

From: Jim Hagen [mailto:jchagen@donobi.net]
Sent: Thursday, July 09, 2009 10:06 PM
To: Wessel, Ann (ECY)
Subject: Proposed Chapter 173-517 Comments

Ann,

The comments I just sent were intended to be a revised and much edited version of my oral testimony at the public hearing, but they evaporated into cyberspace. Please ignore the capitals and exclamations; those were for my own emphasis at the hearing.

The points I wanted to make in my revised comments were basically:

- While Ecology did a better job at public involvement the second time around, the public was still kept somewhat at arms length in an effort to more control the flow of information than to genuinely solicit and consider input.
- The Cost Benefit Analysis disproportionately evaluated the perceived costs and benefits of the rule. In a real world cost analysis, the costs to rural landowners for exempt well and outdoor watering restrictions are substantially greater than the estimated \$1,104,930 over the life of the rule. The cost in reduced land values to individual homeowners and County tax revenues are greatly undervalued in my opinion, and the estimated benefit in salmon values of \$2,845,000 is inflated.
- Switch the numbers for the cost and benefit and there likely will be a more realistic appraisal of the actual real-life impacts of the rule.
- Estimating a \$12,651,867 benefit for restoration protection is fairly generous accounting that doesn't apply to real-life circumstances. It is one thing to speculate that decreased flows resulting from future water withdrawals could jeopardize admirable restoration efforts, and quite another to place a \$12 million value on it when so much uncertainty is in play.
- On page 16 of the CBA, Ecology includes the disclaimer "In general, the limits of science, technology, and economic knowledge prevent us from making a more accurate estimate of the probable costs of the proposed rule." This uncertainty, however, did not prevent Ecology from imposing water restrictions which will carry very certain negative consequences for rural landowners.
- I continue to question Ecology's assumptions of future population growth and development. At a WRIA 17 Planning Unit meeting in 2007, Scott Brewer of the Hood Canal Coordinating Counsel stated that under Jefferson County's existing land-use planning structure, water is not a limiting factor for salmon. Jefferson County has gone through an expensive 18 year process in developing some of the most restrictive development and zoning standards in the state. Our comprehensive planning principles are built in 20 year cycles with a constant eye on the long term consequences of our actions today. Any assumptions that our zoning standards may become more lax or that future population growth will reverse recent downward trends are not founded in fact. If anything, building standards are becoming even stricter. For proof of that Ecology need look no further than its own department, where this rule, the Critical Areas Ordinance, and the draft Shoreline Master Program propose even tighter controls on development than what currently exists. It isn't as if there are unforeseen circumstances over the horizon that are beyond control. **Ecology is a major factor in determining future land-use management strategies!** (Just before sending this I read Ecology's response to the most recent changes to the draft SMP by the Planning Commission. Ecology stated they cannot accept the more lenient changes made and strongly recommends the stricter regulations in the original draft).

Thanks,
Jim Hagen Olympic Stewardship Foundation

From: Jim Hagen [mailto:jchagen@donobi.net]
Sent: Friday, July 10, 2009 9:44 PM
To: Wessel, Ann (ECY)
Subject: Re: Comments from Jim Hagen

Three major issues from 2005 remain unresolved - the assumption of hydraulic continuity throughout the watershed, over-allocation of water rights, and predictability of future growth and development impacts. Also never resolved was the promise made at the November 2005 Fort Worden meeting by Joe Stohr to bring citizen stakeholders - from outside the Planning Unit - directly into the discussions on an improved instream flow rule. This never happened, and despite improved public relations efforts by Ecology, suspicions that not much was going to change were confirmed when Phil Wiatrak stated at a WRIA 17 Planning Unit meeting last year that we were going to get essentially the same rule as before.

The principle of hydraulic continuity didn't even seem open to negotiation, despite legitimate scientific theories to the contrary. This is significant as the whole rationale for the proposed rule is based on the assumption of continuity.

Over allocation of water rights was based on the assumption permit exempt wells were drawing the full 5,000gpd limit, yet the justification for the reserves in the Cost Benefit Analysis (CBA) is based on studies showing use for a typical household during the growing season to be 133gpd indoors and 267gpd outdoors for a total of 400gpd. (During the pre-public hearing presentation Ann Wessel cited even lower gallons per day usage, in the range of 180-250gpd). There is a big discrepancy between the two assumptions, convenient for Ecology and harmful for rural landowners.

