

From: Litch [REDACTED]
Sent: Saturday, July 07, 2012 9:06 PM
To: Wessel, Ann (ECY)
Cc: Kevin; Tharinger, Steve
Subject: Wira 18 -Dungeness water management program

Ann,

Thank you for the opportunity to provide comments/testimony regarding the proposed Wira 18 - Dungeness water control program. The 28 June Sequim presentation was definitely informative for all attending. Hopefully the plan is not already predetermined to implement. See attached comment/testimony for consideration in the proposed program. - Sincerely, --- Warner (Litch) Litchfield

July 18, 2012

Comments to Wira 18 – Dungeness water management program

The education program has been very beneficial:

1) Ecology with their open presentations and meetings is doing a good job up informing/educating the Sequim residents on good water management practices. This education process has already significantly reduced the amount of water being used for irrigation purpose, thereby making much more water available for use by private wells.

2) Per Ecology publication #10-11-018 dtd June 2010, Water diversion for irrigation has been reduced from 100 cfs to 55 or 50 cfs. The reduction in use, at least 45 cfs, equals 162,000 cf per hour. If this water reduction is from an irrigation supply line which runs 24 hours a day, that equates to almost 4 million gallon of water a day that has already been saved in the past few years. This should provide ample water for a minimum of 8000 additional homes, assuming each uses not more than 500 gallons of water a day each with none of it being used to recharge the ground aquifer. Note: Ecology uses 150 gallons for home use per day with a 90% reduction for aquifer recharge through a septic system.

As farm land is sold and turned into residential home sites with septic systems, the use of water should continue to decrease and the available ground water should increase. Keep up the education process and continue learning. Come back in another 10 years and to see if we need to implement a water management program at that time.

Comments on Specific Paragraphs:

WAC 173-518 -030 Definitions: 1) Existing water rights: Please explain further. What are perfected riparian rights and perfected inchoate appropriative rights? What federal rights were actually given to

Indian and non-Indians. Is this trying to imply that Indians have the right to 50% of the water (as might be interpreted by a "Judge Bolt")? Is Ecology saying that a river or stream has always had a certain amount of water so, it has a right to this amount. Do the plants, fish and wildlife have implied stream or river water right along with owners of waterfront property? I don't trust what I don't understand.

2) Timely and reasonable: This vague definition must have been recommended by a lawyer to ensure continued legal participation. Timely and reasonable to me means within 2 weeks and at a cost less than \$1,500. Do government agencies have a sliding scale to fit their desired definition at any given time. Explain further or delete "timely and reasonable" from the water rule text.

3) WAC 173-518-040 Establishment of Instream flow: (Para 3) The instream flow is already impacted at certain times of the year. Does this mean no new businesses or homes, except on existing exempt water systems until the river flow meets the optimum desired flow for fish? (Para 5) Exceptions --- any new water uses --- will be subject to interruption when flows drop below flow levels of Table IIA. Does this say that any new water use to homes or businesses will be shut off or be litigated when stream flow is below the flow rates established by this new rule. This is for flow rates which we do not currently meet all the time. This is a good way to kill new business development. Do new water rights just cease water use during drought periods.

4) WAC 173-518-06 metering and reported water use: once metering is established for new uses, it is just a matter of time before all wells are metered and owners charged for water usage. Why not just tell us up front, that eventually all existing wells will also be metered? First the controls and monitoring must be established, then we can meter and charge for all water use to cover the cost of the program.

5) WAC 173-518-076 Expedited processing: Delete this paragraph or make it read "May or may not be expedited". This is a useless paragraph unless it is included for the purpose of bribes or extortion.

Economic analysis:

Cost benefit: Ecology can always find someone who will provide the desired cost/ benefit results.

The cost benefit analysis currently used is a very superficial, one sided analysis. If one computes the cost per each lost fish caused by not implement the rule, one should also compute the number of jobs lost x (times) the income per job x (times) the same number of years that would be lost from the community with implementation of the rule. With fewer homes in the county, based on the supposed lack of water for the fish, there is also a lack of business revenue. Each new home would bring in about \$300,000 in construction and material cost to the county. It would also add close to \$30,000 per new home per year just in living expenses and taxes. The new residents would also employ more people for their desired services.

Just 1000 new homes would generate \$300,000,000 in construction/material income plus \$30,000,000 **per year** in living expenses. This doesn't even take into account the living expenses of the additional people who would be supporting these new families.

