attendees are anticipated than
22 originally expected, therefore, Ecology has moved the
23 hearing location. We are noW going to be holding the
24 hearing at the Sequim community Church, 950 North 5th
25 Avenue.

1 As hearing officer, I am heading over to that
2 location now and will recommence this formal hearing once
3 the staff presentation and question and answer session has
4 concluded. In accordance with WAS 1-21-050(1), Ecology is
5 continuing this proceeding so that the number of attendees
6 we are now expecting can be accommodated. Pursuant to WAC
7 1-21-050(1), Ecology will file a continuance notice with the
8 Office of the Code Reviser in the next week. We are leaving
9 one staff person at this location who will direct attendees
10 to the new location and will provide a map if needed.

11 Let the record show that this hearing is being
12 temporarily closed at 6:05 p.m.

13 (Whereupon, the proceeding at this location closed
14 at 6:05 p.m. and was continued at the Sequim Community
15 Church.)

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1 SEQUIM, WASHINGTON; THURSDAY, JUNE 28, 2012

2 8:01 P.M.

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5 RE: PROPOSED WAC 173-518

6 DUNGENESS BASIN WATER MANAGEMENT RULE

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8 MS. BEITEL: Thank you and welcome. There were a
9 lot of good questions tonight. I also would encourage your
10 comments. This is why we're here tonight. This is a real
11 important part of the evening so that we can record your
12 comments. We have a reporter here tonight, and she is here
13 solely to get your testimony clear and accurately. I would
14 ask you if you could come down and sit in this chair, then
15 you will be close enough to her so she can get a clear and
16 accurate account of your testimony.

17 Let the record show that it is now 8:01 p.m. I'm
18 Judy Beitel, your hearing's officer for this hearing. This
19 evening we are to conduct a hearing on the rule proposal for
20 Chapter 173-518 WAC, Washington Administrative Code, Water
21 Resources Management Program for the Dungeness Portion of
22 the Elwha-Dungeness Water Resources Inventory Area 18.

23 Let the record show that it is Thursday, June 28,
24 2012. This hearing is being held at the Sequim Community
25 Church, 950 North Fifth Avenue, Sequim, Washington 98382.

1 Originally, Ecology scheduled this hearing at a different
2 location, the Guy Cole Center, at 202 North Blake Avenue.
3 We know now that we have a larger number of attendees than
4 we originally anticipated, so Ecology moved the hearing to
5 this location.

6 The hearing officially commenced earlier this
7 evening at the Guy Cole Center in accordance with the
8 Washington Administrative Code 1-21-050(1). The hearing was
9 continued in order to move to this location in order to
10 accommodate the number of attendees that we were expecting.

11 Pursuant to WAC, the Washington Administrative
12 Code, 1-21-050(1), Ecology will file a continuance notice
13 with the Office of the Code Reviser in the next week. We
14 are leaving one staff member at the Guy Cole Center who will
15 direct attendees to this new location and will provide a
16 map, if needed. Notices were sent out about this new
17 location using all the same interested party listings as the
18 original notice included and the local newspapers.

19 Legal notice of this hearing was published in the
20 Washington State Register on June 6, 2012, the Washington
21 State Register number was 07-22-116. In addition, notices
22 of this hearing were postal mailed to over 30 interested
23 parties, email notices were sent out to over 2500 interested
24 parties, a news release was issued on May 9 and May 21,
25 2012, a notice was also published in the Peninsula Daily

1 News and in the Sequim Gazette newspapers on June 20 and
2 June 27, 2012.

3 I will be calling people up to provide testimony
4 based on the order that the name appears on the sign-in
5 sheet. Once everyone has indicated that they would like to
6 testify and has had the opportunity, I will open it up for
7 others. As we discussed prior to the opening of this formal
8 hearing, we are going to have comments for four minutes.
9 When you reach that limit, you will be asked to summarize
10 your comments so the next person can come up here and
11 testify. When I call your name please state, up in the
12 front here, your name and address for the record and speak
13 clearly.

14 I would ask you to please hold your applause and
15 keep the noise to a minimum, so we can get a good, clear
16 record of the people giving testimony. I'm going to begin
17 with Richard Hale, and then I'll move on to Hal Beecher. If
18 there is anyone who wishes to provide testimony, please
19 remember to tell us your name and the address. If you would
20 like to send Ecology written comments, please remember that
21 they are due by 5:00 p.m., July 9, 2012. Please send them
22 to Ann Wessel at Ecology's Bellingham Field Office, 1440
23 10th Street, Suite 102. You can fax your comments to
24 Ann Wessel at 360-715-5225.

25 MR. THIELEN: Judy, as a point of clarification,

1 you can ask a question, if that's part of your testimony;
2 but unlike during the question and answer period staff will
3 not be responding to those questions, but you may ask them
4 as part of the record. So it can be a question or a
5 comment; but if it's a question, do not expect a response of
6 any kind from the ecologists here.

7 MS. BEITEL: That's right. Questions asked for
8 the record, Ecology cannot enter into any discussion or
9 answer any questions.

10 MR. HALE: Thank you. Each and every one of you
11 who own property will be directly affected by this. Why
12 haven't they thought of putting this on the ballot and
13 putting this to a vote? This means everything to your
14 children and your grandchildren, all the land and all the
15 things, all the real estate and the investment properties
16 that you have here in this state -- if you want to use the
17 word "investment." Because I can tell you now, if this
18 continues, they'll never make another investment property in
19 the state of Washington. Thank you.

20 MS. BEITEL: Thank you. Hal Beecher.

21 MR. BEECHER: Thank you. I'm Hal Beecher. I work
22 for Washington Department of Fish and Wildlife. The address
23 is 600 Capitol Way North, Olympia, Washington 98501-1091.

24 The Washington Department of Fish and Wildlife
25 supports adoption of WAC 173-518, the Instream Flow Rule for

1 the Dungeness River, its tributaries and adjacent streams.
2 Protecting and restoring its stream flows in these waters is
3 an essential part of recovering and maintaining populations
4 of salmon, steelhead, trout, and char in these waters.
5 Adequate flow is needed by the fish. Success of all other
6 fish management efforts depends on adequate water.

7 The proposed rule is the result of extensive
8 study, analysis, and deliberation about water management and
9 the fish in the Dungeness River Basin. The Department of
10 Fish and Wildlife, including its predecessor agencies, has
11 participated for many years in these efforts along with many
12 other interested parties.

13 The collaborative process that led to the
14 watershed plan on which the rule is based is an example of
15 successful community problem-solving and forward thinking.
16 It was highlighted by the Instream Flow Council as one of
17 eight such examples across the United States and Canada.
18 The cooperation of the agricultural community, local
19 government, state government, federal agencies, and treaty
20 tribes have led to a proposed rule that will support salmon
21 recovery and maintenance of fish and wildlife while
22 accommodating other values and interests.

23 Low summer flows in the Dungeness River have long
24 been recognized as a severe limiting factor for salmon,
25 steelhead, and bull trout. Listing under the Federal

1 Endangered Species Act for some of these types of fish
2 further emphasize the importance of restoring and protecting
3 flows. Small streams near the Dungeness River, including
4 tributaries, are generally small enough that they are
5 clearly flow sensitive that any additional withdrawal during
6 the summer would be detrimental to their fish production
7 capacity. Flows aren't the only factor that can limit fish
8 production, but they are a necessary component of fish
9 habitat.

10 Thanks to all who contributed to making this plan
11 and associated rule that addresses an important limiting
12 factor for salmon and other fish.

13 MS. BEITEL: Thank you. I have Fernando Poven and
14 then after that, David Unruh. Do we have Fernando or Linda
15 Poven?

16 Okay. We'll go on to David Unruh. After David,
17 we will have Suzanna Fleaning, I believe it is.

18 MR. UNRUH: Thank you. My name's David Unruh.
19 It's spelled U-n-r-u-h. I live at 492 Osprey Glen Road,
20 Sequim, Washington.

21 I just want to go on the record following my Q & A
22 and some of my comments and questions, but I just want to go
23 on the record opposing the metering. I feel it's
24 unnecessary, and I think it's over the top.

25 I also believe that when you look at the flow of

1 105 cubic feet per second in a 30 day period, I would
2 recommend that Ecology study retroactively the data of ten
3 years going backwards, as well as going forwards. Thank
4 you.

5 MS. BEITEL: Suzanna, I believe her last name
6 Fleaning?

7 Okay. We'll move on to Joan Irwin and Dennis
8 Schultz; are they here? Dennis Schultz? Joan Irwin? Okay.
9 After Dennis, then we will move on to Ed Bowen.

10 MR. SCHULTZ: I'd like to stand, rather than sit,
11 while addressing the audience. Sitting in front of you like
12 this is highly demeaning and puts us down.

13 So my name is Dennis Schultz, 250 North Jacob
14 Miller Road, Port Townsend. I'm here to represent to the
15 Olympic Stewardship Foundation and in the south, I represent
16 over 300 families who live in the rural areas or own
17 property in the rural areas of the North Olympic Peninsula.
18 My comments are on the order of our experience with WRIA 17,
19 the Quilcene-Snow Watershed.

20 Three years ago, we were at this stage when they
21 were writing the rule. The first thing you have to
22 understand is that DOE is not accountable to anybody for
23 their actions. They interpret the state laws the way they
24 want to in order to meet their goals. An example, this
25 350-gallon-a-day in-house limit that they imposed in parts

1 of our watershed. The State Attorney General issued an
2 opinion that that was illegal, but they went ahead and did
3 it anyway.

