PUBLIC HEARING PROCEEDINGS

RE: WRIA-17 WATER-RIGHTS RULE PROPOSAL

PUBLIC COMMENTARY

THURSDAY, JUNE 25, 2009

7:40 P.M.

Taken at Fort Worden Commons

Port Townsend, Washington

REPORTED BY: CHRISTINE M. TOWNSEND, CSR
CSR NO. 2679

PORT TOWNSEND, WASHINGTON; THURSDAY, JUNE 25, 2009

7:40 P.M.

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RE WRIA-17 WATER-RIGHTS PROPOSAL

MS. BEITEL: Let the record reflect that it is now 7:40 p.m. on June 25, 2009; and this hearing is being held at the Fort Worden State Park Commons in Port Townsend. This hearing is on the Quilcene/Snow Water Resources Management Program, Chapter 173-517 of the Washington Administrative Code.

Notice of this hearing was published in the "State Register" on June 3, 2009, and legal notice of the hearing was published in the Port Townsend "Leader" and in the Jefferson County edition of the "Peninsula Daily News" newspapers on June 10, 2009 and June 17, 2009. In addition, the Rule Proposal Notice was mailed or e-mailed to over 500 interested parties.

Any testimony received at this hearing, along with any written comments received by the end of the comment period, will be part of the official hearing record for this issue. The comment period ends July 10, 2009. Those providing comments will receive a copy of the

"Responsiveness Summary" and the "Concise Expondatory Statement" prepared by the Department of Ecology in response to the public comments.

If you would like to send written comments, please mail them to Ann Wessell at the Department of Ecology, P.O. Box 47600, Olympia, Washington 98504-7600. And you can also comment on our website, for which the address is over here on this "big paper," as I call it.

If you would like to, you can also fax comments to Ann Wessell at (360)407-6574, or you can e-mail them to Ann at awes461@ecy.wa.gov by 5:00 p.m. on July 10, 2009.

You may also give any written comments directly to me tonight.

All verbal comments provided at the hearing tonight will receive the same consideration as written comments received online, through the postal mailing, through e-mail, fax to Ecology, or given directly to me.

About 25 people have indicated that they would like to provide comments tonight. If you are reading from written comments, I would ask you to summarize your lengthy comments, and you can also hands those written comments, as I said earlier, directly to me.

So if I have 25 people commenting tonight, if we try to limit our comments to about five minutes per speaker, then that will put us out of here, basically, at about 9:40

or 9:45 tonight, so I am going to ask you if you could please try to limit your comments to five minutes tonight.

Lanessa will give you a one-minute warning when you have one minute left to comment, and then you can wrap up your closing statement at that time.

I will call the names in the order in which I received the cards. So at the time when you hear your name called, please step up to the microphone; then please state, for the record, your name and the agency or organization, if any, that you are representing, for the record.

During the public comments, you may ask questions for the record, but we can not answer any questions during the testimony or enter into any discussions. If you do have questions that are not for the record, staff will be available following the hearing for you to talk with them.

So, just to summarize, with regard to this public-hearing portion, one person speaks at a time down here in front, and please speak into the microphone so that everyone will be able to hear you and so that our reporter will be able to get a clear reading of your comments tonight.

Please keep your comments, as I previously said, to about five minutes, and Lanessa will give you a one-minute warning when you can start wrapping up your closing statements.

Questions, as I said, can be asked for the record; but, again, we cannot answer them during your testimony and we cannot enter into any discussion.

Also, please hold down the noise so that we can get a clear reading of the comments tonight. Our first person to testimony will be Hal Beecher, followed by Tina Killian.

MR. BEECHER: My name is Hal Beecher, B-E-E-C-H-E-R, and I'm here representing the Washington Department of Fish & Wildlife.

The Washington Department of Fish & Wildlife supports the proposed in-stream rules for the Quilcene River, Snow Creek, and other streams in Water Resources Inventory Area 17. These in-stream flows, if enforced, will contribute to the protection and perpetuation of the fish of the northeast corner of the Olympic Peninsula and the wildlife that depend on them.

In-stream flows are necessary but not sufficient, by themselves, conditions for continued survival and recovery of fish populations in these streams.

The Department of Fish & Wildlife has a considerable interest in WRIA-17. In addition to its statewide responsibilities to preserve, protect, perpetuate, and manage the wildlife and food fish, game fish, and shellfish in state waters, as stated in RCW 77.04.012,

including protection of habitat.

The Department has also operated the Snow Creek Research Station for over three decades. Research conducted there by Tom Johnson and colleagues has contributed greatly to the Department's knowledge of steelhead and salmon and to its statewide salmon and steelhead management.

Several salmon and steelhead stocks in WRIA-17 are listed under the Federal Endangered Species Act, and the Department is committed to protection and restoration of those stocks. Protecting in-stream flows is essential to recovery of these stocks.

The Department contributed considerable effort to determining what in-stream flows would be protective. The people and local governments that developed the watershed management plan for WRIA-17 are to be commended for developing the foundation for setting and protecting in-stream flows.

Water is essential to people, as well as to fish and wildlife. The proposed rules protect, but do not enhance nor restore, in-stream flows.

The Department of Fish & Wildlife does not expect the flows to increase, and we fully recognize that existing water rights will not be affected by the proposed rules.

The Department of Fish & Wildlife supports the proposed in-stream flow rules. Thank you.

MS. BEITEL: Tina, and after teen a will be Roy Hill.

MS. KILLAN: My name is Tina Killan. I'm not here, actually, for myself, but I'm here for a friend of mine, Amy Hill, and her husband, Roy Hill; and also due to the fact that I have strong beliefs on these water issues, as far as saving salmon in the creeks and whatnot.

I guess my comment is that I want to know how senior rights are going to be protected in this whole proposal. They have people that live next door to them that are interfering with their water rights, and if the streams do go below a certain level, they will lose their water rights. I have read this in their water rights.

We -- myself, Amy and Roy -- have called the Department of Ecology several times, trying to find out some kind of solution to what's been going on, and nobody has done anything about it. A verbal permission to take water out of a creek which is salmon-bearing was issued to these people who have several children, have chickens, and are planning to get cows on this property.

The water that they're taking, they're taking out of my friends' children's mouths and out of their household. Their water levels have dropped because of the illegal pump that's in the creek that does not have a meter on it. It's just thrown in a rain barrel and allowed to disrupt the creek bed and the natural flow of how the river is supposed

to go.

So I want to know if anything is going to be done about this. I want to know if any of these fines, based on your paper that says that "Ecology's compliance plan includes the following actions," and no actions has been taken.

This has been going on for three years, illegally, and the Department of Ecology has been aware of it the whole time.

I guess what I'm saying is that what's going to be done to protect senior rights, because my friends with senior rights are going to lose water. That's all I have to say.

MS. BEITEL: Roy Hill, and after him will be James Fritz.

MR. HILL: Roy Hill, H-I-L-L. I'm a homeowner, and I'm not used to speaking in public. I'm just a general worker.

For the last three years, I have been nonstop fighting over my water supply. I have been in my residence for eleven years. I have never had any problem until my neighbors decided that they were going to illegally steal water from the creek, and, in doing so, they're about 50 feet up the creek from where I pick up water.

I have a screened set up that no fish can get caught in. It's all permitted. I have legal water rights,

and we have all of these rules that are going to be going into place, but how are they going to be enforced?

I mean, is there anyone that's going to check on the people that are illegally taking the water? Because I know of at least three other homes that are illegally taking water out of this creek. People have been informed, and I've been told I was going to get back to and they never did.

