ISF RULE
PROPOSED WAC 173-517-xxx
7/5/9
Dennis Schultz

RECOMMENDATIONS:

1. **Hold off on the Rule until the USGS Study of the Chimacum Basin and other on-going studies are complete. There is no real justification for pushing through this rule except that DOE is behind schedule to implement this rule. None of the other stake holders have any pressing need to implement the rule. It will not put any more water in Chimacum Creek and probably will not result in any loss either.**
2. **Keep the existing Permit Exempt Well rule. Start a program to collect data on actual well use by asking users to voluntarily meter their usage and report the type of usage of the water, so you have real data for your Benefit Analysis instead of guessing the usage.**
3. **Be realistic in analyzing ground water flow in the Chimacum Basin. Forget your theory that water will flow uphill from streams to wells completed above the stream beds. Admit that we do not have 'Instantaneous Hydraulic Continuity' between the wells and the creeks.**
4. **Work with a stakeholder group to draw up a realistic water use plan that determines where water can be taken without harm to the streams and where water must be rationed. This proposed set of water use restrictions has nothing of a constructive nature in it for users. All it can do is create bad feelings toward DOE.**
5. **Set the in-stream flow for Chimacum Creek to reflect the actual flow for recent history and forget the flows experienced 50 years ago.**

Section -060

1. **Needs to specify how often the Rule will be reviewed if a review is not called for earlier.**
2. **Needs to specify who can call for a review, and what the procedure will be. This Section is too vague.**

Section -120

(2)(a) Sounds like anyone wanting a 5,000gpd use must submit a mitigation plan. Is this a requirement in the other sections that specify 5,000gpd wells can be authorized? If so it will make these wells too expensive for almost all potential users.

CONSERVATION STANDARD

1. **Forget about setting a Conservation Standard until you have some hard data on which to base it.**
2. **The current approach to the standard will do nothing but create bad feeling and economic hardship on property owners, particularly where it isn't needed.**
3. **Realize the economic impact a Conservation Standard will have on property values in areas where it is not needed.**

Section -130

(3)(a) Does this mean that wells will or will not be allowed in the Port Townsend Service area? How about wells for Agriculture?

(3)(d) Just what is procedure to register and who will manage these registrations? Will there be a limit on how many wells?

Why do you insist on including the 'un-named' creek on the Quimper Peninsula when it has been shown to not be a Salmonid stream or to flow into salt water?

<u>Section -150</u>

(6) Specifies that no water is available for agriculture unless it is given in a Water Right. What happened to the Permit Exempt 5,000gpd agriculture well?

(8)Again, why not wait for the model before implementing these rules. Why not wait for (8)(a) or (8)(b) ?

Table 8 is inconsistent with Section -150.

<u>Section -160</u>

This section assumes unrealistic use of water, particularly for irrigation. All irrigation water is not 100% consumptive. Furthermore, irrigation does not take place 24 hours a day 30 days a month. A typical irrigation plan is to water for a fixed period of time and then stop until it is needed again. It is definitely stopped during harvest cycles. And pumping is expensive, therefore, most farmers try to limit their pumping costs. Most water rights are set to cover extreme dry spells (insurance against crop loss) not an average annual need. A history of real data (voluntary metering) will give a much better picture of actual usage.

<u>Section -190</u>

(1)(b) Just how do you propose to determine the number of stock that have historically ranged the property? How about property boundary changes or changes in the type of livestock

Such as changes from dairy to feeder calves or from horses to sheep?

SUMMARY

I have lived all my life in water short areas. I believe in planning water use wisely. You use the slogan "People, Farms, Fish' for this rule. Yet it gives all the benefits to the fish and it still won't put any more water in the streams. It will cause real economic hardships on the undeveloped property owners who typically that have all their personal assets tied up in their land.

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ISF RULE
PRELIMINARY COST BENEFIT, MAXIMUM NET BENEFIT, AND LEAST BURDENSOME ANALYSIS

Dennis Schultz

7/5/09

GENERAL COMMENTS

- **This analysis does not present any other alternatives other than DOE's internally develop plan. This gives our locally elected officials no choice but to accept DOE's plan or face the stoppage of all building permits in the area.**
- **All costs of this rule will fall upon the property owners and the small businesses within the Area.**
- **The Conservation Standard is applied to all the sub-basins in the Area, yet, it is only needed in part of the Area. This puts an unneeded economic burden on most of the Area where it is not needed. What is the cost of this burden?**
- **The whole basis of this rule is based on the theory of 'Instantaneous Conductivity' between ground water and the streams. (If a gallon of water is drawn from a well, it instantaneously lowers the level of the basin stream by a gallon), regardless of the distance from the stream or the properties of the aquifer it is drawing from. It also assumes that wells located at higher elevations will draw water uphill into the wells.**
- **This county is not threatened with runaway development. In the rural areas it is almost impossible to subdivide and develop property.**
- **The growth projections used, are based on a growth boom 2006 and earlier. In the three years since than, growth has slowed to a point that the CETED projections have not been met.**