4 They adopt the best available science by picking
5 only the studies that agree with their views. Their science
6 has never been subjected to an independent scientific peer
7 review. They will respond to comments made here tonight at
8 a later date, just before the rule becomes final. The
9 comments we make will probably not effect any changes in the
10 rule per se, but they're very important because they become
11 the basis of suing DOE over this rule.

12 (Whereupon, there was applause.)

13 MS. BEITEL: You need to continue.

14 MR. SCHULTZ: What -- then don't interrupt.

15 The cost benefits of the environmental impact
16 statements are slanted to make this rule look good. There's
17 no official review of these reports by an independent
18 economist; it's all in-house.

19 East Jefferson saw its Environmental Impact
20 Statement. It said we would get 819 new jobs in Jefferson
21 County. That's just ludicrous. If anything, we've lost
22 jobs, we've lost business opportunities, and people have
23 made the decision not to move there or build there. DOE has
24 a history mandating, mandating responsibilities such as
25 processing water rights.

1 The question that I ask: What is the time frame
2 for processing these mitigation requests? Will it take as
3 many years as it does for water rights? I've had one
4 pending for 14 years, myself.

5 What we really need is some kind of a legislative
6 overview of the Department of Ecology. Right now, they
7 don't answer to anyone. The only recourse citizens have who
8 are unhappy with their actions is to take them to court. If
9 we don't like what we hear tonight, then be prepared to
10 financially support the organizations that will take them to
11 court. Thank you.

12 MS. BEITEL: Ed Bowen; and after Ed Bowen, we'll
13 have Wilbur Hammond.

14 MR. BOWEN: My name's Ed Bowen, P.O. Box 111
15 Clallam Bay, landowner of the Ozette Basin, visiting WRIA 18
16 and WRIA 20.

17 I've seen this coming for a long time. I was
18 actually involved in WRIA 17 with the Instream Flow Rule. I
19 saw a lot of questions brought about reserves then. I
20 thought I had a good handle on what reserves meant. My
21 comment is: I don't believe we're playing a fair game here
22 with reserves.

23 I want to comment to the fact that, in regard to
24 metering, I oppose that. I was very strongly advised
25 throughout a lot of the past sort of management planning

1 that metering was not a tool in investigating and solving
2 our water issues; but I'll go on the record to say, I will
3 think about metering the day the federal government, in its
4 trust responsibilities, quantifies its water rights. I
5 think they're a failure in this basin.

6 I also want to go on record to say that I have a
7 real concern -- this was brought up in WRIA 17 in its
8 proposed rule making -- stream connectivity groundwater
9 withdrawal. I have a real problem with this because it was
10 huge then, and I don't see where the model that's being used
11 in the Dungeness is anywhere close to answering that same
12 question that was done during WRIA 17. Groundwater
13 withdrawal and it's connectivity to the stream, who
14 identifies that and where's the science to that really
15 well-documented?

16 Also, the reason I'm here is because we're always
17 the end of line on WRIA 20. And what happened in 17 is now
18 happening in part of 18, and it's coming my way and it's
19 steamrolling. And this is my only real public voice, to
20 catch it here before it winds up crossing the Elwha Bridge
21 and heading towards 20.

22 I have an interest here though, whether you go
23 with the water trust or water passage -- I'm a little
24 familiar with it. I listened to the Kittitas Concept quite
25 a bit -- but I don't believe in an advisory board. I think

1 that this bank is going to be put in place. And I do
2 realize it's the process, I believe at the county. It can't
3 be an advisory board. It has to be accountable. It has to
4 be responsible. So I'm going to advocate my testimony that
5 it be voted for, and that it be voted in by the people of
6 this water district and that way, it's well-established.

7 And last, but not least, I do believe there's a
8 lack of due diligence, which was brought up here tonight, to
9 talk with the people. DOE does not represent us in 20, we
10 do not have the same level that you do, we don't have staff
11 members that we can consult with anymore, and I want the
12 record to understand that. Thank you.

13 MS. BEITEL: Wilbur Hammond -- if you would please
14 hold your applause, we are trying to get a recording.
15 Wilbur Hammond, and Kaj Ahlburg after that. Thank you.

16 MR. HAMMOND: Wilbur Hammond, 114 Hogans Vista,
17 here in Sequim. My reason for coming tonight pertains to
18 Lots 7 and 8 of Fat Cat Lane that I acquired several years
19 ago for my retirement and to enjoy farming. I have vested
20 water rights. I understand that that is senior rights.
21 I've been busy working. I'm about ready to retire. There's
22 a question whether or not I can put them to beneficial use.

23 I installed the pipeline with the gentleman that
24 was sharing the use of it with me; unfortunately, he passed
25 away and there hasn't been any continuous use. I feel that

1 if these rights are taken from me for lack of beneficial use
2 that, certainly, there should be some compensation.

3 The other pitfall is that I haven't been able to
4 apply for a building permit to commence building on my
5 property and if the rule is adopted prior to that, then I'm
6 going to be faced with not only having lost my water, but to
7 have to pay for the right through mitigation to drill a well
8 on my property. So, potentially, I'm a double loser here.

9 So I just want to go on record that if property
10 rights are taken there's just compensation, and there needs
11 to be issues of mitigating circumstances addressed. Thank
12 you very much.

13 MS. BEITEL: Kaj Ahlburg.

14 MR. AHLBURG: My name is Kaj Ahlburg, 4513 Mount
15 Pleasant Road, Port Angeles. I'm here to speak on behalf of
16 the Port Angeles Business Association, a business
17 organization of approximately eighty members with the
18 purpose that promotes business and jobs in this area.

19 We have thoroughly analyzed the Proposal, the
20 preliminary Cost Benefits and the Least Burdensome
21 Alternative Analyses, and the Small Business Economic Impact
22 Statement. We believe that the economic analyses are
23 incomplete, that the benefits of the proposed rule do not
24 exceed its costs, and that it does not constitute the least
25 burdensome alternative to achieve the desired results; thus,

1 we believe that the rule as currently drafted does not
2 comply with RCW 34.05.328(1)(d) and (e) and, therefore,
3 contradicts state law. We are submitting a more detailed
4 formal comment, but I would like to summarize quickly the
5 principal points here in the next two or three minutes.

6 The economic analyses did not address at all the
7 following:

8 Decrease in property values of the properties
9 subject to the proposed water restrictions.

10 The effect on the local economy's jobs and tax
11 revenues due to decreased demand for land, building, well
12 drilling, and landscaping. When you increase the cost of
13 something demand declines unless the price and demand is
14 zero, which is not for any of these goods.

15 The analysis also underrates the cost of
16 mitigation by the injured parties if the rule goes into
17 effect as currently proposed.

18 The Cost Benefit Analyses greatly inflates or it
19 creates out of nothing supposed benefits and understates
20 costs to arrive at the desired result. This is evidenced by
21 ecologist or economist, Mr. Tryg Hoff, who we applaud for
22 his courage and integrity, who wrote on March 19, "This is
23 the formal notification to the WRIA 18 Rule writers, if you
24 value the draft rule presented on March 15 for the Dungeness
25 watershed, it does not meet the legal requirements outlined

1 in RCW 34.05.328(1)(d) of the Administrative Procedures
2 Act."

3 We believe the whole economic analysis is fatally
4 flawed. It ignored the conclusions of their own economist
5 who went on record complaining about being pressured by his
6 supervisor to ignore scientific evidence and break the law.
7 It was then prepared by someone who was totally unfamiliar
8 with the process in this phase in just a few weeks after
9 Mr. Hoff was reassigned.

10 You have also failed to consider the least
11 burdensome alternative which would meet similar and easier
12 ways, as has been done in Skagit County, by having the
13 State, through its capital budget, purchase a deminimus
14 amount of senior water rights necessary to compensate for
15 the alleged effect of future previous exempt well usage.
16 This would allow doing away with the water exchange and
17 owners' mitigation fees as well, which would cost millions
18 to implement and millions more to monitor and administer. By
19 contrast, purchasing the .77 cfs of water in your house as
20 needed, could probably be done for a one-time incentive of
21 less than half a million dollars.

22 We, therefore, respectfully request that you
23 prepare new preliminary Cost Benefit and Least Burdensome
24 Alternative Analyses and Small Business Economic Impact
25 Statement addressing the points raised above and in more

1 detail in a formal comment letter, that you make your
2 presentation of rule contingent upon funding by the state of
3 acquisition of the necessary senior water rights as was done
4 in Skagit County, and that you remove the well metering
5 requirement substituting for it a methodology on estimated
6 permits and well usage through elective use patterns. Thank
7 you.

8 MS. BEITEL: Next, we have Yvette Sabin and after
9 that, we have Jeff Monroe. Do we have Yvette Sabin? How
10 about Jeff Monroe?

11 Okay. Moving on, we will -- oh, okay.

12 MR. MONROE: My name's Jeff Monroe. I'm at 72
13 East Anderson, Sequim, formerly of Quilcene.

14 In 1992, twenty years ago, we got a gasoline spill
15 in Quil, contaminated water. Ecology came out and tested
16 the well -- actually, the State Health Department did --
17 1400 parts per million benzine. Ecology said it would take
18 20 years for it to naturally flush. All the old-timers
19 said, don't worry about it. It will be gone in six.

20 It was Thanksgiving day, we had a freeze. We came
21 off the water tanker, tested the wells, they're clean.
22 Ecology comes back and says, obvious lab error, test it
23 again; so they did. The same result; it's gone. So
24 according their time period, it was all wrong. Their
25 science is off.