Verbal permits have been okayed, to illegally take water have been given; and nobody told me, as a homeowner, the person who has the water rights, that they were okayed to do. They just okayed it with these people.

We have personally talked to everybody here, and it just seems like no matter. If you want to be illegal and you want to do stuff without permits, you just do it and it's okay.

I don't understand how that's right. I physically have to come home after work on a hard day and I have to go down and clear up my pick-up tube because of the silt coming out of my neighbor, who is ill legally in the creek, and in doing so the whole bed of the creek has been eroded.

I'm frustrated with the whole system. I guess that's all I have to say, is that we can put all these rules into effect, but if there's nothing that happens by having the rules, then what is the purpose of the rules?

So that's kind of why I'm here today, is just to find out why we have rules that we don't enforce; or why we have rules that we're not supposed to do, but there's always an exception; and why it's okay for some people to be an exception, but others aren't. It just doesn't seem fair.

Thank you.

MS. BEITEL: Mr. Fritz, and then after him will be Bud Schindler.

MR. FRITZ: My name is James Fritz, F-R-I-T-Z, and I'm speaking as a member of the Olympic Stewardship Foundation.

According to the U.S.G.S. study, only 4 percent of the water that falls in WRIA-17 is actually currently being used. Now, of that, about half of it is being returned to the aquifer. The U.S.G.S. estimate is that 80 percent of the water that goes into sepsis systems is returned to the aquifer.

The other thing is that if you've got a 5-acre lot, or more, more water falls on your 5 acres than you could possibly use, even if you're using 5,000 gallons a day, which isn't the case. The average household only uses a little over 200 gallons per day. So nothing is said about the size of your lot, as far as how much water that you can use from it.

So I don't think that water shortage exists. I think that the water shortage is created by the way the

State Department of Ecology calculates a water use. If everybody used 5,000 gallons of water a day, I think that's how they're calculating their water use.

In one of the public forums, I think one of the first ones, the hydrologist for the State Department of Ecology said that water migrates through aquifers at a rate of 8 inches to 2 feet per year; so, obviously, if you live 500 feet from Chimacum Creek, or any creek, it's going to take years for water to migrate from one area to another.

And water tends to migrate downhill; not uphill. The idea that somehow water is like electricity, the electron comes in at the dam and comes out at your wall socket. They're arguing that for a gallon of water that you draw out of your well, that another gallon goes in from Chimacum Creek. My gosh, that's absurd.

The DOE has set aside, as I understand it, one quarter of 1 percent of the flow rate of Chimacum Creek at low water for new wells; and this makes an assumption that water from the as well as comes from Chimacum Creek, and that simply isn't the case.

The Roger Short Well is on the flood plain there, and it doesn't affect the water level of Chimacum Creek. It's obviously a confined aquifer.

The Big Spurling Well, if it was directly connected to Chimacum Creek, it would virtually pump Chimacum Creek

dry.

The truth is that 70 percent of the water that falls on the Chimacum basin goes underground to the Sound, to Puget Sound. If you intercept that water and pump it on the surface, it goes into Chimacum Creek and you actually increase the flow of Chimacum Creek; not decrease it; therefore, if you're pumping from confined aquifers, then you're actually increasing the flow of Chimacum Creek and any of the other rivers or creeks in Jefferson County.

The DOE wants to shut down wells during times of extreme low water to be able to increase the flow rate in these streams, but considering that water migrates 8 inches to 2 feet a year through the aquifers, then this seems like a totally useless power trip to show their authority and not anything that would have any particular benefit

Without water, over 300 parcels of land would be useless, and that would be a taking under the "Lucas" court decision. Without the cooperation of the landowners, the salmon are going to die.

The only thing that's kept these salmon in Chimacum Creek is the landowners, people like Roger Short, who kept the streams open. This last year, the stream flooded from hill to hill up on the Short property, but it was hardly flowing at all down by the grains building. This shows that the water isn't getting through.

By putting all the brush and trees along the creek, you can't tell whether there's obstructions or not; so, in many respects, they've actually harmed the salmon.

I have just one last comment and then I'll go.

Whenever the salmon are running, there's ten to twenty California sea lions at the mouth eating salmon. They eat 80 pounds of salmon a day, each one. They'll take a female salmon and bite it in the belly to get the eggs -- They can tell the females from the males -- and then move on to the next one, and so forth.

Now, you're asking people in the Chimacum Basin to make sacrifices so that we can feed those damn sea lions. You'd better do something about the sea lions, because that would help the salmon more than anything.

Thank you.

MS. BEITEL: Bud Schindler, and then Dennis Schultz will be after him.

MR. SCHINDLER: I'm Bud Schindler, S-C-H-I-N-D-L-E-R, and I'm speaking with the Olympic Stewardship Foundation.

As a public agency, the responsibility of DOE is to win the hearts and mind of the public by making wise decisions and defending them with sound facts and data. I have concluded that the DOE, based on what I've read in all the literature, has failed to accomplish this, based on scientific evidence and the omission of important facts in

the referenced Cost/Benefits Report.

The DOE came to us nearly four years ago and agreed, at that time, to gather better facts and data, applicable scientific evidence, and to cooperatively work with the public in this area to make this flow rule work. I have concluded that this has failed to happen. It's hard to win the hearts and minds of the public by not keeping your word.

Things I personally have been looking at are the proof of this conductivity, much in the same order of Jim Fritz's comments. Show us scientific proof that, by withdrawing water from the well in the Chimacum Valley, we are affecting the flow of the stream. I don't see it.

In my instance, I live on the shoreline of Hood Canal, where the flow of the aquifer flows from the Olympics directly into the Canal on a piece of vacant land how would this restricting of the use of water save a salmon, when it goes directly into the Canal. On a piece of vacant land, how would this restricting of the use of water save a salmon, when it goes directly into the Canal? It doesn't make sense.

Regarding the cost/benefit analysis, after reviewing the referenced analysis, I've concluded that it's flawed. I don't see enough data to win my hard and mind. I see that the cost of restricting outdoor use is applicable

in the publication only to the Chimacum Valley and the 149 households predicted to be affected.

I see nothing about the financial implications of this rule to anyone else in Jefferson County. I see nothing about the loss of market value of property because of the water-use restrictions.

Nor do I see the predictions of lost income for those wishing to live in a sustainable environment and raise their own vegetables. They must now purchase from outside the county, the public in this county must purchase from the outside or the State or even outside the country.

This lack of consideration for all costs seems compounded by the overemphasis of costing the benefits. Page 19 of the cost/benefit analysis mentions the preservation of 569 adult spawning fish, using an estimated value, a 16-year value, of $5,000 per fish.

$5,000 per fish? Two fish and I could buy a car. This does nothing towards winning the hearts and minds of the public in Jefferson County. I suggest this cost/benefit analysis be recompiled by an unbiased entity using all applicable cost elements. Then show us the results.

The end.

MS. BEITEL: Now we'll have Dennis Schultz, and then we'll have Wayne King.

MR. SCHULTZ: This arrangement with the back turned to

the room and talking to the court reporter sucks. We're supposed to be talking to the audience and the people here; therefore, I would like to stand and talk.

MS. BEITEL: Go ahead.

MR. SCHULTZ: May I use the podium?

MS. BEITEL: Sure.

MR. SCHULTZ: I'm Dennis Schultz, S-C-H-U-L-T-Z, and I live at 215 North Jacob Miller Road, Port Townsend.