PROBABLE COSTS

- **Loss of land value**
  1. **It ignores the loss of land value in the Chimacum Basin. There are over 500 un-built residential properties in the basin. At least 400 of these properties will become un-buildable due to lack of water. 400 properties of at least 5 acres (many are 10 and 20 acres) worth $20,000 per acre at current prices equate to a real estate value of over $40,000,000. With this rule their value will drop to $200,000 (current unusable open space value). This is a loss of $39,800,000 that is missing from the analysis.**
  2. **People have purchased land or plan to purchase land in rural areas to have a 'rural lifestyle'. This lifestyle usually includes plans to have a garden, or an orchard, or to raise some livestock, or to start a small farm. The proposed 350gpd allowance will not allow them to realize these dreams. This will drive down the value of this land as it is no longer desirable and potential buyers will purchase property elsewhere. And the people who have already purchased land will lose a large part of their equity in their land. Perhaps the Real Estate industry can come up with a rough estimate of the amount of this loss – both in lower property values and lost sales.**
- **COST to Agriculture**
  1. **This rule will have a major impact on Agriculture in the Area. Most of the area will not have any water for Agriculture. The future of Agriculture in Jefferson County is in the small specialty farm business. This type of farm usually can exist using a 5,000gpd Permit Exempt Well. The people starting these farms usually**

do not have the financial resources to make a large investment and the time to wait for a Water Right.

2. **Small farms of this type are usually located away from the rich bottomland along the creek beds because of the unavailability and high cost of these lands.**
3. **Allowing only a limited number of Ag wells in only a few areas will deter many of these farms from starting.**
4. **The local Farmers Markets are dependent on having a number of new small farmers entering the market every year as older farmers retire or develop a customer base to sell to outside of the farmers markets. This will cause a decline and possibly the end to some Farmers Markets.**

- **Cost of studies and permits**
  1. **The cost to have a study showing ground water 'discontinuity' or to prepare and implement a mitigation plan is beyond the means of most property owners. Yet these are the alternatives given to get more water.**
  2. **The cost of additional permits for such things as rainwater catchment and/or other water storage systems is not well defined.**

<u>Table 2</u>

The Cost Summary is missing any data for loss of value in real estate as outlined above. Some of this loss can be directly quantified (Chimacum Basin) and some are very apparent, but are hard to quantify. These losses will become important as land values decrease due to this Rule. This Table is incomplete – it needs to be redone.

BENEFIT ANALYSIS

This is based on Permit Exempt wells pumping 5,000gpd and instantaneously reducing stream flows by that amount. It also assumes that wells will be pumped at the 5,000gpd rate continuously. This is a myth and has been disproven by a few studies in the area.

Table 3

The benefits in Table 3 are based on 100% consumptive use by Permit Exempt wells. There is no data available for actual withdrawal rate for the existing Permit Exempt wells. Common sense says that actual use is far less. There is no good data determining just what percentage of withdrawals are consumptive. Appendix 5 is flawed in its assumption that 90% of water withdrawn is consumptive. Most of the irrigation water drawn from Permit Exempt wells is used for drip or spot watering. A significant amount of this water is returned to the ground. There just isn't enough water to run rows of sprinklers or to flood irrigate in this area. Thus Table 3 is flawed in its assessment of water used due to its assumption of Hydraulic Continuity and consumptive use of water.

Availability without the Reserves

- **Assumes that all sub-basins would be 'water short' and will require some type of storage. In fact most of the basins have adequate water for future development and will never need a catchment system. And, some of the areas do not have enough annual rainfall to support or fill a catchment system that would hold a 3 months supply.**

- **It assumes that all 690 new homes will have to put in water storage at a cost of at least $16,250,000.**
- **The claim of this as benefit from the reserves is totally erroneous! Remove it from the table!**

Improved Water Management

This is supposed to be a Water Management Plan. It is in fact a set of water use restrictions. What is really needed is a study to determine where water shortage is a problem and where water is abundant. We need to know how to better use our water. A 'One Size Fits All' solution is no solution.

APPENDIX 5

The major error in this analysis is the assumption and use of 'Instantaneous Hydraulic Continuity' for the analysis and then putting in a disclaimer that they know this is not true. This makes the whole analysis an academic exercise and worthless in the real world.