1 Now, going through the tanker through that
2 eight-month period -- one of the 5,000-gallon tankers leased
3 by Huntingford's Farms, stainless steel -- we lived on that
4 for eight months. There were three households of ten people
5 using it. And now these rules are out saying that we're
6 supposed to only use 150 gallons for two-and-a-half people.
7 The reality is, it takes 1300 to 1500 gallons a day to
8 service that many people in a real world, and that's on an
9 emergency basis because we're not watering lawns, we're not
10 washing cars. It's just for sanitation, washing dishes, and
11 laundry because a benzine laundry -- it's the worse thing
12 you can do is wash your clothes in gas because it gets into
13 your skin.

14 Now, they aren't talking about these instream
15 flows as far as the river can't hold silt. I want to touch
16 on one house in particular down in Brady on the Satsop.
17 I've been all over in western Washington. I know the road
18 gets flooded. And I've gone up and sat in this woman's
19 house. I walked inside and her waterline's four feet up.

20 Well, what's unusual about this house is, it's on
21 a full basement. And I said, why would you build a house on
22 a full basement in a floodplain? She said, it never flooded
23 for 40 years. We stopped using the basement in the '70s,
24 that's when we first had trouble. And I said, what's
25 changed? And she said, well, we're all farmers down here.

1 We're not allowed in the rivers anymore, and we're not going
2 to maintain them. They're full.

3 So here we go. And this is everywhere I go, from
4 the Chehalis all the way up and down. Every river is that
5 way. We're not maintaining the rivers. They're full of
6 silt. The instream flows are off. The channels are too
7 full. There's no water for the fish. That's my opinion.

8 MS. BEITEL: Next we have Chuck Blood, and after
9 that we have Kevin or Francine Lopez. Do you have Chuck
10 here? How about Kevin or Francine Lopez?

11 Okay. Let's go on. What about Lloyd Pederson?
12 Dick Pilling? Okay. After Dick Pilling is Eric Miller.

13 MR. PILLING: My name is Dick Pilling. I live at
14 72 Mount Pleasant Heights Lane. And I represent the Clallam
15 County Republican Party.

16 The Department of Ecology is proposing a number of
17 significant, even draconian limitations on water usage in
18 our area. These limitations will also stifle development,
19 decrease land values, adversely impact the business
20 generated, and real estate related tax bases, and likely
21 result in lawsuits over what could be construed as a
22 government taking of land. Lastly, and most importantly,
23 they will divide the citizens of the right to use their land
24 in keeping with traditions established over many years.

25 In the big event however, DOE has proposed a

1 solution in desperate search of a problem. And there is no
2 problem. And moreover, if there was, DOE's proposal will
3 have no impact on it. In essence, DOE's scientists search
4 has been the hydrology connectivity between aquifers and the
5 waters flowing into streams and rivers. And, furthermore,
6 the increase in the number of wells drawing from these
7 aquifers will cause a corresponding decrease in the flow
8 levels of the rivers. May other equally knowledgeable
9 scientists contend that this supposed hydrological
10 connectivity has not been proven and is merely a hypothesis.

11 Moreover, if such a connectivity did exist, the
12 effects of the wells on the flow levels is minimal, and
13 that's where the hardships inflicted on the general populace
14 will far outweigh any potential benefits. In fact, DOE's
15 own economist, Tryg Hoff, indicated that the probable cause
16 of implementing the rule far outweigh the potential benefits
17 that would be achieved upon implementation. It should be
18 noted that shortly after Mr. Hoff voiced his concerns, he
19 was relieved of his duties and transferred elsewhere in the
20 Department.

21 Accordingly, we propose that you delay
22 implementation of the Instream Flow Rule and these rules
23 until impartial studies have presented sound, peer-reviewed
24 evidence that the hydrological connectivity exists; confirm
25 that limited water usage by well users has more than a

1 passing effect on instream flow levels; assessments of
2 instream flow levels mandated by DOE are actually achievable
3 and not impossible goals that have only been rarely achieved
4 in past decades; determine that DOE has the statutory
5 authority to impose these limitations; review the unintended
6 consequences on property owners, tax bases, area
7 development, etc.; and more fully examine creative
8 innovations to actually increase the availability of water
9 rather than nearly concentrating on restricting usage. Such
10 innovations could be water storage, water bagging, whereby
11 spring surpluses could be captured for use during times
12 where there's less flow. Maybe you could even build a dam.

13 MR. THIELEN: You have 60 seconds.

14 MR. PILLING: First, do no harm, is one of the
15 principal precepts of medical ethics and needs given an
16 existing problem. It may be better not do something or even
17 to do nothing, rather than risk causing more harm than good.
18 If this philosophy is good enough for physicians, it should
19 be good enough for you. Thank you.

20 MS. BEITEL: Eric Miller?

21 Okay. We'll move on. I have M. Worman, and after
22 that we have Roger Short.

23 MS. WORMAN: I'm Melvina Worman, 1232 Post Office
24 Box, Carlsborg.

25 I just want to say: We don't want it, it's not

1 needed, and God has provided all these years -- many, many
2 years -- ever since anybody's been living here, even
3 including the Indians. It's just more control. And we see
4 it coming down in every way, every shape, and every form,
5 and more costs.

6 Our economy is slow, as we all know, in the last
7 few years. There's much less building, much less new homes,
8 and much less need for extra water. And, you know, we
9 should be able to vote on this, if anything else; but like
10 Dick said, if there's no problem, then why create a problem
11 when there's no problem. When you're out in the desert --
12 and I have never in my 20 years of living here, driven by
13 and seen a dead crop from lack of water or lack of the
14 ability to water and irrigate.

15 So I didn't quite see -- and I know there was a
16 question earlier of who's against it and who's for it -- but
17 I'd like to see the raised hands of the few that are up here
18 now as to who is against this, please.

19 (Whereupon, there's a showing of hands.)

20 MS. WORMAN: Thank you very much. I hope the
21 Department of Ecology sees this and knows that's it's not a
22 problem, and we don't want it. Thank you.

23 MR. SHORT: My name is Roger Short, 1720 Center
24 Road, Chimacum, Washington. I'm a longtime farmer down
25 there. I was also on the Dungeness Quilcene Board back in

1 the early '90s. I've been on the Quilcene Board, the WRIA
2 situation. I know a lot about what's happening.

3 About three years ago, after WRIA 17 in Jefferson
4 County, I had a stroke. I lost the sight in my eye. I was
5 in a very serious depression because of my feelings towards
6 the way the government manipulates the audience and tells
7 them the crap that it's not going to be happening, but it
8 really does happen.

9 I was also asked about metering my water. There
10 were several questions tonight about that. It took
11 two-and-a-half years to get a written statement from Ecology
12 saying they would not charge me for the water I was using.
13 And when I got the letter they said, well, we can't do
14 anything about what the legislature will do, which meant
15 that the legislation would meter it. So they only tell you
16 about what they're personally able to tell you. There's a
17 lot of issues that's outside the area is going to be
18 happening.

19 The Dungeness-Quilcene Watershed, we learned there
20 were two aquifers in the Dungeness area -- one was
21 contiguous to the river, the other one was not connected to
22 the river -- and I've heard nothing about the difference in
23 the aquifers here tonight.

24 I've had a look at the way that conservation
25 things in agriculture is done in saving and conserving water

1 and stuff, and now they are looking for more things to do.
2 And I've used this expression down in my area, "it's another
3 slap in the face for the good stewards," and I don't like
4 that part of it.

5 I've also thought of bringing suits, which I think
6 Shultz talked about. And I certainly support and think that
7 all the questions and issues raised in the Small Business
8 Economic Statement should be answered completely. And I
9 would assume that Ecology has a copy of this, otherwise, you
10 can have mine. It's all about -- my bumper stick says,
11 "It's not about salmon, it's not about water; it's about
12 control of the weakest link that's out there." Thank you.

13 MS. BEITEL: Michael, the last name is
14 M-c-A-l-e-e-r, McAleer. After that, we will have Marguerite
15 Glover and then we will have Helen Watkins.

16 Mr. MCALEER: I'm Michael McAleer, 179 Sunny View
17 Drive. I'm speaking on behalf of myself and Michael E.
18 McAleer, 383 Fawn Lane. Most of my questions are going to
19 revolve around the CBA, the Cost Benefit Analysis. They are
20 questions. You've got my email address, and I'd like those
21 back to me in writing before the rule is posted.

22 So over the years, significant resources of time,
23 staff, and taxpayer money has been invested in meeting the
24 requirements of RCW 90.82.020, 90.71.010, and 90.74.010. I
25 believed the proposed final administrative rule is seriously

1 flawed. There are parts and questions that have yet to be
2 addressed. The following are questions that are of utmost
3 importance to our community. The rule will take away free
4 water for more than 5,000 parcels of land. Why does the CBA
5 ignore the economic impact of doing so?

6 Using County data, there appears to be about 65
7 new uses per year. This translates into a very small amount
8 of water use. Why hasn't Ecology just mitigated this water
9 use? It appears economically unsound sound to create a
10 water exchange for such a small use of water. How is this
11 justified?

12 Why did Ecology use in the CBA a discount rate
13 that is inconsistent with their other Instream Flow Rule
14 analysis? The CBA predicts over 400 new uses per year.
15 This is eight times more than County records show for
16 building permits. Did you base fish savings benefits on
17 this; if so, your fish impacts and losses are eight times
18 what they should be. How does this effect the imagined fish
19 savings benefits. How does Ecology calculate avoided fish
20 losses? You credit a \$6 million benefit. Please provide
21 the documentation.

22 Increased certainty in development is a quote from
23 the CBA. That is entirely speculative. Do you believe it
24 will stand up in court? How is protecting existing
25 restorative investment a function of the proposed rule? How

1 this is achieved isn't spelled out in the rule, but it is
2 still included as a benefit.