I have a small farm. I sell in the Farmer's Market. I have to irrigate my crops because we have we have insufficient rainfall during the summer. I represent the Conservation District in the WRIA-17 Planning Unit, although my comments here are my own personal comments and are not the official comments of the Conservation District.

I'd like to make a couple of things clear before I start. We talk about the Chimacum Basin. The people in this room don't understand that the development of the Chimacum Basin is not going to be down in the stream belly along the stream beds; that's all peat and you can't build on it. It's going to occur up in the hills alongside the valleys, up high. Their wells are going to be high. They're going to be finished off at the bottom above the creek bed. DOE is powerful, but I don't think they can make water run uphill yet.

My second comment is that they talk about workshops

and working with the public. I have been involved in this for five years, since the last aborted attempt at this, and they promised that they would work with us and that we would jointly develop an in-stream flow.

I went to most of the workshops that I was invited to. The one for agriculture, Roger and I went. It was Roger and I and eight or nine people representing government agencies. They told us it was how it was going to be and what they were going to do. There was no workshop. There was no negotiating, no talking, no give and take. It was, "Take it or leave it, but this is what's going to happen."

I'll give you my comments now, now that I've gotten my anger out.

First, I believe in water-use planning and management, but this plan is not a water-use plan. It's a set of regulations to restrict the use of water and nothing else. You'll not put any more water in the streams or make any more water available, and it actually reduces the amount of water available. It cuts down on consumer usage, with no concrete proof on the effect of down-water withdrawals affecting stream flow during the periods of low stream flow. It does not have any plan for better usage of the water that we're now using.

This plan is not needed at the present time. We are not experiencing runaway development. In fact, almost

all development has stopped. Construction workers and realtors are leaving the county or are out of work.

The only people who will benefit from running this rule through now is the Department of Ecology. They're four years behind schedule right now on doing this. There is no other reason for doing it now.

They can just as well wait a year or two and get the studies done. There are studies planned for the next couple of years that will give us a better understanding of how much water we have available and how it flows through our basins.

So why not wait for the results of these studies? We do not have any scientific studies for a watershed to justify these rules -- rules based upon 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 U.S.G.S. study of the Chimacum Basin pointed out how water moves through some of these aquifers. People move to rural areas to have some land and a yard and a garden or some livestock, or a combination, and all of these things require water. This rule takes away those benefits and makes our rural land less attractive and less valuable.

DOE prepared an economic analysis that benefits this rule; that uses a prediction model based on an urban,

industrial, rural county such as King County or Pierce County. It does not fit Jefferson County 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 business to locate on, yet it predicts great growth in these industries.

It also assumes we'll have zero growth in that time period if we don't have the rule. It ignores the fact that it makes rural properties less attractive and lower in value. It ignores the fact that we have made 400 properties in the Chimacum Basin worthless. Now, 400 properties at five acres each, with the going price right now at $20,000 an acre, is something like $40 million in lost real-estate value that does not show up in their cost/benefit analysis. It does not consider agriculture a business.

In summary, the economic analysis is worthless. You claim that outdoor watering and irrigation is consumptive and that none of the water pumped for this purpose is returned to the ground. This is ridiculous, and yet these people wonder why they have no credibility with people in the county.

If crops use so much water, how about trees? Maybe we should just cut down our trees and replace them with grass and row-crops, and then we'll have more water for the fish.

You use the slogan, "Fish, Farms, and People in the Chimacum Basin," and what you're doing is giving the fish a water right of 6.5 million gallons per day, people a water right of 1,940 gallons a day, and agriculture zero gallons per day.

So that is where the priorities are. A number of organizations have significantly increased the return of salmon to our streams, none of this with an increase in water amount, and yet they claim a $12 million benefit from those people's work.

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

Thank you.

MS. BEITEL: Wayne King, and then after Wayne will be Bill Graham.

MR. KING: My name is Wayne King, K-I-N-G, and I live at 751 Gardiner Beach Road in Gardiner. I'm an elected official for Jefferson County P.U.D. and I represent the P.U.D. as an alternate in WRIA-17.

I was supposed to be part of the in-stream-flow rule-setting when Joe Stohr was here, which Ecology decided

that what Joe Stohr told us didn't matter. My comments tonight will being my personal comments; not the P.U.D.'s. Bill Graham, our water-resource manager, will, in a nutshell, give you the P.U.D. opinion of this.

The in-stream flow numbers is legislative intent. I think it's "I-dealistic," which is new word that we at the P.U.D. created. Perfect flows? It's not a perfect world.

I've been following the Quilcene/Dungeness/Snow Creek planning since 1992. Of this room here, I believe the only fellow that went to those was Roger Short; and I don't think John Bolton is here, but he went also.

We were involved with watershed planning before it was trendy. I've been a fish guy before it was trendy. Since 1992 I have attended way too many meetings that went nowhere.

I really believe that the Department of Ecology has made this rule up as they go. As Sally said, "We at Department of Ecology created this rule," and they did. We at the P.U.D. have made comments, and they've used some of them but very few of them.

The minimum flow numbers are impossible to meet, and, secondly, they're impossible to enforce. On your green sheet that you handed out today, you show "Gallons Per Day," but, yet, in-stream flow numbers are cubic feet per second. I think that the ecology owes the public an explanation to

show what the difference is.

As far as catchments, unless something has changed that I don't know about, the Department of Health says that catchment is illegal for potable water.

And Ann said that you can blend your catchment water with your potable drinking water and your well water, but I don't think so. That is against the law. I guarantee you that is.

The other thing is that I think what the people need to do is contact your legislatures and see what their intent was. The way that this in-stream flow rule is going to affect the Chimacum Basin, I think it's going to be an unbelievable hardship on people that have property there.

Think about the guy that lives in Denver that buys 10 acres in the Chimacum Basin, and he's going to come out here and build his dream home. He puts ma and pa and the kids in the back of the truck, and he moves out here and he's going to build his dream house. Well, sorry, Mr. Jones, you can't build because you can't get water. Where do you think his next stop is going to be? At the local lawyer, which I think is where this will end up.

Thank you for your time.

MS. BEITEL: Next we have Bill Graham, and then after him will be Frank Hoffmann.

MR. GRAHAM: I'm Bill Graham, as in the Reverend Billy

Graham, G-R-A-H-A-M. I represent Jefferson County P.U.D. I live at 31 Lower Hadlock Road.

All in all, we support the State's intentions to protect streams for fish and allocate water for future homeowners; however, we do not support this rule.

With that said, we think the manner in which Chimacum Basin, in particular, is being treated is both heavy-handed and inconsistent. After proposing limited reserves for Chimacum in 2005, Ecology did not heed the drilling of 60 or so new wells in the Valley between 2005 and today. Each of those 60-odd wells is currently entitled to use, indoors and out, an amount 2.5 times the entire reserve proposed for the Chimacum Basin now.

In total, that allocation for those wells would amount to about half of the P.U.D.'s unused water rights at the Spurling Well. By doing nothing to stop these wells from being drilled, we feel that Ecology has lost the argument that permanent exempt wells, outdoor irrigation from new wells, and the P.U.D.'s large unused water rights are the big problems they claim they are. Ecology's actions in the Chimacum Basin simply have not watched the rhetoric.

We hope that Ecology will assist the community now in developing a mitigation plan for Chimacum outdoor irrigation as soon as possible. Due to the scarcity of water rights eligible for a trust or purchase, applying the

legal criteria for -- quote -- "water for water" for a mitigation plan could prove challenging.

Our hope is that the plan can include creative options, such as using Peterson Lake to augment low stream flows, as well as habitat restoration projects, and private-well decommissioning, as well as other methods that aren't strictly "water for water."