The use of the cost of the Marrowstone Island water system for supplying water to the SIPZ areas is probably unrealistic. The Marrow stone system flows from Chimacum, through Indian Island, across the bay, and then on to the users. A local water system should be far less costly.

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ISF RULE
SMALL BUSINESS ECONOMIC IMPACT ANALYSIS
7/5/09
Dennis Schultz

GENERAL COMMENTS

- **All costs of this rule will fall upon the property owners and the small businesses within the Area.**
- **This analysis assumes that without the Rule, there will be no change or growth within the Area for the period of the analysis. This is an unreal assumption. This analysis must contain an analysis of what will happen if the Rule is delayed or not imposed. This analysis skews all the possible benefits in favor of the Rule. Where is the comparison: Rule vs no Rule?**
- **The Conservation Standard is applied to all the sub-basins in the Area, yet, it is only needed in part of the Area. Most of the basins in this area do not have a water shortage. This puts an unneeded economic burden on most of the Area where it is not needed. What is the cost of this burden?**
- **It does not take into consideration the current economic state of the County which has changed dramatically since the period used for analysis. This analysis needs to up-dated for current economic conditions.**
- **The four major industries in the area covered by WRIA17 are: Agriculture, Mining, Forestry, and Aquaculture. Yet, these are completely ignored in the analysis. Why were they left out?**
- **This analysis does not take into consideration the unusual land use policies and zoning in effect in Jefferson County.**
- **There is almost no land zoned for Retail, Manufacturing, Distribution, or Service Industries in the Area. Most of which are located in the city. What little there is, is**

located in existing Water Service areas. Given the political climate, this is very unlikely to change.

- **The whole basis of this rule is based on the theory of 'Instantaneous Conductivity' between ground water and the streams. (If a gallon of water is drawn from a well, it instantaneously lowers the level of the basin stream by a gallon), regardless of the distance from the stream or the properties of the aquifer it is drawing from. It also assumes that wells located at higher elevations will draw water uphill into the wells. It totally ignores existing studies, the geology of the basins, the probable existence of a lower disconnected aquifer, and the permeability of the aquifer formations.**

<u>IMPACT ON SMALL BUSINESSES</u>

- **Almost all of the businesses located in the Area are either: Home Based Businesses or Cottage Industries. These are all that are allowed under the current Jefferson County Development Code.**
- **Jefferson County does not require business licenses for these businesses. And does not have any data on these businesses.**
- **Most of these business pay taxes as personal income on Form 1040. Therefore very little known about the type and nature of these businesses. They are NOT included in any SIC Code reporting.**
- **The impact of the proposed water rule on future businesses is totally unknown. The major impact will be, that potential businesses will locate somewhere else in a more friendly business environment. How many potential jobs will be lost?**

IMPACT ON AGRICULTURE

- **The future of Agriculture in Jefferson County is in the small specialty farm business. This type of farm usually can exist using a 5,000gpd Permit Exempt Well. The people starting these farms usually do not have the financial resources to make a large investment and the time to wait for a Water Right.**
- **Small farms of this type are usually located away from the rich bottomland along the creek beds because of the unavailability and high cost of these lands.**
- **Allowing only a limited number of Ag wells in only a few areas will deter many of these farms from starting.**
- **The local Farmers Markets are dependent on having a number of new small farmers entering the market every year as older farmers retire or develop a customer base to sell to outside of the farmers markets. This will cause a decline and possibly the end to some Farmers Markets.**

COSTS

- **Rainwater Catchment is touted as the solution to having more water available. Will a 'standard' household rainwater catchment system meet Health Department standards for a business. Will the benefit exceed the cost of designing, installing, and maintaining a catchment system?**
- **Professional Services are very expensive and beyond the means of many business owners. This Rule assumes that future water will users have the resources to pay for groundwater conductivity studies, mitigation planning and installation, and rainwater catchment systems if they want any water in excess of the minimum.**

SIC CODES

- **The use of SIC Code and USDA Agricultural data reports is worthless in this County. Most of the possible data is lost because it is never reported as such to the respective agencies.**

EXPECTED JOBS CREATED OR LOST

- **This section is lacking any analysis about the alternatives if the rule is not implemented.**
- **THIS ANALYSIS (TABLE 2) ASSUMES THAT ALL FUTURE GROWTH AND DEVELOPMENT WILL ONLY COME ABOUT AS A RESULT OF THE PROPOSED RULE.**
- **Without the rule are DOE or Jefferson County going to put a freeze on all new development?**
- **The model used (NAICS) is totally inappropriate for this county. It assumes land use zoning and availability that does not exist.**
- **Most of the jobs predicted in Table 2 will be located outside of Jefferson County where the current businesses (such as retail and manufacturing) are currently located and there is land for future growth.**
- **Most of the people taking these jobs will elect to live close to the jobs as the cost of commuting and high cost of living will make rural Jefferson County unattractive.**