3 The Small Business Economic Impact Statement
4 should include an analysis of those who are required to
5 comply with the rule. Why wasn't this included? How can
6 the SBEIS not find disproportional impacts if businesses
7 vary in size, hours, labor, and sales? Why doesn't the
8 SBEIS examine new businesses that would be required to
9 followed the rule? As described in your executive summary
10 to the SBEIS, existing businesses would be affected by the
11 proposed rule. Why was this not analyzed?

12 MR. THIELEN: Sixty seconds, sir.

13 MR. MCALEER: Thank you.

14 Why does the SBEIS say there won't be costs at
15 times then contradict themselves by saying there will be
16 costs? The assumption that all industries would have equal
17 water rights per employee is clearly false. Why did you use
18 that assumption? Why is present value calculated in the
19 SBEIS as cost only accrued in the first year? RCW 19.85
20 requires a description of how the Agency will involve small
21 businesses in the development of the rule. Why is this not
22 done?

23 I would appreciate an answer to those questions in
24 writing. Please consider the above as my formal comment on
25 the proposal. Thank you.

1 MS. BEITEL: Marguerite Glover, and after that
2 we'll have Helen Watkins.

3 MS. GLOVER: I'm Marguerite Glover, 103 Pond Lane
4 in Sequim. I represent the Sequim Association of Realtors
5 and I represent myself. And I wanted to put into the record
6 all those emails from Tryg Hoff, which I brought with me,
7 Hal Beecher and other Ecology emails that were obtained
8 through the Freedom of Information Act, and an Instream Flow
9 Review from Tom Martin of the PUD.

10 The first Dungeness River water diverted for
11 agricultural irrigation was the Sequim Prairie Ditch of
12 1896. The 1924 adjudication of Dungeness water rights
13 allocated the potential from 518 cubic feet per second of
14 surface water to be withdrawn from the Dungeness River with
15 a potential to irrigate up to 26,000 acres. Obviously, this
16 was more water than what's in the river and was not
17 sustainable.

18 In 1998, an MOU between Ecology and the Dungeness
19 Water Users Association was established. In it, the
20 irrigators agreed to not withdraw more than 50 percent of
21 the river flow at any time. They also agreed to maximum
22 acreage and aversion amounts. The legal limit was set at
23 0.02 cfs drawn per acre. This is far less than many water
24 right certificates have on them, and many of those old water
25 rights have been relinquished due to non-use. You probably

1 heard of Woodcock Farms over on Woodcock Road. They had
2 deed of water rights that had a priority date of 1899.
3 Well, the family didn't know that this piece of paper would
4 expire because it doesn't say so on it and so after five
5 years of non-use they lost that water right.

6 There's plenty of examples like that in this
7 valley. I have another one, somewhere in here, from the
8 area where I happen to live where everybody who built in the
9 area of Miller Tract, we all got to share a water right from
10 Cassalery Creek. Well, most of us didn't do it and we lost
11 that water right, a couple of them still do and I suspect
12 that maybe that's where the Washington Water Trust is going
13 to get some of that water, which would be just fine. I
14 don't have a problem with that.

15 Now, currently, Ecology and the members of the
16 Water Use are working on a new memorandum of agreement. In
17 recent history, irrigation withdrawals have hit up to
18 93.5 csf for some individual ditches; but the normal
19 withdrawal, per Gary Smith, in the last five years is 40 to
20 50 cfs. At the March 14, 2012 meeting, Cynthia Nelson said
21 that with all the irrigation and conservation improvements,
22 even with evaporation in some parts, heat diversion has only
23 been about 70 to 75 cfs. This is a far cry from the over
24 appropriation of 518 cfs.

25 Each year due to irrigation efficiency,

1 relinquishment, piping, and less withdrawal from the
2 Dungeness River and other streams, the Dungeness Watershed
3 has seen less usage and consumption of river and stream. I
4 go on to say more about the buildout and how much we're --
5 we're using less and less water every year, but I want to go
6 quickly --

7 MR. THIELEN: Sixty seconds, ma'am.

8 MS. GLOVER: Okay. I do want to point out
9 something that I don't think was accounted for in the Cost
10 Benefit Analysis. It's been mentioned before. Did you know
11 that with your exempt well, you can water up to 5,000
12 gallons per day. You can use up to 5,000 gallons per day
13 for domestic use. You can water up to a half-acre of lawn
14 or garden. You can provide stock water in unlimited
15 quantities. And you can use up to 5,000 gallons a days for
16 commercial or industrial uses.

17 Think of all the farms we have. Think of the
18 greenhouses. Think of all the stuff that the day before the
19 rule gets into place, you can do all this; the day after it,
20 you can't. And if you don't think that's going to devalue
21 the property -- I mean, that's incredible. It should be in
22 there. A friend of mine, a broker, came up with this little
23 cartoon. It's really kind of cute, but it's very sad, with
24 all the money and water flowing out of the water bank and
25 the family there being held up by DOE. And the son has a

1 goldfish in a bowl of water and the dog has his water dish
2 around his neck.

3 MS. BEITEL: Helen Watkins.

4 MS. WATKINS: My name is Helen Watkins. I'm a
5 longtime resident here. I've been here for 30 years. I am
6 reading this letter. It was drafted by Bill Clark, who is a
7 water attorney and well respected in this state.

8 And he says -- it's to Mr. Sturdevant -- Our
9 organizations are writing to request that the Washington
10 Department of Ecology not adopt the proposed Dungeness Basin
11 Water Management Rule. Instead, we ask that Ecology develop
12 a similar, fair, and less costly approach through which the
13 agency uses capital funding to protect streamflows.

14 We are concerned about the actual economic impact
15 that the rule will have on current and future water uses in
16 the basin, as well as the impact to the economy of the
17 region. We ask that Ecology reconsider the economic
18 analysis done today to fully encompass the impact of closing
19 the basin through the proposed rule.

20 Additionally, with the dramatic reduction of
21 withdrawal from the Dungeness and its tributaries over the
22 last several years, we believe that the new instream flow
23 rule is overly restricted and would unnecessarily impact the
24 lives of citizens in light of the dramatic increases in the
25 efficient uses of water in this basin.

1 In the past two decades, Ecology has spent tens of
2 millions of dollars in public funds in the Dungeness Basin
3 to reduce the direct impact on stream flows caused by large
4 surface water withdrawals. A fraction of the cost of this
5 recent public investment in senior water rights would offset
6 future junior exempt well impacts throughout the Dungeness
7 Basin.

8 As seen throughout the state, Ecology's new policy
9 of requiring exempt well mitigation on a project-by-project
10 basis simply does not work. Exempt well mitigation disputes
11 of the agency's own making consumes significant agency staff
12 resources, impose unwarranted regulatory burdens and costs
13 on homeowners, and make local building permit and land use
14 decisions more complicated -- all to address extremely small
15 consumptive uses of water whose impact on streamflows are
16 difficult to precisely determine.

17 If water rights are now available for the
18 Dungeness water exchange to function as promised by Ecology,
19 then these same water rights should be used by Ecology to
20 mitigate for impacts on streamflows caused by consumptive
21 water use. If such water rights are not available, then the
22 proposed rule should not proceed, as the absence of the
23 proposed mitigation will create the same morass of red zones
24 and moratoria caused by Ecology's exempt well regulation in
25 other counties.

1 MR. THIELEN: You have 60 seconds, ma'am.

2 MS. WATKINS: Recent experience has shown that
3 Ecology should not prohibit exempt wells in the hopes that
4 homeowner-developed, non-profit, or for-profit water
5 mitigation proposals will suffice.

6 In 2012, to address the exempt well moratorium
7 caused by Ecology's Skagit Basin Rule, the Legislature
8 provided capital funding for the agency. In prior decades,
9 significant capital funds were provided for water
10 acquisition and instream flow protections throughout the
11 state.

12 If ecology believes that future exempt well uses
13 in the Dungeness Basin are of such concern, then Ecology
14 should continue using capital funds to protect streamflows.
15 This approach will ensure consistency with the county's
16 Growth Management Act comprehensive plan to protect
17 landowners from the financial ruin of moratoria seen in
18 other counties, while allowing Ecology to offset further
19 exempt well impacts to the same extent as would occur in the
20 proposed rule.

21 Please consider the wisdom of our request and do
22 not adopt the present rule, but work with our organizations
23 to find a solution that addresses the agency's streamflow
24 concerns without creating an unmanageable regulatory
25 structure that is costly and unnecessary.

1 Sincerely, Washington Realtors, Washington Farm
2 Bureau, Building Industry Association of Washington,
3 Washington Cattlemen's Association, Washington State Grange,
4 Association of Washington Business, North Peninsula Builders
5 Association, Sequim Association of Realtors, and Jefferson
6 County Association of Realtors.

7 Ms. BEITEL: Next, we will have Carol Johnson,
8 after that will be Steve Marble.

9 MS. JOHNSON: Good evening. My name is Carol
10 Johnson. I'm executive director of the North Olympic Timber
11 Action Committee. Typically, I work on issues directly
12 related to the timber industry, and there's certainly been a
13 lot of issues there; but tonight, I'm here to speak directly
14 to you citizens as a citizen of Clallam County concerned
15 about the impacts that these rules will have on our
16 individual properties and the future economic health of our
17 county specifically and, certainly, our rural communities.

18 I spent several hours one day looking through the
19 Department of Ecology website to gather the information on
20 this. And I probably am not alone in saying that it was
21 like you have got to be kidding me. I ended up with about a
22 three inch pile of paper, much of it I printed because I
23 thought I could read it at home in the evenings.

24 And I don't think this is an issue that has been
25 well-explained by Ecology. And I know that they put out

1 newsletters and there's reports and there's 50-page
2 documents, but I have not yet then able to find the Cost
3 Benefit Analysis. I did find the small business one, but
4 not the other. So I think that proceeding with this rule,
5 given the lack of knowledge that those of us that will be
6 impacted are going to have to deal with when it's almost
7 virtually impossible to understand it, it just seems like we
8 have to find a way to slow the rule and get more people
9 involved in understanding the impacts of this.

