

Helen L. Watkins

Ann Wessel  
Washington State Department of Ecology  
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Dear Ms Wessel,

I am writing this letter in order to submit formal comments/questions with regard to the Sequim/Dungeness WRIA 18. Please consider all questions asked as part of my formal comments and please answer them in detail as part of the Concise Explanatory Statement.

My comments/concerns are as follows;

1. Has not Ecology admitted to an Abuse of Discretion with regard to the internal controversy over the cost benefit analysis (CBA) originally performed by Mr. Tryg Hoff, one of Ecology's own economists? According to e-mails obtained by the Sequim Gazette, Mr. Hoff stated that the costs would be far greater than the benefits under this rule due to the loss in property values. In his original analysis Mr. Hoff stated that the costs could be as much as \$500 million and far outweighs the benefits.

It was suggested by Mr. Hoff's superior that he amend his analysis which he refused to do. He is on the record with a formal notice that the costs of this rule exceed the benefits and that it fails under RCW 34.05.328. Mr. Hoff asked to be removed as the economist charged with performing the CBA if his superior was going to insist that he do a biased CBA. Ecology removed him from the study. The subsequent analysis was performed in the manner suggested by Mr. Hoff's superior at Ecology.

The manner in which the CBA was done and the controversy it raises puts the validity of the final CBA into question. Due to this the rule making process must be put on hold until and "arms-length" and fully independent economic study can be performed. Not having a study done by a fully independent firm with no connection to Ecology would result in expensive litigation in which Ecology has put themselves in a very weak position.
2. There is a lack of reviewed scientific data to support the assertion that there is hydrologic continuity between all private exempt wells and the streams in the areas designated under WRIA 18. Ecology's contention that all of the 3 aquifers and the rivers/streams within WRIA 18 are connected has not had a peer reviewed scientific study. Such a study needs to be done prior to the implementation of this rule as Ecology has no statutory authority to regulate any wells that cannot be proven to be hydraulically connected.
3. By statute Ecology only has the right to establish "minimum baseflows" and not "maximum flows" with regard to rivers and streams in this state. (RCW 90.22 and 90.54) Why then is Ecology ignoring the precedents already set by these and other statutes/cases and insisting on setting the CFS that must be reached in the Dungeness River and streams within WRIA 18 at a "maximum" flow. This has been reached one time since the year 2000.

4. The Small Business Impact Statement (SBIS) needs to be revised to reflect the loss of revenue to businesses such as Real Estate, Building, landscaping, mortgage, small farms, and, well-drilling. (This is not an exhaustive list). RCW 19.85.040 requires that the SBIS reflect any loss of revenue to small businesses. For this reason, the SBIS needs to be revised to reflect the loss of revenue to small businesses affected by WRIA 18.
5. Per Executive order 12898, the Environmental Justice section of NEPA, Agencies are required to study the effects of actions on minority and low income populations that would be impacted by an action. The Sequim/Dungeness area has long been known as a retirement area with a large population of retirees who are on a fixed income and/or Medicaid. Under what is commonly called "Obamacare" the portion of the population on Medicaid will grow. (Not just retirees but all low-income people in the population). Why were the impacts on the retirement (and therefore the fixed income) and low income population encompassed by WRIA 18 not a part of the studies done by Ecology? The economic impacts to these parts of our population will be significant and should be included in any economic study performed.
6. The Dungeness Basin has been using less and less water and has invested a great deal of money to restore habitat and water to the Dungeness River. Why would Ecology implement such draconian measures in an area that is using less and less water? Per your own department studies, we would use a very small amount of water if the area covered by WRIA 18 was developed under current zoning and if it was all developed using exempt wells. The USGS flow chart for the Dungeness River shows that there has not been a significant change in the flows to this river. The flows from the years 1937 to 1948 are not significantly different than what they have been for the last 10 years. The exempt wells are not, have not, and will not have a significant impact on Streamflows. There is no need for this rule.
7. Ecology should follow the Skagit County approach and have the State buy the required water (enough to protect our exempt well status) through an appropriation in its capital budget. This would negate the need for Mitigation (as a side-note Mitigation is NOT required under NEPA) and would also be a less burdensome alternative as required under RCW 34.05328.
8. In the CBA, Ecology refers to a significant increase in water-use if "mobile homes" are removed from a property and a permanent home is then built on that site. Are you talking about RV's and trailers on properties or on Mobile/Manufactured homes? Please make a revision that makes this language very specific.
9. In the CBA you refer to a study that shows the cost of not being able to use outdoor water as \$1,000 per household. This is a very low number as the common rule is that people allocate 10% of their homes value to landscaping. The average value of detached home in the WRIA 18 area is much higher than \$100,000 even in this economy. This also does not take into account the drop in home values for homes that cannot use their wells for outdoor use. Homes that can use their wells for outdoor use will be more valuable than homes that cannot. Many of these homes will be in the same neighborhoods. Many people will simply choose not to move to or build in an area with such a restrictive rule. As seen in WRIA 17 there will be a significant economic impact. Why was the economic impact due to decreased property value not studied?

There are many more legal questions that need to be answered regarding this rule. These have been submitted to you by the City of Sequim, Washington Association of Realtors, the Commissioners of Clallam County, the Department of Community Development of Clallam County, Clallam County PUD and many private citizens who will be affected by this rule.

I and many others request that this rule not be implemented until you have proven that you have the Statutory and Constitutional authority to do so. Further, please do not implement this rule until you have proven that you have fulfilled all of the requirements with regard to this rule such as the CBA, SBEIS, Environmental Justice, and impartial reviews of all studies (list not exhaustive).

Respectfully,



Helen L. Watkins