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The Tulalip Tribes are the successors
in interest to the Snohomish,
Snoqualmie and Skykomish tribes
and other tribes and band signatory
to the Treaty of Point Elliot.

December 1, 2009

Honorable Phil Rockefeller
Honorable Bruce Chandler
Co-Chairs, Stock Water Working Group

RE: Stock Water Working Group Draft Legislative Report Recommendations.

Dear Senator Rockefeller & Representative Chandler;

The Tulalip Tribes have received and reviewed materials from the Stock Water Working Group 'subcommittee' which has been charged with drafting the Stock Water Working Group (SWWG) report to the Legislature as required by ESHB 1244. We have a number of concerns with the direction in which this work group is going regarding the stock watering issue. As you will recall from our correspondence of August 31, 2009, Tulalip advised that the state has a duty to manage water rights in such a manner as to prevent impairment of the senior rights of tribes. The enumeration of proposals in the October 22, 2009 draft of the Working Group's legislative report expands exemptions to the detriment of senior rights.

The Working Group process was stymied by the recalcitrance of a majority of the participants to acknowledge there is a problem with unchecked water usage in any basin; even in basins where it is clear there is little to no water to spare. Coupled with the fact that there has been no analysis of climate change impacts to water supply, a policy of unconstrained stock water use is imprudent. Water is fast becoming a high value commodity so the State needs to take management measures now to meet future demands.

There were several suggestions to disband the Working Group without meeting its charge under ESHB 1244. This helped set the stage for the report now being offered. While the SWWG was not required to make any firm recommendations to the legislature, the group was charged with identifying issues pertinent to the use of exempt wells for stock watering. This would entail identifying all of the issues: pro and con. Instead, the draft report now looks like a 'wish list' of exemptions aimed at continuing the unhindered use of exempt wells for any activity remotely associated with stock husbandry and then some. Resolution of the exempt well/stock water issue appears doomed to capricious

efforts that depend “on the package of provisions and the processes or protections involved.” See SWWG Meeting notes of October 22, 2009.

The SWWG wish list includes grandfathering all existing operations, exemption from the relinquishment provisions of RCW 90.14.160, carte blanche for water transfers without any assessment of extent and validity for any purpose desired, bypassing the change provisions of RCW 90.03.380, and a huge volumetric cap for future stock water operations. All of these proposals expand use of the exempt well for stock watering while maintaining ‘business as usual’. The Tulalip Tribes does not support these expansions in favor of one interest group to the detriment of all other water rights, particularly senior tribal water rights.

Tulalip works closely with farmers in our management areas. It is the Tribes’ desire to find a workable solution that protects treaty and reserved rights while preserving farming activities. Grandfathering, without some assessment of extent and validity linked to a *rational* definition of stock-watering purposes, is overreaching. Tulalip will not support an exemption from relinquishment, exemption from the change provisions, unbridled water transfers, or expansion of the exempt well provision up to 350 acre feet per year for stock watering. This effort did not meet their challenge; therefore, some other venue will need to be engaged.

Sincerely,

A handwritten signature in blue ink that reads "Terry R. Williams". The signature is fluid and cursive, with a long horizontal stroke at the end.

Terry R. Williams, Commissioner
Fisheries and Natural Resources

cc: Chairman Melvin Sheldon
Tulalip Tribes Board of Directors
Governor Christine Gregoire
Representative John McCoy
Senator Bob Morton
Senator Brian Hatfield
Representative Judy Warnick
Members, Stock Water Working Group