10 I have prepared written comments with a number of
11 questions, which I will get answered through this process,
12 but NOTAC is actually asking that the Department of Ecology
13 delay the decision on the final rule until more education
14 has been done to the citizens that will be impacted.

15 And another logger was here, Jim Bower, earlier
16 tonight that had to leave because he gets up at three
17 o'clock in the morning to go to work, and he asked if I
18 would deliver this message. And I told him I'd use a couple
19 of seconds of my time to do that. His comment was, Cowboy
20 Poet Baxter Black said, "Common sense is illegal and no
21 consideration is given to economics." Thank you.

22 MS. BEITEL: Steve Marble. After Steve Marble,
23 we'll have Tom Williamson.

24 MR. MARBLE: Steve Marble, 85 Fawndale Place,
25 Sequim.

1 We're here tonight to comment on a rule that was
2 born by an agenda built on fraud and assumptions and jammed
3 through by biased committees. Removing the economist who
4 wrote the impact -- who was writing the economic impact
5 report, because they didn't like his assessment and sacked
6 him, is systematic of the whole water rule process. The
7 committees that pounded out this rule were stacked with
8 agency personnel and environmentalists; the people that were
9 actually impacted by the rule need not apply.

10 The first assumption is that low river flow is
11 what got us endangered salmon population, nevermind that the
12 salmon population practice has been reported in the local
13 press as far back as the 19th century, and prior to that in
14 Native legend; nevermind that most oceanographers attribute
15 large fluctuations in salmon population to oceanic
16 conditions; nevermind that large population swings can be a
17 natural phenomena augmented by bad management decisions.

18 DOE has spent a ton of money and effort in
19 ratcheting down on domestic uses for what they SAC calls
20 two-tenths of one percent of the river over a hundred year
21 buildup. In other words, all this concern, all this
22 excitement is over a negligible immeasurable amount of
23 water. With all the work in water conservation in the basin
24 over the past several decades and the downward trajectory of
25 water use, this rule would seem unnecessary.

1 Country living will certainly take on a new norm
2 with the newcomers to the valley of outside watering rights
3 or indoor use. You can move to Sequim, don't plan to water
4 the animals or the garden or wash the car, except for those
5 taxpayers living where they can take advantage of some vague
6 mitigation seed or funds extorted. We have to pass to see
7 what's in it; the process does not create a good policy, nor
8 does it enter confidence in our public servants. Did DOE
9 ever tell you how many salmon we're saving?

10 The impact these wells have on rivers is
11 conjecture based on models, not comparable science. Were
12 DOE's computer models crafted with the same lack of scruples
13 demonstrated by their Economic Impact Statement? Are flow
14 thresholds that are rarely, if ever met, appropriate in the
15 river?

16 The Department of Ecology contends that the river
17 is over allocated and they throw around big numbers. They
18 then turn around and tell us water rights that have been not
19 been used for five years, a significant portion of their
20 batting about big numbers are gone. Which is it DOE? You
21 can't have it both ways. You have to subtract out the
22 rights of single use or non-use right and arrive at the real
23 allocation number.

24 MR. THIELEN: You have 60 seconds, sir.

25 MR. MARBLE: Similarly, in the DOE Economic Impact

1 Statement, they determined water use arbitrarily and arrived
2 at numbers that a lot of citizens that have never been
3 threatened as justification for this rule. With science
4 conducted like your Economic Impact Statement and
5 assumptions that don't hold water, what this rule is is a
6 naked power grab by an out of control agency.

7 The real ambition appears to have nothing to do
8 with fish populations. Honest discussions of these issues
9 cannot occur with a deceptive, disingenuous, and dualistic
10 agency like the Department of Ecology.

11 My recommendation is that this rule is flawed
12 beyond redemption and should not be adopted. Any new rule
13 process should require Ecology to perform a full SEPA
14 analysis, just as they would require of anyone else
15 proposing changes as sweeping as this rule. Clearly, this
16 agency has demonstrated a crying need for close oversight.

17 In your agenda, you say there's a box to put
18 written comments in. Where might that box be?

19 MS. BEITEL: The box is right outside. You can
20 just go ahead and leave them with me, that would be fine.

21 Okay. We have Tom Williamson. And after Tom
22 Williamson, we have David Kent, K-e-n-t-f.

23 Mr. WILLIAMSON: Tom Williamson, 300 North Sequim
24 Avenue.

25 I visited the very first presentation put on by

1 the Department of Ecology for WRIA 18, and it was dubious
2 from the get-go. I had lived in Sequim for at least 20
3 years at that point and have crossed the Dungeness River, on
4 average, twice a day. Like any ordinary curious person, I
5 look over the rail to see what's going on.

6 In over 20 years, despite his many, many people
7 moving here and many, many wells being drilled, there was no
8 apparent change in the river. It fluctuates up and down
9 year after year, never goes dry, never once was there a
10 salmon struggling to get up the river. It couldn't happen
11 because, if there had been, the Sequim Gazette would have
12 been there to take pictures. That would have been big news.
13 It never happened. It won't happen.

14 I'm not a hydrologist, but I do have a reasonable
15 portion of common sense. Now, a lot of what they told us at
16 that meeting just -- it just made no sense. I was also
17 really intrigued in that meeting when someone got up and
18 identified himself as in some position with the Jamestown
19 S'Klallam Tribe and what had been a very calm presentation,
20 he was very agitated and shouting that we have a serious
21 crisis here and we've got to do something about it right
22 now.

23 And, again, I could not wrap my mind around what
24 in blazes could he be talking about and why was he from the
25 Jamestown S'Klallam tribe here about it one way or the

1 other. Once again, it makes no sense. But what was even
2 more bizarre was when DOE begins describing their solution
3 as mitigation. I'm thinking, how do you mitigate for a
4 shortage of water because that does not resolve -- couched
5 in the form of we're running out of water, we're sucking the
6 river dry, the salmon are going to die, a big problem. How
7 do you mitigate for a shortage of water?

8 Well, then they started talking about money for
9 mitigation and banks of virtual water and then all of a
10 sudden, the lights go on. This has never been about
11 anything except money. There is no other way to explain all
12 the existing factors. DOE has spent years and millions of
13 dollars to affect what they have described as an
14 insignificant change in the amount of river. They are quick
15 to point out that they cannot be held liable if not a single
16 additional fish returns as a result of all of this
17 mitigation.

18 MR. THIELEN: You've got 60 seconds, sir.

19 MR. WILLIAMSON: Thank you.

20 When they get done with us, they're going to move
21 on to the Sol Duc, then the Queets and the Quillayute
22 because they, obviously, need their help as much as we do.
23 And someday when they're all done with all the watersheds in
24 the state, this mitigation payoff is going to be huge.

25 In both the recent presentations by the Department

1 of Ecology include the information that, "we never said that
2 there was a shortage of water," which is true. All the
3 propaganda pieces they put out -- go back and read what they
4 said -- they never said that there was a shortage of water;
5 they implied it 15 or 20 different ways, but they've never
6 said it.

7 It seems that the mission of the DOE now is
8 defined as to protect the interests of senior water right
9 holders. How did they get that job? Sounds like a job for
10 the courts or maybe the Department of Commerce. Who are the
11 senior water right holders, you might wonder; I do. We are
12 told that it's the municipalities and irrigators. And when
13 we asked, well, aren't the tribes water right holders; they
14 said, well, the tribes may have some undefined interests,
15 but we don't know. We don't know about it.

16 I'd say that it is morally wrong for the
17 Department of Ecology to proceed with this until they have
18 identified how much money they're taking in and who's
19 getting the money.

20 MS. BEITEL: David Kruth. And after David, we
21 will have Robert Crittenden.

22 MR. KRUTH: I'm David Kruth, 501 Three Crabs Road
23 in Sequim. I'd like to read a letter from the City
24 Attorney, Craig Ritchie, to the Director of the Washington
25 Department of Ecology. I'm going to paraphrase certain

1 sections and if Mr. Ritchie is in the audience, I will ask
2 him to correct me if I've interpreted anything wrong, but
3 this is what he says. He makes some very valid points where
4 the rule is not following the Revised Code of Washington and
5 the current law. He wrote nine pages on the errors in this
6 current proposed law and 37 paragraphs. I'll highlight the
7 most grievous ones.

8 He starts out saying, the rule in its entirety has
9 a defect which is clearly set forth in the proposed rule.
10 That defect is that the statutory definition of WRIA 18, as
11 recognized by the Legislature in much of the enabling law,
12 RCWs, includes the Elwha-Morse Creek watershed, Morse
13 Creek-Bagley watershed, the Dungeness watershed, and the
14 Bell-Johnson watershed. With that broad area, the statute
15 requirement for a voting member to be the largest city in
16 WRIA mandated that Port Angeles be the voting city, and,
17 therefore, excluded Sequim from a vote and from the direct
18 funding under 90.82.040.

19 However, the new rule only covers the Dungeness
20 watershed and several other minor watersheds makes, but
21 specifically excludes the Elwha-Morse Creek watershed. That
22 means that now Sequim is now the largest city in the WRIA,
23 thus the City of Sequim should be entitled to a vote and the
24 funding for rule development.

25 WRIA rules mandates that the largest city in WRIA

1 and county and irrigation district users get to sit at the
2 table and try to agree on a rule utilizing state funding.
3 In fact, such a city and the county have a vote. When the
4 voting members approved the concepts in this rule, the City
5 of Sequim did not have any authority to vote; consequently,
6 the City of Sequim did not have any power to structure the
7 proposed watershed rule upon which the rule is based. Had
8 the City of Sequim been able to vote, an entirely different
9 rule may have been proposed. A different rule definitely
10 would have been proposed by Sequim.