Land values: The land values will drop precipitously for potential home sites if water is not allowed without purchasing a water right allotment, if in fact water is actually available. The water rule says that water can be shut off when the water level is below the desired optimum stream flow for fish. Who would want to purchase property when the water flow is already occasionally below the desired stream flow rate? See note 1 below (DOE land value losses – personal example which affected me)

Litigation costs: Based upon my experience, the cost of litigation involving ecology would far outweigh the cost of litigation among home owners or businesses by not having the new rule. Does Ecology just ignore all litigation expenses among ecology and the litigants disagreeing with Ecology? See note 2 below Ecology litigation – personal example which affected me)

Small business impact: the cost analysis shows that the impact per small business employee to be greater than that for a larger business.

Questions/proposed alternatives :

1) Is excess irrigation water currently being pumped back into the aquifer at a beneficial recharge location rather than being discharged back into a river or stream near the mouth? If not, this would be a good project for Ecology to consider funding.

2) Existing water purveyors: I fail to see the logic in allowing city water purveyors to continue to provide water for new residences while requiring mitigation for new rural homes on septic systems. If the goal is to keep maximum water in the aquifers, Cities should clean/purify their sewer water and discharge it into beneficial recharge locations. Residential homes on a well already recycle water through the septic system.

3) I recommend that if additional water is really needed in the Dungeness aquifers, that the City be funded by the state to purify the liquid portion of their sewage and pump it back into the Aquifer at the most beneficial location.

4) Mitigation - water for money: If as implied, there is water available to sell, then water must currently be available. So, there is no water shortage -- rights!. Why is this rule being considered?

General comments to Ecology:

1) Several of my neighboring land owners live in California. They have purchased property for building a home after retirement or as an investment. All land owner should be notified of these proposed changes to their land water use rights at least a year before any proposed affective date. These proposed changes can drastically affect their proposed use or value of their property. The county has property tax records that can identify owners mailing address. My property taxes always seem to find me.

2) Because of past and continuing practices, ecology has a deserved reputation of being, untrustworthy, unreasonably controlling, dictatorial and taking without compensation. Ecology has a long way to go to be trusted by citizens living in rural areas. Ecology takes away our livelihood, take away our land and make us pay more so that they can better monitor and control us. Right now Ecology is trying to force three separate programs on us in Clallam county. 1) Mandatory Frequent Septic system testing (\$20 million cost in 10 years) paid for by 20,000 private home owners; 2) Increase restricted use set-backs for all waterfront property (started out wanting 75-100 feet, it became 150 feet, now Ecology want 200 feet; 3) Water use management: We all know that 10 years from now, Ecology will want all private wells to have water meters and that we will be paying a use fee. Is this long term objective?

Notes:

Note 1) My father, about 30 years ago, purchased a small saltwater front lot in Allyn, and also a partially treed, saltwater view property (with a stream) near Manchester as retirement investments to support my mom after he passed away. About 7 years ago, shortly before my mom died she gave both properties away free because of DOE rule changes which made her property worthless. Yet, she still had to pay taxes on this view and waterfront property. It crippled her finances and none of us three children wanted to pay the taxes on this property which DOE wetland/ waterfront rules made it useless.

Note 2) I owned a waterfront home on Lake Tahuyeh (Kitsap County). During the late 90's, Ecology caused our community to spend over \$200,000 in legal fees on three issues related to removal of decayed Peat matter which was popping up from the bottom of the lake. At the same time the Dam Safety department said we had to remove the peat matter which was a hazard to the dam. The Community along with the Dam Safety eventually prevailed against Ecology but ecology did not totally back off until they first extorted a portion of the community property to be left natural (no development). In the same time frame, Ecology records said there was an endangered "Club moss" on the undeveloped community land, but ecology did not know right where the endangered club moss was located. The community, at our expense, had to hire a botanist to do an extensive search for this "Club moss" which never existed before we could use or develop that portion of our community property. (Christine Greguare, attorney general at the time, may remember this Ecology :VS: Dam Safety issue)

These comments are from a cursory review of a of Chapter 173-518 WAC, as well as additional information obtained during your recent June 28 presentation at Sequim.

During the Sequim meeting/testimony, Ecology was very informative and appeared to be taking notes during the brutal testimony. We all benefited from the exchange. Although it is probably a state mandate, I do appreciate the solicitation of comments. Hopefully, Ecology had not already predetermined that this Water Management Policy will be implement.

Sincerely

Warner J Litchfield



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