We do not trust the assertion that the rule will protect existing water rights. This may be true for water rights in good standing, but those rights not fully perfected may be more vulnerable than ever. We fear that the unrealistic flow numbers for Chimacum Creek will be used to curtail the Spurling water rights we need to serve the communities of Chimacum, Irondale, Port Hadlock, Marrowstone and Indian Islands and the tri-area UGA.

We would like to see in writing, from Ecology, a guarantee that our certificated water rights will not be affected in any way by this rule. Until we see such a letter, we cannot consider supporting it.

Finally, permitting agriculture on the Miller and Quimper Peninsulas, we feel, is an inappropriate compromise that was intended to offset the loss of new outdoor irrigation in the Chimacum Valley. Wells for new farms in these peninsulas could cause seawater intrusion and impair existing rights, including the P.U.D.'s water rights serving

the community of Gardiner.

Ecology should have monitoring or other safeguards in place to protect existing wells in the Quimper and Miller Peninsulas before the rule is enacted; however, in light of the new, recently-added stream-buffer criteria limiting where these new farms can locate, there may be no room left for any new small farms in WRIA-17 north of Quilcene.

These are some of our core concerns, and a more detailed list of our comments will be submitted in a formal comment letter before July 10th and will be available on P.U.D.'s website.

Thank you for the opportunity to comment.

MS. BEITEL: Next we'll have Frank Hoffman, and then we'll have Jill Silver.

MR. HOFFMANN: My name is Frank Hoffman, H-O-F-F-M-A-N.

It really bothers me when I come to something like this and I go into the "fight or flight" response. It seems to me that despite the differences I might have with some people here, I believe that the people I know would not want to stand by and see a stream go dry. They would not stand by and see a stream go dry regardless of salmon. I think that just the thought of that makes us thirsty.

It seems to me that the proposed rule is an intelligent one and a thoughtful one that has taken a lot of local input. It would seem helpful to me, though, if it

were clear what the sanctions are and if it were clear how the sanctions are going to be imposed or enforced.

And something that's similar in my mind is, how has the rule changed. If, as some people are saying, the projections and the predictions are off, and if that becomes clear, then it would be useful for us to know how the rule is going to be changed and what would be the grounds for changing the rule.

I think it would also be useful for us to know what is being done about developing alternate water sources, and who is involved in that process, and is anybody welcome into it, are new ideas welcome into it. And it would be useful if we had periodic updates about this.

Lastly, the North Olympic Relator's Association, according to the current issue of "The Leader," did a study. The guy who wrote the study -- Tolman Luis, I think -- said that new housing probably should be built by people that are coming into the county who have relatively more money than those of us already living here; which, in his thought, was that it would lower the cost of existing housing so that those of us that work here could afford it and didn't have to move away.

Now, this was a study by the North Olympic Relator's Association; and it would seem to me, if that's true, that if what the study says is true, then those people

with relatively more wealth can deal with the permitting and can afford the contractors that the Department of Ecology was referring to before.

We have the ability, it would seem to me, to deal with this and still be able to get along with each other.

Thank you.

MS. BEITEL: Jill, and then after Jill will be David Solomon.

MS. SILVER: I'm Jill Silver, S-I-L-V-E-R, and I'm here as a citizen, a person who was born and raised on the Olympic Peninsula. I'm also representing 10,000 Years Institute, which is a small nonprofit that works on sustainability and management of natural resources.

I really appreciated the presentation this evening and all of the work that everyone has put into the years that have gone into this rule, but I recognize all too clearly how complicated and difficult it is for us to reach limits of what we're used to using.

We're here at the frontier and we're used to limitless resources. We have to adjust to the fact that those resources are changing and that the original strategy of allowing 5,000 gallons per day per residence is not a sustainable strategy.

So here we are. I eat food from Chimacum and Quilcene and Tarbu Valleys. The food from those places,

from the farms in those valleys and those areas, is a quarter to half of all the food that I eat. I'm buying cheese from Mystery Bay; I'm buying cheese from the Brown Dairy; I'm getting milk from Dungeness; I'm getting produce from Tarbu and Quilcene and Chimacum.

I really want to see agricultural and fish and people's homes and quality of life balanced. I think to do that, it takes the kind of detailed discussion and analysis and data-gathering and difficult choices that have gone into developing this proposed rule.

And I recognize that it's not easy and that it's not perfect and that we don't have all of the information yet. I would like to suggest, as we move forward in figuring out this balance and trying to meet everyone's needs, including the primary right of fish to exist in the streams that they evolved in and the senior rights of tribes and the important provision of water that the P.U.D. supplies to communities, that we think about how we can adjust conservation.

I live in Port Townsend and I conserve water. I have a half acre of land. In drought times, I use rainwater and water that comes to Port Townsend from the Quilcene River to water my vegetable gardens and my flowers and my fruit trees and my native plantings; and in the months that I use the most water, I've never used more than 4,000

gallons in a month.

Now, I only have a half-acre and I'm not growing all of my food, so I can imagine that people with an agricultural use could use a heck of a lot more, but I just can't see needing more than 350 gallons a day for a household.

I want to live here in community; I want to be able to get along with my neighbors; and I want to be able to respect everybody's uses and needs. What I would suggest is that we, as a community, work harder to figure out conservation strategies; that Port Townsend looks at the Port Townsend Mill's use of water from the Quilcene River and that citizens in Port Townsend work very hard to conserve water so that more water can go to those who are producing the food and living out in the rural community, and I'm certainly one of those who is working hard to do that.

I would also like to see the City and County work towards approving gray water, and I thank Ecology for adjusting the rooftop-rainwater-use strategy. I think that's a really great adjustment.

Finally, I want to know, from Ecology -- and I'll put this in written comments -- I want to know how Ecology is going to factor in uncertainties related to climate grouping and precipitation patterns and groundwater recharge

patterns relating to snow pack, and how the differences in when rain is going to be falling are going to affect Chimacum Creek.

I would also like to know how adaptive management is going to be applied and what kind of metering and gauging is going to go into adjusting the analysis that is providing the reserve figures.

I appreciate everyone's time. Thank you very much.

MS. BEITEL: David Sullivan, and then after David will be Neil Harrington.

MR. SULLIVAN: I'm David Sullivan, S-U-L-L-I-V-A-N, and I'm a Jefferson County commissioner. I also represent the County, and have for the last four years, on the Watershed Planning Unit for WRIA-17, as well as WRIA-16 to the south and WRIA-18 to the north and WRIA-20 out on the coast, so I've been following this for some time.

Prior to that, as a P.U.D. commissioner, I followed it very closely. I realize how difficult this work is and how obvious it is that we have a lot more work ahead of us.

I really appreciate Ecology, with their commitment to working with us in the future, recognizing that that isn't all within their complete control. They do work with a budget, and they do work with priorities that are set by the legislature and the governor, so we're going to have to work to keep that commitment in place.

As I said, we have, obviously, a lot of work left to do. I represent people who think this should have been done thirty years ago to protect the streams and the fish that people value. I represent people who really value agricultural, both existing agriculture that's like liable to be more protected in their water right with this rule, but also the new agriculture that's everybody's really in favor of in this county -- I can't see anybody that isn't -- people that think we need more of.

I also represent people that have invested in properties in good faith in the county and who are now seeing their dreams challenged in the future. We have reservations that aren't going to last a very long time in bureaucratic time. It takes a long time to get things through the system in this state and we are behind in monitoring our streams for their biological health, and that is something that we really need to focus on as a state and as of a community so that we know the health of our streams.