11 By excluding the Elwha-Morse Creek watershed basin
12 from the current rule definition for WRIA 18, the Department
13 of Ecology is creating a new and different WRIA. This is
14 not authorized by the enabling statute. The rule is flawed
15 from its inception. Sequim is placed at a disadvantage in a
16 number of ways.

17 In addition to the City of Sequim's concerns that
18 we may have been able to agree on a rule without DOE
19 imposing a rule, the exclusion of the Elwha-Morse Creek
20 watershed basin presents essential obstacles to the City of
21 Sequim's potential desire to use Elwha-Morse Creek watershed
22 basin water both from a direct purchase of water rights
23 standpoint and from an intertie standpoint.

24 MR. THIELEN: You have 60 seconds, sir.

25 MR. KRUTH: Okay.

1 He goes on, and this is the whole letter. Another
2 concern he has is the concern that it is not intended to
3 affect federal and tribal reserved rights. There is no
4 definition of federal and tribal reserved rights. There
5 are, of course, various speculative federal and tribal
6 reserved rights. It would seem more reasonable to change
7 the sentence to federal and tribal legally protected rights
8 to the extent of such legal protection. This issue has not
9 been fully litigated and there is no reason for language in
10 this rule that would be construed as either an admission by
11 the State of Washington or as a grant of rights by the
12 State.

13 MR. THIELEN: You have 15 seconds.

14 MR. KRUTH: And it goes on for the 37 paragraphs,
15 there are so many flaws in here. It's going to create more
16 litigation, on and on, than it's ever going to solve. And
17 the agency says it's not going to create more litigation,
18 it's going to create a lot more litigation when the City
19 Attorney of Sequim, who should be a friend of the water
20 rule, is saying you've got problems here. Thank you.

21 MS. BEITEL: Robert Crittenden. And after Robert
22 would be Jackie Dulin.

23 MR. CRITTENDEN: I'm Robert Crittenden, P.O.
24 Box 222, Carlsborg, Washington.

25 I've examined the three principle studies that

1 this rule is based on, and I've found that each of them has
2 very significant flaws. These are the groundwater models,
3 that's the 2008 model by the Pacific Groundwater Group. It
4 has zero degrees of freedom and, therefore, has infinite
5 variances. It tells you exactly nothing.

6 The second study is the IFI Study. Now if you
7 read the review of IFI that was written by Mr. Beauvais, he
8 says the fact that that qualitative element in that study
9 that has a huge effect on its output. The fact that there's
10 a qualitative element tells me that the output is not
11 scientifically based; it is political.

12 And the third study that is surface collated
13 method. It was developed by using regression, but they
14 failed to discount the alpha value. That's a technical
15 issue, but it means that the model that they're using is not
16 valid.

17 Because the scientific basis of this rule is
18 fundamentally and deeply flawed, I recommend that the
19 department not adopt it. Thank you.

20 MS. BEITEL: Jackie Dulin.

21 MR. DULIN: Jacques.

22 MS. BEITEL: Jacques Dulin.

23 MR. DULIN: I'm Jacques Dulin. And I live in
24 Sequim, P.O. Box 3386, up on Woodcock Road.

25 You've heard a lot of folks up here about the Cost

1 Benefit Analysis, and I'm not going to repeat that and
2 that's because in order for the DOE to adopt the rule, they
3 have to satisfy what's called the maximum net benefits test.
4 They haven't done that. They have an in-house economist.
5 His name was Tryg Hoff. He did the analysis. He's a very
6 experienced gentleman. He came up with the cost of about
7 \$42 million and the benefits to be almost intangible. That
8 is upside down. Oh, gosh. We can't have that guys, is the
9 DOE speaking, because we can't pass the rule if we adopt
10 what our economist said. So they argued with him, hassled
11 with him, and finally forced him out. Then they got the guy
12 from Jefferson County, who gave them a very nice convenient
13 review, and now the Cost Benefit Analysis, all of a sudden,
14 is positive. So now, they can go forward with the rule. It
15 is B-S, and I'm not so far from the farm that I can't smell
16 it.

17 Why the DOE would subject the citizens of
18 Dungeness Valley to pay \$42 million in mitigation costs for
19 no proven benefit -- and I'm honored to follow
20 Dr. Crittenden, who pointed out that the basic science is
21 completely flawed. It's worse than junk science. Whether
22 the benefit is supposed to be for fish or habitat, both
23 bogus reasons, much less benefit to the people is, to me,
24 beyond belief. I'm just getting warmed up.

25 This rule making of the DOE is not an exercise of

1 government by the people of the people and for the people,
2 rather, it's arrogant politics. The rule and DOE's
3 mismanagement of its rule making process is in violation of
4 state law and the EPA, as beautifully setout in the letter
5 by Craig Ritchie of the City of Sequim, and other people
6 here. I won't state the titles, the citations to the
7 statutes, but it's there. It's arrogant politics, as I say.

8 The rule and the rule-making process is in
9 violation of state law and the Administrative Procedures Act
10 in leaving stakeholders out of the process. You've heard
11 about Sequim, and you've heard about small farmers today,
12 two groups. It's top-down waste of taxpayer money.

13 I would like to know just how much money that they
14 have spent on doing this rule-making exercise over ten
15 years. Ten people are here from DOE today. What is their
16 take-home pay? While we have a recession, they have a cushy
17 job to make a rule that we don't need. It is your credit to
18 make work by remote unaffected government workers who ignore
19 the inconvenient truth that the rule does not stand the
20 smell test, much less the maximum net benefits test.

21 We urge a withdrawal of the rule and do not
22 restart the process until you can meet the maximum net
23 benefits test and, in the process, satisfy state law and
24 adhere to the EPA. The DOE needs to be repurposed from
25 expropriation of taxation via unnecessary rule making to

1 find other sources of water, as it claims it can't prove we
2 are short and let's close the basin contrary to your
3 authority and to state law.

4 Why don't you solve the real problem? If you
5 think we're short of water, go on out and find it. A couple
6 years ago, I was at a meeting with Mr. Sturdevant and I
7 said, find us new water. Oh, we can't do that -- you heard
8 it here today -- well, we don't do that. We're the
9 government. We make rules. We don't solve problems.

10 MR. THIELEN: Your time is up.

11 MR. DULIN: Okay.

12 Anyway, let me give you a couple of suggestions.
13 We've heard some here. How about tapping the deep aquifers
14 that are going directly out into the Strait and never being
15 used, pump it up, irrigate the farms. Create more small
16 farms. Preserve our open spaces. Quit subdividing
17 properties for homebuilding. Grow something.

18 MR. THIELEN: I need your summary, please.

19 MR. DULIN: Okay. I will. Thank you.

20 How about irrigation and transfer of water,
21 energize, as suggested by Craig Ritchie? How about
22 desalination? How about aquifer recharge of rivers by
23 runoff for beneficial use? Cloud seeding over the Olympic
24 Mountains, and pump the Elwha River.

25 Anyway, please withdraw the rule. It's in our

1 best interest. Thank you

2 MS. BEITEL: Teren MacLeod? Jim Bower? Okay.

3 Then I have Diane Johnson and after that, Ivan Sorensen.

4 MS. JOHNSON: My name's Diane Johnson,

5 Dr. Johnson. My address is 1521 Dabob Road in Quilcene. I

6 represent the Chimacum Grange, No. 681. Even Roger didn't

7 talk about agriculture very much. Roger?

8 I'm here to represent a voice of caution on behalf

9 of agriculture in the Dungeness Basin. This basin, like the

10 Chimacum Creek Basin, has some of the absolutely best soils

11 in the world for agriculture. The agricultural base has

12 already been decimated by urban residential growth leaving

13 only a fraction of the former open space available for

14 cultivation, all at a time when we see a resurgence of an

15 interest in activity in consumers for eating local for the

16 health benefits of fresh or nutritious food, once again

17 making agriculture profitable.

18 At the same time, fuel prices have quadrupled

19 making foods from there far more expensive, and traveling

20 there to shop becomes more difficult making food from here

21 much more attractive. Ultimately, maintaining the

22 wherewithal that it's the farmland and farmers who grow

23 enough food to feed ourselves locally seems like a better

24 and better idea.

25 Safety and health are not the only positives. We

1 are seeing small farm agriculture growing for local or
2 nearby markets become an economic driver in Jefferson
3 County. I know that Clallam County is experiencing similar
4 growth in this sector. There are tremendous opportunities
5 for economic development increasing the tax base of
6 businesses that serve agriculture and the creation of jobs
7 in a small area.

8 None of this can happen without water. Closing
9 the basin to new development in the Chimacum Valley has
10 killed the opportunity to develop new uses for old Ag land
11 and new small-niche growing operations on rural residential,
12 five, ten, and twenty-acre parcels. We know that the levels
13 set for the instream flow into Chimacum Creek were the
14 maximum needs for fish, rather than the minimums as
15 required.

16 We believe that actual use is based on importance,
17 even if they are not needed -- that is old water rights --
18 and includes the fact that the bulk of water users are
19 residential only and never use their maximum allotment.
20 I'll give you an example of when I lived in a house in
21 Irondale. I paid a water bill. I never used more than
22 3,000 gallons a month even though exempt well, as you heard,
23 can use 15 to 20 or unlimited water for stock a day. So
24 we're talking ridiculous numbers here.

25 But this unused water, they don't know who doesn't

1 use it, but it is taken into their calculations.

