

From: Bill Clarke [REDACTED]

Sent: Thursday, June 28, 2012 3:30 PM

To: [REDACTED] Wessel, Ann (ECY);

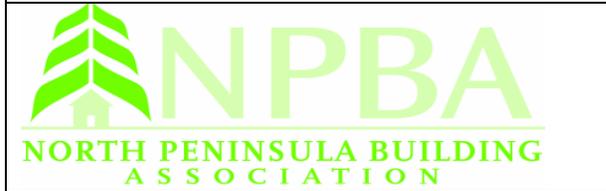
Subject: Letter on Dungeness Rule

Ted & Co. - Attached is a letter from state and local business associations on the proposed Dungeness Rule. Based on the experience of our members in other parts of the state with exempt well closures with or without available mitigation, we are asking that the proposed rule not be adopted and that Ecology instead continue using Capital Budget funding to address streamflow concerns. I will follow up with Maia.

Thanks, Bill

**BILL CLARKE
ATTORNEY AT LAW & GOVERNMENT AFFAIRS**

[REDACTED]

	
	
	<p>JEFFERSON COUNTY ASSOCIATION OF REALTORS®</p>
<p>Sequim Association of REALTORS®</p>	
	

June 28, 2012

Ted Sturdevant, Director
Washington Department of Ecology
PO Box 47600
Olympia WA 98504-7700

**RE: Proposed WAC 173-518
Dungeness Basin Water Management Rule**

Dear Mr. Sturdevant:

Our organizations are writing to request that the Washington Department of Ecology (“Ecology”) **not adopt the proposed Dungeness Basin Water Management Rule**. Instead, we ask that Ecology develop a simpler, fairer, and less costly approach through which the agency uses capital funding to protect streamflows.

We are concerned about the actual economic impact that the rule will have on current and future water users in the basin, as well as the impact on the economy of the region. We ask that Ecology reconsider the economic analysis done to date to fully encompass the impact of closing the basin through the proposed rule.

Additionally, with the dramatic reduction in withdrawals from the Dungeness and its tributaries over the last several years, we believe the new instream flow rule is overly restrictive and would unnecessarily impact the lives of citizens in light of the dramatic increases in the efficient use of water in the basin.

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

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

If water rights are now available for the Dungeness water exchange to function as promised by Ecology, then these same water rights should be used by Ecology to mitigate for impacts on streamflows caused by consumptive water use. If such water rights are not available, then the proposed rule should not proceed, as the absence of the promised mitigation will create the same morass of "red zones" and moratoria caused by Ecology's exempt well regulations in other counties. Recent experience has shown that Ecology should not prohibit exempt wells in hopes that homeowner-developed, non-profit, or for-profit water mitigation proposals will suffice.

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

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

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

Sincerely,

Washington REALTORS®

Washington Farm Bureau

Building Industry Association of WA

WA Cattlemen's Association

Washington State Grange

Association of Washington Business

North Peninsula Builders Association

Sequim Association of REALTORS®

Jefferson County Assoc. of REALTORS®

cc: Sen. Jim Hargrove

Rep. Kevin Van De Wege

Rep. Steve Tharinger

Clallam County Commissioner Mike Chapman

Clallam County Commissioner Jim McEntire

Clallam County Commissioner Mike Doherty

Sheila Roark Miller, Clallam County Department of Community Development