We really need to work to get new tools so that we can manage our system in a way that fits Jefferson County; and that's been difficult for us to do, as a community, in watershed planning, which is partly why Ecology has been left with doing it for us.

I really appreciate the way they've listened to us as best they can within the tools they have to work with and

the laws they have to work with, particularly with the rain catchment. I think that's a real good opportunity, a creative opportunity that we've been allowed to experiment with here, and the continued work with the U.S.G.S. survey and working on a model for Chimacum Basin so that we can really understand our water use, the aquifer storage-and-recharge study, and other means, so that we can meet the challenges for the future.

Our job is to create the best future we can for all the citizens of Jefferson County; not just now, but in the future, both economically, socially, and environmentally, and we're committed to working with Ecology to do that and with the rest of the community.

We will be submitting comments that will be available to the public and have more pointed questions on helping us better understand this rule and how to implement it and how to go forward.

MS. BEITEL: Neil Harrington, and then after Neil will be Dick Bergeron.

MR. HARRINGTON: I'm going to pass.

MS. BEITEL: Neil Harrington is passing, so we'll have Dick Bergeron, and then after Dick will be Dave Fuller.

MR. BERGERON: If you don't mind, I'd also like to stand.

MS. BEITEL: Sure. You bet.

MR. BERGERON: I'm Dick Bergeron, B-E-R-G-E-R-O-N, and I'm representing the Chimacum Grange, and I need to mention that the items all addressed to tonight are consistent with the policy of the 40,000 member Washington State Grange.

I also have to preface it by saying that we believe in sufficient water for farms, fish, and people; so much so that if we did have the salmon problem resolved, then we could be choosing to spend our nights like this in a more productive way than being at a public hearing.

We've always wondered why you say this is for farms, fish, and people. Are you trying to snooker the people in this room, people in this county, in this state. In RCW 90.22.060, the legislature mandates that your primary goal is wild-fish production. Please be as real with your sugar-coating as you can be.

There's plenty of water, yet a lot of people who own property are going to suffer. They won't be able to fulfill their American dream. If they can, it will cost them a lot more of their hard-earned dollars to do it. Eventually, all people will suffer by not having adequate access to enough safe, local food.

In many areas of the State, the Department of Ecology won't even let farmland be used for other purposes. We're not talking about development. We're talking about using fallow farm land that cannot be productive for

mitigation to develop wetlands that will benefit wildlife. The Department wants to preserve farmland, like you can put it in formaldehyde and it will stay that way forever.

At the same time, you won't give farmers, current and future, the water that they need to grow crops and be productive. Remember that that water feeds people and feeds migratory wildlife. It has in the past and will continue to do so in the future.

The inclusion of a possible few new farms against the reserves does little to address the fundamental issues. It is seen by us as a token appeasement, at best. Is it ludicrous? Is it insanity? Perhaps it is just eight bureaucrats trying to protect us from ourselves.

Your so-called "science" doesn't jive with what local folks know is happening on the ground and in the streams. Your data has no credibility, which begs the question: Have you deluded yourselves on these water issues or is somebody somewhere deliberately lying to us?

MS. BEITEL: Dave Fuller, and after Dave will be Norm MacLeod.

MR. FULLER: I'm Dave Fuller, F-U-L-L-E-R, and I'm the hydrogeologist for the Port Gamble S'Klallam Tribe. I didn't particularly prepare comments for tonight, but there's so much information that I think I will save that for written comments.

From a tribal perspective, the senior water-rights holders in the whole region, in the whole state of Washington, part of the issue is the in-stream flows are at least thirty years behind based on state law. The in-stream flows that are being proposed in this document are the same in-stream flows that were negotiated in conjunction with the tribes, recognizing that they wouldn't be completely adequate but would be acceptable to allow the sharing of water with the junior water-rights folks of the state of Washington.

You heard Bill Graham talk about in the Chimacum area in the last five years, which this rule has been put on hold for, an additional 60-plus wells have been drilled. That's an impact on the in-stream flows that were negotiated in good faith by the tribes and everyone else that worked in the watershed process.

The fundamental issue that the tribes have with the in-stream flow rule is how it's going to be enforced and how we're going to be able to work with the State and the other partners to make things work; and, ultimately, what it comes down to is that you have three options, and they aren't pleasant options:

You either accept an in-stream flow rule that is based on science -- it's not perfect science, but it's the same flow determinations that have been used all over the

state; or, if you want to wait until there's more perfect science, which you aren't likely to get, then it's incumbent upon the State Department of Ecology to follow the model of the Mettile Valley and close WRIA-17 to all well-drilling until such time as everybody is satisfied with the data, which means no new well-drilling in the county.

Now, if that isn't acceptable, then the ultimate solution is a formal adjudication, a State and Federal water-right adjudication of the watershed, and that basically opens up everybody's existing water rights; they're no longer safe and sane; and it puts it into the courts to decide how it's divvied up among the people.

The little one happening over in the Yakima has already taken over forty years; so if you want to put the county on hold for forty years for development and growth and everything else, then just keep objecting to the existing science. It isn't perfect, but it's reasonable.

There will be more written comments coming from a variety of tribes. Thank you.

MS. BEITEL: I have Norm, and then Kate Dean.

MR. MacLEOD: I'm Norman MacLeod, M-A-C-L-E-O-D, 241 Sand Road.

In the proposed rule, there are several illusions and some outright statements about new resources and new conditions driving modifications to the rule. I would hope

that that means that if we find more water or if we find new types of water sources, then that will soften the restrictions of the rule, so I would see that called out more specifically in the rule.

I question, for the record, the validity of the cost/benefit analysis, based, as it is, on economic boom times in Jefferson County, which have demonstrably vanished and had gone downhill soon enough before the proposed cost/benefit analysis was published to have been taken into account.

The cost/benefit analysis does not take the current and projected economic situation into account. In the cost/benefit analysis, on page 15 at the top, we have this sentence:

> "Ecology has chosen to use a 16-year real estimated value of $5,000 for adult returning spawner."

If that is, indeed, the true value of one single adult spawner of either sex, of any species, wild or hatchery, then I believe we have the justification for an opportunity to put water into the streams when water is needed by the streams for habitat purposes.

So I would propose that the rule include that, and that the option be that the Department of Ecology and the Department of Fish & Wildlife, working together, can drill

wells into deeper aquifers in order to actively serve water to streams when it is needed for habitat purposes.

The rule, as it stands, does not do anything to add water to any stream, and this option would actually serve habitat needs. As such, it changes the framework of the least burdensome portion of the analysis.

The least burdensome analysis includes options, a few options, as compared to shutting everything down. There's too few alternatives. There are new alternatives and there are better alternatives, and they need to be taken into account; and I believe that the serving of water to streams would provide the least burdensome option to the people, the farms, and the fish of WRIA-17.

In the Small Business Economic Impact Statement, we have a reference to the creation of 819 jobs as a result of this rule, and it says that 384 of those jobs would be in construction. When you are actively limiting the number of parcels available to have a house built upon them, I do not see how you get 384 new construction jobs in an economic environment where you have home-builders who are wondering if they'll be able to stay in business another six months, much less hire anybody else.

So I think that portion of the Small Business Economic Impact Statement needs to be redone in accordance with current economic conditions and the way the economy

works in Jefferson County.