2 MR. THIELEN: You have 60 seconds, ma'am.

3 MS. JOHNSON: Thank you.

4 In the Dungeness Basin, figures are available to
5 show that overall usage has declined, and you've heard about
6 that before. Don't let environmental extremists and fear
7 mongers overrun actual data and state mandates for balanced
8 use. High fees for mitigation and use of water will kill
9 farming and small Ag. And, as you know, farmers are a lot
10 like starving artists, they operate on a shoestring. They
11 can't afford high mitigation fees.

12 The Chimacum Grange asks that you consider
13 carefully the unintended consequences of your decisions on
14 such a critical sector of water usage. They are important,
15 critically important to the well-being and even the
16 sustainability of the citizens who live here. Please make a
17 rule which will support the continued presence and success
18 of our farmers in feeding us all.

19 MS. BEITEL: Teran MacLeod.

20 MS. MACLEOD: Thank you. Teran MacLeod, and I'm
21 fortunate to follow Diane Johnson. I also met her at the
22 Chimacum Grange and I'd like these comments also to include
23 support for her comments, as well as the Jefferson
24 Association.

25 I'm testifying here this evening by invitation of

1 the Sequim Association of Realtors. I'm the Chair of
2 Government Affairs in Jefferson County and I also, in that
3 capacity, have served for seven years as a Realtor Member on
4 WRIA 17 Planning Unit, now the East Jefferson Watershed
5 Council. I ask that this testimony also include all the
6 formal testimony made by Tryg Hoff to ecology for the water
7 management rule adopted in WRIA 17. I'll be providing
8 formal written comment with attachments, so you'll have that
9 before the deadline.

10 And I'd also like to relate to you some experience
11 that we had with 17, with our rule adoption to what is
12 happening here. In WRIA 17, we had more reserves created
13 for future water use in subbasins. The Chimacum subbasin,
14 as you have heard, has had really severe restrictions to
15 water and land use for homes and for agricultural uses.
16 This is our breadbasket for our community. Now, there is no
17 new water allowed for outdoor gardens, for growing food in
18 this primary farming area.

19 A study conducted by Hydrological Services
20 presented to the WRIA 17 Planning Unit and funded by
21 Washington Realtors showed that full buildout of the
22 Chimacum subbasin would have a consumptive use of only
23 .3 cfs from permit exempt wells. You've heard a lot of
24 numbers. Those are very, very low numbers, very similar to
25 water projections that we are seeing here, and just a small

1 tiny fraction of the water that is being asked to be
2 provided to the streams in the water rights for the streams.

3 In fact, even in Chimacum, there are over 300
4 wells that have been built by people who wanted to retire
5 there and have farms. They are now subject to those
6 restrictions and not able to use their water for outside
7 use.

8 So you'd think we were really in dire straights
9 but, actually, in Chimacum and in the Dungeness here, there
10 is much good news that we don't hear about and it's not
11 being considered. A book from the Instream Flow Council
12 uses the Dungeness as one of its cases studies. It shows
13 150 cfs used for irrigation in 1979 is down to 54 in 2001.
14 With less and less water being used, wouldn't you'd think
15 that .3 cfs could be available to this community without
16 such great concern?

17 Rules are not supposed to cost more than the
18 benefit they provide. Ecology opted to conduct a cost
19 benefit and impact study here and also in 17. These
20 economic analyses are required to meet certain standards.

21 MR. THIELEN: You have 60 seconds, ma'am.

22 MS. MACLEOD: They are required to not only show,
23 but also to explain the real cost and benefits. An internal
24 Ecology emails suggests that the rule is upside down by
25 possibly twenty to one or more. In our subbasin, the Small

1 Business Economic Impact Statement said there would be 819
2 jobs created. We all know that that didn't happen. Close
3 to 390 were in construction. So you really have to look
4 closely at these rules.

5 We need answers. I've heard people say that
6 they've asked questions and they need answers. I would like
7 to suggest that the Administrative Procedures Act be changed
8 for rule making so that the responses, in concise
9 explanatory statements, be provided as part of CR-102
10 hearing process in a timely manner so that people can get
11 answers before the end of the hearing. And I'd also like to
12 ask that we have science that is clearly replicable. Thank
13 you

14 MS. BEITEL: Ivan Sorensen.

15 MR. SORENSEN: Thank you. I'll be very quick.
16 I'm just a local person that's been a small homebuilder here
17 living in this area about 22 years now. All of you people
18 that I've talked with, Ann Wessel, you've been very
19 professional and helpful. And I appreciate that -- and some
20 of you people are in the hot seat tonight -- and also you're
21 assistance as well.

22 You must have some empathy for what you see in
23 front of you because you're not the elected
24 representatives -- I think they're mostly gone now -- and
25 they're the masters of what you guys are doing. But I can't

1 understand how any of the political masters -- although, I
2 was talking to Steve Tharinger out in hall, and he still
3 seems to think that it is just a hypothetical that a
4 homeowner or property owner could lose their property
5 rights.

6 So if you have a lot, a building lot with a good
7 functioning well, 25 gallons a minute or something, near
8 McDonald Creek, up in the McDonald Creek area, it's very
9 possible, in fact, likely, that you won't be able to build
10 on that lot because -- not because of any rule, you pay
11 taxes on that thing for 10 or 20 years preparing for your
12 retirement, but because the Department of Ecology deems that
13 it needs more in McDonald Creek.

14 But there's no actual evidence that we can do
15 anything about that creek because the Department of
16 Ecology's own research shows that one home uses about the
17 same water as 75 -- excuse me -- 75 homes use the same water
18 as one irrigated acre of farm land. So this whole thing
19 makes no sense because all the burden is placed on
20 homeowners and future homeowners, and they're the ones that
21 use the least water. There is no more efficient water use
22 than the homes that are on individual septic systems.

23 So the Department of Ecology, or the state, could
24 easily obtain the irrigation rights to 10 acres, and they
25 would have equal water for 750 homes in the future creating

1 \$15 million in sales tax to the state, creating 3,000
2 employee years, because each home is equal to about 3.8
3 years of employment on average. So all these economic costs
4 aren't just to you people out here, we're going to feel them
5 immediately, but it affects all of us in the state. And
6 it's just a shame to see this.

7 I know you guys are good people and you're
8 enforcing something that, if you think about it, can't make
9 sense. That's about it. Thank you.

10 MS. BEITEL: That's the last one we have to give
11 public comment to tonight; but at this time, I would like to
12 open it up and ask if there is anyone else who would like to
13 come up and give it. I'll go with you, and then I will go
14 with you, and then I will go with you.

15 If you would please go ahead and come on up and
16 state your name and your address for the record -- I'm
17 sorry, he's first and then you. Go ahead, you can come on
18 up.

19 MR. DELACRUZ: My name is Francisco De La Cruz,
20 P.O. Box 281, Sequim. I'm a retired management consultant
21 engineer. And I saw this thing from WRIA 17. That was two,
22 three years ago. I immediately installed water meters --
23 one for domestic use and one for watering plants -- so I
24 know, more or less, what the law will do.

25 On average, we're going through about 150 gallons

1 of water per day -- I might need some of it now
2 (coughing) -- but what was interesting to me was that even
3 though over months and months, we averaged 150 gallons of
4 water. The minute I installed the meter on my ten raised
5 flowerbeds, those babies went through 2400 gallons in less
6 than 12 days. So there's some things that I learned.

7 But the other thing that I learned was that, I've
8 attended several meetings and in spite of all those
9 meetings, the rule is still moving forward and the rule will
10 come in one way or the other. What I don't see in this is
11 an undo button. What happens if all of these models, all of
12 these suppositions, all of these forecasts, all of these "we
13 thinks" don't work in the real world, what is the process to
14 undo this thing? Look at how much it's taken just to get it
15 to this stage. What happens at six, eight, ten months down
16 the road we find it's not working? It's going to cost
17 \$15,000 or \$20,000 to buy a water right. We don't know.

18 But what happens when that does happen where we
19 find that the rule, as well-designed as it might be today,
20 isn't working what we experience. I think that before this
21 group even consider it, it be rewritten to include a set of
22 criteria that says if these things happen this way, we'll
23 undo it or we have to revisit it or it's not working.

24 We talked about the Advisory Committee. One of my
25 professions, if you will, is management consulting. And

1 when you give a job to 17 or 18 or 19 people, you basically
2 get nothing; if you don't want anything done, just give it
3 to a committee. And once we start putting things in the
4 hands of committees, we're going to run into some
5 bureaucratic procedural issues.

6 So, again, I do not support the rule as written
7 for a lot of the reasons that were mentioned previously, and
8 what I would encourage is that there be an undo function
9 included in that with criteria. Thank you.

10 MS. BEITEL: Please state your name and address
11 for the record.

12 MR. CHANDLER: Thank you. My name is George
13 Chandler. I live at 3755 West Sequim Bay Road. The first
14 name is George, like a farmer; the last name is Chandler,
15 like a ship's chandler. And I know you folks are taking our
16 names down so you can go back and look at what it was he
17 said.

18 First of all, I'd like to thank everyone from
19 Jefferson County, all of you folks who came here to tell us
20 what happened in your county. I'd also like to thank all of
21 our elected officials. There's Commissioner Doherty. I'm
22 not sure if Tharinger's still here. I see our Commissioner
23 McEntire and Sheila Roark Miller. These are the folks that
24 we have talked to and shared our concerns about these rules.
25 These are the people who wanted to hear how it affects us,

1 so thank you Elected Officials for being here.

2 I am very troubled by the comments in the emails
3 that were referenced in the Sequim Gazette article of
4 June 6. And I thank the Gazette reporter for getting all of
5 those emails. That's over 1700 pages of emails. I haven't
6 gone through all of them, but I've gone through a lot of
7 them. A lot of what I saw, I would describe as duck and
8 cover from the Department of Ecology and by certain members
9 of the Department of Ecology.

