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Subject: Wria 18

Formal questions for the record follow:

How many people were anticipated to attend the public hearing in Sequim? The bureaucrats seemed surprised by the attendance – first by having to have a larger facility and second by not being prepared with audio-visual equipment to adequately provide for the size of the facility. Since the equipment was inadequate for viewing from a major part of the room, how can the meeting meet the requirements?

Was there sufficient notice in the change of venue?

What was the count in Sequim? A bureaucrat stated that the number was 100 but a member of the public in later public comments noted a count approaching 300. And how many more cycled through during the meeting because of other prior commitments?

What is the estimate (or budget) for the Department of Ecology employee time needed to promulgate the new Dungeness water rule? There were at least ten bureaucrats in attendance at the Sequim hearing, so this cost has to be large. At what employee level is that time and what is the financial cost including the benefits provided to the employees? Was this a factor in the cost benefit analysis of this project?

What is the estimated operational cost of the non-profit water bank? What will be the cost to the people that need to purchase mitigation rights and also to the local governments? Will any shortfall be covered by property tax revenues?

Who will be entitled to financial statements for the operation of the non-profit water bank?

What are the appeal rights for determination of value of the mitigation to be purchased from the water bank?

If the public is not satisfied by the operation of the water bank, how can the leaders be voted out?

Who or what entity will be the successor to any profits or assets of the water bank should it fail to continue in existence?

Why is this done by a non-profit instead of a state agency?

How do open meeting laws apply to the proposed water bank?

How can the public review compensation for the employees and directors of the proposed water bank?

Who will provide professional services to the non-profit water bank? How will the contracts be allocated?

How will domestic use be examined for structures where use is alleged? What forms of proof will be required?

The existence of loss of expectation rights in the use of the property was acknowledged by multiple bureaucrats at the Sequim hearing to multiple questions. How will those expectation rights be measured?

How will the loss of the expectation rights be compensated? Where will the money for this be found? Who will pay? Why should they pay? Has the legislature prepared a reserve for this possible cost? What did the Department of Ecology estimate for this cost – both in dollars and employee hours requirement? For example, will it require hiring additional lawyers and professional staff to defend? And what is the estimated cost of this?

Prior appropriation has been the rule since before territorial days. Why is administrative appropriation now necessary?

What is the proposed budget for the settlement of the compensation of the expectation rights?

Why are the loss of the expectation losses not a takings under both the US and Washington Constitutions?

The attorney general's office has a takings analysis for state actions. Was this analysis completed for this project? If so, will the analysis be made public so that the public can evaluate the litigation risk? Even if it is not made public in the textual form, should it be public in financial terms in the cost benefit analysis?

Considering that the property owners are paying property tax and the state does have addresses for the all of the property owners, with merely a notice and hearing are these people receiving due process when their expectation rights are being taken?

If the allocation of prior usage of rights is to work, how can this be done without metering of the prior usage? And how much time will be required for measurement of this prior usage?

The agency no doubt has estimates of support for its actions. While the Sequim paper quoted a bureaucrat stating that supporters were not expected to show, how will the agency determine if the proposed rule has any local support? What is the agency's means of determining if any support exists?