I'd also like to take on the Unnamed Stream in the Quimper Peninsula. This afternoon, with the permission of the owners of the parcels involved, I crawled up the Unnamed Stream from the beach. There is no channel on the beach because there is no water coming down that hill. The channel that comes down the hill is dry; I didn't get mud on me anywhere. I went up through woodland floor species like Oregon grape and thistle, and things like that, that really don't like a whole lot of water. The channel goes under roots, tunnels under roots, and there is no way any spawning salmon could ever get up that hill.

There is no refuge for smaller salmon, but they don't really need any because they really couldn't be born up there in the first place.

The pond on the other side of the road has barbed-wire fences running through it, because at many times in the past it has been dry enough to be pasture, and the owner of the property says he has pictures of that dry pasture land. The stream ends before the indication on the map says that it ends.

The Valley has had a history of farming and has good agricultural soil. You are foreclosing the opportunity for agricultural practice in that Valley, and I believe you're doing so inappropriately.

I believe the Unnamed Stream is unnamed for a reason, because nobody ever thought it was enough of a stream to have a name.

In short, there are some opportunities for improvement with the rule before you publish it, and I would like to see some greater emphasis given to that portion of the rule that talks about new water sourcing, as we have many options along that direction and we would like to see those soften the impact of the rule so that we can have greater agricultural activity in our watershed.

MS. BEITEL: Kate, and then after Kate we'll have Teren MacLeod.

MS. DEAN: I'm Kate Dean, D-E-A-N, and I'm with WSU Jefferson County Extension. I'll read some prepared remarks that I have here.

WSU Jefferson County extension recognizes the enormous complexity of the issue at hand here, and works every day to protect the natural resources in our county; notably, water, farmers and jobs. We believe that these assets do not need to be at odds with one another.

We assume that what is good for water, that which truly sustains us all, must be good for the crops that rely on it, for our families, and for the businesses that allow us to live and work in this beautiful corner of the world.

In my work as a contractor with WSU small-farms

programs, these assumptions are sometimes put to the test, especially in the face of a rule that has the potential to greatly slow the growth we've seen in the local farming sector in the last ten years, as evidenced by the latest U.S.D.A. agriculture census.

I get calls every week from someone hoping to get into farming there, and it's my job to tell them the same thing that I wish to tell the Department of Ecology: That we must be innovative and able to adapt to local conditions and a changing environment.

For farmers and those of us that work with farmers, it means being a little bit smarter about our water use; it means starting farms on land with water rights and preserving prime soils for agriculture; it means perfecting the water rights we have on paper; it means documenting our use properly and investing in irrigation equipment that is both effective and efficient.

Ecology needs to be willing to do the same. You have listened to our suggestions in writing this rule, and have made some allowances for new agriculture based on our recommendations, but you have not been responsive to our requests for assistance in creating a local structure for water management.

I understand that your hands are tied legislatively to some degree and that the Planning Unit was unable to

reach an agreement on how to do this, as well, but I feel we have lost an opportunity here to create a win-win situation.

Moving forward, I believe there is still the opportunity for innovation and partnership in regards to the need for water for both fish and farming, and I would ask the following of Ecology:

(1) To make easier and less expensive the process of mitigation for new water use through technical and financial assistance for private landowners;

(2) To process existing applications for water rights before considering new applications;

(3) To create a permitting system for water storage that is use-friendly and affordable;

(4) That if the U.S. Geologic Survey groundwater model concludes that new wells in specific areas will not affect flows in Chimacum Creek, that new permit-exempt wells for agriculture will be allowed for use, up to 5,000 gallons per day or new water rights granted;

(5) To assist in the transfer of existing water rights, especially from surface to groundwater, and to areas with highly productive soils, making it both easy and affordable to exercise those rights, both logically and responsibly;

(6) To seek legislative clarification that food production should be recognized as a primary beneficial use.

We recognize the imperative to protect our water resources, and we hope to partner with Ecology in creating and implementing solutions that will assist us in keeping environmentally-responsible farming a way of life in Jefferson County.

Thank you.

MS. BEITEL: Teren, and after Teren will be Jim Hagen.

MS. MacLEOD: I, too, would like to stand.

MS. BEITEL: That's fine.

MS. MacLEOD: Teren MacLeod, M-A-C-L-E-O-D. I have been, for three years, a member of the WRIA-17 Planning Unit as the representative from the Realtor's Association. My comments here this evening are as an individual citizen, a business owner, and a member of the Olympic Stewardship Foundation.

Less than 4 percent of the produce that is purchased in Jefferson County is actually locally produced. Department of Ecology has shown that the trend in agricultural is small, sustainable agricultural on rural residential parcels. This rule will halt that. Being an end-of-the-road town, that's actually a recipe for disaster, and it also equals lack of food security for the future.

The Department of Ecology is giving the stream a water right that will be senior to all future water rights, not subject to the reserve; yet, they tell us that the

in-stream-flow rule is not meant to put water back into the streams.

The Department of Ecology should be required to serve the new water right that they've created in the stream by supporting the flows, as needed, in dry times. The small amount of water allocated in the reserve for the Chimacum Subbasin is wholly inadequate and unreasonably applied. It's based on a hypothetical amount of water that the Department of Ecology and the Department of Fish & Wildlife would like to see in the streams.

This rule for people, farms, and fish gives 6.5 million gallons per day in the dry times to the fish, and 1,940 gallons per day to people and none to the farms in our agriculture center, so where are the people and farms?

Coastal management areas that were not previously affected by the rule now have limits imposed, overreaching limits, including the Unnamed Stream. It actually provides the Department of Ecology with additional authority in areas without any showing of harm.

An example would be the Unnamed Stream in the Quimper valley. I'm very familiar with it, I live there, and it is not viable for fish habitat. This is a series of drainage basins that are being treated as a salmon stream in the rule. It's restricted from future agriculture.

So this is the question: Is this one of the

reasons why the in-stream-flow rule is now the water management rule?

Permanently exempt wells have not been shown to be a significant problem in WRIA-17 or in the Chimacum Subbasin. They've return a large amount of water used to the aquifer.

The U.S.G.S. study that's being conducted will provide useful data to guide the in-stream-flow setting rule by providing locally applicable science, and the Department of Ecology should wait for that study to be completed before determining that such severe restrictions are needed in the Chimacum Subbasin.

Landowners who have drilled a well on undeveloped property and believe that they have made beneficial use will find that, unless their use has all been domestic prior to the rule, they will be subject to the rule and the conservation standards of 350 gallons per day. These landowners, at the minimum, should be notified and given an opportunity for comment on this rule.

The same is true for landowners on a shared well, where one party is perfected and the other is yet unperfected. And you heard that today; that that unperfected shared-well user will be subject to the conservation standards and metering, whereas, the other half of the shared well is not.

Here's a second question: What is the precedent for the Department of Ecology to establish a one tenth of 1 percent reserve for the Chimacum Creek Subbasin, when 1 percent has been the standard, the precedent in all other rules?

DOE should be required to prove that all future wells are in connectivity and withdrawals will adversely affect the stream before such drastic measures are put into place.

94-050, the permanent-exempt-well law, grants the authority to rural landowners to use 5,000 gallons per day. This is a 1945 statute that was put into place to encourage agriculture. This rule extends the Department of Ecology's authority and constrains the application of that permanent-exempt-well statute. The restriction on outdoor water in the Chimacum Subbasin should be put on hold until the U.S.G.S. study is completed in order to prevent a disparity between property uses and values.

The rule is creating, actually, a second class of land use and value. The tax-burden shift is not discussed in the Small Business Economic Impact Statement and it's not recognized in the cost/benefit analysis, so that needs to be addressed.

I would also like to understand how, by severely limiting future groundwater withdrawals, we're creating

819 jobs.

Thank you.