10 It is obvious that your Department received a
11 certain outcome and when the individual assigned the
12 responsibility to do the Cost Benefit Analysis could not
13 provide your predetermined outcome, you applied enough
14 pressure that the individual asked to be reassigned --
15 that's in the emails -- and then you tried to cover it up.
16 Cover-ups don't work. Emails last forever.

17 Having spent more than 30 years in positions of
18 management in the private sector, I can assure you that your
19 methods were somewhat juvenile and, obviously, you need a
20 training session on how to conduct an exit interview. They
21 do have some good training sessions. I was fired one time,
22 I understand.

23 It is obvious from the emails that your proposed
24 rule is in violation of the state rule requiring that
25 probable benefits of the rule are greater than the probable

1 costs. You have heard several people talk about that. I
2 don't have to go through that.

3 MR. THIELEN: You have about 60 seconds, sir.

4 MR. CHANDLER: Thank you.

5 Are you prepared to stand here and say you're
6 going to put your name on a proposal that you know is in
7 violation of the state rule?

8 An interesting email read and I quote, "You can
9 disagree with me all you want, but you better check with
10 your attorneys." I continue to quote, "It's clearly bad
11 policy to put millions of gallons of water for fish over a
12 few gallons for people or, God forbid, not protect the water
13 for the people at all." Like I said, this rule is
14 antigrowth. That's a quote by one of your members. We
15 heard earlier by the Department of Fish and Wildlife, it's
16 more important for the fish than it is for you people here.

17 Your proposed rule is all about control. You and
18 your department consider yourselves members of the elite
19 part of our society and only you do and know what is best
20 for the good people in this neighborhood. Thank you.

21 MS. LARSEN: I'm Kathi Larsen, I'm here on behalf
22 of myself, 422 Griffith Farm Road in Sequim.

23 For the record, I just want to stay that I believe
24 that this rule should be halted. I believe the people have
25 a reasonable expectation to have been notified in a timely

1 manner -- not within a few months of the rule being
2 proposed, but probably several years notification -- of how
3 that will impact them so that people can make plans. People
4 who bought property years ago, have no knowledge of this and
5 they're wanting to pursue it as they gain knowledge in the
6 last few months. And it's certainly not sufficient time to
7 put things in place for the property they've spent -- many
8 of them -- all of their retirement money to be able to live
9 in this valley. So I believe it needs to be halted.

10 The analogy that came to my mind as I was thinking
11 of this earlier, if you had cancer and a new drug was
12 developed and you went to your doctor and he gave you that
13 pill and said, try this. And as you were about to take it,
14 you began to find out through your resources that the people
15 who developed that very drug that you're about to take,
16 found that there were numerous loss and that other
17 technology companies that knew of that developing drug, also
18 were able to point out numerous loss. Would you take that
19 pill?

20 I think we're all here tonight because we're not
21 going to take the pill and you want to do something about
22 it. And I think, for the record, it needs to be known that
23 everything that's been stated tonight goes to prove that the
24 pill that they're trying to give everybody to cure something
25 has tremendous loss. It needs to be stopped; it needs to be

1 studied. I think people have a reasonable expectation to
2 have been notified in a timely manner. Thanks.

3 MS. BEITEL: State your name and address for the
4 record, please.

5 MR. GALE: Good evening, ladies and gentlemen. My
6 name is Steve Gale.

7 Your plan of the water resource inventory area is
8 in different strategy than the state. It appears to be a
9 divide and to conquer strategy, which usurp our freedoms,
10 money, property access to divide. I have great concern due
11 to the Department of Ecology's proposed new rule making.

12 It is my opinion that the proposed new rule making
13 is a failure of your department. Your plans fail to
14 recognize the rights of citizens; indeed, your plan's a
15 failure of your department to give anything more than
16 dismissive consideration to the rights of the people. As
17 failure in that, it is contrary to the intent of the
18 permanent exempt well statute, a failure widely in your
19 economic justification you offered that you could take a
20 right which has not been yet exercised. Your department's
21 action is just that you can take the water rights of people
22 where they have not previously established that right is
23 nothing short of absurd and preposterous.

24 Your plan is a failure in that you did not
25 properly communicate to stakeholders of your attempt to

1 usurp water and property rights. A failure in natural
2 planning will cause economic hardships to the citizens of
3 the community. A failure in that you have not clearly
4 communicated the plans and strategies you intend for the
5 people to have to perform for mitigation for new water uses.

6 I am deeply concerned that the call for mitigation
7 is a form of extortion of the public in their unencumbered
8 use of their property. A failure in natural planning is
9 intently ambiguous to details, consideration criteria, and
10 logic. Your plan is based upon subjective, unrestrained
11 decision criteria in that it's evasive discussion on a
12 scheme of mitigation.

13 I believe this proposal rule is nothing but a scam
14 in an effort to scam the people of their rights. The people
15 should not be allowed -- excuse me -- this plan should not
16 be allowed to be enacted. Why has your Department not put
17 forth a beneficial plan which would meet the needs of the
18 community and the environmental necessities by application
19 of good stewardship programs and waste reduction efforts?

20 You should be focusing on helping people succeed
21 in supporting and contributing to a sound local ecology;
22 instead, you have sought to implement a plan to usurp our
23 freedoms, our rights, and put restraints on our property.
24 The only thing this plan would accomplish is a feeling of
25 bureaucratic imperative of creating an overbearing

1 government agency with the agenda of taking water rights,
2 property rights, and diminishing our prerogative for free
3 use and enjoyment of our land.

4 MR. THIELEN: You have about 60 seconds, sir.

5 MR. GALE: It is the people you seek to regulate
6 who afford your department with an excessive budget of
7 greater than \$1 billion and yet your department, with all of
8 its resources, did not even demonstrate the ability to
9 manage something as tangible as the control the Scotch
10 Broom.

11 In that my time is limited here this evening, I'll
12 cut my comments short. You, unfortunately, I think
13 published your notice in early June and there was a filing
14 deadline that occurred thereafter. And it is because of
15 your action, I put my name as a candidate this fall on the
16 ballot because I believe that what's going on here is
17 indicative that there is far less than adequate legislative
18 oversight of your department. It is clear that the people
19 need someone to represent them as well as not support bigger
20 government over the power of the citizens. Thank you.

21 MS. BEITEL: Is there any other comment else at
22 this time?

23 Okay. With that, I will go to closing.

24 MS. WORMAN: I would like to say -- I took about a
25 minute. There is something I would like to put on the

1 Record. It will take --

2 MS. BEITEL: Go ahead.

3 MS. WORMAN: -- me a very short period of time.

4 MS. BEITEL: Just state your name again.

5 MS. WORMAN: Thank you. Melvina Worman. And I
6 took a survey earlier of who was opposed to this rule, and I
7 looked around and I saw every hand raised. Now, it's hard
8 to tell for sure, and I don't know if our two distinguished
9 people from the Department of Ecology were sitting in the
10 audience at that time or that one guy from the Forestry
11 Department, but what I saw was every hand raised. So all I
12 want to do is put for the record that we here in this room
13 are against this thing. And I would say 99-plus percent
14 were against it. And that's for the record. Thank you so
15 much.

16 MS. BEITEL: Anyone else who would like to provide
17 a comment at this time? Okay. With that, we will close.

18 All testimony received at this hearing, along with
19 any written comments received no later than 5:00 p.m., on
20 July 9, 2012, will be part of the official hearing record
21 for this proposal. Ecology will send notice about the
22 precise explanatory statement or the CES publication to
23 everyone that provided written comments or oral testimony on
24 this rule proposal and submitted contact information,
25 everyone that signed in in today's hearing that provided an

1 email address, other interested parties on the agency's
2 mailing list for the rule.

3 The CES will, among other things, contain the
4 agency's response to questions and issues of concern that
5 were submitted here during the public comment period. If
6 you would like to receive a copy, but did not give us your
7 contact information, please let one of the staff know at the
8 hearing or contact Ann Wessel by email, the contact
9 information provided by submitted comments.

10 The next step is to review the comments and make a
11 determination about whether to adopt the rule. Ecology
12 Director, Ted Sturdevant, will consider the rule
13 documentation, staff recommendation, and will make a
14 decision about adopting the proposal. Adoption is currently
15 scheduled for no earlier than August 31, 2012. If the
16 proposed rule should be adopted that day and filed with the
17 code advisor, it will go into effect 31 days later. If we
18 can be further help to you, please don't hesitate to ask or
19 contact Ann Wessel if you have any questions.

20 On behalf of the Department of Ecology, we thank
21 you for coming. We appreciate your cooperation.

22 Let the record show that this hearing was
23 adjourned at 9:45 p.m. Thank you.

24 (Whereupon, the hearing was adjourned at
25 9:45 p.m.)

CERTIFICATE

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STATE OF WASHINGTON) I, VALERIE ALLARD, Notary
) ss. Public in and for the State of
COUNTY OF CLALLAM) Washington, residing at
 Sequim, do hereby certify:

That the foregoing proceedings we taken before me
and completed on the the 28th of June, 2012, and thereafter
transcribed by me;

That the transcript constitutes a full, true, and
accurate record of the proceedings; and,

That I am not a relative, employee, attorney, or
counsel of any party to this action or a relative or
employee of any such attorney or counsel, and I am not
financially interested in the said action or the outcome
thereof;

IN WITNESS WHEREOF, I have hereunto set my hand
this 5th day of July, 2012.

Valerie Allard
Washington State Certified Court Reporter
WA CCR No. 3040
Residing at Sequim, Washington.