From: Jim Conway
Sent: Tuesday, July 07, 2009 5:59 PM
To: Wessel, Ann (ECY)
Subject: Comments and Questions on the Water Resources Program WRIA 17

Comments and questions for the Water Resources Management Program for WRIA 17

My name is Jim Conway. I have a degree in Agricultural Soil Chemistry and a Masters degree in Soil Physics. I have spent a lifetime in agriculture and other related and unrelated fields. I come t o Jefferson County with many years of experience in the production of nuts, fruits and vegetables, hay crops and livestock. I mention this so that you may know that I am not an idle landowner bent on objecting to the actions of the Department of Ecology (Ecology) just for the sake of objecting. I am both a property owner in Jefferson County and a member of the Olympic Stewardship Foundation.

I bought my property, located at the end of S Edwards Rd. in 2004. I have been living on the property since 2007, but do not as yet have a permitted dwelling structure nor a certificate of occupancy. In spite of that, I do live and work on the property. I have been developing the 15 acres that I own into the production of vegetables, fruit trees, grass hay and livestock. I am currently harvesting a hay crop, watering livestock; and am in the process of preparing the acreage for a fruit orchard and vegetables. Vegetables, fruit and hay are commercial products used and sold off the farm.

Important to the plans that I have for this land is the use of the water from two wells, existing from 2004 and 2007 and currently in use, in quantities sufficient to the successful production of said crops. Those quantities are occasionally up to the maximum allo wable under the current exempt well statute RCW 90.44.050.

Question: How will this Rule effect my situation where I am currently using these wells for domestic and irrigation purposes prior to the Rule taking effect?

Question: I have heard that Ecology is requiring exempt users to be occupying a permitted dwelling with a certificate of occupancy. Where I am currently living on the property but have not started construction of a permitted dwelling structure, how is this to affect me?

Question: What is the definition of a permitted dwelling structure?

Statement: I claim to be living on the property in question and using the water from my well for domestic and irrigation purposes, and request that I be certified as an existing water user under the existing provisions of RCW 90.44.050.

Unnamed Stream

I have seen the detail maps showing my property relative to a so called "unnamed stream" that is claimed to be a valuable salmanoid habitat. Said stream runs through my property from a 'source' North of me. I am intimately knowledgeable with my property, its pastures, its forests, its wetlands and its topography. Unless Ecology has recently found a way to suspend the Laws of Physics, there is not any way that a stream can run the length of my property in a southerly direction. The North half of my property all slopes to a wetland in the NE corner of my land. Any water flowing from the North of my property would flow into that wetlands and stop, as there is a significant rise in elevation South of the wetlands that would prevent and further flow. If there is a stream, it would only be possible to exist in the Southern half of the property where the topography begins to slope to the South. Even then, it

would only be designated as the headwaters of a stream. The fact that there is no stream bed also presents a problem to Ecology's assertion that a stream exists.

Question: How is it possible for Ecology to claim a stream bed through an area that the placement of said stream would have water running uphill?

Question: If Ecology proceeds with their baseless claim of a stream in an area that does not physically support the flow of water, would Ecology attempt to dredge, form, excavate or otherwise "rehabilitate" the unnamed stream to fit their theory.

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Question: If so, to what extent would Ecology alter my property to force the existence of a stream?

Question: If a stream bed is constructed and no water <u>ever</u> flowed in the 'created' stream, what would be my recourse in the future to force Ecology to return my land to its original and natural state?

I have only recently become aware of the Rule that Ecology is proposing to put into effect and cannot speak to the bulk of the analysis, theories and proposals. I can, however, speak with great authority as to the non-existence of said 'unnamed stream', since it is purported to exist on my property in an area whose topography would not support the notions of Ecology as to its flow pattern. I can only conclude if their assertion, which is not supported by fact or anything believable, that the "science" used by Ecology is deeply deficient and makes me suspicious of the rest of the data presented by Ecology to support their positions.

Statement: If policy and regulations are based on faulty and erroneous theories and science, then it can only be inferred that Ecology is attempting to create a state of governance which is neither correct nor beneficial to the residents of Jefferson County. It is my opinion tha t Ecology is over reaching practical and logical bounds by submitting, as fact, assertions that are not supported by empirical, peer-reviewed science.

Sec WAC 173-517-060 states that Ecology (only) has the right to review, change or modify the rule. It would be in the best interest of the people of Jefferson County if they, the citizens, or specifically those individuals affected by any ruling be given the right and ability to challenge Ecology and their rulings through a third party mediation.