MS. BEITEL: Next will be Jim, and them after Jim we'll have Larry Carter.

MR. HAGEN: James Hagen, H-A-G-E-N, 150 Maple Drive, Port Townsend, and I'm speaking as president of the Olympic Stewardship Foundation.

Two major issues from 2005 remain unresolved: hydraulic continuity throughout the watershed, and overallocation of water rights.

The principal of hydraulic continuity didn't even seem to be negotiable from the start. Overallocation of water rights was based on the assumption that permanent exempt wells were drawing the full 5,000 gallon-per-day limit; yet, the justification for the reserves and the cost/benefit analysis is based on studies showing use for typical households is between 180 and 250 gallons a day.

This is a big inconsistency between the two assumptions, each convenient for Ecology and harmful for rural landowners. In fact, the hypothesis through the cost/benefit analysis continually supported by qualifiers such as "assumed" and "with great uncertainty" is reminiscent of recent Wall Street sleight-of-hand accounting practices, an example being the $16,250,000 savings in water costs gained by the reserves.

The determination of the size of those reserves was based on predictions of future households derived from past county permitting trends; yet, on page 28 of the cost/benefit analysis, it states:

> "Ecology reassessed residential growth projections against the size of the reserves, and allowed water for commercial agriculture within the three subbasins with soils suitable for agriculture."

If Ecology can reassess three other basins, it can, similarly, reassess Chimacum, where some of the most suitable soils in the world exist for agricultural.

The cost of restricting outdoor use to rural landowners is calculated at $2,000. I assume this cost applies to the 16-year life of the proposed rule. If so, that cost divides to a mere $125 per year for being denied one of the main accessories of rural living.

In truth, restricting outdoor water use will come at significant cost to home values. Compare this to the value of one adult returning salmon which is $5,000 over the 16-year life of the rule, or $315 per year. Does this seem proportional in light of the advertised "water for people, fish, and farms" outreach campaign?

Ecology also states that, quote: "The imposed rule

will have no impact to those not planning to water outdoors." This is akin to telling an amputee that not having a leg isn't a burden as long as they don't intend on walking.

One of the major purported benefits of the rule is the preservation of 569 salmon over the 16-year life of the current rule, and this is out of an estimated total population of 60,000, 12,000 of which are federally-listed summer chum. This divides into 36 fish per year being saved. Is that what the real net gain of this rule is: 36 fish per year?

Using the same straight-down-the-line extrapolation that Ecology uses throughout the cost/benefits analysis, the net gain for endangered species, summer chum, is 7 per year. Is that what these Draconian measures are aimed at achieving?

MS. BEITEL: We now have Larry Carter, and after that we have Ellen Anglin.

MR. CARTER: My name is Larry Carter, C-A-R-T-E-R, just like Jimmy's brother Billy.

I don't know much about this thing, but rumor has it that we live in a state in the lower 48 that has the most rainfall of any other state in the country. I'm trying to figure out why the heck are we worried about running out of water in Jefferson County.

I kind of like the gentleman's idea back here about, "Let's just shut the whole peckerwood down. Let's just not issue any more permits." I like that because that would get action. It's like when our state, in so much trouble, what is the first thing they did? They said, "We're going to shut down the parks." People said, "The parks? Oh, no, we can't shut down parks," and they came up with a solution. They didn't shut down the parks.

Here's an answer to how to get water in this county, more water available for people to use, but instead our fine local and state government and federal government, they choose, rather than provide us with more water through a pipeline system -- I mean, heck we pump oil from Alaska down here and Los Angeles gets its water from several hundred miles of water-transfer systems. Why the heck we can't put in another reservation -- has anybody talked to the DNR about finding a place that we can pump water into and provide us more reserve capacity so that we don't have to limit growth and economic opportunity in our county?

I mean, why does this all seem so strange to me? Why do we always have to go after the little people, the people who live on the farms out in the country and grow their own food? I grow my own chickens and my own vegetable garden, and I'm raising game hens rather unsuccessfully.

It just seems to me like we're smarter than that,

folks. It seems like we're really taking the stupid path to solve what should be a very elementary problem for this county.

MS. BEITEL: Next will be Ellen, and then after Ellen will be Roger Short.

MS. ANGLIN: I'm not very good at speaking in front of people, but I'm going to kind of give a personal view from someone who lives in the Chimacum Valley.

My family has lived in this valley since 1900. Not myself, of course, but my family -- I'm not that old -- and that's 109 years of land stewardship that we rarely get credit for. We have a panoramic view of this valley, and we often joke about how many months of the year we have a water view as the valley floods.

Adjacent to our property is the 70-acre farm that I was raised on, owned by my mother, that was purchased in 1919. She's 86 years old, and her one desire is to leave this farm to her six children.

My husband and I have hopes of building a new home on a portion of this farm that is currently undeveloped. What is the possibility of taking our 5,000-gallons-per-day allotment and splitting it between two different places? We still could never use 2,500 gallons a day in a household.

If what I have read in this rule is true, we won't be able to do this, which would render this land useless to

us. It would become unsalable, unbuildable, and, without water, totally useless for anything but looking at. That's totally unacceptable to us.

This entire proposal is based on falls science. When I spoke to a rep of the WRIA, he explained that existing nonpermitted wells were allocated 5,000 gallons per day. That's totally ridiculous for just a normal household, given that a three-quarter-horse pump cannot pump 5,000 gallons a gay if pumping 24/7 365 days per year. Like, we'd even need to irrigate in December?

No one, including the existing farms pumping water for irrigation purposes, use that much water 365 days a year. No scientist has every set foot on my property, nor have they tested anything on my mother's farm. The data is based on aerial photographs and speculation by the DOE that, personally, I don't trust.

My recent experiences with the DOE have been less than amiable. With the Critical Areas Ordinance and the SMP, and now this new water-rights rule, it's obvious to the landowners in this county that the State has a vision for our land that that does not include us. It appears to be just about control.

With the DOE gaining this much control over our land -- and I underline "our" -- we will economically die. The building industry, logging, wood products, real estate,

all have a trickle-down affect and every business in this county will suffer. The only viable employment will be government jobs aimed at policing all of these regulations. It doesn't sound much like democracy to me.

I would like to see this rule postponed until further scientific studies could be done, and I would like to see those studies done by hydrologists other than those hired by the DOE. As I said before, I don't trust them. Everything is overkill.

We've worked our entire lives maintaining and stewarding this land in the hopes of keeping it within our family. We never dreamed it could be taken so easily.

Common sense? The DOE has no concept of what that is.

Thank you.

MS. BEITEL: Roger, and then after Roger will be Katherine Baril.

MR. SHORT: My name is Roger Short and I'm a farmer. I've lived in Chimacum for a long time. At one time I was the largest farmer in Jefferson County, for seven years, until I had to slow down five years ago because of regulations and such.

When I was farming in the early 1990s before G.M.A., we had the 500 acres I was farming and we had 350 potential building sites. Now there's less than 30. We

were told we not be down-zoned, but I was down-zoned from 350 potential building lots to 30 potential building lots, so right now we're zoned 20 acres.

Then we come to the open-space situation, which we have open-space taxation breaks which they say we need a farm plan for and need an approved income for; so open space was to keep land open in the different areas that the farmers were doing, but if they don't have the irrigation they can't produce enough crop to meet the dollar requirement.

So we have two government things in opposition again here. Three or four years ago I was told by Ecology to meter my irrigation wells, which I have two of the best water rights in the Chimacum watershed. They are perfected and are all legal. I asked Ecology at that time, Joe Stohr and others, if they would put it in writing that they would not charge me for my water or not take the water that I was not using. Two and a half years later, after every meeting I'd been to, I reminded Ecology of my question and I finally got half the answer. They said they would not charge me for it.

