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SUPERIOR COURT  
BETTY J. GOULD  
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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF THURSTON**

AMERICAN RIVERS; CENTER FOR ENVIRONMENTAL LAW AND POLICY; WASHINGTON ENVIRONMENTAL COUNCIL; PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS; and INSTITUTE FOR FISHERIES RESOURCES,

Petitioners,

v.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Respondent.

NO. 99-2-00480-6

ORDER DENYING RESPONDENT'S MOTION TO DISMISS, GRANTING IN PART AND DENYING IN PART RESPONDENT'S MOTION FOR PARTIAL SUMMARY JUDGMENT, AND GRANTING IN PART AND DENYING IN PART PETITIONERS' MOTION FOR SUMMARY JUDGMENT

This matter came before the Court on the motion of Respondent, Washington Department of Ecology, to dismiss and for partial summary judgment, and on the cross-motion of Petitioners, American Rivers, et al., for summary judgment and an injunction.

The Court heard oral argument of counsel on February 11, 2000, and reviewed the memoranda, declarations and exhibits submitted by the parties in support of and in opposition to their respective motions. The Court issued an oral ruling at that time and this Order is based on that oral ruling, a transcript of which is attached hereto and incorporated herein.

**IT IS HEREBY ORDERED THAT:**

1           1.       Respondent's motion to dismiss for lack of standing, failure to join indispensable  
2 parties, and failure to exhaust administrative remedies is DENIED as set forth in the Court's oral  
3 ruling of February 11, 2000.

4           2.       Petitioners' motion for summary judgment and an injunction is GRANTED  
5 insofar as the Court concludes that the requirements of RCW 90.03.360 apply to all new surface  
6 water permits and enjoins Respondent to comply with these requirements in issuing such  
7 permits. Petitioners' motion for summary judgment and an injunction also is GRANTED insofar  
8 as the Court concludes that WAC 508-64-050 is invalid because it conflicts with the  
9 requirements of RCW 90.03.360 and enjoins Respondent to proceed with promulgation of a  
10 revised rule. The bases for these rulings are set forth in the attached transcript of the Court's oral  
11 ruling.

12           3.       Respondent's motion for summary judgment is GRANTED, and Petitioners'  
13 motion for summary judgment is DENIED insofar as the Court concludes that RCW 90.03.360  
14 does not require metering or measurement of new groundwater permits except when such  
15 permits are granted in areas where salmon stocks are depressed or critical as determined by the  
16 Department of Fish and Wildlife and Respondent has a basis for believing the groundwater right  
17 may affect surface waters supporting depressed or critical stocks.

18           4.       Respondent's motion for summary judgment is DENIED, and Petitioners' motion  
19 is GRANTED insofar as the court concludes that RCW 90.03.360(2) does apply to existing  
20 groundwater rights where salmonid stocks are depressed or critical as designated by the  
21 Department of Fish and Wildlife and respondent has a basis for believing the groundwater right  
22 may affect surface waters supporting depressed or critical salmonid stocks. The bases for these  
23 rulings are likewise set forth in the attached transcript of the Court's oral ruling.

24           5.       Petitioners' motion for summary judgment and an injunction is DENIED insofar  
25 as it seeks a ruling that RCW 90.03.360(2) requires Respondent to prioritize metering ahead of  
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1 its other compliance work because there are disputed issues of fact. The basis for this ruling too  
2 is set forth in the attached transcript.

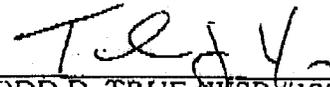
3 IT IS SO ORDERED.

4 Dated this 22 day of March, 2000.

RICHARD D. HICKS

RICHARD D. HICKS.  
Superior Court Judge

7 Presented by:

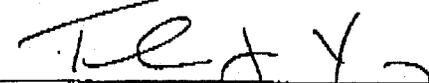
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9   
10 TODD D. TRUE (WSB #12864)  
11 Earthjustice Legal Defense Fund  
12 705 Second Avenue, Suite 203  
13 Seattle, WA 98104  
14 (206) 343-7340  
15 (206) 343-1526 [FAX]

13 Attorney for Petitioners

14 KATHERINE P. RANSEL  
15 American Rivers  
16 Northwest Regional Office  
17 150 Nickerson Street, Suite 311  
18 Seattle, WA 98109  
19 (206) 213-0330  
20 (206) 213-0334 [FAX]

18 Attorney for Petitioner, American Rivers

19 CHRISTINE O. GREGOIRE  
20 Attorney General

21   
22 THOMAS J. YOUNG (WSBA #17366)  
23 State of Washington  
24 Department of Ecology  
25 P.O. Box 40117  
26 Olympia, WA 98504-0117  
(360) 459-6320  
(360) 438-7743 [FAX]

26 Attorneys for Respondent