There also remains confusion about the total number of future households the reserves can support throughout the life of the rule. The CBA states 871 and there is another reference to "an additional 690 households." Is it 871 or 1561? The question was addressed at the hearing but the answer remains confusing, there still being uncertainty over what the different numbers represent and the theoretical nature behind the assumptions. With consequences as certain as those the new rule proposes to impose, landowners deserve more certainty behind Ecology's calculations. It sometimes seems the answers to our questions are an ever-moving target.

The hypothesis throughout the CBA, supported by the qualifiers "assumed" and "with great uncertainty" is reminiscent of recent Wall Street slight-of-hand accounting practices, the \$16,250,000 "savings" in water storage costs gained by the reserves being one example. Or the \$12,651,867 benefit in restoration protection.

The determination of the size of the reserves is based in part on predictions of the number of future households, derived from past permit trends. I have already commented at length on what I believe are flaws in future growth projections, not the least of which is permitting trends never follow a linear trajectory due to any number of dynamic variables. Then on page 28 of the CBA a shift in perspective. "Ecology reassessed residential growth projections against the size of the reserves and allowed water for commercial agriculture use in three sub-basins with suitable soils for agriculture." On what new information did Ecology use for this reassessment? If Ecology can reassess three other sub-basins it can do the same for Chimacum, where some of the best soils in the world exist for agriculture.

The estimated costs of exempt well restrictions and prohibition on outdoor watering in Chimacum are \$1,104,930. An independent, third party appraisal of the financial impacts of those restrictions would assuredly be much greater. Compare this with the estimated benefit in salmon values of \$2,845,000 and it is fair to ask whether this is proportional in light of the advertised WATER FOR PEOPLE, FARMS, FISH public outreach campaign.

One of the purported benefits of the rule is the preservation of 569 salmon over the 16 year life of the rule. This out of an estimated population of 60,000 fish, 12,000 of which are listed Summer Chum. This

divides into 36 fish per year. ***Is that the real net gain of this rule, that 36 fish per year will be saved?*** Using the straight line extrapolations followed throughout the CBA, the net gain for summer Chum is 7 fish per year. Is that what these draconian restrictions are aimed at achieving, 7 endangered fish out of 12,000?

To put the current fish population into historic context, the numbers in WRIA 17 for 1966-1971 ranged from 36,925 to 76,5000, the high end of which is equivalent to today despite the subsequent increase in growth and exempt well withdrawals. There is much too much at stake to impose a water management rule based on so many assumptions and uncertainties with relatively little proven benefit. Final question. Is there a time deadline by which this rule must be adopted?

Jim Hagen
Olympic Stewardship Foundation

Ecology relies on past building permit trends to predict future growth. As the numbers of available parcels is finite, particularly those which are desirable in an open market, at a certain point diminishing supply will alter previous trends. There are also numerous variables in a region as diverse as East Jefferson County where a variety of micro-climates influence the likelihood of development, a prime example being rainfall. I again urge Ecology to review Jefferson's own documentation of future growth densities before going ahead with the draconian restrictions in the Chimacum basin as well as exempt well restrictions in other basins. Table 2-2 in the Jefferson County Surface Water Management Plan describes densities projected into the year 2024. The extremely low-density population projections are striking. It is discouraging when an economically-depressed County like Jefferson conducts numerous comprehensive land-management strategies, only to see each one shelved in isolation when new proposed regulation comes down the pike. Often times it not the necessity of drastic regulatory fixes that will accomplish statutory requirements but the coordination and even recognition of existing ordinances that can be employed to meet the same purpose. In fact, the severe restrictions in 173-517 is a back-handed admission that all our comprehensive planning measures to date have failed.

Ecology's claim that 819 jobs will be created, largely as a result of the extra water allocated by the reserves being capable of supporting 690 additional households, is shell-game economics. These are theoretical circumstances that have no relevance in real-life beyond the walls of Ecology, and as such should not be used in any process that relies so much on science for its findings. Economics is a social science and is as much subject to peer review as the natural sciences. Has the Cost Benefit Analysis and Small Business Impact Analysis been submitted for peer review?

Jim Hagen