Although Ecology states "there could be a very minor negative impact" on businesses and individuals; history has shown that projected impacts of governmental bodies to be much larger and much more negative than proposed or claimed. It, therefore, becomes paramount that the citizens of Jefferson County be given a system for challenge with an outside third party mediation that will protect the rights of the individual from overzealous regulators given or granting themselves arbitrary and capricious decision making authority as it affects the lives and well being of those individuals.

Question: Will the Rule set in place a method or process whereby the citizens of Jefferson County can challenge Ecology and their rulings through third party mediation?

Jim Conway
503 S Edwards Rd
Port Townsend, WA, 98368

From: Jim Conway
Sent: Friday, July 10, 2009 12:38 PM
To: Wessel, Ann (ECY)
Subject: Comments and Questions on the Water Resources Program WRIA 17 - II

Dear Ms. Wessel,

A detail of the proposed Rule effecting WRIA 17 where I live has come to my attention. In correspondence from your office.....

Your best assurance of establishing your water right under this exemption is to beneficially use water for the purpose you intend for the future. For domestic use, beneficial use is considered to occur when water is used within a permitted residential structure. Ecology prefers a Certificate of Occupancy for the residence to demonstrate domestic use of water.
The proposed rule establishes reserves of water that will provide water for new and previously unused permit-exempt wells for many years into the future. Based on the building permit record, we project each reserve will provide water through 2025. If alternative sources of water are not developed and available when the reserve is used up, there will likely be further restrictions on those who want to start using water at that time.
After the rule takes effect we will be coordinating with the County, tracking new building permits and applying the requirements of the rule to each new residence. This means we intend to debit the reserves and apply the conservation standard to each new user regardless of their using an individual or shared well.

Ann E. Wessel
Instream flow rules coordinator
Water Resources Program
Dept. of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
awes461@ecy.wa.gov
phone: 360-407-6785
fax: 360-407-6574

I currently live in a fifth wheel RV on my property at 503 S Edwards Rd. I am using water domestically and agriculturally and have been since 2007. I have a permitted septic system and a well. According to your letter above, I have to live in a "permitted residential structure" that has a "Certificate of Occupancy". I find this approach to defining who qualifies for water rights to be offensive and elitist; and it discriminates against those individuals that have not amassed the capital and/or time to build a home that meets your very high qualifying standards.

Question: Why is Ecology discriminating against people who have not / cannot attain the level of home structure that your office is requiring to be considered for water rights? Would it not be more logical to consider those who have a permitted septic system and well to qualify for water rights if they are living on the land and using the water for domestic and/or agricultural purposes?

Jim Conway

503 S Edwards Rd
Port Townsend, WA 98368

From: Jim Conway
Sent: Friday, July 10, 2009 4:57 PM
To: Wessel, Ann (ECY)
Subject: Third comment and question on Rule effecting WRIA 17

Dear Ms. Wessel;
A conversation a friend and I had today has prompted this last email concerning the proposed Rule effecting WRIA 17. I can't seem to get my head around the figure of $5000 per spawner salmon. It defies logic unless it is the total salaries of the Department of Ecology divided by the 242 salmon that we're going to save with all of these rules. At that rate, a salmon would cost would cost $167 per pound instead of the $8.99 I'm paying now. A salmon dinner would be in the neighborhood of $450. A little steep for my taste, and I'm sure yours, too.
If the thrust here is to enhance the population of salmon, why doesn't Ecology focus on the streams that can and do support salmon life?&n bsp; Unnamed and dry streams that run uphill don't seem to me to qualify. So let's take the streams and rivers that are currently running – have water in them – what can we do to enhance the habitat to be more productive? If a stream currently doesn't have enough water in it to sustain salmon life, leave it for now and concentrate on the streams that do. If after developing the streams that can respond and demonstrating success by showing an increase in salmon population, then Ecology could look into the sub-par streams. However, Ecology seems bent on forcing its definition of productive onto the county as a whole even if nature and weather are not cooperating with their definition.
It appears that Ecology is attempting to fix the entire peninsula with no guarantees that any of it will work and an almost sure bet that every landowner will rebel against it.
It seems that someone or some committee (whoever that was) came up with an idea to "enhance" the salmon population. Ecology, in their zeal seems to have gone=2 0overboard in trying to control all aspects of life in the county to save what? 242 fish??? If you price them at $5000 apiece the total is impressive, but is that what is really needed here?
I think someone has lost sight of the original intent of this project.
Jim Conway
503 S Edwards Rd
Port Townsend, WA 98368