COMMUNITY INVOLVEMENT

- **Apparently Agriculture, Forestry, Mining and Aquaculture are not considered businesses by DOE.**

- **They were not involved by DOE in the development of the proposed Rule even though they are the major businesses in the Area.**
- **IN 2005 DOE MADE A COMMITMENT TO THE COMMUNITY TO WORK JOINTLY WITH STAKEHOLDERS TO DEVELOP THIS RULE. THEY REPEATEDLY REFUSED TO SIT DOWN AND WORK OUT A WORKABLE WATER MANAGEMENT PLAN.**
- **We are still waiting for DOE to keep its promise!**

SUMMARY

- **This is a very biased analysis. It implies big benefits without showing where they will come from. IT NEEDS TO BE REDONE!**
- **It is full of qualifiers such as: 'might see', 'likely lower costs', 'could have added costs', would be a large benefit', etc. There are almost no statements proving real definite benefits.**
- **The claim of 890 new homes, 819 new jobs, an annual labor income of $$25,000,000, and revenues of $34,500,000 are just wild optimistic guesses.**

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ISF HEARING 6-24-9
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I believe in water use planning and management. This plan is not a water use plan. It is a set of regulations to restrict the use of water

It will not put any more water in the streams or make more water available – actually it reduces the amount of water available.

It cuts down on consumer usage with no concrete proof of the effect of ground water withdrawals affecting stream flow during the periods of heavy withdrawals and low stream flow.

It does not have any plan for better usage of the water we are now using.

This plan is not needed at the present time. We are not experiencing runaway development. In fact almost all development has stopped and construction workers and realtors are leaving.

The only people who will benefit is the Dept of Ecology. They are four years behind in their plan to start implementing these rules.

We have studies planned in the next several years that will give us a better understanding of just how much

water we have available and how it flows through our basins. Why not wait for the results of these studies.

We do not have any scientific studies of our watershed to justify these rules. This rule is based on instantaneous hydraulic continuity of the aquifers. That is, a gallon of water drawn out a mile from the stream instantaneously lowers the stream level by a gallon. The USGS study of the Chimacum Basin pointed out how slowly water moved through some of the aquifers.

People move to rural areas to have some land for a yard, a garden, an orchard, or some livestock. All these require water. This rule takes away those benefits and makes our rural land less attractive and valuable.

You have prepared an economic analysis of the benefits of this rule. It uses a prediction model based on an urban/ industrial/rural county such as King or Pierce. It does not fit Jefferson at all.

It ignores the fact that we have almost no industry or retail business and that we don't have any land zoned for new businesses to locate on. Yet it predicts great growth in these industries. It also assumes that we will have zero growth without this rule. It ignores that making rural residential property less attractive will lower the value of those properties. It also ignores the fact that it will make 400 properties in the Chimacum basin worthless. 400 properties of at least 5 acres each

worth $20,000 an acre equates to a loss of $40,000,000 in real estate value. Where is this in your analysis?

You also do not consider Agriculture a business. What will be the impact of this on Agriculture?

In summary, your economic analysis is worthless.

You claim that all outdoor watering and irrigation is consumptive and that none of the water pumped for this is returned to the ground. This is ridiculous and yet you wonder why you have no credibility.

If crops use so much water, how about trees? They use far more water. Maybe we should cut down our trees and replace them with grass and rowcrops so we will have more water for the fish.

You use the slogan "Fish, Farms and People', In the Chimacum Basin you are giving the fish a new water right of 6,500,000 GPD, People get 1940 GPD. and Agriculture gets 0 GPD. This tells us where your priorities are.

A number of organizations have significantly increased the number of returning salmon by stream and habitat improvement with no increase in the water amount or flow rule. And yet you claim a $12,900,000 benefit for this work.

Right now you do not know how much water is being pumped, or how it is being used, or how much is being returned to the aquifer. The In-Stream flows are based on a hypothetical guess and levels we haven't seen for over 50 years. You are making assumptions on water usage without any data or studies to back them up.

After you pass this law, you will go on your merry way and disrupt other counties. We will have to live with law and its consequences with only vague promises to make it right if it is a failure. I ask you to wait until we have some studies and data to make an informed decision.