This new rule is telling me now it's not going to affect existing water rights. I have existing water rights, but they won't put it in writing to me that they won't take part of my water right if I don't use it all.

U.S.G.S. is probably a real credible agency to measure water, so what do they do? They go out to Chimacum Creek on my property and take a 2-inch pipe and stick it into the creek, which the creek bottom is all peat bog. They stick it down 20 feet, and that's how they measure how much water is leaving the creek over to other parts of the property.

It happens to be that of the 20-foot pipe, 18 foot of it was filled with mud, and the poor guy couldn't figure it out. He couldn't figure it out until three months later when I explained to him three months what was actually happening.

We've talked about the economic impact of the salmon, the $5,000 that the water is going to save for habitat for these fish, but what about the loss of the revenue from farmers? That has not even been included in the economic impact.

The best farmland is along the streams, and that's the part that requires the least irrigation. We can grow 7 tons of hay in the Chimacum Valley with an additional 3 or 4 inches of water; whereas, if I was to import that hay out of the Columbia Basin, it's going to take 30 to 40 inches of water to get the same yield.

Plus, there's the transportation that it's going to take to get it over to this side of the mountains for us to

use here.

So somewhere along the way, I think the water we use for irrigation here would be much more economically used to produce the same type of crop that we can get from the Columbia Basin.

You know, I was involved in the Dungeness/Quilcene Watershed planning. We spent all kinds of time trying to work it, and such, and one of the big things I had during the entire time was that Port Townsend wanted to regulate what us rural people were doing, but they still took their water out of a different watershed and put it into their watershed. Then, for a long period of time, some of it went, basically unused, straight through the pipeline into the Port Townsend bay.

But they're doing all that to conserve water, they say. Well, that water, if they did use it to generate electricity, why didn't they generate the electricity up in the forest service? Then the water would still be in the stream for the young salmon living in the Lower Quilcene.

The chum salmon, how worthless of a fish can you get? The poachers come up from Oregon and take them; and there's Fish & Wildlife, who we've caught down at the mouth of the Chimacum. They're out there in the night with a pitchfork, taking the chum and ripping the eggs out of them. They take them to the market and throw the fish back in the

bay.

Why do you think it's so crowded with chum in that creek? They're being fed. Even Fish & Wildlife people have been seen doing that. I witnessed it myself when I was kid, and my kids say that it still happens.

So I don't know how precious the salmon is, but I feel like I'm the endangered species.

Thank you.

MS. BEITEL: We have Katherine, and after Katherine will be John Dixon.

MS. BARIL: I'll pass.

MS. BEITEL: Katherine Baril, then, is not going to comment, so we'll move on to John Dixon, and then after John will be Bea McMillan.

MR. DIXON: I'll pass.

MS. McMILLAN: I'll pass, too.

(Discussion held off the record.)

MR. LEAVITT: You know, I haven't been following this too much lately. I probably should have, since I've got property in several of your areas here that affects it, but I don't know.

I'm breaking one of my three rules here. You know, I sat in on all that G.M.A. stuff and I've fought this nonsense for all my adult life. The three rules are that you never approach a bull from the front, a horse from the

rear, or a fool from any direction.

You can probably figure out which rule I'm breaking by talking tonight. It's the foolishness of this whole fiasco that started probably even before the G.M.A. We have testified -- and there are several people in this room that were on that thing with me -- and we have spent countless hours on it.

We've lived off this land. I was born in this county and have lived my whole life here. I've probably been on foot or on a cat -- because that's what I do, I've had a construction business for thirty years -- and been over most of this county, and have forgotten more about it that than half the people that wrote all this stuff about streams and hillsides and water and everything else.

So that's why I find it hard to break that last rule, because no one listens. They haven't listened to me for thirty years, and once again we're in the same foolishness.

The biggest foolishness that I see is the Unnamed Stream, which I think your hash marks go through most of my property, if not all of it in that one area of property.

In the late 1970s or early 1980s -- I don't remember which it was -- where the big pond is down by the golf course right now was dry, and cats were pushing the

peat out to the side. That's where we would get peat for the topsoil soil and everything.

Farther up the valley, there would be times when there was not a bit of water and there would be times when it was totally flooded clear across, and you couldn't make rhyme nor reason of why, when, and whatever. But I've watched it my whole life, and lately there hasn't been that much water up top and there's been all kinds of water down below, which, as far as the stream, it's a big drop off to the bay. There ain't never been a fish in that thing.

So when someone takes a look at something, they're always looking at it at just one point in time. If you were standing on that ground -- well, you wouldn't have been 10,000 years ago; you'd have been standing on a sheet of ice. There was no fish there when the place was covered with a sheet of ice. Where were the fish?

When the ice receded -- and I'm not a scientist -- all I have a Port Townsend High School education; not much of an education, but I did graduate; and my summation is that when the ice only went down to Columbia, or wherever, there were salmon and everything, but they were in California, in those streams. As the ice receded, "Oh, what's this new little stream, we'll go up here," and they spawned and did their stuff.

Now, when we're all dead and gone 10,000 years from

now and there's another sheet of ice over this thing, who's going to care and who's going to know? You're looking at one point in time and -- you know -- I guess we're never going to get people to look at the big, big picture here.

If anyone wants some information on the thing, call me, or at least send me some information, when you're affecting all my property. Hell, even the Forest Service, when they're doing something up in Eastern Washington right next to my land, notifies that they're doing something right next to me. Here this is, affecting my thing, and you won't tell me nothing.

Anyway, I guess I'm done. Thanks.

MS. BEITEL: Is there anyone else who would make a comment tonight.

(No audible response.)

MS. BEITEL: First of all, as I try to get this out, I want to thank you all for your cooperation tonight. I really appreciate everybody following the ground rules, and I really appreciate all the comments that we received tonight. We received some very good comments.

Now, all comments made at this hearing, along with any written comments received by 5:00 p.m. on July 10, 2009 will be made a part of the official record for this proposal.

Just as a reminder, this is not your last

opportunity to ask questions or make comments. You can send us comments by postal mail or by e-mail, or you can fax them, or you can fill out the "Comments" form on line on the website.

In summary, the Agency Director, or his designee, will look at all of the public comments made tonight, as well as the "Responsiveness Summary" and "Staff Recommendations" and will then make a decision about the rule proposal. Adoption is currently scheduled for no earlier than August 28, 2009 and no later than November 30, 2009. The proposed rule will become effective 31 days after it is filed with the Office of the Code Reviser.

If we can be of further assistance, please don't hesitate to ask, and Ann Wessell is your technical-assistance contact for the reference rule proposal on behalf of the Department of Ecology.

Thank you for coming tonight, and, again, I appreciate your cooperation. Let the record show that this hearing was adjourned at 9:16 p.m. Thank you.

(Whereupon, the hearing was adjourned at 9:16 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

I, CHRISTINE M. TOWNSEND, Notary Public in and for the State of Washington, residing at Poulsbo, do hereby certify:

That the foregoing proceedings were taken before me and completed on the 25TH DAY OF JUNE 2009 and thereafter transcribed by me; that the transcript is a full, true, and complete transcription of the proceedings; and,

That I am not a relative, employee, attorney or counsel of any party to this action, or a relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof.

* * *

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 5TH DAY OF JULY 2009.

Notary Public in and for the State of Washington, residing at Poulsbo.